# AGENDA

## ASSEMBLY BUDGET SUBCOMMITTEE NO. 4 ON STATE ADMINISTRATION

### ASSEMBLYMEMBER WENDY CARRILLO, CHAIR

### TUESDAY, MARCH 28, 2023

### 1:30PM – STATE CAPITOL, ROOM 447

*This hearing can be viewed via live stream on the Assembly's website at https://assembly.ca.gov/todayevents.*

*We encourage the public to provide written testimony before the hearing. Please send your written testimony to: BudgetSub4@asm.ca.gov. Please note that any written testimony submitted to the committee is considered public comment and may be read into the record or reprinted.*

*To provide public comment, please call toll-free number: **877-692-8957 / Access Code: 131 54 47***

**VOTE-ONLY CALENDAR**

**ITEMS TO BE HEARD**

# VOTE-ONLY CALENDAR

## 8955 LABOR AND WORKFORCE DEVELOPMENT AGENCY

### ISSUE 1: INFORMATION TECHNOLOGY PREPAREDNESS FOR THE NEW LABOR AGENCY BUILDING MOVE

The Labor and Workforce Development Agency (LWDA) requests $234,000 from the General Fund and $5,547,000 from various Special Funds, for a total of $5,781,000 in 2023-24, as well as $51,000 from the General Fund and $1,171,000 from various Special Funds for a total of $1,222,000 in 2024-25 to secure the goods and services needed to provision information technology equipment required in the new LWDA building. The amounts include one-time equipment, maintenance, and contract services costs.

In December 2025, LWDA will begin to move into the former Resources Building, along with the Agricultural Labor Relations Board; the California Workforce Development Board; the Department of Industrial Relations; the Employment Development Department (EDD); and the Employment Training Panel.

Prior to the move, the new building will require the deployment of information technology hardware, network infrastructure, and telecommunications equipment to prepare and establish network connectivity. According to LWDA, the site will need to have a network-ready date no later than November 2025 to ensure proper functionality and network connectivity of all IT equipment at the time of move-in. LWDA has designated EDD to be the lead partner in planning for the building's occupancy. Staff from EDD's Information Technology Branch will work with the Department of General Services to gain access to the new facility to begin the initial phase of the required technology implementation by June 2025.

### STAFF COMMENTS

Staff has no concerns about this proposal.

**Staff Recommendation: Approve as Budgeted**

## ISSUE 2: AB 2849 IMPLEMENTATION- ASSOCIATION OF COOPERATIVE LABOR CONTRACTORS STUDY

The Labor and Workforce Development Agency requests $800,000 one-time funding in 2023-24 from the General Fund to establish a panel that will commission a study pursuant to AB 2849 (Bonta, Chapter 808, Statutes of 2022) and engage with organized labor, worker cooperatives, and business stakeholder groups to assess the opportunities and challenges associated with the development and growth of high-road cooperative labor contractors.

The panel will consist of the following members:

- The Labor Secretary or the director of a subsidiary department thereof selected by the Secretary
- The Director of the Governor's Office of Business and Economic Development
- An appointee of the Speaker of the Assembly
- An appointee of the President pro Tempore of the Senate
- A representative from the Future of Work Commission selected by the Governor

According to LWDA, $750,000 will cover study costs, and $50,000 will cover temporary staffing to support the panel. The panel will complete the study and make it publicly available on the internet no later than June 30, 2024.

### STAFF COMMENTS

Staff has no concerns with the proposal.

**Staff Recommendation: Approve as Budgeted**

# 7350 DEPARTMENT OF INDUSTRIAL RELATIONS

## ISSUE 3: AB 2143 IMPLEMENTATION – CONSTRUCTION OF RENEWABLE GENERATION FACILITIES: PREVAILING WAGE

The Department of Industrial Relations (DIR) requests $2,432,000 in 2023-24, $4,547,000 in 2024-25, and $4,378,000 in 2025-26 and ongoing from the State Public Works Enforcement Fund to cover 24 positions and implement AB 2143 (Carrillo, Chapter 774, Statutes of 2022). AB 2143 created a new category of construction projects that will be subject to DIR's enforcement of prevailing wage requirements. The bill designates certain types of "net energy metering" electrical generation facility construction projects as "public works" after December 31, 2023, thereby requiring the payment of prevailing wages among other obligations. The projects covered under the bill include renewable electrical generation facilities and associated battery storage.

Requested positions include 20 positions for the Labor Commissioner's Office to investigate public works projects pursuant to AB 2143, 2 positions in the Office of the Director – Legal Unit to manage related legal work, and 2 positions for administrative support.

**STAFF COMMENTS**

Staff has no concerns with the proposal.

**Staff Recommendation: Approve as Budgeted**

## ISSUE 4: AB 1601 IMPLEMENTATION: EMPLOYMENT PROTECTIONS: MASS LAYOFFS, RELOCATION OR TERMINATION: CALL CENTERS

The Department of Industrial Relations requests $230,000 in 2023-24 and $218,000 in 2024-25 and 2025-26 from the Labor Enforcement and Compliance Fund to implement AB 1601 (Akilah Weber, Chapter 752, Statutes of 2022). AB 1601 requires call center employers who intend to relocate their operations to a foreign country to notify specified entities, including the Employment Development Department, and affected call center employees 60 days prior to relocation, imposing various restrictions regarding eligibility for state grants, loans, and tax credits to those employers. The Labor Commissioner's Office currently enforces the provisions requiring similar notice requirements for relocations, terminations, and mass layoffs that generally apply to industrial or commercial facilities, as defined in the California Worker Adjustment and Retraining Act.

Funding would be used for additional staffing resources to conduct an anticipated three additional investigations per year.

**STAFF COMMENTS**

Staff has no concerns with the proposal.

**Staff Recommendation: Approve as Budgeted**

## ISSUE 5: AB 1643 IMPLEMENTATION: HEAT ADVISORY COMMITTEE STUDY

The Department of Industrial Relations requests $1,073,000 one time in 2023-24 from the Occupational Safety and Health Fund to implement AB 1643 (Rivas, Chapter 263, Statutes of 2022.

AB 1643 requires the Labor and Workforce Development Agency (LWDA) to convene an advisory committee on or before July 1, 2023 to study the impact of heat on workers and businesses in the state. The advisory committee is tasked with meeting and determining the scope of studies on the impact of heat. LWDA is delegating this legislative mandate to DIR. The department will convene and coordinate the work of this advisory committee, which includes the following tasks: selection of committee members; secure meeting space; notice to the public regarding meetings; contract with external entities as needed in order to do the studies; and respond to inquiries from the public, Legislature, and Governor's Office.

To execute the mandate of the bill, DIR requests an attorney position to carry out the legal functions of the advisory committee, a principal safety engineer to represent CalOSHA in meetings, and a Senior Industrial Hygienist to create study proposals for review. DIR is additionally anticipating $300,000 for the contracting cost of the studies.

### STAFF COMMENTS

Staff has no concerns with the proposal.

**Staff Recommendation: Approve as Budgeted**

## ISSUE 6: AB 2068 IMPLEMENTATION: OCCUPATIONAL SAFETY AND HEALTH POSTINGS IN SPOKEN LANGUAGES

The Department of Industrial Relations requests $254,000 in 2023-24 and $238,000 in 2024-25 ongoing from the Occupational Safety and Health Fund to implement AB 2068 (Haney, Chapter 485, Statutes of 2022).

AB 2068 requires employers to post at worksites employee notices of citations and special orders issued and prepared by CalOSHA, translated into the top seven non-English languages used by limited-English-proficient adults in California, as determined by the most recent American Community Survey by the United States Census Bureau, as well as Punjabi if that language is not otherwise included among the top seven. Additionally, the Division may add to the languages using data sources from local and state government or feedback from community-based and/or labor organizations.

CalOSHA can enforce this new requirement by issuing a citation for an employer's failure to comply.

CalOSHA requests resources to perform translations, translation accuracy reviews, including contracting with outside vendors if bilingual staff are not available to provide translation services.

**STAFF COMMENTS**

Staff has no concerns with the proposal.

**Staff Recommendation: Approve as Budgeted**

## ISSUE 7: AB 2243 IMPLEMENTATION: OCCUPATIONAL SAFETY AND HEALTH STANDARDS – HEATH ILLNESS AND WILDFIRE SMOKE

The Department of Industrial Relations requests $1,197,000 in 2023-24, $1,140,000 in 2024-25, $1,400,000 in 2025-26, $1,378,000 in 2026-27, and $361,000 in 2027-28 and ongoing from the Occupational Safety and Health Fund to implement AB 2243 (Garcia, Chapter 778, Statutes of 2022). AB 2243 requires CalOSHA, before December 1, 2025, to submit to the standards board a rulemaking proposal to consider revising the heat illness standard and wildfire smoke standard. The bill requires the division, in preparing the proposed regulations, to consider revising the heat illness standard to require employers to distribute copies of the Heat Illness Prevention Plan. The bill similarly requires a rulemaking proposal to consider revising the wildfire smoke standard, with regard to farmworkers, to reduce the existing air quality index threshold for PM2.5 particulate matter at which control by respiratory protective equipment becomes mandatory for farmworkers. The bill requires the standards board to review the proposed changes and consider adopting revised standards on or before December 31, 2025. Finally, the bill further requires the division to consider regulations, or revising existing regulations, relating to protections related to acclimatization to higher temperatures.

To meet the bill's mandates, CalOSHA anticipates that it will need to promulgate two separate rulemaking packages, one for heat and one for wildfire smoke, as the hazards are quite different and require different substantive expertise and research. Based on research and expertise needed, as well as the rulemaking timeline under the Office of Administrative Law, the packages are anticipated to take three to four years to complete.

Requested funding will cover costs of performing technical research and conducting Standardized Regulatory Impact Asssessments, including contract costs with outside vendors to work closely with CalOSHA's subject matter experts. Resources will also provide technical, editorial, and legal review prior to public noticing, as well as intake of public comments, Board engagement and vote, and final submission to OAL.

**STAFF COMMENTS**

Staff has no concerns with the proposal.

**Staff Recommendation: Approve as Budgeted**

## ISSUE 8: SB 1295 IMPLEMENTATION – HAZARDOUS OR DESERTED WELLS AND FACILITIES: LABOR STANDARDS

The Department of Industrial Relations requests $376,000 in 2023-24 and $348,000 in 2024-25 and ongoing from the State Public Works Enforcement Fund for 2 positions to implement SB 1295 (Limon, Chapter 844, Statutes of 2022)

SB 1295 expands the universe of public works projects by deeming all work done and funded by the Oil, Gas, and Geothermal Administrative Fund and performed by outside contractors to be public work for which prevailing wages are required to be paid. The bill also requires the use of a skilled and trained workforce (apprentices) on such projects for work performed after January 1, 2028. The Labor Commissioner is responsible for enforcement of these requirements.

The Labor Commissioner's Office anticipates 60 additional public works investigations per year, and requests 2 positions for prevailing wage and apprenticeship enforcement activities.

**STAFF COMMENTS**

Staff has no concerns with the proposal.

**Staff Recommendation: Approve as Budgeted**

## ISSUE 9: AB 1751 IMPLEMENTATION – WORKERS' COMPENSATION: COVID-19 CRITICAL WORKERS

The Department of Industrial Relations requests $5,010,000 in 2027-28 from the Workers Compensation Administration Revolving Fund to implement AB 1751 (Daly, Chapter 758, Statutes of 2022).

In response to the COVID-19 pandemic, SB 1159 (Hill, Chapter 85, Statutes of 2020) created three different rebuttable presumptions that consider an employee's COVID-19 illness or death, as an occupational injury and therefore eligible for workers' compensation benefits. The criteria for eligibility included COVID-19 injuries occurring between specific dates; injuries occurring to first responders and designated health care workers; and workers whose employers have five or more employees and who test positive for COVID-19 during an outbreak at their place of employment. The Labor Commissioner was also granted authority to cite employers who fail to report to their claims administrator when an employee has tested positive for COVID-19.

To implement SB 1159, the 2021 Budget included 30 limited-term positions and $5.8 million in 2021-22, and $5 million in 2022-23 through 2025-26 from the Workers' Compensation Administration Revolving Fund to help ensure that DIR has sufficient resources to meet the requirements of SB 1159, including for claims adjudication and field enforcement. These resources were requested and authorized based on estimates of approximately 64,000 total annual COVID-19 workers' compensation claims in all industries, of which 32,640 of the annual COVID-19 workers' compensation claims were estimated to be associated with public safety officers and health care workers.

SB 1159 provided that the presumption statutes remain in effect until January 1, 2023. AB 1751 extends the SB 1159 presumptions of COVID-19 related illness or injury for an additional year until January 1, 2024, requiring a one-year extension of the resources provided in the SB 1159 budget request.

Because of the extension of presumptions of COVID-19 related illness or injury for an additional year until January 1, 2024, DIR believes that claims could continue to be filed with the Workers Compensation Appeals Board through January 1, 2025, at the earliest. Assuming the same claim lifespan of 18 months, this would mean that the AB 1751 workload would continue well into 2027.

### STAFF COMMENTS

Staff has no concerns with the proposal.

**Staff Recommendation: Approve as Budgeted**

## 7120 CALIFORNIA WORKFORCE DEVELOPMENT BOARD

### ISSUE 10: SB 755 IMPLEMENTATION – TRAINING RELATED REPORTING

The California Workforce Development Board requests $374,000 one-time General Fund to develop a plan to measure training outcomes and implement SB 755 (Roth, Chapter 815, Statutes of 2022)

SB 755 requires CWDB and the Employment Development Department to collaboratively create a plan to measure and report on training-related job placement outcomes for individuals receiving job training services provided through the workforce system, including all job training services funded by Title I of the Workforce Innovation and Opportunity Act (WIOA) and through grants administered by CWDB, regardless of the source of the funding. In addition, SB 755 requires CWDB and EDD to work collaboratively to create a plan to use the existing unemployment insurance tax data collection infrastructure used to secure quarterly wage data from employers, to match relevant employee occupational data, employee place of employment data, and employee hours worked data to measure training-related job placement outcomes and gathering data to report on those outcomes, for persons who enroll in job training services. The plan must also include timelines, budget, funding constraints, and an outline of any additional recommended or necessary statutory changes to collect the relevant data. CWDB and EDD must submit the plan to the Legislature no later than January 1, 2024.
Resources will be used to support the development of a plan to measure and report on training-related job placement outcomes for individuals receiving job training services provided through the workforce system, and submit the plan to the Legislature.

### STAFF COMMENTS

Staff has no concerns with the proposal.

**Staff Recommendation: Approve as Budgeted**

## 7300 AGRICULTURAL RELATIONS BOARD

### ISSUE 11: IT SECURITY AND IT CONTRACT FUNDING

The ALRB requests $454,000 and ongoing from the General Fund for 1 Information Technology Specialist as well as contract funds for IT security services and support to meet the state’s cybersecurity requirements. ALRB currently has only one dedicated position to manage all aspects of IT at the Agricultural Labor Relations Board (ALRB) serving as the Information Security Officer, Backup Chief Information Officer, managing the day-to-day IT network infrastructure, and desktop support for all ALRB staff in six ALRB offices located across the state. According to the ALRB, this IT support model is no longer sustainable and without additional resources, ALRB will be unable to keep up with the demands of the rapidly changing cybersecurity landscape.

Resources will be used to fund 1 permanent position along with $300,000 in annual contract funds for additional on-going IT Security Services and Support.

**STAFF COMMENTS**

Staff has no concerns with the proposal.

**Staff Recommendation: Approve as Budgeted**

## 7320 PUBLIC EMPLOYMENT RELATIONS BOARD

### ISSUE 12: IT SECURITY AND IT CONTRACT FUNDING

The Public Employment Relations Board requests $164,000 in 2023-24 and ongoing from the General Fund to comply with the California Department of Technology IT security requirements and for contracted IT support.

Resources will be used to improve IT Security infrastructure reporting, implement continuous monitoring of PERB's IT infrastructure, and move legacy systems into secure cloud servers.

**STAFF COMMENTS**

Staff has no concerns with the proposal.

**Staff Recommendation: Approve as Budgeted**

## 1111 DEPARTMENT OF CONSUMER AFFAIRS

### ISSUE 13: BOARD OF ACCOUNTANCY - REGULATORY ANALYST FOR RULEMAKING PROCESS

The Board of Accountancy requests $162,000 in 2023-24 and $154,000 in 2024-25 and ongoing from the Accountancy Fund to support 1 analyst position to initiate, complete, and promulgate regulatory packages.

The Board administers and enforces the California Accountancy Act and regulations providing oversight to the accounting profession, including establishing and maintaining educational requirements, minimum standards of practice, and conducting enforcement-related activities to help to protect the public. The Board currently regulates over 114,000 licensees, including Certified Public Accountants) and accounting firms (accountancy partnerships, accountancy corporations, and out-of-state registered accounting firms).

The Board must maintain thorough, relevant, and current regulations consistent with its statutory mandate of consumer protection. However, the Board does not currently have dedicated regulatory staff for these purposes and is required to redirect executive-level personnel, including the Chief of Licensing, Chief of Enforcement, and Assistant Executive Officer to prepare documentation for the Board's regulatory packages.

Resources will be used to hire a dedicated regulatory analyst position to both complete and coordinate the workload necessary to promulgate its regulations.

### STAFF COMMENTS

Staff has no concerns with the proposal.

**Staff Recommendation: Approve as Budgeted**

## ISSUE 14: CEMETERY AND FUNERAL BUREAU – CLERICAL SUPPORT

The Cemetery and Funeral Bureau requests $119,000 in 2023-24 and $111,000 in 2024-25 and ongoing from the Cemetery and Funeral Fund for 1 position to provide workload support in the Bureau's Field and Audit units

The Bureau has regulatory and fiduciary oversight of the death care industry. This includes 14 different license categories, totaling approximately 13,100 licensees. The categories include embalmers; cemetery brokers and salespersons; cremated remains disposers; the businesses of crematories, hydrolysis facilities, funeral establishments, private, nonreligious cemeteries; and the designated managers. The Bureau's fiduciary oversight is to perform audits and reviews of the approximately 2.9 billion dollars of consumer funds held in cemetery endowment care and funeral preneed trust funds.

Historically, the Bureau has not had full-time clerical support personnel and the staff in the Bureau's Field and Audit units perform their own clerical support functions. According to the Bureau, over the past four years, the Field and Audit units' workload has increased due to additional mandates through enacted legislation. According to the Bureau, this has resulted in the need for an Office Technician who can perform clerical support functions to afford professional staff in the Field and Audit units additional time to focus on their essential duty functions.

Resources will be used to provide ongoing administrative and clerical support and tracking of complaints assigned to investigations, keying into databases, preparing documents for scanning, and assisting with mandated posting of notices.

**STAFF COMMENTS**

Staff does not have any concerns with this proposal

**Staff Recommendation: Approve as Budgeted**

## ISSUE 15: DCA BUSINESS SERVICES OFFICE – CASHIER COURIER WORKLOAD

The Department of Consumer Affairs requests $219,000 in 2023-24 and ongoing in various special funds for 2 positions to address staff deficiencies at the DCA Business Services Office mailroom.

Currently, the Department is having to redirect resources from various units to complete the daily cashiering courier routes to pick up daily payments and licensing applications from the Department's 36 boards, bureaus and programs. Workload generally consists of traveling to various Boards and Bureaus throughout the Sacramento region to perform pickups. According to DCA, the Department has relied upon a mix of temporary and/or seasonal positions and has even attempted the redirection of permanent clerical, technical and supervisory staff to address the workload rather than seeking additional permanent staffing positions. However, this has negatively impacted other divisions ability to perform their duties.

Requested resources will be used to hire the staff needed to improve processing times for the mailroom, recording imaging services, and facilities management, as well as assist with timely endorsement of cash receipts, and deposit of monies.

**STAFF COMMENTS**

Staff does not have concerns with this proposal.

**Staff Recommendation: Approve as Budgeted**

**ISSUE 16 LEGISLATIVE WORKLOAD**

DCA requests $1.2 million in 2023-24 and $1.1 million in 2024-25 from an ongoing various special funds for 8 positions to assist with implementing legislation. This is a consolidated budget proposal covering various boards and bureaus under the DCA umbrella. The boards and bureaus requesting resources are the Bureau of Security and Investigative Services, the Board of Naturopathic Medicine, the Bureau of Postprivate Postsecondary Education, the Board of Psychology, and the Board of Pharmacy. The requested resources will implement the following bill:

> Chapter 287, Statutes of 2022 (AB 2515) – Bureau of Security and Investigative Services: Revises requirements for obtaining a baton permit and carrying a baton, and requires a person registered as a proprietary private security employer to deliver a written report to the DCA describing the circumstances surrounding any physical altercation with a member of the public by a registered proprietary private security officer (PSO) while on duty and while acting within the course and scope of their employment within seven business days after the qualifying incident. AB 2515 exempts incidents when hospital staff request a PSO for restraint for medical or mental health purposes. Resources are requested to investigate new incident reports; inspect Proprietary Private Security Employers; and process Baton Permits issuance and renewals.
>
> Chapter 414, Statutes of 2022 (AB 2685) – California Board of Naturopathic Medicine: Changes the name and location of the Naturopathic Medicine Committee within the Osteopathic Medical Board of California to the California Board of Naturopathic Medicine within the DCA and extends the sunset date for the Board to January 1, 2027. During the 2022 Sunset Review Process for the Board, the Legislature directed the Naturopathic Doctors Act to hire 1.0 full-time staff for enforcement to continue its mission of public protection.
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> Chapter 544, Statutes of 2022 (SB 1433) – Bureau of Private Postsecondary Education: Extends the sunset date for the Bureau of Private Postsecondary Education (Bureau). Among other things, SB 1433 defines physical presence for institutions, provides an exemption for out-of-state institutions that provide distance education to California from registration requirements, creates a pathway for institutions that lose accreditation, allows the Bureau to deny applications for known violators of the law, adds five new prohibited business practices for institutions, allows for regulation of out-of-state public institutions, and extends the sunset date to January 1, 2017. The Bureau projects that an additional ten percent of current complaints received will be referred to investigation due to SB 1433. The Bureau has estimated each prohibited business practice will increase the total cases referred to investigation by two percent for a total of ten percent. The Bureau requests resources to enforce compliance with prohibited business practices, and

process notices received regarding known investigations by specified government or oversight entities.

Chapter 622, Statutes of 2022 (SB 1428) – Board of Psychology: Requires, by January 1, 2024, an individual performing psychological or neuropsychological tests to register as a psychological testing technician with the Board. SB 1428 requires information technology updates for a onetime cost to the Board.

Chapter 886, Statutes of 202 (SB 1346) – California Board of Pharmacy: Expands the authority for county prescription drug redistribution programs, requirements on how donated medication must be package, and whether donated medication can be co-mingled with other medication. SB 1346 requires the Board to submit to the legislature an evaluation regarding the Drug Repository and Distribution Program on January 1, 2028. SB 1346 also establishes a regional pilot program in the counties of Santa Clara, San Mateo, and the city and county of San Francisco, which will run until January 1, 2030. Requested resources will provide an Inspector position to perform the work necessary to implement this legislation and conduct inspections and investigations of possible violations. The Board's Inspectors are licensed pharmacists, who have an expertise in state and federal law related to distribution, handling, storage and dispensing of drugs. The Board will review county programs for compliance with provisions contained within the law and medication errors reported to the Board. In addition, Inspectors will conduct inspections of donation facilities to confirm compliance with drug storage and handling prior to donation, conduct pharmacy inspections, and perform enforcement investigations

**STAFF COMMENTS**

Staff does not have concerns with this proposal.

**Staff Recommendation: Approve as Budgeted**

**ISSUE 17: MEDICAL BOARD OF CALIFORNIA - AUGMENTATION AND CONTINUATION OF RESOURCES FOR THE LICENSED PHYSICIANS FROM MEXICO PILOT PROGRAM**

The Medical Board of California requests $223,000 in 2023-24 and $299,000 in 2024-25 from the Special Deposit Fund to support ongoing evaluation of the Licensed Physicians and Dentists from Mexico Pilot Program.

AB 1045 established the Program and authorizes up to 30 licensed physicians from Mexico specializing in family practice, internal medicine, pediatrics, and obstetrics and gynecology to practice medicine in California, upon approval and under specific restrictions, for a period not to exceed three years. The Board is responsible for overseeing the implementation and evaluation of the Program.

In 2018-19, the Board received a budget augmentation of $110,000 to implement the Program. In 2019-20 a budget change proposal was approved to provide three-year limited term funding of $337,000 in 2019-20, $333,000 in 2020-21 and $121,000 in 2021-22, as well as position authority for 1.1 staff to continue the implementation of the Program. In 2021-22 the Board received three-year limited term funding of $242,000 in 2021-22, $341,000 in 2022-23 and $275,000 in 2023-24 to align the appropriation for the Program with the revised implementation timeline. The appropriation authorized by the 2021-22 proposal, including the $121,000 authorized for 2021-22 in the 2019-20 proposal, totals $979,000 and runs through 2023-24.

As the funding authority ends in 2023-24, requested resources will enable the Board to complete the Program evaluation required in statute and the full implementation of the program.

## STAFF COMMENTS

Staff does not have concerns with this proposal.

**Staff Recommendation: Approve as Budgeted**

## ISSUE 18: OFFICE OF ADMINISTRATIVE HEARINGS – BUDGET AUGMENTATION

DCA requests $3,738,000 in 2023-24 and ongoing from various special funds to support increased costs incurred through the Office of Administrative Hearings (OAH).

The OAH is a quasi-judicial tribunal that hears administrative disputes. OAH provides independent Administrative Law Judges (ALJs) to preside as neutral judicial officers at hearings, mediations, arbitrations, and settlement conferences. OAH conducts hearings, mediations, and settlement conferences for DCA boards and bureaus.

According to the Department, OAH's hourly rate structure has increased significantly in recent years from $229 in fiscal year 2016-17 to $351 in 2022-23, a 53 percent increase. Additionally, OAH imposes filing fees of $125 for in-person hearings and $75 for virtual hearings. In the event that a DCA board or bureau does not have a sufficient OAH budget allocation, it is required to redirect existing funding, prioritize cases for adjudications, or delay certain cases.

Requested resources will provide funding to various DCA boards and bureaus based on their six-year historical billable hourly usage for ALJ services

**STAFF COMMENTS**

Staff does not have concerns with this proposal.

**Staff Recommendation: Approve as Budgeted**

## ISSUE 19: PHYSICAL THERAPY BOARD – MILITARY AND ENDORSEMENT APPLICATION WORKLOAD

The Physical Therapy Board requests $267,000 in 2023-24 and $251,000 in 2024-25 and ongoing from the Physical Therapy Fund for 2 staff analysts to expedite processing license applications.

The board regulates physical therapists and physical therapy assistants. With certain exceptions, all applications to receive a physical therapist or physical therapy assistant license are processed and evaluated similarly, including the order in which they are considered by date received and within existing resources. Examination applications require confirmation of education completion, fingerprint background review and passing examination score verification.

An applicant may qualify for licensure in California based upon licensure in another physical therapy licensing jurisdiction – also known as an “Endorsement” application. Because Endorsement applications require review of licenses held in other states, and are thus processed and evaluated differently than the traditional application route.

In addition, Chapter 399, Statutes of 2012 (AB 1904) required the Boards to expedite the licensure process for an applicant who holds a license in the same profession or vocation in another jurisdiction and is married to, or in a legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in California under official active duty military orders.

The Board reports that its Applications Unit is responsible for processing an average of 2,798 new applications for licensure each year, with an increase of approximately 5 percent in new applications each year. In 2021-22, the Board received 2,827 applications for licensure and 956 applications were received by way of Military (50) and Endorsement (906). The Military and Endorsement applications account for approximately 35 percent of the total applications received in 2021-22.

Requested resources will be used to hire two analyst positions to help expedite processing Military and Endorsement license applications.

**STAFF COMMENTS**

Staff does not have concerns with this proposal.

**Staff Recommendation: Approve as Budgeted**

**ISSUE 20: SPEECH-LANGUAGE BOARD LICENSING AND EXAMINATION WORKLOAD**

The Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board requests $252,000 in 2023-24 and $236,000 in 2024-25 and ongoing from the SLPAHAD Fund for 2 positions to address licensing and examination workload and continuing education audit workload.

The Board is responsible for regulating providers of speech-language pathology, audiology, and hearing aid dispensing services. In addition to processing and issuing licenses, the Board conducts random audits of five percent of its licensees annually to increase compliance with continuing education requirements set in statutes.

The Board reports that due to the increased workload and limited staff resources, the Board has been unable to meet its processing timeframe targets for more than half of its application types since 2018-19. Similarly, the Board is unable to meet its Continuing Education audit workloads.

The Board received 4,067 initial applications for licensure in 2017-18. This figure grew to 4,677 in 2021-22. The average processing time for initial applications was 14 days in 2017-18, and grew to 40 days in 2021-22. In addition, the Board's last audit of five percent of all licensees subject to continuing education requirements was done in 2017-18. The Board was unable to complete one CE audit in the last four years.

Requested resources will fund 2 positions to accelerate processing or licensing applications, as well as bring on board a dedicated audit staff to regularly complete CE audits on the active licensee population.

**STAFF COMMENTS**

Staff does not have concerns about this proposal.

**Staff Recommendation: Approve as Budgeted**

### ISSUE 21: VETERINARY MEDICAL BOARD – ENFORCEMENT WORKLOAD

The Board requests $1,094,000 in 2023-24 and ongoing from the Veterinary Medical Board Fund for 7 positions in the Board's Enforcement Unit.

The Veterinary Medical Board regulates veterinarians, registered veterinary facilities, registered veterinary technicians, and veterinary assistant-controlled substance permit holders. The Board processes and investigates complaints from consumers, licensees, and agencies which allege negligence/incompetence that may lead to, or risk, death or serious harm to an animal patient. Other complaints include fraud (altered records, charging for services not rendered, etc.), minimum standard complaints (facility cleanliness, record keeping, etc.), unlicensed practice, drug use/diversion, and behavioral concerns affecting decision-making.

Over the years, the Board has experienced a significant increase in complaints filed with the Board: In 2017-18, the Board received 1,105 complaints. In 2021-22, the Board received 1,699 complaints. This has led to an increase in backlog of pending complaints to be investigated, from 1,107 in 2017-18 to 3,892 in 2021-22. The number of complaints filed are anticipated to continue increasing over the years.

Requested resources will support six full-time, permanent analysts and one full-time, permanent manager dedicated to investigating complaints. The Board will also continue to use temporary help to decrease the number of pending complaints, in order to begin resolving the Board's complaint backlog.

### STAFF COMMENTS

Staff does not have concerns with this proposal.

**Staff Recommendation: Approve as Budgeted**

## 1115 DEPARTMENT OF CANNABIS CONTROL

### ISSUE 22: IMPLEMENTATION OF SB 1326: CANNABIS INTERSTATE COMMERCE

The DCC requests $264,000 in 2023-24, and $256,000 in 2024-25 and ongoing from the Cannabis Control Fund for one position to fulfill workload associated with SB 1326 (Caballero, Chapter 396, Statutes of 2022).

SB 1326 authorizes the Governor to enter into an agreement with one or more other states authorizing interstate commercial cannabis activity (either medicinal, or adult-use, or both). SB 1326 creates a limited exception to California's existing state-law prohibition against exporting cannabis to other states. The bill requires that such agreements mirror existing California law regarding certain issues, such as health and safety standards, track-and trace participation, and packaging and labeling standards. Out-of-state licensees conducting business in California would still be required to obtain a California license and, if applicable, local authorization.

The bill would prohibit an agreement from taking effect unless, among other things, federal law is amended to allow for, or the United States Department of Justice issues an opinion or memorandum allowing or tolerating, interstate transfer of cannabis or cannabis products between authorized commercial cannabis businesses. Alternatively, the agreement cannot take effect unless the Attorney General issues a written opinion declaring that such interstate trade will not result in significant legal risk to the State of California under the federal Controlled Substances Act, based on review of applicable law, including federal judicial decisions and administrative actions.

The requested resource will fund one position to perform preparatory work related to the provision of SB 1326, including engaging with the Attorney General's Office and other states, conducting legal research and analysis related to anticipated state-to-state trade agreements, and examining implementation challenges.

**STAFF COMMENTS**

Staff has no concerns with this proposals.

**Staff Recommendation: Approve as Budgeted**

## ISSUE 23: IMPLEMENTATION OF AB 1885: CANNABIS PET PRODUCTS

The DCC requests $155,000 in 2023-24 and $147,000 in 2024-25 and ongoing from the Cannabis Control Fund for one position to implement AB 1885 (Kalra, Chapter 389, Statutes of 2022). AB 1885 expanded regulatory statutes on medicinal and adult-use cannabis products to include the control and regulation of the cultivation, distribution, transport, storage, manufacturing, processing, and sale of cannabis products intended for use on, or consumption by, animals. AB 1885 specifically mandates the Department to promulgate regulations for pet standards by July 1, 2025.

Requested resources will be dedicated to promulgating the regulations. This includes conducting research on safe ingredients for different types of animal species, conducting research related to animal ingestion of cannabinoids, coordinating with the California

Veterinary Medical Board and holding stakeholder meetings to develop policy recommendations, which will include allowed and prohibited ingredients based on animal species, cannabinoid content limits, and packaging and labeling requirements to make sure consumers are given appropriate and comprehensive information about the product. This position will also coordinate the rulemaking process, in conjunction with the Department's Legal Affairs Division, including drafting regulatory text and supporting documents, tracking and responding to public comments, and holding public comment hearings.

**STAFF COMMENTS**

Staff does not have concerns with this proposal.

**Staff Recommendation: Approve as Budgeted**

## 0890 SECRETARY OF STATE

**ISSUE 24: AB 1416 IMPLEMENTATION – BALLOT LABEL WORKLOAD IMPACT**

The Secretary of State (SOS) requests an augmentation of $64,000 in 2023-24 and ongoing from the General Fund to implement AB 1416 (Santiago, Chapter 751, Statutes of 2022).

AB 1416 requires a ballot label for statewide measures, and, at the option of a county, the ballot label or similar description on the ballot of county, city, district, and school district measures, to include a listing of nonprofit organizations, businesses, or individuals taken from the signers or the text of ballot arguments printed in the voter information guide that support and oppose the measure. The bill also requires a nonprofit organization, business, or individual to meet certain criteria before being listed on the ballot label or similar description of the measure. Finally, the bill require the signers of the ballot arguments to submit the lists of supporters and opponents to the Secretary of State or the respective elections official and would require the Secretary of State or respective elections official to provide those lists to county elections officials as part of the ballot label.

According to the SOS, the ballot labels will require longer and larger ballots to accommodate the additional information. These longer and larger ballots have not been tested and approved by the SOS. Additionally, ballot printers and ballot on demand systems will also be impacted. Both types of vendors are required to undergo additional certification from the specific voting system vendors to make certain that they can print their respective ballots and that those ballots will also tabulate accurately. By making changes to the ballot layout/size, these ballot printers and ballot on demand vendors will need to recertify with the SOS to ensure that the ballot can still tabulate accurately on the respective voting systems. Currently, the duties of ballot printing certification are assigned to one analyst in the SOS' Office of Voting System Technology Assessment

The SOS notes additional implementation workload to review the list of supporters and opponents as provided by all argument authors, review supporting documents, and verify eligibility. These responsibilities will be conducted by both the SOS' Elections Division and Office of Voting System Technology Assessment.

Requested resources will fund overtime costs to accommodate the recertification of ballot printers and ballot on demand systems, as well as overtime costs to perform documentation review for ballot listing.

**STAFF COMMENTS**

Staff does not have concerns with this proposal.

**Staff Recommendation: Approve as Budgeted**

## ISSUE 25: AB 2528 IMPLEMENTATION – CAMPAIGN DISCLOSURES – ELECTRONIC FILING OF LOCAL STATEMENTS

The SOS requests $399,000 in 2023-24, $384,000 in 2024-25 and ongoing from the General Fund and 3 positions to plan, develop and implement the changes, and subsequently support the increased filing activity required by AB 2528 (Bigelow, Chapter 500, Statutes of 2022).

AB 2528 requires any candidate or elected officer whose obligation is to file original reports or statements locally (i.e., City Council Members, School Board Members, etc.) to file a copy of those reports or statements online or electronically with the SOS if they have received campaign contributions to support their candidacy for office in an upcoming election that equal or exceed $15,000.

Of note, the California Automated Lobbyist and Campaign Contribution and Expenditure Search System (CAL-ACCESS), the current system used for campaign disclosure and lobbying financial activity, is currently going through an IT overhaul and redevelopment. The SOS notes that the requirement under AB 2528 is too complex and cannot be considered prior to implementation and certification of CAL-ACCESS, as local filing officers do not adhere to the same filing system, nor have a working relationship between their electronic filing system and that of SOS.

Requested resources will be used to ensure sufficiently trained staff is available to assist a new filing community in fulfilling this legislative requirement. New business rules and requirements will be defined, developed, and tested. Coordination with all local filing officers in the State of California as well as plans for filer education and outreach will begin in conjunction with the FPPC when appropriate. The SOS will work with the FPPC to develop and implement plans for filer education and outreach for those parties who will be newly required to file online or electronically, as well as those filing via third-party software vendors.

### STAFF COMMENTS

Staff does not have concerns with this proposal.

**Staff Recommendation: Approve as Budgeted**

## ISSUE 26: AB 2841 IMPLEMENTATION – DISQUALIFICATION FROM VOTING

The SOS requests $3,076,000 in 2023-24 and $1,776,000 annually thereafter from the General Fund for 11 positions to implement the provisions of AB 2841 (Low, Chapter 807, Statutes of 2022).

The bill requires the clerk of the superior court of each county to notify the Secretary of State each month of findings made by the court regarding a person's competency to vote and the number of court proceedings related to the determination of a person's competency to vote, as specified. The bill requires the Secretary of State, upon receipt of identifying information for the affected persons, to send this information to the appropriate county elections official, who must proceed to cancel the person's registration or notify the person that their right to vote has been restored, as applicable. The bill requires the elections official to provide notice of the intent to cancel the person's registration between 15 and 30 days before the cancellation.

Finally, the bill requires the Secretary of State to post a report on their internet website each month showing the number of disqualifications and restorations of voting rights that occurred in each county, and to deliver a training to court officers and elections officials regarding the aforementioned requirements.

Requested resources will cover 11 staff to implement the bill's requirements. In addition, resources will cover costs to modify the voter registration system (VoteCal), procuring an Axway license to develop a mechanism for courts to electronically transfer conservatorship files to the SOS, and engaging and seeking an interagency agreement with California Department of Human Resources (CalHR) to host web-based learning and management training classes on CalLearns, CalHR's Learning Management System.

**STAFF COMMENTS**

Staff does not have concerns with this proposal.

**Staff Recommendation: Approve as Budgeted**

## ISSUE 27: HELP AMERICA VOTE ACT – VOTE CAL

The SOS requests $10,593,000 one-time funding in 2023-24 from the Federal Trust Fund to cover the maintenance and operations vendor, data analysis, security assessment, Election Management Systems support and verification, data lines, security enhancements, and off-premises cloud costs for the VoteCal statewide voter registration system.

The federal Help America Vote Act mandates that each state implement, maintain and administer at the state level, a uniform, centralized, interactive, computerized voter registration database. VoteCal serves as the single system for storing and managing the official list of registered voters in the state. Additionally, HAVA mandates that the voter registration system utilize data that is contained in systems at the Department of Motor Vehicles, the California Department of Public Health, and the California Department of Corrections and Rehabilitation for voter identification or verification and list maintenance purposes. The VoteCal system also interfaces with the Employment Development Department to validate and correct address information against the U.S. Postal Service's National Change of Address system as required by state and federal law. VoteCal is financed through federal funds.

Requested federal funds will support the VoteCal Maintenance & Operations vendor; data analysis, security assessment, and Election Management Systems support and verification contracts to analyze and support the VoteCal system for vulnerabilities and performance enhancements; increased connectivity costs with counties; and the maintenance of the VoteCal system on an offpremise cloud environment.

**STAFF COMMENTS**

Staff does not have concerns with this proposal.

**Staff Recommendation: Approve as Budgeted**

## ISSUE 28: HELP AMERICA VOTE SPENDING PLAN

The SOS requests $3,421,000 one-time funding in 2023-24 from the Federal Trust Fund to continue implementation of the statewide mandates of the Help America Vote Act.

Requested federal funds will be used to continue implementation of federal statewide mandates, including modernization or replacement of voting equipment, education and training programs for election officials and poll workers, development and dissemination of voting information to increase voter participation and confidence, voting systems testing and approval, county assistance for improving voting systems, implementing risk limit auditing, ensuring election assistance for individuals with disabilities, election auditing, and improving the secure administration of elections.

Of note, this request does not include funding for maintenance and operating costs for VoteCal, the statewide voter registration database, which is requested in the budget change proposal listed above.

### STAFF COMMENTS

Staff does not have concerns with this proposal.

**Staff Recommendation: Approve as Budgeted**

## ISSUE 29: SB 1131 IMPLEMENTATION – PUBLIC EMPLOYEES AND CONTRACTORS ACCESS TO SAFE AT HOME

The SOS requests $1,493,000 in 2023-24 and $861,000 annually thereafter from the General Fund to implement the provisions of SB 1131 (Newman, Chapter 554, Statutes of 2022), which expands the Safe at Home program eligibility to individuals who face threats of violence or violence or harassment from the public because of their work for a public entity.

Currently, the Safe at Home (SAH) program is California’s address confidentiality program for victims of domestic violence, stalking, sexual assault, human trafficking, and elder/dependent adult abuse, as well as their household members, and reproductive healthcare facility employees, providers, patients, and volunteers. The SAH program provides participants with a substitute address that can be used in place of their residential, school, or work addresses, for mailing purposes and to keep their address confidential and out of public record. The SAH program receives and then forwards mail to the participants. In addition, the SAH program assists participants in accessing ancillary services that include a confidential name change, confidential voter registration, and the Department of Motor Vehicles Records Suppression. When used in conjunction with an overall personal safety plan, the address confidentiality program provides a way for those victimized by certain crimes to protect their addresses from those who may use this information to harm them.

The SAH program receives $1,045,000 in ongoing funding from the General Fund to fund 8 positions to manage the program.

SB 1131 requires the SOS to expand the SAH program eligibility to include employees and contractors who face threats of violence or violence or harassment because of their work for a public entity. A public entity is defined as a federal, state, or local government agency.

Requested resources would provide 6 positions to provide the staffing, materials, mail bins, postage, postal boxes, and database necessary to meet the needs of Public Entity Employees and Contractors who enroll in the SAH program.

## STAFF COMMENTS

Staff does not have concerns with this proposal.

**Staff Recommendation: Approve as Budgeted**

## ISSUE 30: SB 450 IMPLEMENTATION – VOTE CENTERS CONTINUED POSITION FUNDING

The SOS requests $515,000 in 2023-24 and $515,000 in 2024-25 from the Special Deposit Fund for staff needed to continue to implement and administer the provisions set forth in SB 450 (Allen, Chapter 832, Statutes of 2016).

SB 450 created a new election model, the Voter’s Choice Act (VCA). Under the VCA model, a county is authorized to conduct any election as an all-mailed ballot election if certain conditions are satisfied, including conditions related to ballot drop-off locations, vote centers, and plans for the administration of all-mailed ballot elections. A vote center is an alternative to traditional polling places where voters can vote in person at fewer voting locations, but up to 10 days before the election. Currently 28 counties have adopted the VCA model, representing approximately 16 million registered California voters and 75 percent of the state’s electorate.

Currently, the SOS provides ongoing guidance in the administration of elections conducted under the provisions of SB 450. The SOS works closely with county elections officials to assist with the development of standards and best practices, including the collection, review, analysis, and approval of individual county voter education and outreach plans.

Requested resources will fund three positions: a high-level program manager responsible for oversight management and directing staff who manage statewide implementation of the VCA; an analyst responsible for implementing a process for submission of county voter education and outreach plans as well as implementing a process for data collection on outreach and education to be reported to the Legislature; and an Information Technology specialist to plan, conduct, and monitor voting system and electronic poll book system certification testing, evaluation, and monitoring.

**STAFF COMMENTS**

Staff does not have concerns with this proposal.

**Staff Recommendation: Approve as Budgeted**

## 8620 FAIR POLITICAL PRACTICE COMMISSION

### ISSUE 31 : SB 1360 IMPLEMENTATION – ADVERTISEMENT DISCLOSURES

The FPPC requests $170,000 in 2023-24 and $163,000 in 2024-25 and ongoing from the General Fund for one position to implement, interpret, and enforce workload associated with SB 1360 (Umberg, Chapter 887, Statutes of 2022).

Existing law requires political advertisements to include specified disclosure statements that identify the name of the campaign committee paying for the advertisement and the top contributors to that committee. SB 1360 changes the text and formatting of required disclosures on petitions and electronic media and video campaign advertisements. This bill also requires disclosures on electronic media advertisements about top contributors funding the advertisement. SB 1360 changes existing rules and creates exacting standards for what is required for proper advertisement disclosures.

The FPPC anticipates an increased number of complaints and compliance activities to ensure campaign committees comply with political advertisement requirements in the legislation. Requested resources would add one permanent Commission Counsel in the Enforcement Division to perform all functions necessary to review compliance of political advertisement obligations under this new state-mandate. These functions include, but are not limited to, processing complaints through the regular complaint system as well as the quick response system, FPPC ADWatch. Since 2017, the Enforcement Division has received 766 complaints regarding campaign advertisement rules and 279 through the FPPC ADWatch system.

**STAFF COMMENTS**

Staff does not have concerns with this proposal.

**Staff Recommendation: Approve as Budgeted**

## ISSUE 32: SB 746 IMPLEMENTATION – BUSINESS COMMUNICATIONS

The FPPC requests $298,000 in 2023-24 and $284,000 in 2024-25 and ongoing from the General Fund for 2 positions to implement, interpret, conduct outreach and education, and enforce the new law and the workload associated with the provisions of SB 746 (Skinner, Chapter 876, Statutes of 2022).

SB 746 requires a business entity to submit a report to SOS following any calendar year in which the business entity uses its products or services to alter online search results to emphasize or deemphasize materials containing express advocacy or to target online advertisements without full and adequate consideration and for political purposes. The bill specifies the contents of the report and requires business entities subject to these requirements to maintain detailed accounts and records necessary to prepare the report.

The FPPC anticipates an increased amount of advice inquiries, and education, training, and compliance activities to ensure new reporting information is provided by business entities in compliance with the requirements in the legislation.

Requested resources would add two permanent positions at the FPPC: one Political Reform Consultant in the Legal Division and one Commission Counsel in the Enforcement Division to perform all functions necessary to advise business entities on their obligations under this new state-mandate and enforce the new rules.

**STAFF COMMENTS**

Staff does not have concerns with this proposal.

**Staff Recommendation: Approve as Budgeted**

## ISSUE 33: SB 1439 IMPLEMENTATION – CONTRIBUTIONS TO LOCAL AGENCY OFFICERS

Includes $425,000 in 2023-24 and $404,000 in 2024-25 and ongoing from the General Fund for 3 positions s to implement, interpret, and perform outreach and education on workload associated with the provisions of SB 1459 (Glazer, Chapter 848, Statutes of 2022).

Existing law prohibits an officer of an agency from accepting, soliciting, or directing a contribution of more than $250 from any party, participant, or a party or participant's agent, while a proceeding involving a license, permit, or other entitlement for use is pending before the agency and for three months following the date a final decision is rendered in the proceeding, if the officer knows or has reasons to know that the participant has financial interest. SB 1439 applies the existing campaign contribution prohibition for state and local agencies to local elected agencies, such as city councils and boards of supervisors, and expands the timeframe prohibiting specific contributions following an official's action from three months to 12 months.

The FPPC anticipates an increased amount of advice inquiries, and education, training, and compliance activities to ensure state and local agencies comply with requirements in the legislation. According to the FPPC, between 2,700 and 3,800 additional agencies will have elected officials who are subject to the contribution prohibition.

Requested resources would add three permanent positions—one Commission Counsel in the Legal Division, and one Commission Counsel and one Political Reform Consultant in the Enforcement Division—to perform all functions necessary to advise and educate the public and ensure compliance of campaign contribution obligations under this new state mandate.

### STAFF COMMENTS

Staff does not have concerns with this proposal.

**Staff Recommendation: Approve as Budgeted**

## ISSUE 34: SB 459 IMPLEMENTATION – LOBBYING TRANSPARENCY

The FPPC requests $425,000 in 2023-24 and $404,000 in 2024-25 and ongoing from the General Fund for 3 positions to implement, interpret, and perform outreach and education on workload associated with the provisions of SB 459 (Allen, Chapter 873, Statutes of 2022).

Existing law requires lobbying firms, lobbyist employers, lobbying coalitions, and individual lobbyists to register and file periodic reports with the Secretary of State (SOS). It requires the SOS to maintain on the internet an updated list of lobbyists, lobbying firms, and lobbyist employers. The law requires a lobbyist to complete and verify periodic reports containing all activity expenses by the lobbyist during the reporting period. This report must be provided to their lobbyist employer or lobbying firm within two weeks following the end of each calendar quarter. The lobbying firms and lobbyist employers are required to file periodic reports containing specified information about their lobbying activities. This includes, but is not limited to, a description of the specific lobbying interests and lobbying-related payments during the quarterly reporting period.

SB 459 requires lobbyists, lobbying firms, and lobbyist employers to include new information in their quarterly periodic reports that identifies each bill or administrative action subject to lobbying activity, the respective position advocated for, and each bill or administrative action for which issue lobbying advertisements were issued. This bill requires a lobbyist employer to file a new 24-hour report if it retains a lobbying firm to influence legislative action during the 60-day period before the Legislature is scheduled to adjourn in a calendar year, and requires, during that same period, a supplemental 24-hour report to be filed within 24 hours of engaging in direct communication with specified officials for the purpose of influencing legislative action. The bill imposes new requirements relating to issue lobbying advertisements, an area previously not regulated under statutes, and requires a lobbyist employer to file specified reports within 72 hours of incurring costs $5,000 or more for issue lobbying advertisements within a calendar quarter.

The FPPC anticipates increased workload in both the Legal and Enforcement Divisions. For the Legal Division, the FPPC anticipates an increased amount of advice inquiries from lobbyists, lobbying firms, and lobbyist employers on changes to the reporting and disclosure requirements regarding information in their quarterly periodic reports, regarding the two new 24-hour reports, and regarding the new issue lobbying advertisement report and related new requirements. The FPPC anticipates increased workload relating to creating and maintaining related educational and training materials. The FPPC also anticipates an increase in workload pertaining to the new forms to be submitted as the FPPC is responsible for writing the forms and instructions.

Requested resources would add 3 positions: one Commission Counsel and one Political Reform Consultant in the Enforcement Division and one Political Reform Consultant position in the Legal Division to perform all functions necessary to advise and enforce those new mandates, including preparing website content, guides, manuals, fact sheets; conduct outreach; respond in writing and telephone to field inquiries from lobbying firms, lobbyist employers, lobbying coalition and lobbyists regarding expanded obligations;

create new forms and instructions in coordination with the SOS, and enforce the new forms and disclosures.

**STAFF COMMENTS**

Staff does not have concerns with this proposal.

**Staff Recommendation: Approve as Budgeted**

## ISSUE 35: AB 2172 IMPLEMENTATION - PAPER FILINGS WITH SOS

The FPCC requests $127,000 in 2023-24 and $120,000 in 2024-25 and ongoing from the General Fund for 1 position to implement the provisions of SB 2172 (Cervantes, Chapter 328, Statutes of 2022).

AB 2172 authorizes a person required to file a report or statement with the SOS in a paper format to file the report or statement by email or other digital means prescribed by the SOS instead, subject to specified requirements. This bill provides that a report or statement filed by email in accordance with these provisions is the original for audit and other legal purposes. The bill would eliminate the requirement that a person file a copy of the report or statement with the original when filing on paper.

The FPPC anticipates an increased amount of advice inquiries from statewide elected officials, elected members of specified entities, candidates for elective office, political committees, campaign treasurers, lobbying firms, lobbying coalitions, and individual lobbyists, among others, on changes of the new report and statement requirements.

Requested resources would add one permanent Political Reform Consultant position in the education and outreach unit to perform all functions necessary to advise filers on their obligations under this new state-mandate.

**STAFF COMMENTS**

Staff does not have concerns with this proposal.

**Staff Recommendation: Approve as Budgeted**

# ITEMS TO BE HEARD

## 0890 SECRETARY OF STATE

### OVERVIEW

The Secretary of State (SOS) is the constitutional office responsible for elections, business filings, political campaigning, legislative advocacy and historical records. Among its many responsibilities, the Secretary of State serves as California's Chief Elections Officer; implements electronic filing and Internet disclosure of campaign and lobbyist financial information; maintains business filings; commissions notaries public; operates the Safe at Home confidential address program, maintains the Domestic Partners and Advance Health Care Directive Registries, safeguards the State Archives; and services as a trustee of the California Museum.

The subcommittee will receive an update on the California Automated Lobbyist and Campaign Contribution and Expenditure Search System replacement project, an initiative to replace California's campaign disclosure and lobbying financial activity portal. The subcommittee will also hear several budget change proposals requested by the Secretary of State related to elections staffing, audits, and notaries.

### ISSUE 1: CAL-ACCESS REPLACEMENT SYSTEM PROJECT UPDATE

The Secretary of State will provide an overview of the CAL-ACCESS system, and provide an implementation update of the CAL-ACCESS Replacement System (CARS) Project.

### Panel

- Shirley N. Weber, Ph.D., California Secretary of State
- John Heinlein, Assistant CARS Project Director, Secretary of State
- Tristian Cormier, Chief Information Officer, Secretary of State
- Tamara Johnson, Chief Financial Officer, Secretary of State
- Emma Jungwirth, California Department of Finance
- Charles Lassalle, California Department of Finance
- Nick Schroeder, Principal Fiscal & Policy Analyst, Legislative Analyst's Office

### BACKGROUND

<u>History of CAL-ACCESS</u>

In 1974, California voters approved Proposition 9, also known as the Political Reform Act of 1974, which among other things, requires the disclosure of campaign contributions and expenditures and state lobbying activities. The requirements are intended to ensure, among others, that "Receipts and expenditures in election campaigns [are] fully and truthfully disclosed in order that the voters may be fully informed and improper practices may be inhibited," and that "The activities of lobbyists [are] regulated and their finances disclosed in order that improper influences will not be directed at public officials."

In 1997, the Legislature passed and Governor Pete Wilson signed SB 49 (Karnette), Chapter 866, Statutes of 1997, which amended the Political Reform Act and established the Online Disclosure Act of 1997. SB 49 required the SOS, in consultation with the Fair Political Practice Commission, to develop and implement, by the year 2000, an online filing and disclosure system for reports and statements required to be filed under the PRA. As a result, the SOS created and deployed a system called the California Automated Lobby Activity and Campaign Contribution and Expenditure Search System, commonly referred to as CAL-ACCESS.

Today, CAL-ACCESS serves as California's political finance database and filing system: it provides online and electronic filing processes for use by candidates, political committees, lobbyists, lobbying firms, and lobbyist employers subject to disclosure and transparency laws. CAL-ACCESS also enables the public to access information on lobbying and campaign finance activity at no cost to users. CAL-ACCESS is also used by the Fair Political Practices Commission (FPPC) for investigation, enforcement, and oversight activities.

The current CAL-ACCESS system is aging and facing significant technical challenges. It is currently powered by a variety of computer hardware, firmware, and software, some no longer supported by their vendor or past their operational lifespan. As a result, CAL-ACCESS has over the years suffered frequent outages and technical failures, both putting strain on SOS staff resources and denying public access to information.

In 2016, Senate Bill 1349 (Hertzberg—Ch. 845, Statutes of 2016) was enacted into law and required the SOS in consultation with the FPPC to develop and certify for public use a new online filing and disclosure system for campaign statements and develop reports that provide public disclosure of campaign finance and lobbying information with specified, user-friendly, easily understandable format. The legislation created legislative oversight and reporting requirements for the project, including a mandated quarterly project report sent directly to the Joint Legislative Budget Committee.

The project to redevelop a new system is referred to as the CAL-ACCESS Replacement System (CARS) Project

CAL-ACCESS Replacement System Project

Past efforts to rebuild CAL-ACCESS have been unsuccessful. During a previous project development effort scheduled for public release in summer of 2021, internal and external stakeholders raised functionality, security, and usability concerns based on testing efforts and interactions with the project team. Subsequently, the SOS partnered with the Department of Technology to conduct an independent assessment of CAL-ACCESS, which resulted in the recommendation to restart the project. Based on the information contained in the independent assessment report and input received from CDT and internal stakeholders, the Secretary of State accepted the recommendations identified in the report and moved forward with restarting the project.

The new CARS project, which is based on the independent assessment, is characterized as having three project phases: Pre-Planning, Planning, and Execution.

Pre-planning includes the development of the CARS roadmap and approach; address and prioritize the independent assessment recommendations and the CARS Lessons Learned action items for inclusion into the CARS project scope; close-out all outstanding CARS Project activities from the previous iteration of the project; and identification of resources and staff skillsets (e.g., solicitation, staff redirection) needed to effectively begin the CARS Project initiation and planning activities.

The planning phase consists of the CARS Project initiation and planning activities, including SOS' formal entrance into the California Department of Technology's Project Approval Lifecycle process. Activities include business case development, requirements and business process review, data readiness and review, conducting market research for viable technical solutions, preparing the solicitation, and vendor contract award.

The execution phase represents the design, development, and actual implementation of the CARS technical solution.

The Budget Act of 2022 provided $11.3 million ($1 million of new funding and $10.3 million of existing funding) support the costs of the project restart including pre-planning and planning phases of the new CARS project. Of the $11.3 million total funds, $8.03 million was made immediately available to the project on July 1, 2022. In October of 2022, the SOS notified the Joint Legislative Budget Committee and the Department of Finance that of the remaining $3.24 million in funding available, the SOS only needed $1.1 million for the remainder of the fiscal year based on projected expenditures.

The SOS notes that the CARS Restart Project is on schedule to meet its planning phase milestones. A project end date is not yet known and will be determined when a System Integrator is acquired and provides an estimated project completion date. Based on information contained in the Independent Assessment Report, project implementation is estimated at 27 months.

Of note, available funding only covers the pre-planning and planning phases of the CARS project. The SOS noted in its quarterly report that it anticipates needing funding in 2023-

24 to cover the costs of the remaining eight months of project planning activities and the first four months of project execution activities.

**STAFF COMMENTS**

Launched in June 2000, CAL-ACCESS systems are now nearly 23 years old. Its system applications are currently written in 14 different programming languages, only some of which are still supported by their original vendors. Aging hardware and outdated software have created significant challenges in maintaining and operating CAL-ACCESS: for example, the system suffered a month-long outage in 2011, and there is continued difficulty in converting filed statements into a user-friendly database.

Despite its problems, CAL-ACCESS remains a critical tool for the public to freely access political campaign and lobbying financial disclosures. Over the years, the committee has received constant feedback from stakeholders – including interest groups, filers, and state departments relying on CAL-ACCESS – about the worsening technical inadequacies of the system, and the need for improvements.

The subcommittee may wish to ask the following questions about the system replacement project:

1- What is the SOS' projected cost to finish the planning phase and fully implement this current iteration of the CAL-ACCESS Replacement System project?

2- What guardrails have been put in place to ensure CARS can be completed on schedule and avoid a project restart?

3- What outreach has been conducted to date to ensure the diverse stakeholders relying on CAL-ACCESS can provide input throughout the project's development?

**Staff Recommendation: This item is presented for information only.**

## ISSUE 2: SOS BUDGET CHANGE PROPOSALS

The subcommittee will hear four budget change proposals for the Secretary of State related to elections staff, audits, notaries, and access to federal funds.

## PANEL

- Tamara Johnson, Chief Financial Officer, California Secretary of State
- Jana Lean, Chief, Elections Division, California Secretary of State
- Gregory Harrison, Auditor, California Secretary of State
- Shannon Delgado, Assistant Chief, Business Programs Division, California Secretary of State
- Emma Jungwirth, California Department of Finance
- Charles Lassalle, California Department of Finance
- Nick Schroeder, Principal Fiscal & Policy Analyst, Legislative Analyst's Office

## BACKGROUND

**BCP 1: Elections Staff Enhancement**

The SOS requests $1,590,000 in 2023-24 and $1,535,000 annually thereafter from the General Fund for 11 positions to support elections in California. The SOS requests these resources to maintain operation, access, and integrity of public services provided by the Secretary of State.

Currently, The SOS' Elections Division is comprised of 36 staff. According to the SOS, the Elections Division has experienced significant turnover, which has been attributed to excessive workload and overtime needed to meet the statutorily required deadlines. In 2021-22 non-excluded staff in the Elections Division worked 4,457 hours of overtime at a cost of $145,409. Since 2019-20, and despite aggressive recruitment efforts, at least 10 percent or more of the positions have been vacated, many due to the extreme workload and lack of work/life balance enforced by high profile national and statewide elections and ongoing local elections.

This proposal would cover the cost to add staff resources to the Elections Division. Staffing positions requested include Program Area Managers, Front Office Supervisor, Candidate Statements and Political Party Qualifications Analyst, Accessibility Coordinator, Candidate and Elections / Special Elections Coordinator, and VoteCal positions.

**BCP 2: Internal Audit Office Staffing Needs**

The SOS requests $223,000 from the General Fund and $469,000 from the Business Fees Fund, for a total of $692,000 in 2023-24, as well as $216,000 from the General Fund and $456,000 from the Business Fees Fund, for a total of $672,000 in 2024-25 and annually thereafter, to support increased workload in the Internal Audit Office.

The SOS' Internal Audit Office (IAO) currently consists of two audit positions. According to the SOS, the scope of SOS responsibilities has grown in recent years, while the capabilities of the IAO have not. Funding will be used for 4 auditor positions to expand the scope of the SOS' audit functions. With the adjusted staffing, the SOS will be able to execute its long-range audit plan, including auditing at the county level to ensure that federal and state funds are used in an appropriate manner and internal controls are functioning properly.

**BCP 3: Notary Automation Program Replacement Project**

The SOS requests $3,607,000 in one-time funding in 2023-24 from the Business Fees Fund for planning resources for the Notary Automation Program system replacement.

The SOS is responsible for the appointment of California notaries public. Prior to appointment, a notary public applicant must complete an education course and pass both a notary public examination and a background investigation from both the California Department of Justice and the Federal Bureau of Investigation. The SOS currently utilizes a legacy NAP system to store and maintain notary public commission data. According to the SOS, the NAP system is approximately 30 years old and needs replacing, and current technology has evolved significantly since the NAP system was created. Creating a new system, nicknamed NAP 2.0, will allow the SOS to update the system and allow for easier amendments in the future should the Notary laws change.

Requested resources will allow the SOS to procure for various Information Technology vendors, as well as 2 positions that will be responsible for planning, organizing and directing technical activities for the long-term implementation of the NAP project.

**BCP 4: Help America Vote Act: Election Security Federal Grant Award**

The SOS requests $1,116,000 from the General Fund to meet a state match requirement that would grant $5,827,000 in federal funds from the U.S. Election Assistance Commission, for a total of $6,993,000 in one-time funding in 2023-24, to improve the administration of elections for Federal office, including to enhance election technology and make election security improvements.

The Consolidated Appropriations Act of 2022 appropriated $75,000,000 in federal funding for election security, available to states to improve the administration of elections for Federal office, including to enhance technology and make election security improvements. The Consolidated Appropriations Act of 2022 requires a 20-percent state match to be made available which the state has two years to secure. California's state match requirement is $1,166,000.

Once the state-match requirement is met, the SOS would have access to a total in $6,993,000 in funding. Of that amount, $431,000 is planned for the support of security enhancements to the Statewide Voter Registration Database (VoteCal) and state election infrastructure to ensure the statewide voter registration database and election infrastructure remain secure. In addition, $5,396,000 in federal funding and the 20 percent state match of $1,166,000 are to support county implementation of election security safeguards and infrastructure against physical and cyber risks and vulnerabilities and polling place accessibility through county training on accessibility requirements and mitigations, and providing funding to counties to improve accessibility of polling places.

**Related Budget Requests Under Consideration**

The subcommittee is reviewing a budget request submitted by the Office of Assemblymember Pellerin for a $25,000 appropriation in 2023-24 and $125,000 in ongoing funds to finance California's one-time joining fee and annual membership dues for the Electronic Registration Information Center (ERIC).

**STAFF COMMENTS**

The subcommittee may wish to ask the following questions:

On Elections Staff Enhancement:

1. How was the level of staffing for the request determined?

2. How will these additional resources improve retention in the Elections Division and prevent further burnout with existing staff?

On Internal Audit

1. What types of internal audit is the SOS able or unable to execute with its current staffing level?

2. If additional auditor positions are granted, what are the long-range audit priorities of the SOS?

On Notaries:

1. What is the projected completion time of the Notary Automation Project?

2. What are the projected total costs of completing this project?

On HAVA:

1. What is the process for local governments to access federal funding?

2. What are the types of election security improvements that can be accomplished through this federal funding?

**Staff Recommendation: Hold Open**

## 8620 FAIR POLITICAL PRACTICE COMMISSION

### ISSUE 3: POLITICAL REFORM EDUCATION PROGRAM

The Fair Political Practices Commission is a five-member independent, non-partisan commission that has primary responsibility for the impartial and effective administration of the Political Reform Act. The Act regulates campaign financing, conflicts of interest, lobbying, and governmental ethics.

The subcommittee will hear a budget change proposal for the FPPC's new Political Reform Education Program.

### PANEL

- Loressa Hon, Chief of Administration, Fair Political Practice Commission
- Galena West, Executive Director, Fair Political Practice Commission
- Emma Jungwirth, Department of Finance
- Charles Lassalle, Department of Finance
- Nick Schroeder, Principal Fiscal & Policy Analyst, Legislative Analyst's Office

### BACKGROUND

The Fair Political Practices Commission (FPPC) requests $455,000 General Fund in 2023-24, and $421,000 in 2024-25 and ongoing, and 3.0 positions to continue to develop, administer and expand the new Political Reform Education Program.

Existing law directs the Commission to develop a program as soon as feasible, to allow for the education of a person who commits a minor violation of the Political Reform Act of 1974, as specifies. The Political Reform Education Program ("PREP") is the new pilot educational program created by the FPPC in response to this mandate. The purpose of the PREP is to allow for education of respondents who have little or no experience with the Political Reform Act of 1974 and commit minor violations, in lieu of monetary penalties. Eligibility for the program include committing violations that resulting in minimal public harm, or that the respondent has not paid a penalty to the FPPC for the same violation occurring within the last five years.

Similar to traffic school, PREP allows participants to learn how to comply with the law while avoiding both a monetary penalty and a mark on their record. Participants who successfully complete PREP will have their enforcement case closed with a No Action Closure Letter.

Funding would be used by the FPPC to expand the program from its limited launch of one topic – Statements of Economic Interest. The following are some courses that have been identified for PREP to develop, offer and administer:

- Campaign Course for Candidates and Candidate-Controlled Committees (Local)
- Campaign Course for General Purpose and Primarily Formed Committees (Local)
- Campaign Course for Independent Expenditure and Major Donor Committees (Local)
- Campaign Course for Candidates and Candidate-Controlled Committees (State)
- Campaign Course for General Purpose and Primarily Formed Committees (State)
- Campaign Course for Independent Expenditure and Major Donor Committees (State)
- Behested Payment Reports Course
- Lobbying Reports Course
- Advertising and Mass Mailing Disclosures Course

**STAFF COMMENTS**

Staff does not have concerns with this proposal. The subcommittee may wish to ask when the FPPC anticipates launching its additional PREP courses.

**Staff Recommendation: Hold Open**

## 0559 LABOR AND WORKFORCE DEVELOPMENT AGENCY

### ISSUE 4: 2023-24 WORKFORCE DEVELOPMENT PROGRAMS: REDUCTIONS AND FUNDING PAUSES

The Budget Act of 2022 provided significant investments in workforce development, focusing on various trades, industries, and target demographics. These programs are administered by various departments under the Labor and Workforce Development Agency (LWDA), including the Department of Industrial Relations (DIR), the Employment Development Department (EDD) and the California Workforce Development Board (CWDB).

Due to uncertain revenue projections, the 2023 Governor’s proposed budget includes funding reductions or funding pauses for several workforce development initiatives. The impacted programs include the Women in Construction Priority Unit, the Apprenticeship Innovation Fund, and the COVID-19 Worker Outreach Program at DIR; the Emergency Medical Technician Training program at EDD; and the Youth Leadership Program at CWDB. The Subcommittee will review these various programs targeted for funding reductions or funding pauses and assess its impact on California’s workforce development opportunities.

### PANEL

- Andrew March, Principal Program Budget Analyst, California Department of Finance
- Patrick Toppin, Finance Budget Analyst, Department of Finance
- Chas Alamo, Principal Fiscal & Policy Analyst, Legislative Analyst’s Office

### BACKGROUND

The following outlines the various programs funded in the Budget Act of 2022 that are subject to funding reductions or funding pauses in the 2023 Governor’s proposed budget:

**Women in Construction Priority Unit (Department of Industrial Relations)**

The Budget Act of 2022 included $15 million in ongoing General Fund to assist and provide resources to women and nonbinary individuals in the construction workforce. This program would, for example, develop materials for employers and unions to promote recruitment and retention, maintain an internet website listing workers’ rights, developing training materials specific to women and nonbinary individuals to navigate health and safety and wage and hour laws, and leadership training to increase the upward mobility of women and nonbinary individuals in construction careers. The program would also provide resources for employers and project owners, including public agencies, to improve construction worksite culture, address barriers to employment, develop training and materials for workforce pipeline professionals specific to women and nonbinary individuals in construction, and interagency training.

2023 Proposed Spending Delay, Subject to Trigger: The Governor's budget proposes to pause this funding in 2023-24 and 2024-25 and resume funding of $15 million General Fund ongoing in 2025-26. If there is sufficient General Fund in January 2024, the proposed budget offers to restore funding.

**Apprenticeship Innovation Fund (Department of Industrial Relations**)

The Budget Act of 2022 included $175 million General Fund over three years ($55 million in 2022-23 and $60 million in each 2023-24 and 2024-25) to establish the Apprenticeship Innovation Funding Program (AIF) at DIR. The program provides grants, reimbursements, or other funding for the support of an apprenticeship program or training of apprentices. Example of activities include recruiting, matching, and placing individuals into apprenticeships; support services; retention initiatives; development of courses; classroom instruction and equipment for classroom training.

2023 Proposed Spending Reduction, Subject to Trigger: The Governor's budget proposes to withdraw $40 million ($20 million in each 2023-24 and 2024-25), reducing the total three-year investment in the AIF program to $135 million. If there is sufficient General Fund in January 2024, the proposed budget offers to restore the funding.

**COVID-19 Worker Outreach (Department of Industrial Relations**)

The Budget Act of 2022 provided $50 million General Fund over two years ($25 million in each 2022-23 and 2023-24) to extend the COVID-19 Workplace Outreach Project at DIR. The program enables DIR to partner with organizations to conduct outreach activities to educate workers and employers in high-risk industries, such as the food and agriculture sectors, on how to minimize the spread of COVID-19 in the workplace, and educating essential workers about COVID-19-related labor laws. The program also provides outreach and education on workplace health and safety, worker leave and pay benefits, and anti-retaliation protections.

2023 Proposed Reduction: The Governor's budget proposes to eliminate the $25 million allocated for 2023-24.

**Emergency Medical Technician Training (Employment Development Department**)

The Budget Act of 2022 committed $60 million General Fund over three years ($20 million in each 2022-23, 2023-24, and 2024-25) to EDD to provide regional emergency medical technician (EMT) training. This program targets youth and those who may have barriers to employment for roles as EMTs and will be developed in partnership with local public health systems and their contracted emergency medical providers.

2023 Proposed Reduction, Subject to Trigger: The Governor's budget proposes to withdraw $20 million ($10 million in each 2023-24 and 2024-25), reducing the total three-year investment to $40 million. If there is sufficient General Fund in January 2024, the budget proposes to restore this reduction.

**Youth Leadership Program (California Workforce Development Board**)
The 2022 Budget Act included $60 million General Fund over three years ($20 million in each 2022-23, 2023-24, and 2024-25) to CWDB for community change learn-and-earn career pathway programs at 20 selected community colleges.

2023 Proposed Reduction, Subject to Trigger: The Governor's budget proposes to withdraw $20 million ($10 million in each 2023-24 and 2024-25), reducing the total three-year investment to $40 million. If there is sufficient General Fund in January 2024, then the proposed budget offers to restore this reduction.

**Related Budget Requests Under Consideration**

- The subcommittee is reviewing a budget request submitted by the Assembly Committee on Labor and Employment to restore $25 million for the second year of the CWOP program.

- The subcommittee is reviewing a budget request submitted by the Office of Assemblymember Kalra for a $15 million allocation for the California Workforce Development Board (CWDB) to support cities and counties that end a conditional use permit for an immigration detention center.

- The subcommittee is reviewing a budget request submitted by the Office of Assemblymember E. Gardia for a $30 million allocation for the Breaking Barriers to Employment Initiative. AB 1111 established a competitive grant program with the goal of providing services to target populations who are often not eligible for other state and federal programs. Eligible activities include basic education, on-the-job training, and supportive services.

**STAFF COMMENTS**

The subcommittee may wish to ask the following questions:

1. Why did the Administration select these specific programs for reductions or funding pauses?
2. Several of the impacted programs are subject to a trigger. Does the Administration have a specific threshold or target number that, if met, will guarantee restored funding?

**Staff Recommendation: Hold Open**

## 8955 EMPLOYMENT DEVELOPMENT DEPARTMENT

### OVERVIEW

The Employment Development Department is the state entity responsible for administering various safety net programs in California, including Unemployment Insurance (UI), State Disability Insurance (SDI) and Paid Family Leave (PFL). The UI program issues partial income replacement for Californians who become unemployed through no fault of their own. The UI program is financed by employers, who pay unemployment taxes on wages paid to each worker. The SDI program provides partial wage replacement to eligible California workers who are unable to work due to a non-work-related illness, injury or pregnancy. SDI is funded through employee contributions in the form of payroll taxes. Finally, the PFL program provides benefit payments to people who need to take time off work to, for example, care for a seriously ill family member or bond with a newborn child. The state's PFL program is part of the SDI program.

This subcommittee will hear an update on EDD operational improvements following the COVID-19 pandemic. The committee will also hear several budget proposals and funding reductions proposed in the proposed Governor's budget. Finally, the committee will discuss opportunities to expand EDD unemployment safety net program to traditionally excluded workers.

### ISSUE 5: UPDATE ON EDD OPERATIONS

This panel will receive an update on EDD operations following the COVID-19 pandemic. This includes EDD's Recession Plan submitted in March 2022, the Department's fraud prevention activities, and current efforts to expand language access.

### PANEL

- Nancy Farias, Director, Employment Development Department
- Grecia Stanton, Unemployment Insurance Deputy Director, Employment Development Department
- Rita Gass, Chief Information Officer, Employment Development Department
- Ron Hughes, Special Consultant on Technology, Employment Development Department
- Andrew March, Principal Program Budget Analyst, Department of Finance
- Patrick Toppin, Finance Budget Analyst, Department of Finance
- Chas Alamo, Principal Fiscal & Policy Analyst, Legislative Analyst's Office

**BACKGROUND**

## EDD Operations During the Covid-19 Pandemic.

The COVID-19 pandemic pushed California's UI program to records high. Typically, approximately 40,000 Californians file for UI benefits each week in a year – but during the first two months of the pandemic, an average of 500,000 workers were filing each week. At the same time, the federal government launched the Pandemic Unemployment Assistance (PUA) program, which provided UI benefits to otherwise uneligible workers, including self-employed individuals, independent contractors or individuals who had exhausted their regular UI benefits. The roll out of the PUA program further added to the Department's pandemic workload. EDD processed 20 million unemployment benefit claims during the pandemic, compared to 3.8 million in the Great Recession of 2008.

The surge in pandemic claims suddenly and unexpectedly overloaded EDD's systems, highlighting weaknesses in the Department's ability to respond to emergencies. In response to these challenges, the Governor directed the creation of a "strike team" in July of 2020 to assess EDD operations and issue recommendations for reform. The strike team, led by the Secretary of Government Operations Agency and a former United States Deputy Chief Deputy Technology Officer, issued a list recommendation that included better case tracking, implementation of automated identity verification, and more.

At the time of writing, 83% of the strike team's recommendations have been implemented. A portion of the strike team's recommendations will be implemented as part of EDDNext – a modernization effort that is detailed in a separate section of this agenda.

## Looking Ahead: EDD's Recession Plan

In 2022, as the number of COVID-19 cases dwindled and the number of EDD claims similarly declined, this committee examined the various operational improvements made at the Department to better prepare the state for any future emergencies. These improvements included the implementation of automated processes, expanding access to customer service through the call center, and ongoing improvements to the online application, including the ability to apply for benefits, upload documents, and submit certification documents from any electronic devices, including mobile phones.

In addition, the Legislature enacted SB 390 (Laird, Chapter 543, Statutes of 2021) which required EDD to develop and implement a recession plan to prepare for an increase in unemployment insurance compensation benefits claims, should the state face an economic recession. The plan must provide details on several fronts, including past lessons learned, staff hiring and training, facilities and operations, budget constraints, and more.

In March of 2022, EDD submitted and published its Recession Plan, which assesses EDD's current UI operations through an analysis of 11 distinct metrics. A brief summary of key line items are included below, and the full EDD Recession Plan is available both as an addendum to this agenda:

Monitor Likely Upcoming Workload Impacts: In January 2020, the Department's UI Branch developed an economic resilience plan to monitor and provide context to the seasonal nature and trends of workload data (e.g. weather, harvests, major holidays, school schedules, strikes, furloughs or natural disasters). As some of these seasonal events follow a regular pattern each year, workload metrics were analyzed to identify periods when predictable, repeating fluctuations occur. The analysis aimed to pre-plan a more efficient distribution of EDD employees across various workloads and to have sufficient staffing to handle predictable surges in expected workload.

In addition, EDD established the UI Command Center Division (UICCD) to oversee the planning of benefit claim processing workloads and staffing resource allocations for the UI Branch. The division's primary functions include forecasting UI workload volumes, customer service demands, and staffing levels needed to meet performance objectives. The Budget Act of 2022 provided three-year funding to continue operating the UICCD.

The Recession Plan includes various staffing plans for when California unemployment rates reach certain thresholds. For example, if unemployment rate reaches 6%, EDD would authorize overtime and schedule additional trainings. If unemployment reaches 8%, other EDD branches and non-EDD volunteers would be called in to assist with less complex, predetermined workload and use retired annuitants as support staff. If unemployment rates reach 12%, EDD would release a request for proposal for vendor contract to add additional staffing resources.

Improve hiring practices and surge staffing planning. Ramping up staffing during the COVID-19 pandemic was a significant challenge for the Department. As the number of claims spiked, EDD had to urgently find, hire, and train staff to address mounting workloads. In its Recession Plan, EDD reports taking the following steps to improve staffing levels:

- Using teleworking policies established during COVID-19 to borrow staff from other EDD branches and other state departments. Teleworking has also been used to eliminate geographic limitations when hiring candidates.

- Hiring in additional classifications to assist with workload increases in areas such as identify verification and auditing.

- Improving the overall hiring process, including conducting telephone interviews, and implementing a central SharePoint site for hiring.

Improve Self-Service Options. In its recession plan, EDD refers to several solutions that were implemented to improve self-service options and minimize the number of lengthy interactions with EDD staff. These include:

- A website chatbot to obtain answers to questions that do not require a conversation with a representative;

- Additional informational messages played when on hold on the phone that address basic reasons customers call and where to find direct answers to specific questions;

- SMS text messaging to provide information or reminders at key points in a claim or communicate about special situations that require a claimant's attention;

- A Claim Status Tracker that provides detailed information about the current status and next steps for claimants and EDD;

- Online document upload capability through DocuSign to reduce timeframe to submit identify verification documents.

Activities Under Consideration

The recession plan includes several opportunities under consideration by the Department to further strengthen the Department's resilience:

- Cross-Training Staff: To better prepare for increased workload, EDD recommends all Employment Program Representatives (EPR) to be cross-trained and able to perform all functions at the field office level. Existing staff that have not been trained in determinations should be trained before the next recession. Newly hired staff should also be trained in determinations. All EPRs in field offices should have the ability to file claims and conduct determination interviews. The Department is in the process of cross-training most EPR staff for multiple work assignments.

- Implement better crisis planning to expand workforce quicky: this involves identifying partnering agencies with a workforce that has transferable skills, and develop ready-to-use interagency agreements for workforce support in times of emergencies and crisis.

- Continue improving various systems: this includes expanding chatbot functionality, expand use of e-mail communication with claimants, and expand conditions that would allow automated claim filing.

- Expand the use of virtual desktops and remote work to minimize the need for physical space and staff expansion or relocation.

## Update on Fraud Prevention Activities

In 2020, the United States Congress established the Coronavirus Aid, Relief, and Economic Security Act (CARES) that established the Pandemic Unemployment Assistance program. This federal program provided UI benefits to otherwise ineligible workers, including self-employed individuals, independent contractors or individuals who had exhausted their regular UI benefits. Although these temporary programs were 100 percent federally funded, states were responsible for their implementation. These efforts added to the already high workload at EDD during the pandemic.

EDD suspected fraudulent activity in this new federal benefit program, as the number of claims for self-employed workers spiked dramatically. Of note, many states were hit harder than California: for instance, in Arizona, Georgia, Hawaii, Nevada, and Rhode Island, more claims for UI were submitted in 2020 than there were workers in those states. The new program was the target of fraud for several reasons. First, the federal program presented a larger financial incentive to commit fraud. Specifically, federal law allowed self-employed workers to receive payments retroactively to when they lost work (also known as "backdating"), meaning a first fraudulent check could total several thousand dollars. Second, whereas EDD typically verifies claims against employer payroll records, it could not do so for self-employed workers. Third, former employers typically provide a check on the validity of workers' claims, but this extra level of review did not apply to self-employed workers.

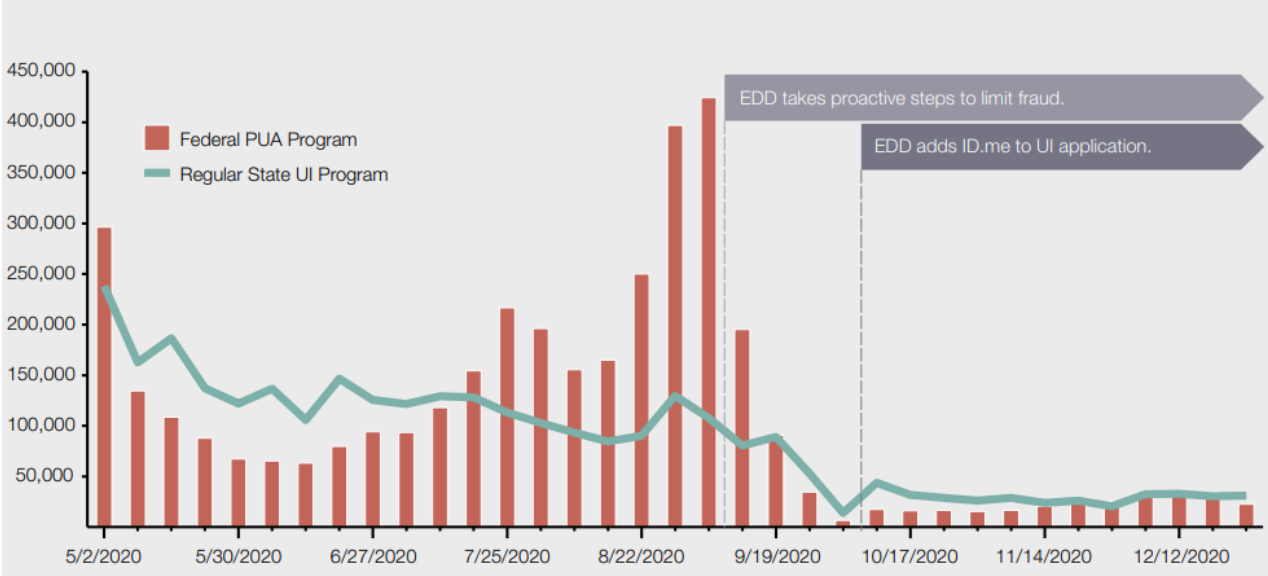
After investigating the spike in claims, EDD stopped automatically backdating PUA claims. This step closed off the opportunity for fraudulent actors to receive a large initial payment. EDD notified the U.S. Department of Labor (USDOL) of their intent to stop backdating PUA claims to eliminate this financial incentive. Shortly thereafter, USDOL advised all states to take a similar precautionary step. Following this action, fraudulent PUA claims fell dramatically.

In addition, EDD improved its identity verification process by instituting a third-party software—ID.me. The ID.me service verifies that workers are who they say they are by asking them to take a photo or video of themselves that is then digitally compared to the documents in their application. The continued decline in new PUA claims after the state instituted ID.me suggests that ID.me may have further reduced the viability of fraudulent claims.

EDD notes that it has continued to monitor the efficiency of the ID.me ID proofing service and to highlight areas of concern and identify potential increases in fraudulent activities, including working closely with ID.me to improve services for Californians, such as increased availability of "Trusted Referees" and services in the claimant's preferred language.

**State Took Steps to Address Fraudulent UI Claims in Federal Programs**

New Weekly Applications




*Source: Legislative Analyst's Office*

The majority fraud during the pandemic is estimated to have occurred in the temporary federal programs that now have ended. According to the Administration, there was $19.0 billion (94 percent) estimated in federal pandemic fraud with the majority occurring in PUA and the Federal Pandemic Unemployment Compensation (FPUC) programs, while $1.3 billion (6 percent) occurred in the state UI program.

**Temporary Federal Benefits, Not State Benefits, Were the Primary Target of Fraud**


*Source: Legislative Analyst's Office*

EDD also implemented the policy to use Thomson Reuters to analyze all UI claims and identify fraud schemes related to a person being incarcerated, a person's personal indicators, or identify when a person was utilizing someone else's identity to collect UI benefits.

EDD is also currently finalizing the establishment of a process to access nationwide data from the National Association of State Workforce Agencies (NASWA) Identity Hub to further enhance fraud prevention and deterrence processes, including services such as ID verification, multi-state cross matching, and foreign IP address matches.

Finally, in 2021, the Administration appointed former U.S. Attorney and elected District Attorney McGregor Scott to serve as EDD's Fraud Special Counsel, whose responsibilities include identifying and referring fraud cases to law enforcement agencies for investigation and prosecution. By the end of 2022, counties have reported the following EDD fraud-related enforcement activities:

- 1,778 total investigations
- 628 arrests
- 295 convictions
- $1,127,657,906 in unemployment funds seized or recovered. Most of the recovered funds have returned to the federal government, as the fraudulent claims were from the PUA program.

The Budget Act of 2022 funded the following items to additionally improve fraud prevention and deterrence:

- $96.3 million in 2022-23, and $45.1 million in 2023-24 and 2024-25, split between the General Fund and the Unemployment Compensation Disability Fund, to continue financing vendor services contracts entered during the pandemic.

- $10.2 million General Fund in 2022-23, $6.1 million in 2023-24 and 2024-25, and authorizes 29 cybersecurity positions, totaling $22.4 million, in order to assist with fraud mitigation and improve cybersecurity and suspicious event monitoring, response, and resiliency.

- $21.5 million in 2022-23 ($8.9 million General Fund, $12.6 million Unemployment Compensation Disability Fund) and $9.9 million in 2023-24 ($3.1 million General Fund, $6.8 million Unemployment Compensation Disability Fund) to support EDD fraud investigation and interdiction efforts, provide financial assistance to local prosecutors engaged in criminal cases, support legal records and file management, fund dedicated staff for restitution and asset recovery.

- $2,199,000 in 2022-23, $934,000 in 2023- 24, and $720,000 in 2024-25, totaling $3,853,000 from the EDD Contingent Fund in order to administer the provisions of

AB 110 (Petrie-Norris, Chapter 511, Statutes of 2021). AB 121 requires the Department of Corrections and Rehabilitation (CDCR) to provide the names, social security numbers (SSN), known aliases, birthdates, booking date and expected release date of current incarcerated individuals to EDD for the purpose of preventing payments on fraudulent claims for UI benefits.

## Update on Language Access

In 2022, stakeholders and EDD have reached a settlement to provide additional language services to non-English or limited-English proficiency speakers. To reach this goal, EDD has established a Language Access Office to coordinate efforts and provide technical support, such as developing policies, conducting research and data analysis, and provide training and technical assistance to EDD staff. EDD has also committed to create, by April 2023, a Multilingual Access Advisory Committee that will allow stakeholders to provide direct input and community review of EDD multilingual issues and services.

The following languages are currently supported by EDD's various service channels:

| EDD Service Channel | Languages Supported |
|---|---|
| Online Resources<br>(Translated information pamphlets) | UI Program: Armenian, Korean, Punjabi, Russian, Simplified Chinese, Spanish, Tagalog, Traditional Chinese and Vietnamese<br><br>DI / PFL Programs: Armenian, Punjabi, Simplified Chinese, Spanish, Tagalog, Traditional Chinese and Vietnamese |
| Online Application | UI / DI / PFL Programs: English and Spanish |
| Call Center | UI Program: English, Spanish, Armenian, Cantonese, Korean, Mandarin, Tagalog, and Vietnamese<br><br>DI Program: English, Spanish<br><br>PFL Program: English, Spanish, Cantonese, Vietnamese Armenian, Punjabi, Tagalog |
| Interactive Voice Response System | UI / DI Program: English and Spanish<br><br>PFL Program: English, Spanish, Cantonese, Vietnamese, Armenian, Punjabi, Tagalog |

*UI = Unemployment Insurance / DI: Disability Insurance / PFL: Paid Family Leave

Note: EDD has also access to a Language Line through professional service vendors that supports an additional 150 languages. This allows callers to request an interpreter in any language. If an interpreter is not available, staff will contact the caller with the assistance of an interpreter, generally within five days.

## Addressing Accessibility Issues at EDD

Stakeholders and advocates report that Californians continue to have challenges in contacting, applying, and accessing benefits through EDD. For example, EDD data shows that when contacting its call center for Disability Insurance, the average wait time in 2022 was 40 minutes, and the percentage of unique calls answered was 46%. When contacting the call center for Paid Family Leave, the average wait time in 2022 was 45 minutes, and the percentage of unique calls answered was 30%. In comparison, when contacting the call center for Unemployment Insurance, the average wait time was 11 minutes, with 98% of calls answered. Additional issues reported include delays in claim processing and lack of communication about claim status and timing of payments once an application has been submitted.

### STAFF COMMENTS

The Subcommittee may wish to ask the following questions:

1. Although EDD has implemented several key components of its Recession Plan, the report suggests that there are still "opportunities identified" by EDD that are currently under consideration. For instance, creating a list of partner agencies with a workforce possessing transferable skills and implementing interagency agreements to share staff during emergencies. Is EDD planning to implement those identified opportunities?

2. How has EDD's Language Access Office improved language capabilities at the Department? How is EDD incorporating best-practices feedback from stakeholders, advocates, and LEP communities?

Staff notes that for the Disability Insurance and Paid Family Leave programs, call center wait times averaged 40-45 minutes, and percentage of calls answered were 30%-46% in 2022. The subcommittee may wish to ask the following questions:

1. What are the factors causing the low percentage of calls answered in the DI / PFL programs?

2. What strategies is EDD currently employing to reduce wait times?

**Staff Recommendation: This item is presented for information only.**

## ISSUE 6: EDDNEXT MODERNIZATION EFFORT

This Subcommittee will hear an update on the implementation of EDDNext, the Department's multi-year modernization effort. The Subcommittee will also review the budget change proposal to continue funding the project.

## PANEL

- Nancy Farias, Director, Employment Development Department
- Grecia Stanton, Unemployment Insurance Deputy Director, Employment Development Department
- Rita Gass, Chief Information Officer, Employment Development Department
- Ron Hughes, Special Consultant on Technology, Employment Development Department
- Andrew March, Principal Program Budget Analyst, Department of Finance
- Patrick Toppin, Finance Budget Analyst, Department of Finance
- Chas Alamo, Principal Fiscal & Policy Analyst, Legislative Analyst's Office

## BACKGROUND

### Overview of EDDNext and Funding to Date

In 2016, EDD began exploring a modernization effort to replace its legacy UI and SDI online application, as well as the PFL application system. Modernization efforts were halted during the pandemic, at the recommendation of the Governor's strike team, in order to assess options for reform. In September of 2021, the Department relaunched its modernization analysis, and incorporated lessons-learned from the pandemic to develop an updated modernization roadmap. This multi-year project, which aims to improve customer service and accessibility for the UI, SDI, and PFL programs, is now known as EDDNext.

EDDNext has 5 listed project objectives:

1) **Customer-Centered Service Design:** Ensure equity access via optimizing service channels (i.e. mobile social media, self-service website, chatbot, live chat) with multiple language access.

2) **Increase Self-Service Opportunities:** Simplify self-service functionality across all programs for claims intake and process.

3) **Mitigate Fraud:** Protect claimant identity, reduce fraudulent activities, and reduce the costly risk to the state by re-engineering claims processing and enhancing technology driven security.

4) **Improved, Consistent, Integrated Program Delivery:** Extend data analytics, improved dashboards, daily reporting on claim progress, fraud analysis, standardized user experience, and enhance EDD training to better serve claimants.

5) **Greater Adaptability for Faster Program Changes:** Integrated system that enables rapid program changes and enable scalability to meet he unusual spikes in workload demand and modifications required for compliance with the U.S. Department of Labor and California Rules and Regulations.

The Budget Act of 2022 provided $136 million, split evenly between the General Fund and EDD's Unemployment Compensation Disability Fund, to begin funding the first phase of EDDNext.

A full road map of EDDNext's modernization plan is available as an addendum to this agenda.

The following outlines 2022-23 implementation activities for EDDNext:

- Redesign myEDD portal to be more user friendly
- Implementation of myEDD portal for UI, DI, and PFL customers with MultiFactor Authentication
- Redesign application intake application form and web with customers and advocacy group input for future implementation
- Automated Call Routing – Implemented additional call functionalities to properly categorize the claimant calls, and incorporating multi-language functionality
- Additional Service Channel – Deliver SMS capabilities to DI/PFL customers
- Improve Claimant Identity Security – Develop system logging and event management strategy in a FEDRAMP compliant IAM environment
- Plan for EDD Data Management to improve business processes and decision-making, leading to better customer experiences

**<u>Budget Change Proposal: EDDNext Modernization 2023-24 Funding</u>**

For FY 2023-24, EDD requests $98,991,000 from the General Fund and $98,992,000 from the Unemployment Compensation Disability Fund, for a total of $197,983,000 in 2023 to continue EDDNext modernization efforts.

The EDDNext road map includes the following activities for 2023-24:

- myEDD portal support of six additional languages.
- Implement Intake Navigator to guide claimants to appropriate EDD services that will improve claims processing efficiency.
- Redesign Continued Claim, Special Claim and Medical Provider forms and Web for UI, DI and PFL with constituents and advocacy group input for future implementation.
- Prioritize and redesign high-volume forms/notifications to simplify claim processing
- Interactive Voice Recognition (IVR) – Modernize the call center platform and extend IVR capabilities to increase first contact resolution.
- Simplify ID Proofing – Implement real-time Identity Proofing tool to simplify the ID Proofing process.
- Implement myEDD portal logging capabilities to improve cyber security/fraud actions against EDD benefits system.
- Enhance analytics and reporting platform to add new functionalities.
- Replace scan/data capture and document storage technologies to improve submission and intake of paper forms, letters, and correspondence
- Develop Data Management Strategy and Roadmap to ensure efficient and effective use of the data assets.
- Assess existing data capabilities to identify areas for improvement to better manage and leverage EDD data
- Map and understanding data flow to identify potential bottlenecks or efficiency improvements in customer interactions.
- Identify data sources and users to ensure that customer data is protected leading to greater trust and satisfaction among customers.
- Implement a Master Data Management (MDM) solution to ensure data used by EDD is accurate, consistent and reliable.

**Staff Comments**

Staff notes that high-level estimates for total project cost of EDDNext is anticipated to be $1.258 billion, with a five-year timeline for completion.

The subcommittee may wish to ask the following questions:

1. Is the first phase of EDDNext on track to meet its project goals on time?

2. How many languages other than English are planned to be supported by EDD's various service channels once EDDNext is implemented? How is EDD selecting which languages to implement first?

3. How will EDDNext address wait times at the call center for the DI / PFL programs?

4. How is EDD engaging with stakeholders and advocates on shaping EDDNext's functionalities?

**Staff Recommendation: Hold Open**

## ISSUE 7: UNEMPLOYMENT INSURANCE: FEDERAL DEBT REPAYMENT

This subcommittee will review the Governor's proposal to withdraw the state's payment on the federal Unemployment Insurance loan received during the COVID-19 pandemic.

### PANEL

- Andrew March, Principal Program Budget Analyst, Department of Finance
- Patrick Toppin, Finance Budget Analyst, Department of Finance
- Chas Alamo, Principal Fiscal & Policy Analyst, Legislative Analyst's Office

### BACKGROUND

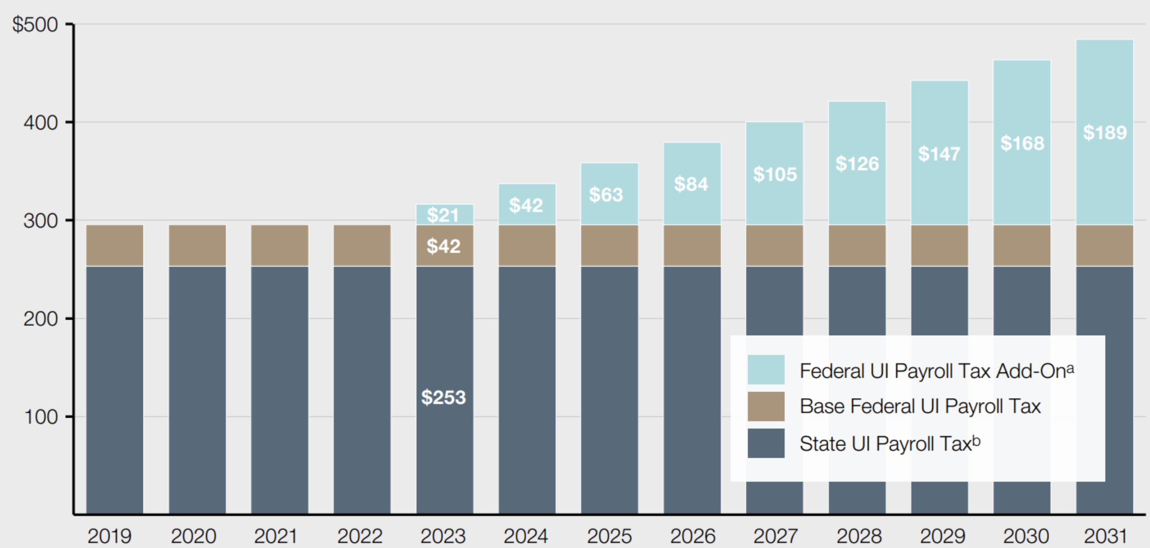
California's Unemployment Insurance program is financed through employers, who pay a payroll tax into the state's UI trust fund. Employer UI payroll taxes average 3.6 percent that are applied to the first $7,000 of each employee's wages.

Under existing state tax and benefit rules, the UI trust fund does not build large enough reserves in normal times to cover the increase in claims during a recession. During recessions, states may borrow from the federal government to continue payment benefits if state UI funds are insufficient. These loans must be repaid, with interest (currently 1.6 percent annually), at a later time. The loan principal is repaid by automatic increases in the federal UI tax rate employers pay. Historically, the interest has been paid from the General Fund.

Prior to the pandemic, at the start of 2020, the state's UI trust fund held $3.3 billion in reserves. Despite these reserves, the state's UI trust fund became insolvent during the summer of 2020, a few months following the start of the pandemic and associated job losses. California, like many other states, used federal loans to continue paying benefits during the pandemic. In total, the state needed to borrow about $20 billion from the federal government, roughly twice the amount the state borrowed for UI benefits during the Great Recession of 2008. To repay the federal loans, the federal UI payroll tax rate on employers will increase by 0.3 percent for tax year 2022. Federal law requires the federal UI tax rate paid by employers to increase by 0.3 percentage point increments each year until the loans are repaid.

**Federal Tax Increases to Repay UI Loans in Context**

Example of Employers' Annual UI Payroll Taxes Per Employee




[a] For states that have outstanding federal UI loans, federal law requires the federal UI tax rate paid by employers to increase by 0.3 percentage point increments until the loans are repaid.

[b] State UI tax rates vary by employer and by year. For this figure, we display the average state UI tax rate of 3.62 percent.

UI = Unemployment Insurance.

*Source: Legislative Analyst's Office*

Currently, California's Unemployment Insurance Trust Fund federal debt is approximately $18 billion. The Budget Act of 2022 included $1 billion to pay down a portion of the debt ($250 million in federal funds in 2022-23 and $750 million in General Fund in 2023-24). In addition, the Budget Act of 2022 provided $500 million one-time General Fund to offset the rising federal unemployment insurance tax rates on small businesses.

The Governor's budget includes $279 million one-time General Fund to pay the annual interest payment on the state's Unemployment Insurance loan balance. However, the Governor's budget proposes to withdraw the $750 million one-time General Fund payment originally scheduled for 2023-24. The budget also proposes to eliminate the $500 million one-time support for small businesses.

**Related Budget Requests Under Consideration**

The subcommittee is reviewing a budget request submitted by the Office of Assemblymember Petrie-Norris for the reinstatement of $1 billion to pay down the state's Unemployment Insurance (UI) Fund debt that was included in the 2022-23 Budget, and an additional $1 billion pay down in the 2023-24 budget.

**STAFF COMMENTS**

The subcommittee may wish to ask the following questions:

1- What is the Administration anticipated timeline to repay the UI federal debt without the $750 million principal payment?

2- Does the Administration have alternatives to support small businesses or provide relief on the increased insurance tax rates?

**Staff Recommendation: Hold Open**

## ISSUE 8: OTHER EDD BCPS AND TRAILER BILLS

This panel will review a budget change proposal and a trailer bill requested by EDD.

### PANEL

- Caleb Horel, Chief Financial Officer, Employment Development Department
- Melissa Stone, Disability Insurance Deputy Director, Employment Development Department
- Andrew March, Principal Program Budget Analyst, Department of Finance
- Patrick Toppin, Finance Budget Analyst, Department of Finance
- Chas Alamo, Principal Fiscal & Policy Analyst, Legislative Analyst's Office

### BACKGROUND

**BCP: Accounting and Business Services Resources**

EDD requests $5,102,000 in 2023-24 and 2024-25, then $2,979,000 in 2025-26 and ongoing, split evenly between the Unemployment Compensation Disability Fund and the EDD Contingent Fund, to provide staff resources to support cash management, accounts receivable and payable, general ledger, financial reporting, procurement, and bank reconciliation operations at EDD. According to EDD, these resources are needed in order to address the permanent ongoing workload associated with the Department's transition from its legacy accounting systems to the statewide Financial Information System for California (FI$Cal). These resources would allow the EDD to comply with statewide and federal accounting policies as well as allow staff to perform critical daily accounting and procurement functions.

As various state departments transitioned over to the new Fi$Cal system, EDD continued to operate on its legacy systems for accounting, procurement and asset management. EDD began implementing Fi$Cal in 2018-19, with a delayed transacting date of October 2018. EDD reports having been unable to complete its Budgetary/Legal Basis year-end financial reports by the State's deadlines since transitioning to FI$Cal. These year-end financial reports are necessary in order for the State Controller's Office to complete its Annual Comprehensive Financial Report in accordance with state law.

Due to the complex nature of EDD's legacy systems, the size of the Department's operations, and the varied programs and funding types within the EDD (EDD operates on Special Funds, General Funds, and Federal Funds), resources were requested and in past budget cycles. These requests included $6.9 million in resources and 15 positions in 2018-19 and 2019-20 to address change management, keying of backlogged accounting entries, and vendor support to ready staff for increased workloads and $3.0 million from 2020-21 through 2022-23 to fund staff to continue operations. As a result of this increased workload, the EDD requests permanent ongoing resources to carry out its fiduciary responsibilities within mandated timeframes.

EDD provides the following breakdown of how staffing resources will be used:

Fiscal Programs Division
The requested resources will fund 25 positions in 2023-24 and 15 positions ongoing in 2024-25 for the Fiscal Programs Division to address cash management, accounts receivable, accounts payable, general ledger and financial reporting workload which has increased in both volume and complexity since implementing FI$Cal.

Business Operations Planning and Support Division
The requested resources will fund six positions in 2023-24 and five positions ongoing in 2024-25 for the Business Operations Planning and Support Division, which operates as a centralized procurement office for all of EDD. These resources will address the significantly complicated processes and extended lead times required to process workloads associated with business services.

Unemployment Insurance Integrity & Accounting Division
The requested resources will fund four positions in 2023-24 for the UI Integrity & Accounting Division to address the workload associated with the bank reconciliation process UI/DI benefit checks and special UI/DI checks related to refunds of excess collections on UI/DI benefit overpayments, replacements of UI/DI checks for specific cases, reimbursement checks to courts and counties for fees related to judgment filings, and transfers for the Child Support Intercept and Voluntary Federal Income Tax withholdings. The UI Integrity & Accounting Division manages Benefit Payment Control activities to ensure the integrity of the UI and DI Trust Funds.

**BCP 2: State Disability Insurance: Contribution Rates (SB 951)**

EDD requests $4,201,000 in 2023-24 and 2024-25 from the Unemployment Compensation Disability Fund to implement statutory changes in SB 951. The funding would cover one-time costs for contract services and staffing.

As noted earlier in this agenda, EDD administers the State Disability Insurance program, which includes the Disability Insurance and the Paid Family Leave programs. The DI program provides benefits to workers who experience a non-work related disability, including pregnancy. The PFL program offers up to eight weeks of wage replacement benefits to workers who care for a seriously ill or injured family member, participate in a qualifying event because of a family member’s military deployment to a foreign country, or bond with a new minor child.

The current SDI wage replacement rates of 60 percent (70 percent for low-income workers) were instituted through AB 908 (Gomez, Chapter 5, Statutes of 2016). Those changes became effective January 1, 2018 and were scheduled to sunset on January 1, 2022. In 2021, AB 138 (Committee on Budget, Chapter 78, Statutes of 2021) extended the current percent wage replacement rates through December 2022.

SB 951 (Durazo, Chapter 878, Statutes of 2022) extends the current 60 and 70 percent wage replacement rates for the SDI program, which includes the DI and PFL programs, until December 31, 2024. Effective January 1, 2025, the wage replacement rates for DI and PFL increases permanently to either 70 percent or 90 percent depending on an individual's earnings. It also lowers the minimum amount of wages needed to receive a $50 minimum weekly benefit payment. To help fund these increases, the bill removes the SDI program's taxable wage ceiling, effective January 1, 2024. However, it does not change the maximum weekly benefit amount calculation. SB 951 extends the current 60 and 70 percent wage replacement rates until December 31, 2024. Beginning January 1, 2025, this bill would revise the formulas for determining the weekly benefit amounts for the DI and PFL programs indefinitely to the following:

- For individuals whose highest quarterly earnings are less than $722.50, the weekly benefit amount would be $50.

- For individuals whose highest quarterly earnings are more than 70 percent of the state average quarterly wage, the weekly benefit amount would be equal to the greater of the following:

    - 70 percent of wages paid during the individual's highest quarterly earnings, divided by 13

    - 63 percent of the state average weekly wage.

- For individuals whose highest quarterly earnings are 70 percent or less than the state average quarterly wage, the weekly benefit amount would be equal to 90 percent of the wages paid during the individual's highest quarterly earnings, divided by 13.

In order to implement the provisions of the bill, EDD will need to reprogram the department's automated systems, develop business requirements, and update appropriate resources, including manuals, handouts, forms, webinars, posters, and trainings. EDD also plans to offer educational outreach to businesses and employee communities to raise awareness. According to EDD, the overall implementation time is estimated at 26 months.

EDD notes that the following vendors will be need for implementation of all required system changes:

1) Project Manager - Act as a lead to plan, develop, and monitor the project in all phases; act as a lead liaison between technical and business teams
2) SDI Online Project Analyst Lead for requirement analysis, documentation and design updates
3) SDI Online Developer Lead and SDI Online Developers Deployment to develop code changes and unit test code changes and provide testing support
4) Independent Verification and Validation services
5) California Department of Technology (CDT) Independent Project Oversight for Project Approval Lifecycle
6) CDT Independent Project Oversight for Implementation

**Trailer Bill: Align Unemployment Insurance and Disability Insurance Fund Report Release with Budget Timeline**

The Administration requests trailer bill language that would modify the timeline by which EDD must submit to the Legislature a report on the status of the Unemployment fund and the Unemployment Compensation Disability Fund.

The Unemployment Fund is a special fund consisting of all employer UI payroll tax contributions for the purpose of paying UI benefits and administering the UI program. The fund collects and pays out about $5 billion annually in UI benefits during normal times. Similarly, the Disability Fund consists of all worker contributions used to pay Disability and Paid Family Leave benefits as well as administering the programs. The fund collects and pays out about $10 billion annually in DI and PFL benefits.

Existing law requires EDD to submit to the Legislature in May and October of each year a report on the status of the Unemployment Fund and the Unemployment Compensation Disability Fund. Each report must include both actual and forecasted information on the fund balances, receipts, disbursements, claim data, tax rates, and employment levels.

The proposed trailer bill language would revise the report submission date to January and May of each year. According to the Administration, publishing the forecasts in January would be in line with when the Administration publishes other enrollment, caseload, population estimates, such as those in the Health and Human Services and Corrections policy areas. This will allow the fund forecasts to be developed using all available information that may not be available in October.

**STAFF COMMENTS**

Staff notes that SB 951 will increase wage replacement rates for the Disability Insurance and Paid Family Leave programs under EDD. This will likely lead to an increase in applications for those programs in 2025. The subcommittee may wish to ask the following questions:

1. How is EDD planning to prepare for an increase in DI / PFL applications in anticipation of SB 951 going into effect?

2. As part of EDDNext, will the DI / PFL programs be ready to intake applications through all service channels (in-person, online, call center, mobile, SMS) by 2025? What languages are planned to be supported by this implementation date?

Staff also notes that unlike the Unemployment Insurance program, Disability Insurance and Paid Family Leave benefits are available regardless of immigration status. Those benefits are funded through workers' contributions. In light of SB 951, the subcommittee may wish to ask the following questions:

1. How does EDD address the unique challenges of immigrant and undocumented workers wishing to apply for DI / PFL benefits? For example, how can individuals without a Social Security Number apply for benefits?

2. Given the number of third-party vendors integrated into EDD systems, how does EDD communicates to applicants that sensitive personal information, such as immigration status, is kept confidential?

**Staff Recommendation: Hold Open**

## ISSUE 9: OVERVIEW OF UI AND EXPANDING BENEFITS TO EXCLUDED WORKERS

The subcommittee will receive an overview of the UI program in California and review the opportunities to expand program benefits to traditionally excluded workers.

### PANEL

- Chas Alamo, Principal Fiscal & Policy Analyst, Legislative Analyst's Office
- Kim Ouillette, Attorney, Legal Aid at Work
- Grecia Stanton, Unemployment Insurance Deputy Director, Employment Development Department
- Caleb Horel, Chief Financial Officer, Employment Development Department
- Andrew March, Principal Program Budget Analyst, Department of Finance
- Patrick Toppin, Finance Budget Analyst, Department of Finance

Overview of the UI Program

The state's Unemployment Insurance program provides weekly wage replacement to workers who have lost their jobs through no fault of their own. The program is intended to replace half of workers' wages for up to 26 weeks. State law sets the maximum benefit at $450 per week, and the average benefit is about $330 per week. As a joint state-federal program, UI can support workers who lose their jobs by providing a portion of their former income, so they can continue to support themselves and their families while looking for new employment.

Broadly, the UI program is financed by employers. Businesses pay both a state and federal payroll tax to cover UI payments and overhead costs. Revenue from the state tax, which averages 3.6 percent on the first $7,000 in wages, goes into the UI trust fund to pay out future benefits. Revenue from the federal tax is collected by the federal government and redistributed to states to cover UI overhead costs. The federal UI tax applies uniformly to all businesses, regardless of the amount of UI payments made to their former workers. The federal tax rate is 0.6 percent on the first $7,000 in wages.

Eligibility Requirements and Limitations of the California's UI program

In order to be eligible for UI benefits, an individual must have earned enough wages during a specified period, must have stopped working through no fault of their own, and must be able and available to work if another employment opportunity comes up. Under existing law, most "traditional" employees – that is, workers who work for the same employer day to day – are able to meet those requirements.

However, certain categories of nontraditional workers are not eligible for UI benefits. For example, undocumented and noncitizen workers are not eligible for UI due to federal rules dictating specific immigration status requirements. Additionally, self-employed individuals or independent contractors are not eligible for the program, as there were no formal employer paying taxes into the UI fund.

Expansion of UI programs in Other States

Following the COVID-19 pandemic, several states implemented various programs to provide unemployment benefits for workers that are excluded from traditional UI benefits. Approximately 12 states provided or continue to such financial support in various forms, generally using one-time or separate, non-federally supported UI funds. The following outlines New York's one-time UI program and Colorado's permanent UI expansion program.

*New York's Excluded Workers Fund*

In 2021, the state of New York established a $2.1 billion one-time initiative, the Excluded Workers Fund (EWF), to provide financial relief for its residents who suffered income loss during the pandemic and were excluded out of the various federal relief programs. The EWF provided one-time tiered benefit payments up to $15,600. In its white paper report, the New York State Department of Labor share that 350,000 applications were submitted, with 128,000 approved to receive the benefit.

The program established tailored eligibility requirements and identity verification processes when administering benefits. For example, applicant must have demonstrated that they had lived and continued to live in New York, were not eligible for other income relief safety net programs, and met certain income criteria. According to the NYS Department of Labor, the most common documents submitted were NYS driver's licenses, proof of state tax filing or ITIN, foreign passports, bank statements, IDNYC, and utility bills. Applicants were able to establish work eligibility through an expedited "tax path" in the application that utilized a cross-match between the US Department Of Labor and the state's Department of Tax and Finance to verify that the applicant had in fact filed state taxes in one of the last three years.

*Colorado Benefit Recovery Fund*

In June 2022, Colorado established the Benefit Recovery Fund (BRF), a permanent program providing UI benefits to eligible individuals, regardless of immigration status. Eligible individuals are individuals who have separated from employment through no fault of their own, received income from employment during a specified base period, and are not eligible for and have not received Unemployment Insurance benefits due to immigration status. The fund is financed through an additional assessment on Colorado's unemployment insurance payroll tax, specifically 0.035 percent of the premium each employer is required to submit, up to $15 million each year. If the fund balance, adjusted for inflation, excluding gifts, grants, or donations, exceeds $30 million, the Colorado State Treasurer is required to transfer the excess into the traditional Unemployment Compensation Fund.

In January of 2023, Colorado announced it had selected a third-party administrator for the fund, which will be responsible for conducting outreach, build and host online applications, determine eligibility, and distribute funds.

**Related Budget Requests Under Consideration**

The subcommittee is reviewing a budget request of $356 million one-time General Fund to establish a Safety Net for All Workers program for excluded immigrant workers. This budget request would provide unemployed workers who are ineligible for regular unemployment insurance, due to their immigration status, with $300 per week for up to 20 weeks. The amount reflects the average unemployment insurance benefit amount among non-citizen workers over the past several years. In addition, the request would provide the Employment Development Department with the funding resources to administer benefits, safeguard privacy and prevent fraud.

**STAFF COMMENTS**

The subcommittee may wish to ask the following questions:

1. What is the estimated number of workers excluded from UI benefits in California? How many are undocumented, independent contractors, and self-employed workers?

2. What can California learn from other state programs that expanded UI benefits to excluded workers?

3. How have other states determined and verified eligibility for their expanded program? (e.g., identity verification, proof of employment and income, etc…)

**Staff Recommendation: This item is presented for information only.**

## 7350 DEPARTMENT OF INDUSTRIAL RELATIONS

### OVERVIEW

The Department of Industrial Relations is the state entity responsible for protecting and improving the health, safety, and economic well-being of California workers, as well as helping employers comply with state labor laws. Key divisions within the DIR include the Division of Labor Standards Enforcement (also known as the Labor Commissioner's Office), which combats wage theft and protects workers from retaliation; the Division of Occupational Safety and Health (also known as Cal/OSHA), which sets and enforces workplace health and safety rules and regulations; the Division of Workers' Compensation, which monitors the administration of workers' compensation claims; and the Division of Apprenticeship Standards which consults with employers to develop a skilled workforce through apprenticeship programs.

The subcommittee will review language access capabilities at the Labor Commissioner's Office and Cal/OSHA, and review several budget change proposals and a trailer bills requested by the Department.

### ISSUE 10: LANGUAGE ACCESS AT THE LABOR COMMISSIONER'S OFFICE AND CAL/OSHA

The subcommittee will discuss language access at the Labor Commissioner's Office and Cal/OSHA and examine opportunities to improve language capabilities in both divisions.

### PANEL

- Daniela Urban, Executive Director, Center for Workers' Rights
- Jora Trang, Chief of Staff & Equity, Worksafe
- Lilia Garcia-Brower, Labor Commissioner, Division of Labor Standards Enforcement
- Jeff Killip, Chief, CalOSHA
- Deanna Ping, Chief Deputy Director, Department of Industrial Relations
- Andrew March, Principal Program Budget Analyst, Department of Finance
- Patrick Toppin, Finance Budget Analyst, Department of Finance
- Chas Alamo, Principal Fiscal & Policy Analyst, Legislative Analyst's Office

## BACKGROUND

The Labor Commissioner's Office is the state entity within the Department of Industrial Relations responsible for enforcing labor statutes, including combating wage theft, protecting workers from retaliation, and educating employees, employers, and the public about labor laws. The Labor Commissioner's Office includes various units, such as:

- **Wage Claim Adjudication (WCA),** which adjudicates claims on behalf of workers who alleged nonpayment of wages, overtime, or vacation pay;

- **Retaliation Complaint Investigations Unit (RCI),** which investigates complaints alleging unlaw retaliation in the workplace

- **Bureau of Field Enforcement (BOFE),** which conducts on-site inspections to investigate and enforce minimum wage and overtime laws, worker's compensation insurance coverage, child labor, cash pay or unlicensed contractors.

Cal/OSHA is a separate division within the Department of Industrial Relations responsible for ensuring safe and healthy working conditions in California workplaces by enforcing occupational safety and health standards. To that end Cal/OSHA sets and enforces workplace safety regulations, conducts workplace inspections, and investigates complaints of workplace safety violations.

Labor Commissioner's Office: Current Language Access Capabilities

The LCO reports the following language access capabilities:

- 61 bilingual certified professionals
- 19 contracts for language services
- Online portal to file wage and garment claims available in English and Spanish
- Educational materials available in the following languages: Spanish, Korean, Tagalog Vietnamese, Chinese (Cantonese or Mandarin), Punjabi, Russian and Armenian
- Claim forms available in Spanish, Vietnamese, Korean, Chinese (Cantonese or Mandarin) and Tagalog.

Cal/OSHA: Language Access Capabilities

Cal/OSHA reports the following language access capabilities:

- 16 certified bilingual inspectors, out of 166 total inspectors
- Additional 42 employees who have been certified as bilingual available for translation as needed

- Contracts for on-demand telephone translation services that are available to field inspectors and office staff. The service provider offers translation of over 200 languages and is available 24 hour a day, seven days a week
- Currently, Cal/OSHA does not have the capacity file complaints online.

## Related Budget Requests Under Consideration

The subcommittee is reviewing a budget request submitted by the Office of Assemblymember Nguyen, for a one-time allocation of $5 million over the course of four years to fund community-based organizations and provide bilingual pay differentials for bilingual direct service professionals.

### STAFF COMMENTS

The subcommittee may wish to ask the following questions:

1. Does the Labor Commissioner's Office and Cal/OSHA have a long-term language access plan in place?

2. Are there existing and ongoing efforts to translate materials in additional languages, offer multilingual webpages, or improve language capabilities over-the-phone?

3. Recent media reports have highlighted the lack of bilingual staff available to serve the California public. What are the divisions doing to improve recruitment and hiring of bilingual staff? What are some of the existing barriers in hiring bilingual staff?

4. What type of multilingual outreach activities are the divisions currently able to conduct?

5. What services are included in the divisions' language contracts?

6. What service channels (e.g. forms, online portals, call centers) should the divisions prioritize when expanding language access capabilities?

**Staff Recommendation: This item is presented for information only.**

## ISSUE 11: WAGE CLAIM ADJUDICATION

The subcommittee will review a budget proposal to address the delays in adjudicating wage claims through the Labor Commissioner's Office.

### PANEL

- Lilia Garcia-Brower, Labor Commissioner, Division of Labor Standards Enforcement
- Andrew March, Principal Program Budget Analyst, Department of Finance
- Patrick Toppin, Finance Budget Analyst, Department of Finance
- Chas Alamo, Principal Fiscal & Policy Analyst, Legislative Analyst's Office

### BACKGROUND

State law requires that employers follow rules about employee wages, hours, and breaks. Workers may file a claim with the state when they believe their employer has not complied with the state's employment laws. When filing a claim, workers estimate the amount of wages their employer owes. Enacted in 1976, the wage claim process is designed to be a simple alternative to filing a lawsuit in court, in that wage claims do not require a lawyer and have lower standards of evidence than the courts.

The Labor Commissioner's Office (LCO) is responsible for adjudicating wage claims on behalf of workers who file claims for nonpayment of wages, overtime, or vacation pay. When a wage claim is filed, the Labor Commissioner's Office investigates the claim to determine if any wages or benefits are owed. In most cases, a settlement conference between the employee and employer is scheduled to resolve the issues. If the issues are not resolved at the conference, a hearing is scheduled so a hearing officer can review the evidence and make a decision on the claim.

Delays in adjudicating wage claim cases have been a longstanding problem at the Labor Commissioner's Office. Under state law, wage claims are to be adjudicated within 120 days. In 2018, the average claim took almost 400 days. By 2022, the average wait time was 803 days, well over two years.

According to the Department, several factors contributed to the significant jump in wait times. This includes an increased number of claim filings (in 2021, the Department had 18,986 wage claims filed; in 2022, it received 39,679; and it is on track to receive 40,992 wage claims for 2023). Additional challenges include growth in claim complexity, and issues with hiring and retaining staff, including attorney hearing officers.

Actions Taken to Date to Address the Problem

LCO reports taking the following action to alleviate wait time:

1) **Naming Pilot:** In 2021, LCO implemented a pilot program where the Legal Unit trained and worked closely with district office team members in the Wage Claim Adjudication Unit to review claims in target industries and apply enforcement tools relevant to those industries. According to LCO, those cases where all responsible parties are named, are more likely to be resolved and obtain payment earlier in the process.

2) **Concentrated Conferences:** The Concentrated Conferences (CCs) project launched in August 2022. The project aims to maximize resources across our offices to tackle the backlog at the front end by scheduling a "concentrated" number of settlement conferences within a month. The first CC was set for August 2022, and focused on cases in the San Diego and San Bernardino offices. WCA scheduled 1,200 cases for conference in August with the second CC occurring in February 2023 involving the San Diego, San Bernardino, and Sacramento offices. WCA scheduled 2,021 cases for this second round. LCO's third CC will occur in April 2023, and it will run for 6 months. LCO's goal is to clear the backlog in the largest offices: San Bernardino, Los Angeles, Long Beach, and Oakland. WCA will be scheduling 3,500 conferences in April, June, and August.

3) **Low Wage Industry Initiative:** In May of 2022, WCA implemented the Low Wage Industry Initiative as a pilot proposal to ensure low wage earners are paid their wages as soon as possible. Designated deputies and hearing officers were assigned in four offices (Long Beach, Santa Ana, Bakersfield, and Fresno) to specifically process low wage industry claims. According to LCO, prioritizing these claims assigned to the designated deputies and hearing officers has shown a decrease when compared to non-low wage claims as conferences / hearings began in July of 2022 under this initiative.

4) **Recruitment and Retention:** LCO reports engaging in targeted recruitment through career fairs and social media and stakeholders to publicize current job openings. Increasingly, LCO works with community-based organizations to amplify recruitment and is in the process of building a recruitment pipeline with UCLA Labor Center and other educational institutions. LCO reports focusing resources to improve hiring timelimes by redirecting managers to act as hiring liaisons to coordinate recruitments and submit hiring requests. In addition, the LCO has implemented the use of hiring panels to streamline the process for hiring, including conducting interviews for the same classification in multiple locations. LCO further requested authorization to create a team of three additional analysts led by a Staff Services Manager. This team would implement system improvement reforms for all programs and serve as liaisons to develop the required hiring packages and shepherd them throughout the process.

**Budget Change Proposal: Wage Claim Adjudication Support to Decrease Case Processing Times**

To address the delays in wage claim adjudication, the Governor's budget proposes to include $4,600,000 from the Labor and Workforce Development Fund and $7,050,000 from the Labor and Enforcement Compliance Fund, for a total of $11,650,000 in 2023-24; as well as $6,478,000 in 2024-25 and ongoing from the Labor Enforcement and Compliance Fund to fund 42 positions and expand DSLE's ability to process claims, increase outreach efforts, support community resources, and automate and improve existing processes.

The breakdown of how DIR plans to use the funding is outlined below:

<u>Industrial Relations Representatives:</u>
Requested funding would be used to hire 32 Industrial Relations Representatives (IRR), and place two IRRs in each of DSLE's 16 district offices. These representatives would facilitate the processing of online wage claims, and further support other claim filing efforts to workers, such as lead workshops/outreach clinics on how to effectively file claims. DSLE hopes that these resources will assist in processing cases timely because it will minimize errors on claims filed, and thus the need to amend the claim during the claim process.

<u>Administration and Human Resources</u>
DSLE requests two staff persons in its Administration unit and one staff for DIR's Human Resources division to coordinate hiring and recruitment efforts in order to reduce vacancy rates.

<u>Automation of Order, Decision, or Awards (ODAs)</u>
Upon the conclusion of an adjudicative hearing, hearing officers are tasked with writing their findings in the form of an order, decision or award (ODA). An ODA describes the facts of the case, the legal basis for enforcement of the claims, an analysis of the facts and law, and a conclusion identifying amounts due and liable parties. According to the Department, as claim filings increase and case complexity grows, deputies or hearing officers are faced with a high volume of cases to adjudicate and an extensive number of ODAs to write. These conditions aggravate backlogs and prolong wait times for claimants. DIR proposes to allocate $500,000 of the requested funds to support a one-time contract for automation of ODAs to standardize preparation of ODAs in order to handle volume and facilitate writing of complex cases. Automated ODAs will be produced from the existing case management system based on pre-populated data and an existing library of case law to help produce the legal basis and liabilities that make up an ODA.

Community Navigator Program
LCO plans to use $1.5 million to fund a one-time contract to build a Community Navigator Program with qualified community partners and trained professionals who will provide legal information to claimants and serve as a guide through the wage claim process. Community navigators will educate a claimant by using existing tools to explain the wage claim process and recovery; assist claimant with completing respective forms; evaluate situation to ensure all appropriate employers are properly named; calculate owed wages, penalties, and interest; identify employer assets; prepare claimant for conference and hearing appearances; confirm participation for each proceeding; review violations alleged and supporting evidence; conduct role plays of potential questions and cross examinations; follow up with parties and LCO to finalize settlement or prepare for hearing; educate claimant on viable options for enforcing judgments; and conduct a closing meeting with claimant to review proactive steps to protect themselves at work, including a survey evaluating the effectiveness of this program.

Webinars and Workshops
LCO plans to use $300,000 in one-time funding to contract with a legal non-profit organization to provide workshops explaining the wage claim process. According to LCO, these webinars/workshops will provide claimants with an opportunity to understand the process, manage expectations, impact of their involvement on their case, actively advocate for themselves and successfully maneuver the wage claim process.

Business Process Re-engineering
LCO plans to use $300,000 in funding to conduct a business process analysis to examine the division's wage claim cycle and help identify deficiencies and provide solutions to build a more efficient wage claims process. A third party would review the Wage Claim Adjudication unit current processes and recommend potential changes to lessen wait times and assist claimants.

Judgement Entry Project
LCO currently has 65,781 unpaid judgments awaiting processing and the law provides an interest assessment of 10% for unpaid judgments. Due to current system limitations in the current case management system, this task is done manually. LCO plans to use $2 million for 6 Information Technology Specialists and an improvement contract to design and develop an automated solution that would allow integration with the existing judgement interest calculator. Funding would cover analysis, design, development, integration, testing, implementation, and training.

**Related Budget Requests Under Consideration**

The subcommittee is reviewing a budget request submitted by the Office of Assemblymember Maienschein to allocate $28 million for wage enforcement, outreach and communications, and a dedicated hiring unit at the Department of Industrial Relations.

**STAFF COMMENTS**

The subcommittee may wish to ask the following questions:

1. Does the Department have projections about how much the adjudication processing times would decline, should these positions be provided?

2. The request includes a dedicated Human Resource position. How will this position improve existing hiring processes at the LCO?

3. How will community navigators be selected?

4. What is the projected timeline to implement automation of completing Order, Decision, or Awards?

**Staff Recommendation: Hold Open**

## ISSUE 12: HOUSING CONSTRUCTION WORKFORCE – IMPLEMENTATION OF SB 6 AND AB 2011 (BCP AND TRAILER BILL)

The Subcommittee hear a budget change proposal and a trailer bill related to housing construction workforce and prevailing wages.

### PANEL

- Deanna Ping, Chief Deputy Director, Department of Industrial Relations
- Ken Lau, Assistant Chief Counsel, Department of Industrial Relations
- Andrew March, Principal Program Budget Analyst, Department of Finance
- Patrick Toppin, Finance Budget Analyst, Department of Finance
- Chas Alamo, Legislative Analyst's Office

### BACKGROUND

AB 2011 (Wicks, Chapter 647, Statutes of 2022), also known as the Affordable Housing and High Road Jobs Act of 2022, makes certain types of specified affordable, multifamily housing developments a "use by right," subject to only streamlined, ministerial review, when sited within an urban area and in a zone where office, retail, or parking are a principally permitted use. AB 2011 also requires projects that take advantage of the "use by right" determination to pay prevailing wages and maintain certified payroll records with additional requirements for projects with 50 or more units. Contractors that employ construction craft employees are required to employ apprentices as specified, make specified health care expenditures, and provide monthly reports to the local government demonstrating compliance. These labor standards provisions are to be enforced by the Labor Commissioner's Office, workers in civil and administrative complaints, and joint labor-management committees in civil actions.

SB 6 (Caballero, Chapter 659, Statutes of 2022), also known as the Middle Class Housing Act of 2022, allows housing projects as an allowable use on parcels zoned for office, retail, or parking uses in urban areas. Developers wishing to use SB 6's provisions must agree to payment of prevailing wage and skilled and trained workforce requirements. Similarly to AB 2011, the enforcement of prevailing wage and skilled and trained workforce requirements falls under the purview of DIR and LCO's Public Works Unit.

Of note, the Labor Commissioner's Public Works Unit is charged with investigating public works projects that are paid in whole or in part by public funds. The Public Works Unit is responsible for enforcing prevailing wage laws and recovery of appropriate prevailing wages for workers on public works projects. Following an investigation by the Public Works Unit, LCO issues and serves a Civil Wage and Penalty Assessment (CWPA), which specifies the wage deficiencies for workers and penalties for violating prevailing wage requirements.

**BCP: AB 2011 and SB 6 Implementation**

The Department of Industrial Relations requests 30 positions and $5.8 million in 2023-24 and $5.4 million in 2024-25 and ongoing from the State Public Works Enforcement Fund to implement and enforce both AB 2011 and SB 6 (the Acts). The positions requested are outlined below:

- 25 positions for Prevailing Wage and Apprenticeship Enforcement: The Labor Commissioner's Office anticipates a surge in new housing development projects requiring the division's enforcement of applicable labor standards. LCO expects to perform 420 additional investigations as a result of this legislation.

- 3 positions for Civil Wage and Penalty Assessment Appeals and Legal Consultation: The Labor Commissioner's Office explains that it will require attorney staffing to address the increased appeal workload resulting from AB 2011 and SB 6. Additionally, DIR projects an increase in the number of requests for legal services, primarily in the form of legal advice and counsel, for the Office of the Director – Research Unit and Division of Apprenticeship Standards.

- 2 positions for Administrative Support: Support positions are requested to meet administrative demands and provide general support services in Human Resources, Business Management, Fiscal Services, and Information Services.

**Trailer Bill Language: Public Works and Prevailing Wage Registration**

The Department requests trailer bill language to clarify contractor registration requirements, establish penalties for violations the Acts, and provide DIR with the authority to establish and adjust annual registration and renewal fees. Specifically, the trailer bill language:

1) Requires all contractors and subcontractors on a development project pursuant to the Acts to be registered with the Department of Industrial Relations. Requires a development proponent to provide notice to DIR of any contract to perform work subject to the requirement of the Acts within 30 days of the award, but no later than the first day in which a contractor has workers employed on the project.

2) Allows DIR, beginning July 1, 2026, to adjust annual registration and renewal fees for contractors and subcontractors. Exempts the adjustment of registration and renewal fees from rulemaking provisions established under the Administrative Procedures Act.

3) Establishes penalties for violating the Acts, including:

a. $100 civil penalty for each day that a contractor or subcontractor performed work pursuant to the Acts without having met registration requirements, up to $8,000;

b. $100 civil penalty for each day that a higher tiered contractor or subcontractor has entered into a subcontract with an unregistered lower tier subcontractor to perform work pursuant to the Acts, up to $10,000

c. Misdemeanor punishable by imprisonment in county jail not exceeding 60 days and / or a fine not exceeding ten thousand dollars ($10,000) for failure by a contractor, subcontractor, owner, director, officer, or managing agent to observe a stop order issued and served by the Labor Commissioner's Office.

4) Specifies that annual registration and renewal fees for contractors and subcontractors shall be set in amounts that are sufficient to support appropriations approved by the Legislature for the State Public Works Enforcement Fund, the statewide general administrative costs assessed to the State Public Works Enforcement Fund, and reserve amount of not less than 10 percent and no more than 20 percent or authorized expenditure levels.

**STAFF COMMENTS**

Existing law sets the public works contractor registration fee at $400. Currently, to adjust this fee, the Department would need to initiate the rulemaking process established under the Administrative Procedures Act (APA). Under the APA, a rulemaking action is subject to public notice and comment requirements. It also requires that documents and information on which the rulemaking action is based are available for review and inspection. This comprehensive process is intended to further the goal of public participation in the rulemaking process and to create an adequate rulemaking record.

The proposed trailer bill would provide DIR with the authority to adjust the registration fee and exempt such adjustment from the rulemaking process. Staff notes concerns with this proposed exemption: although rulemaking can be a lengthy endeavor, it is nevertheless a critical component of public transparency, enabling the public to participate and provide comments on government proposed regulations.

The subcommittee may wish to ask the following questions:

1. Why does the Administration need to exempt this fee from the rulemaking process?
2. Should this fee be exempted from the rulemaking process, how will the Administration ensure transparency and public participation from the public and impacted stakeholders?
3. Does the Administration anticipate needing to increase the registration fee in 2026 or beyond?

**Staff Recommendation: Hold Open**

## ISSUE 13: OTHER BUDGET CHANGE PROPOSALS

The subcommittee will review 4 budget change proposals related to information technology projects and the Fast-Food Accountability and Standards Recovery Act.

### PANEL

- Ben Bonte, Chief Information Officer, Department of Industrial Relations
- Debra Lee, Deputy Chief-Safety, CalOSHA
- George Parisotto, Administrative Director, Division of Workers Compensation
- Paige Levy, Chief Judge, Division of Workers Compensation
- Andrew March, Principal Program Budget Analyst, Department of Finance
- Patrick Toppin, Finance Budget Analyst, Department of Finance
- Chas Alamo, Principal Fiscal & Policy Analyst, Legislative Analyst's Office

### BACKGROUND

**BCP 1: Cal/OSHA Data Modernization Project**

CalOSHA requests one-time funding of $12,561,000 in 2023-24 from the Occupational Safety and Health Fund to cover first year funding and develop a system that will meet federal and state-mandated requirements, consolidate information into a central database/repository, interface to other DIR systems, and automate manual processes across its units. This project would encompass enhanced case management including workflow capability, electronic document management/storage, automated upload of paper documents, accidents and complaints by external users via email or online reporting, support for additional interfaces to other DIR systems, and provide a public portal for online reporting of complaints and accidents.

Currently, Cal/OSHA uses the Federal OSHA's Information System (OIS) for case management and to meet the mandated data entry requirements of Fed OSHA. Cal/OSHA notes that the Federal OIS can be cumbersome, time consuming, labor intensive, lack datasets specific to Cal/OSHA operational tracking needs, and is paper driven. These issues have caused delays in citation issuances, decreased the number of possible inspections, and limits research and analysis. Because the current system in maintained at the federal level, CalOSHA is unable to make direct changes to this system.

Cal/OSHA proposes to modernize its program to acquire by acquiring a new system, which aims to both provide a public portal with online tools and services, but also improve internal processes involving inspections, reporting, and tracking of enforcement actions. Cal/OSHA notes that implementation of this project would make the division more efficient through providing a means for faster data collection in the office, out in the field, online, and with other DIR systems. It will also address the need for a central database/repository, automation across the different units of Cal/OSHA such as streamlining the permit process, and the reduction of paper case files and other paper documents.

DIR was able to complete and receive approval from CDT for Stage 1 Business Analysis. CDT is currently reviewing Stage 2 Alternatives Analysis and Cal/OSHA is currently in Stage 3 Solution Development where Cal/OSHA will be working on detailed requirements and building the procurement/solicitation package to get the right system integrator to implement the new future Cal/OSHA Data Modernization Project. It will be a multiphase project over multiple years.

**BCP 2: Workers' Compensation Information System Upgrade**

The Division of Workers' Compensation requests one time funding of $750,000 in 2023-24 from the Workers' Compensation Administration Revolving Fund authority to upgrade the Workers' Compensation Information System (WCIS).

WCIS collects data from claim administrators throughout California and serves as a data repository and research database to assist the DWC in understanding trends in the California Workers' Compensation industry and to support policymaking. Under current law, the standards for data collected electronically by the WCIS must be compatible with the Electronic Data Interchange System of the International Association of Industrial Accident Boards and Commission (IAIABC), which is a professional association of workers' compensation specialists from both the public and private sectors.

As IAIABC publishes new releases of the system, the WCIS needs to be upgraded to the most recent release. The Department plans to use the funding to allow DWC to contract with a consultant to upgrade the current WCIS to IAIABC's most recent standards.

**BCP 3: Electronic Adjudication Management System Modernization**

DIR requests $21,123,000 one-time in 2023-24 from the Workers Compensation Administration Revolving Fund to continue funding the replacement of its case management, claims benefit administration, and document storage system. This system is known as the Electronic Adjudication Management System (EAMS)

The Division of Workers' Compensation regulates the administration of workers' compensation claims and provides administrative and judicial services to assist in resolving disputes that arise in connection with claims for workers' compensation benefits. The court case management and claims benefit administration management functions are currently in EAMS, which supports approximately 7.8 million cases. The system is primarily used to manage the adjudication of benefit related issues, including the scheduling of hearings to review the issues brought before the DWC, and as a document intake/repository for case related court documents.

According to DIR, EAMS system is nearing the end of its life, based on the system's current technology, and needs to be replaced to maintain functionality. For example, because the system is running on outdated software, the Division is unable to take advantage of cloud-based technologies, and the system is not accessible via phone or tablet.

The Budget Act of 2022 provided funding for the initial planning of the EAMS Modernization project. The California Department of Technology has approved a Stage 2 Alternatives Analysis and the department has started the work on Stage 3, defining system requirements. A contractor has been brought on to the project and has been working with DIR on system requirements. This proposal's requested resources will fund the next steps of the project costs, including 22 staff for project implementation, training and maintenance. Along with the standard operating expenses and equipment costs, the DIR will also require vendor contracts and other IT related purchases to implement the system.

**BCP 4: Assembly Bill 257 Implementation - FAST Recovery Act: Food Facilities and Employment**

The Department of Industrial Relations requests $1,520,000 from the Occupational Safety and Health Fund and $3,087,000 from the Labor Enforcement and Compliance Fund, for a total of $4,607,000 in 2023-24, as well as $1,440,000 from the Occupational Safety and Health Fund and $2,899.000 from the Labor and Enforcement and Compliance Fund, for a total of $4,399,000 in 2024-25 and ongoing, to cover 19 positions and implement AB 257 (Holden, Chapter 246, Statutes of 2022).

AB 257 enacted the Fast-Food Accountability and Standards Recovery Act (FAST Recovery Act) which, among other things, establishes until January 1, 2029, the Fast-Food Council within DIR, to be composed of 10 members for the purpose of establishing sector-wide minimum standards on wages, working hours, and other working conditions related to the health, safety, and welfare of fast-food restaurant workers. AB 257 also expanded the protections against retaliation by adding a prohibition against retaliation for reporting information or making claims with the media, the Legislature, and watchdog or community-based organizations.

The Department notes that AB 257 has a significant operational impact on the department, and DIR will need to create a new unit dedicated to staffing and supporting the Council. The following outlines the requested positions:

- 6 positions for Council Staff and Support. These positions include an Executive Officer, an Attorney, a Staff Services Manager to coordinate meetings and issue meeting agendas and notices, an Associate Governmental Program Analyst to perform analytical functions, an Office Technician for clerical support, and an Information Technology Specialist to support the Council's webpage.

- 3 positions for the Department of Industrial Relations. These positions include a policy advisor, an attorney to coordinate the various Divisions' legal teams, and one Staff Services Manager to coordinate internal meetings and serve as subject matter experts and project manager for any data or information gathering needed by the Council from the Department.

- 2 positions for the Labor Commissioner's Office Retaliation Complaint Investigations Unit. These positions include a Deputy Labor Commissioner and an Attorney to handle retaliation claims.

- 2 positions for the Labor Commissioner's Office Public Outreach. These positions include two analysts to handle public outreach and address questions about the new law and subsequent regulations from fast food employers and employees, franchisors, franchisees, stakeholders, and the legislature

- 1 attorney position for the Labor Commissioner's Office to provide consultation to the Council on potential regulations.

- 2 positions for the Labor Commissioner's Office for drafting and promulgating regulations under the Administrative Procedures Act.

- 2 positions for CalOSHA to assist the Council with occupational safety and health related issues. These positions include a Senior Safety Engineer and an Attorney.

- 1 position for the Occupational Safety and Health Standards Board to respond to any requests from the Council to repeal, adopt, or amend regulations related to health and safety of fast food workers.

**Related Budget Requests Under Consideration**

The subcommittee is reviewing a budget request submitted by the Office of Assemblymember Carrillo for a General Fund allocation of $45 million over the next five years to implement the recommendations of the SB 321 Household Domestic Services Employment Safety Committee. Specifically, these funds would implement the following recommendations:

1. Remove the household domestic services exclusion from the Occupational Safety and Health Act and apply its requirements and obligations on domestic service employers;

2. Provide $7 million per fiscal year to fund health and safety outreach and education for domestic work employees and employers through an expansion of the existing Domestic Worker and Employer Education and Outreach Program (DWEOP);

3. Provide $2 million per fiscal year to establish a financial and technical assistance program through Cal/OSHA to assist eligible low-income household domestic service employers to comply with Cal OSHA regulation.

## STAFF COMMENTS

The subcommittee may wish to ask about the anticipated timelines for implementation and projected total costs of the various requested IT projects.

**Staff Recommendation: Hold Open**

## 7300 AGRICULTURAL LABOR RELATIONS BOARD

### ISSUE 14: FARM WORKER LABOR UNION ELECTIONS AND OUTREACH RESOURCES

The Agricultural Labor Relations Board is the state entity responsible for overseeing and protecting the rights of agricultural employees to organize themselves in negotiating the terms and conditions of their employment, including whether or not to have labor unions represent them. In addition to investigating and enforcing agricultural labor laws, the ALRB also conducts secret ballot elections through which agricultural employees vote on whether to have a labor organization represent them in negotiating employment terms and conditions with their employers.

This subcommittee will review the agreement made between the Governor and labor organizations in September of 2022 that would enact clarifying language related to AB 2183 (Stone, Chapter 673, Statutes of 2022) on collective bargaining elections for agricultural workers. This language is being considered for Budget early action.

The subcommittee will additionally review budget change proposals requested by the Agricultural Labor Relations Board.

### PANEL

- Victoria Hassid, Chair, Agricultural Labor Relations Board
- Julia Montgomery, General Counsel, Agricultural Labor Relations Board
- Danielle Brandon, Principal Program Budget Analyst, Department of Finance
- Courtney Massengale, Department of Finance
- Chas Alamo, Principal Fiscal & Policy Analyst, Legislative Analyst's Office

### BACKGROUND

**Review of AB 2183 Agreement Language**

Union Organizing for Agricultural Employees

Existing law provides that agricultural employees have the right to form, join, assist labor organizations, and to bargain collectively through representatives of their own choosing with respect to rates of pay, wages, hours of employment, or other conditions of employment. Prior to AB 2183, the union election process for agricultural workers was done exclusively through secret ballot elections overseen by the Agricultural Labor Relations Board. Generally, a union who wishes to represent the agricultural workers of an employer can submit a petition to the ALRB with a number of signatures equal to at least 50% of the peak agricultural employment of that employer. If the union meets this threshold, a secret ballot election must commence within 7 days. The ALRB oversees this process and investigates any allegations from the employees or the employer about election impropriety; the ALRB is also empowered to certify or decertify labor unions based on its findings about election tampering.

Changes made under AB 2183

In August of 2022, the Legislature approved AB 2183 (Stone, Chapter 673, Statutes of 2022). The bill provides two additional pathways for agricultural workers to select a union representative: through mail-in ballots (referred to as a labor-peace election) or "card-check" (referred to as non-labor peace election).

In the mail-in ballot / labor peace election process, the employer agrees to make no statements for or against union representation to its employees. Then, agricultural employees may make a choice regarding union representation through a mail ballot election without holding a polling place election. The employees or the union would request voting kits issued by the ALRB that would contain voting instructions for participating in a mail ballot election. The ALRB would verify the validity of the petition for representation and the supporting mail ballots, such as comparing the names on the mail ballots submitted by the labor organization to the names on the list of currently employed employees provided by the employer, before certifying the collective bargaining representative.

Through the "card-check" / non-labor peace election, the employer does not agree to make statements for or against union representation to its employees. In this process, a union may submit proof of majority support, through authorization cards or petitions, demonstrating majority support of currently employed employees determined from the employer's payroll. Upon receipt of the proof of majority support, the ALBR verifies the validity of the petition before certifying the collective bargaining representative.

Governor's Agreement on Changes to AB 2183

In September of 2022, Governor Newsom signed AB 2183, and announced that the Governor, the United Farm Workers, and the California Labor Federation agreed on clarifying language to be made to the enacted law to address concerns around implementation and voting integrity. This agreement was formalized in a published letter and a supplemental agreement language. The supplemental language, referred to as RN 22 21856, is available as an addendum to this agenda.

The supplemental agreement:

1) Eliminates the option to conduct union elections using mail-in ballots.

2) Retains the option to conduct union elections via the "card-check" system, now called the "Majority Support Petition." Similar to the original provisions of AB 2183, a Majority Support Petition is submitted by a union wishing to represent employees

to the ALRB, accompanied by proof of majority support through petition cards, petitions, or other appropriate proof.

3) Limits the number of card-check / Majority Support Petition elections that result in the certification of a labor organization to 75 certifications.

4) Sunsets on January 1, 2028. On that date, Majority Support Petitions would no longer be an available option for union elections. Of note, the original provisions of AB 2183 are also scheduled to sunset on January 1, 2028.

**BCP 1: AB 2183 Implementation**

The ALRB requests $1,113,000 ongoing from the General Fund for 6 positions to address increased workload and new demands that will be generated by AB 2183.

Under the current version of AB 2183, existing law requires the ALRB to determine the validity of majority support within 5 days. This determination requires decisions such as the geographic scope and size of the bargaining unit. Expedited time frames also exist for adjudicating challenges to majority support petitions and hearings are to be held in no later than 14 days from the date the majority support petition is filed. The ALRB is also charged with investigating unfair labor practices and election objections that result from election activity. According to the ALRB, past contested elections have resulted in significant increase in ALRB's workload, given the number of unfair labor practice charges filed that must be investigated, prosecuted and adjudicated.

Funding will cover staffing for 3 attorneys and 3 Field Examiners whose responsibility will include conducting factual inquiries and needed legal research, writing and analysis of issues within the required timeframes helping to train and review the work of entry level attorneys.

**BCP 2: Farm Worker Outreach**

The ALRB requests $658,000 in 2023-24 and ongoing from the Labor and Workforce Development Fund to cover 4 positions to continue its Farmworker Outreach program that supports broader awareness, knowledge, compliance and enforcement of the State's labor laws in the agricultural industry including those adopted in response to COVID-19.

In 2020, the ALRB received $1,051,000 in 3-year Limited Term funding to conduct farmworker outreach. Activities include:

- <u>Social Media:</u> ALRB appears in live events at least monthly that are livestreamed on social media platforms, and posts weekly on social media platforms, including Facebook and other relevant pages.

- Text messaging: ALRB is setting up a system that will soon be live to send text message blasts to workers and employers.

- Distribution/placement of printed materials: ALRB regularly engages in direct distribution of printed materials at in-person events, usually several times per month.

- Mass communications: ALRB regularly broadcasts messages through radio or television forums, usually monthly. These messages include pre-recorded scenarios, public service announcements, and live interviews.

- Training Presentations: ALRB regularly engages in training presentations to service providers or other community-based organizations. Training presentations may include virtual presentations over zoom or online webinars, and in-person presentations in classrooms, training sites, homes, or other meeting places.

- Videos: ALRB is developing video content that it will distribute through platforms such as YouTube. These videos will cover topics such as worker testimonials, introduction to the ALRB, workers' right under the Agricultural Labor Relations Act, general rights for farmworkers, how to file a charge with the ALRB, and the remedies available to workers

This BCP would provide permanent funding and position authority to allow ALRB to continue and expand upon its outreach efforts to farmworker and employer communities.

### STAFF COMMENTS

The AB 2183 agreement language contained in RN 22 21856 is under consideration for Budget early action.

The subcommittee may wish to ask the following questions:

1- Does the ALRB anticipate needing different or additional resources provided in the AB 2183 budget change proposal, should the agreement be enacted?

2- Is the ALRB ready to implement revised provisions should the agreement be enacted in budget early action?

**Staff Recommendation: Adopt placeholder trailer bill language to implement proposed changes to AB 2183. Approve AB 2183 Implementation and Farm Worker Outreach BCPs as Budgeted.**

## 1111 DEPARTMENT OF CONSUMER AFFAIRS

### ISSUE 15: DCA BUDGET CHANGE PROPOSALS

The Department of Consumer Affairs is the umbrella entity made up of 36 different boards, bureaus, committee, commission, and program that license and regulate various occupations and vocations. Collectively, DCA entities regulate 280 license types including certificates, registrations, and permits.

The subcommittee will hear 3 budget change proposals related to the Department's activities, including information technology modernization, regulations, and organizational improvement.

### PANEL

- Taylor Schick, Chief Fiscal Officer, Department of Consumer Affairs
- Jason Piccione, Chief Information Officer, Department of Consumer Affairs
- Ryan Marcroft, Deputy Director – Legal Affairs, Department of Consumer Affairs
- Brian Clifford, Senior Planning and Implementation Manager, Department of Consumer Affairs
- Andrew Hoang, Finance Budget Analyst, Department of Finance
- Amy Ascencio, Finance Budget Analyst, Department of Finance
- Charlene Manning, Principal Program Budget Analyst, Department of Finance
- Jared Sippel, Principal Fiscal & Policy Analyst, Legislative Analyst's Office

### BACKGROUND

**BCP 1: Business Modernization Cohort 1 and 2**

The Department of Consumer Affairs requests $6,019,000 in 2023-24 from various Special Funds to continue implementation of the Business Modernization Cohort 1 and 2 programs, as well as $2,538,000 in 2024-25 and ongoing from various Special Funds to support maintenance and operations of the Business Modernization Cohort 1 programs. Requested funding is divided by the programs' special funds and reflects the necessary appropriation augmentations to cover system integration, software licensing, project management, credit card payment activities, project oversight costs.

In 2012, the Department of Consumer Affairs implemented BreEZe, a system that planned to support the IT needs of all boards and bureaus under DCA. The original implementation plan intended to take a phased approach into bringing the various boards and bureaus onto the BreEZe platform. Currently, 18 boards and bureaus operate BreEZe. Following implementation challenges, DCA opted to not bring the remaining boards and bureaus on the BreEZe system. Instead, DCA launched a Business Modernization Initiative which would, overtime, put the remaining boards and bureaus on legacy systems through a structured modernization process that would identify individual business needs and implement tailored IT solutions. In January 2020, three boards and one bureau completed the business modernization analysis and began project implementation activities. These programs include the Board for Professional Engineers, Land Surveyors, and Geologists (BPELSG), the Bureau for Private Postsecondary Education (BPPE), the California Acupuncture Board (CAB), and the Board of Chiropractic Examiners (BCE). Collectively, these programs are referred to as Business Modernization Cohort 1. According to DCA, the business modernization efforts for Cohort 1 have delivered key functionality such as online application submissions, online consumer complaint submissions, and real-time application status updates through email and text messages.

Cohort 2 is made up of 5 entities: the Structural Pest Control Board, the California Architects Board, the Landscape Architects Technical Committee, the Cemetery and Funeral Bureau and the Bureau of Household Goods and Services.

This proposed funding will allow Cohort 2 programs to complete their project phase, move into initial maintenance and operations, and allow Cohort 1 programs to continue their maintenance and operations activities. Cohort 2 programs are estimated to complete the project phase by November 2023, moving into maintenance and operations for the remaining months of 2023- 24. As noted previously, Cohort 1 is currently in maintenance and operations and has delivered functionality to production that includes online application submissions, back office streamlined workflows, online consumer complaint submissions, and real-time application status updates to applicants via email and text messages. The project completed in the Spring of 2022 within its baseline budget. Cohort 2 will follow the same software development methodology and adhere to lesson’s learned from BMC 1. By upgrading current systems to allow for a more substantial online presence, the Department, and some of its programs, are integrating functionality to allow applicants and licensees to pay fees using credit card payments

**BCP 2: Regulations Unit Permanent Funding**

The Department of Consumer Affairs requests $1,788,000 in 2023-24 and ongoing from various special funds to continue supporting 8 existing legal positions in the Department’s Regulations’ Unit. According to the Department, those resources would be able to continue producing regulations at a higher rate than before the Unit was established, lock in existing process and regulations management improvements while continuing to make improvements, provide increased training and resources, and improve employee retention.

Promulgating regulations is a critical function for the various boards and bureaus under the DCA umbrella, as it enables them to effectively implement the laws pertaining to consumer protection and ensure compliance from licensees. Nearly all of DCA entities rely on the Department's Regulations Unit to develop, review, and submit regulations through the rulemaking process administered by the Office of Administrative Law. However, over the past years, the Department has faced challenges moving regulatory packages on time, with some proposals taking multiple years from draft submission to final enactment. In some instances, packages were outright rejected from OAL due to quality-control issues.

To address the extended timelines and quality problems regarding regulatory packages, DCA conducted an organizational change management review of the Department's regulations process and issued recommendation for improvement. In 2019, the Legislature provided DCA two-year limited-term funding and permanent position authority to establish and support a dedicated Regulations Unit. The purpose for establishing the Unit was to:

- Improve the quality of regulatory packages.
- Address the backlog of regulation packages from boards and bureaus, thereby preparing more regulations to be submitted to BCSHA, the Department of Finance, and OAL.
- Provide efficiencies and minimize review time of regulatory packages.
- Allow non-regulations attorneys and budget staff to focus on increased non-regulatory workload, like Public Records Act requests, subpoenas, and administrative disciplinary decisions.
- Respond to the demand of regulation packages under current review and any increase of regulation packages resulting from new legislation.
- Enhance the level of regulation training provided to boards and bureaus to improve the quality of packages submitted for review.
- Implement a new regulations management system to allow boards and bureaus to submit rulemaking packages electronically and to track the workflow process of each submission through DCA and BCSHA.

Requested funding would continue to support existing legal positions in the Regulations' Unit.

**BCP 3: Organizational Improvement Office Permanent Funding**

The Department of Consumer Affairs requests $1,150,000 in 2023-24 and ongoing split between various Special Funds to permanently fund 7 positions to continue conducting business analytics and organizational change management activities.

In 2015, DCA established an Organizational Change Management (OCM) Unit following findings by the California State Auditor that future information technology projects at the DCA must include a process for planning and implementing effective organizational change management. In 2017 the Department received 10 limited-term positions and funding to support the OCM. The mission of the OCM Unit was to support the boards and bureaus with services, including business process review, as well as support the Department's Executive Office with planned special projects.

In 2020, the Department received a subsequent three-year funding extension to support seven of the 10 positions within the OCM Unit, now renamed as the Organizational Improvement Office (OIO) to continue to support the Department's boards and bureaus and central services. According to DCA, the services provided by OIO include streamlining work processes, improving standardization, consensus building, clarifying the foundation for decision points and requirements, and setting the groundwork for future Information Technology (IT) platform conversions.

Requested funding will continue to fund existing 7 positions in a permanent basis.

## LAO COMMENTS

***Unclear if OIO Efforts Have Led to Measurable Benefits and Savings***. OIO has provided information on multiple workload outcomes, such as the number of business processes it has documented and the recommendations it has made for DCA centralized services, boards, and bureaus. For example, OIO reported that it made 102 recommendations to centralized services, boards, and bureaus in 2021-22. In addition, it has identified anecdotal examples of improving efficiency. For example, OIO reported that it worked with the Board of Registered Nursing to reduce certain application processing times by 64 percent in two years. However, OIO has not quantified how, if at all, examples like these have translated into measurable net benefits or net cost savings. For example, OIO should be able to translate reducing licensee application processing time lines into personnel hours that result in cost savings, or OIO should be able to report on the extent to which savings have been redirected to the boards' and bureaus' other priorities. Without such detailed information, it is difficult for the Legislature to know if the benefits or savings of OIO's current work outweigh the costs to the boards and bureaus.

***Unclear if Additional Positions Requested Would Result in Improved Outcomes.*** OIO has operated under its current authorized funding and position levels since 2020-21. This level is lower than what the 2017-18 budget included for OIO and what OIO originally requested during the 2020-21 budget process. In response, OIO utilized temporary help and modified its approach to working with the department, boards, and bureaus to operate within its existing levels over the past three years. For example, OIO assigned one staff member to most projects, when it previously would have assigned two. OIO indicates that the proposed increase in positions would allow the office to return to its previous approach and take on additional special projects. However, OIO's workload measures, such as process maps and discovery workshops and recommendations, have generally stayed the same or increased since 2018-19. Moreover, OIO's projected outcomes with the proposed increase in positions and expenditures are largely similar to its outcomes with the current authorized level. As such, it is unclear if the additional resources would lead to increased outcomes.

***Special Funds That Would Fund the Proposal Are Nearing Insolvency.*** The proposed increase in expenditures would create pressure on boards' and bureaus' special funds that are structurally imbalanced. Currently, 11 boards and bureaus are projected to have special funds become insolvent in 2024-25. Although DCA is working with these boards and bureaus to bring their funds into balance (such as through annual savings or fee increases through the regulatory or legislative process), additional expenditures that are passed to the boards and bureaus through the pro rata place additional pressure on these funds. Accordingly, the Legislature will want to apply a higher bar to spending from these funds.

***Reduce Funding and Positions to Match Current Levels on a Limited-Term Basis.*** We recommend that the Legislature reduce the proposed funding and positions to match the current authorized levels of $894,000 and five positions. OIO has been able to operate at existing levels to accomplish its work, and it is not clear if the additional positions and expenditures are justified. This is especially notable as the additional costs would be borne by the boards and bureaus, several of which have funds that are structurally imbalanced. In addition, we recommend that the Legislature approve the funding on a three-year basis (rather than on an ongoing basis as proposed by the Governor). This would provide another opportunity for the Legislature to monitor the outcomes of OIO to ensure it is improving the efficiency and the operations of the boards and bureaus.

***Require OIO to Report on Measurable Benefits and Savings.*** We also recommend that the Legislature require OIO to quantify how its work has generated benefits and savings at the boards and bureaus and report these results to the Legislature by January 10, 2026. This will give the Legislature insight into whether OIO's benefits outweigh its costs to the boards and bureaus, which could inform future funding decisions when the limited-term resources recommended above expire.

**STAFF COMMENTS**

The subcommittee may wish to ask the following questions:

1. Has the Regulations Unit been able to reduce the amount of time it takes to promulgate regulations?

2. What are the anticipated long-term projects of the OIO?

**Staff Recommendation: Hold Open**

## 1045 CANNABIS CONTROL APPEALS PANEL

### ISSUE 16: CONTINUATION OF CANNABIS CONTROL APPEALS PANEL RESOURCES

The Cannabis Control Appeals Panel requests $9,207,000 from the Cannabis Control Fund spread over three years to continue supporting Panel operations.

The Cannabis Control Appeals Panel provides a forum of appeal for annual licensees and applicants to address licensing decisions made by the Department of Cannabis Control (DCC/department) relating to any penalty assessment, denial, transfer, condition, suspension, revocation, or other disciplinary action of annual cannabis licenses. The panel issues written decisions with orders affirming, reversing, or remanding DCC's final decisions. Additionally, the panel provides an accessible process for appellants to file an appeal with or without an attorney.

In 2017-18, the panel was established, and in 2020-21, funding and positions were extended on a three-year limited term basis. Currently, cannabis licensees can obtain a temporary "provisional" license or an annual license. Provisional licenses are not entitled to an appeal to the panel. In addition, provisional licenses are set to be phased out in the near future.

Because future workload levels are unknown due to the impending transition from provisional to annual licenses, this proposal requests an additional three-year extension of panel operations with adjustments based on the cost of personnel and projected operational expenditures.

Funding will provide a three-year extension to support 11 existing positions, including the Panel Chair, Panel Members, Executive Director, Assistant Chief Counsel, attorneys, an analyst, and office technician.

### STAFF COMMENTS

Staff does not have concerns with this proposal.

**Staff Recommendation: Hold Open**

## 1115 DEPARTMENT OF CANNABIS CONTROL

### OVERVIEW

The Department of Cannabis Control is the state entity responsible for licensing and regulating cannabis businesses in California. This includes regulating the growing of cannabis plants, the manufacturing of cannabis products, the transportation and tracking of cannabis goods throughout the state, the sale of cannabis goods, and the labeling of goods sold at retail.

The subcommittee will receive an update on several topics related to the cannabis industry, including the transition to annual licenses, the condition of tax revenues, and an overview of cannabis grant programs. The subcommittee will also hear a budget change proposal requested by the Department.

### ISSUE 17: UPDATE ON TRANSITION TO CANNABIS ANNUAL LICENSES

The subcommittee will receive an overview of the upcoming transition from temporary, provisional licenses to annual licenses.

### PANEL

- Rasha Salama, Chief Deputy Director, Department of Cannabis Control
- Angela Hill, Deputy Director of Governmental Affairs, Department of Cannabis Control
- Andrew Hoang, Finance Budget Analyst, Department of Finance
- Charlene Manning, Principal Program Budget Analyst, Department of Finance
- Jared Sippel, Principal Fiscal & Policy Analyst, Legislative Analyst's Office

### BACKGROUND

California law establishes a dual license system for cannabis businesses wishing to operate in the state. Applicants for a cannabis business license must both go through the local permitting process and meet the state's licensing requirements. In 2018, in responses to challenges in meeting all cannabis licensing requirements, the Legislature created a "provisional" licensing category. Under this provisional license, a cannabis business could continue operating while working to comply with all of the regulatory requirements of a full permit.

Over the years, compliance with the California Environmental Quality Act (CEQA) was cited by cannabis operators as a significant hurdle towards meeting full licensing requirements. In most cases, CEQA review is performed at the local level, with the local jurisdiction acting as the "lead agency," which determines the potential environmental impacts of the project. However, if the local jurisdiction does not undertake CEQA review, such a review may need to be performed at the state level, causing the state to be the “lead agency”. The scope of the required CEQA review varies from case-to-case, based on the nature of the application and any prior environmental reviews that have been conducted. Cannabis businesses have noted that these reviews can often be extensive and time-consuming.

In 2021, the Legislature made several changes to the provisional licensing requirement. First, it modified requirements for renewing provisional licenses, including demonstrating that progress is being made towards annual licensure. For example, an applicant must submit evidence that CEQA compliance is underway, if not complete. Secondly, it created a schedule to eventually phase out provisional licenses.

The Budget Act of 2021 also included $100 million to assist local jurisdictions to transition cannabis businesses from provisional to annual licenses.

As of 03/20/2023, the breakdown of provisional vs. annual cannabis licenses in California is as follow:

- 11,458 total active licenses. Of those:
    - 6,440 provisional licenses (56%)
    - 5,018 annual licenses (44%)

**STAFF COMMENTS**

The subcommittee may wish to ask the following questions:

1. More than half of cannabis licensees appear to still be operating on provisional licenses. Does the Department anticipate that these licensees will be able to obtain annual licenses before provisional licenses are phased out?

2. In the Department’s view, what are the current barriers and challenges for provisional licensees to obtain an annual license?

3. As part of obtaining an annual license, applicants must provide the Department with evidence that CEQA compliance is underway, if not complete. Have provisional licensees been able to demonstrate CEQA compliance?

**Staff Recommendation: This item is presented for information only.**

## ISSUE 18: UPDATE ON CANNABIS TAX REVENUES

The subcommittee will receive an update on cannabis tax revenues.

### PANEL

- Seth Kerstein, Legislative Analyst Office
- Colby White, Principal Program Budget Analyst, Department of Finance
- Charlene Manning, Principal Program Budget Analyst, Department of Finance

### BACKGROUND

Prior to July 1, 2022, California enacted two types of state taxes on Cannabis businesses: a weight-based cultivation tax and an ad valorem retail excise tax primarily based on wholesale sales.

In 2022, the Legislature made several changes to the cannabis taxation structure. First, the cannabis cultivation tax was eliminated. Secondly, retailers are now responsible for paying the retail excise tax starting January 1, 2023 (previously, the collection responsibility were on cannabis distributors). As such, the following revenue estimates reported represent the second quarter of cannabis tax revenues without the cultivation tax.

The administration currently estimates that retail excise tax revenue was $108 million in the second quarter of 2022-23 (October through December). As shown in Figure 1 below, retail excise tax revenue has declined for six straight quarters.

**Figure 1: Cannabis Tax Revenue**

Millions of dollars per quarter

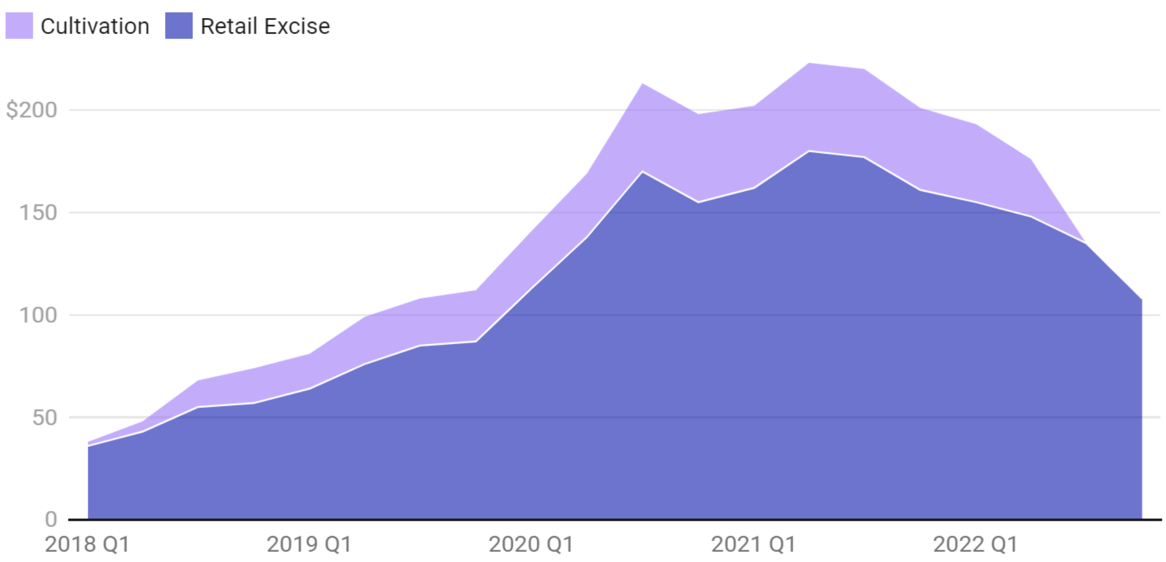



Chart: Legislative Analyst's Office • Created with Datawrapper

The LAO currently project cannabis tax revenues of $484 million in 2022-23 and $543 million in 2023-24. As shown in Figure 2 below, our current projection for 2022-23 is $158 million below the administration's January forecast. According to the LAO, the main reason for this difference is the recent quarterly number noted above, which was not available when the administration published its forecast.

The Administration notes that it will be updating its forecasts as part of the May Revision process and will take into account all of the latest data and trends in the industry.

Figure 2

**Cannabis Tax Revenue Outlook**

(In Millions)

| | 2022-23 | 2023-24 |
|---|---|---|
| February 2023 LAO forecast | $484 | $543 |
| January 2023 Governor's Budget | 642 | 715 |
| LAO difference from Governor's Budget | -158 | -172 |

California's cannabis tax revenues have been prone to large swings from one quarter to the next, making them much harder to forecast than the state's other major revenue sources. The most recent policy change noted above--making retailers responsible for paying the tax--creates additional uncertainty. According to the LAO, the 2022-23 retail excise tax revenues easily could end up much higher or much lower than our forecast.

Allocation 3 Funding Update

California deposits cannabis tax revenues into the Cannabis Tax Fund. Proposition 64 requires the continuous appropriations of Cannabis Tax Funds to three types of activities:

- ***Allocation 1—Regulatory and Administrative Costs.*** First, revenues pay back certain state agencies for any cannabis regulatory and administrative costs not covered by license fees.
- ***Allocation 2—Specified Allocations.*** Second, after regulatory and administrative costs are covered, revenues go to certain research and other programs, such as researching the effects of cannabis and the effects of the measure.
- ***Allocation 3—Percentage Allocations.*** Third, these revenues go to three broad types of activities: 60 percent for youth programs related to substance use education, prevention, and treatment; 20 percent for environmental programs; and 20 percent for law enforcement. (Unlike the other allocations, funding for Allocation 3 comes from tax receipts from the prior year.)

Proposition 64 does not allow the administration to change the share of revenue allocated to each of the three Allocation 3 categories. (The measure loosens these restrictions starting in 2028.) However, it generally authorizes the administration to choose how to allocate funding among various eligible activities *within* each of the three Allocation 3 categories (youth substance use programs, environmental programs, and law enforcement).

In anticipation of cannabis revenue shortfalls, the Budget Act of 2022 set a minimum baseline of funding for Allocation 3 activities at $670 million a year. The budget set aside $150 million General Fund to backfill any revenue loss and maintain the $670 million Allocation 3 baseline funding.

Out of the $150 million in Allocation 3 backfill funding, the Administration anticipates using $95.4 million in 2023-24 to meet the baseline, leaving a remainder of approximately $54.6 million for 2024-25.

## STAFF COMMENTS

The subcommittee may wish to ask the following questions:

1. Based on cannabis tax revenue projections, what are the anticipated impacts to Allocation 3 funding entities?

2. What are the factors that are leading to swings in cannabis tax revenues?

**Staff Recommendation: This item is presented for information only.**

## ISSUE 19: UPDATE ON CANNABIS GRANT PROGRAMS

The subcommittee will receive an overview and update on the various cannabis grant programs administered in California.

### PANEL

- William Koch, Deputy Director for the Community and Local Equity Grants Unit, Go-Biz
- Rasha Salama, Chief Deputy Director, Department of Cannabis Control
- Angela Hill, Deputy Director of Governmental Affairs, Department of Cannabis Control
- Andrew Hoang, Finance Budget Analyst, Department of Finance
- Charlene Manning, Principal Program Budget Analyst, Department of Finance
- Jared Sippel, Principal Fiscal & Policy Analyst, Legislative Analyst's Office

### BACKGROUND

**Local Jurisdiction Retail Access Grant**

The Budget Act of 2022 provided $20 million for a Retail Access Grant program that is planned to be distributed in two phases. This program aims to provide local governments with resources to develop and implement cannabis retailer licensing programs.

A local jurisdiction, such as a city or county, would be eligible for funding if does not currently have a cannabis retail licensing program under its jurisdiction but has a plan to develop one. Funding would be able to be used to support equity applicants and licensees, environmental reviews, permitting expenses, and personnel costs.

The first round of funding, or Phase I, will allocate $10 million to provide funding to support local jurisdictions in the development and implementation of a local cannabis retailer licensing program. The DCC has opened grant applications on March 10, 2023. Applications will close April 28, 2023 with awards to be announced by June 20, 2023.

The second round of funding, or Phase II, will allocate the remaining $10 million after the local jurisdiction issues cannabis retailer permits. Awards will be made for each cannabis retailer permit issued by a Phase I recipient, beginning on or after June 30, 2023.

Additional funding will be awarded in both phases of this grant program for local governments that adopt equity programs and issue cannabis retailer licenses to equity businesses.

**Local Jurisdiction Assistance Grant Program**

The Budget Act of 2021 provided $100 million to launch a Local Jurisdiction Grant Program to assist local governments with the highest amount or provisional licenses to transition to full annual licenses. The DCC awarded grant funding in January of 2022. Additional funding was made available for eligible local jurisdictions with social equity programs.

California is committed to quickly transition cannabis businesses from provisional to annual licenses. In January 2022, DCC awarded one-time grant funding totaling almost $100 million to help 17 cities and counties with the highest numbers of provisional licenses in transitioning businesses to annual licenses. Extra funds were available for eligible local jurisdictions with social equity programs.

**Cannabis Equity Grants Program**

Administered by Go-Biz, the Cannabis Equity Grants Program for Local Jurisdictions is designed to provide funding to local jurisdictions in California that have been disproportionately impacted by cannabis prohibition and the war on drugs. Historically, individuals who were criminalized because of cannabis offenses have a more difficult time entering the recently-created adult-use cannabis industry due, in part, to a lack of access to capital, business space, technical support, and regulatory compliance assistance.

The program aims to support local jurisdictions in developing and implementing cannabis equity programs, and ensuring that persons most harmed and economically disadvantaged by cannabis criminalization are offered assistance, and priority licensing when possible, to enter the multibillion-dollar cannabis industry as entrepreneurs. Generally, the program is funded from the Cannabis Tax Fund.

This grant program offers two funding types:

- Type 1 - Assistance for Cannabis Equity Assessment/Program Development: Provides assistance for the creation of a cannabis equity assessment and/or assistance for the development of a local equity program. Examples of funding uses include hiring staff or consultants to conduct an local equity assessment, and to develop and implement a local equity program if one was not already operational.

- Type 2 - Assistance for Cannabis Equity Program Applicants and Licensees: Provides assistance for cannabis equity program applicants and licensees to gain entry to, and to successfully operate in, the state’s regulated cannabis marketplace. Examples of funding uses include grants, no-interest loans, or low-interest loans to the jurisdiction’s local equity applicants and/or local equity licensees to assist with startup and ongoing costs, or provide direct technical assistance to the jurisdiction’s local equity applicants and/or local equity licensees.

Program Funding History

- A total $30,600,000 was available in 2019-2020. ($15.6 million Cannabis Tax Fund and $15 million General Fund for Go-Biz)

- A total of $15,500,000 was made available for fiscal year 2020-2021

- For fiscal year 2021-2022, $15,500,000 from the Cannabis Tax Fund, and $20,000,000 from the General Fund as a one-time allocation, for a total of $35,500,000 for the Cannabis Local Equity Grant Program, administered by GO-Biz, to assist local equity applicants and licensees.

- A total of $15,500,000 was available for 2022-23.

## STAFF COMMENTS

The subcommittee may wish to ask the following questions:

1- How was funding primarily used by cities for the Local Jurisdiction Assistance Grant Program?

2- In the Cannabis Equity Grants program, roughly how much funding goes towards Type 1 funding and how much goes towards Type 2 funding?

**Staff Recommendation: This information is presented for information only.**

## ISSUE 20: CANNABIS ENFORCEMENT AND CONTINUATION OF IMPLEMENTATION OF THE DEPARTMENT OF CANNABIS CONTROL

The subcommittee will receive an update on DCC enforcement activities, and review a budget change proposal for IT resources and establishing a central region office.

### PANEL

- Rasha Salama, Chief Deputy Director, Department of Cannabis Control
- Sean O'Connor, Chief Information Officer, Department of Cannabis Control
- Andrew Hoang, Finance Budget Analyst, Department of Finance
- Charlene Manning, Principal Program Budget Analyst, Department of Finance
- Jared Sippel, Legislative Analyst's Office

### BACKGROUND

**Update on DCC Enforcement Activities**

In March of 2023, The Department of Cannabis Control (DCC) released its 2021 and 2022 enforcement statistics, highlighting year- over year trends that show significant growth in the number of search warrants issued, arrests made, and illegal cannabis plants eradicated.

According to the Department, DCC-led search warrant operations increased from 62 in 2021 to 155 in 2022, a 150 percent increase. DCC also seized over 41,726 pounds of illegal cannabis in 2021 and more than 144,254 pounds in 2022, a 246 percent increase. Arrests more than tripled, with 17 in 2021 and 56 in 2022. And DCC led operations that seized $243,017,836 worth of cannabis last year, a 212 percent increase from the $77,772,936 seized in 2021.

The DCC provides the following data:

| Combined Total | 2021 | 2022 | Percent Change |
|---|---|---|---|
| Search Warrant Operations | 114 | 299 | 162% |
| Pounds of Seized Cannabis | 338,506.89 | 439,800.70 | 30% |
| Retail Value of Seized Product | $570,140,170.30 | $736,837,621.81 | 29% |
| Cannabis Plants Eradicated | 739,548 | 960,212 | 30% |
| Firearms Seized | 77 | 139 | 130% |
| Money Seized | $7,716,074.20 | $1,840,144.29 | -76% |
| Arrests | 100 | 175 | 75% |

**BCP: Continuation of Implementation of the DCC**

The Department of Cannabis Control requests an increase in expenditure authority by $3,995,000 in 2023-24, $2,344,000 in 2024-25, and $2,358,000 in 2025-26 and ongoing from the Cannabis Control Fund to support Information Technology Operations at the Department and to establish a central California district office in Fresno. The Department additionally requests language that would authorize the Department of Finance to augment funding should it be determined that additional resources be necessary to implement cannabis statutes.

IT Services Division

Currently, the Department is receiving various information technology services through interagency agreements with the legacy departments. Funding for the interagency agreements was received through 2023-24. At the conclusion of its first year, the Department conducted a baseline assessment of its Information Technology operational, programmatic, and administrative needs to identify gaps in necessary resources to independently run and administer the functions of the Department post-consolidation. This request is necessary to transition the workload that was conducted by the legacy departments to the Department and to provide the additional positions to allow the Department to become independent. These positions will establish a minimum level of infrastructure for the Department to administer its programs, have the necessary IT security and to meet the Department's regulatory mandates including maintaining track and trace and licensing systems.

Funding would cover 11 IT-related positions.

Central Region Enforcement Office

Requested funding will establish a Central District field office for the Enforcement Division. This office will serve to support and enhance the overall efforts and efficacy of the Department in addressing unlicensed operators and strengthening partnerships with local law enforcement in Central California.

According to the DCC, prior to the formation of the Fresno Enforcement team, staff had to travel from Northern and Southern California (Sacramento and Burbank Enforcement Offices) which on average took up to 4 hours each way. The Fresno office has seven investigators and one supervising investigator and plans to conduct at least 50 operations annually.

Funding will be used to establish a permanent office meeting special requirement for law enforcement configuration, such as an evidence room, briefing room, and computer forensic lab.

**Budget Bill Language: Provisional Authority**

The Department proposes provisional budget language allowing the Department of Finance to augment the department's appropriation during the budget year, not to exceed available funding in the Cannabis Control Fund. The language requires DCC to demonstrate to DOF a need for additional resources for the implementation of the Medicinal and Adult-Use Cannabis Regulation and Safety Act. The provisional language also requires that the augmentation shall be authorized no sooner than 30 days after notification to the Joint Legislative Budget Committee (JLBC). The department indicates that the provisional language is needed because DCC continues to assess operational, programmatic, and administrative needs by division to identify opportunities to streamline, centralize functions, and address resource gaps to administer the functions of the department after its consolidation. Further, DCC indicates that the provisional language would give the department the needed flexibility to address workload and regulatory priorities where current resources are not sufficient for those activities.

**Related Budget Requests Under Consideration**

The subcommittee is reviewing a budget request submitted by Assemblymember Hart for an appropriation of e appropriation of $14.5M from the Cannabis Tax Fund to the California Cannabis Authority (CCA), a local government Joint Powers Authority, for the purposes of providing localized California Cannabis Track and Trace (CCTT) data to local governments with a cannabis licensing program.

**LAO COMMENTS**

***Cannabis Control Fund Balance Has Significantly Declined Since 2021-22.*** The Cannabis Control Fund is structurally imbalanced in 2022-23 and 2023-24, meaning that its expenditures exceed its revenues. As a result, the fund balance has declined from $169.1 million in 2021-22 to a projected $71.2 million in 2023-24—a decrease of 58 percent. Accordingly, it will be important for the Legislature to closely monitor the Cannabis Control Fund's revenues and expenditures going forward to ensure it maintains a healthy fund balance.

***Provisional Language Limits Legislative Oversight.*** While the provisional language includes a notification to the JLBC, the notification process allows for less legislative oversight than the traditional budget process, which includes public hearings that enable the Legislature to ask questions, vote to make changes to spending proposals, and hear from the public and other stakeholders about the potential impacts of those decisions. In addition, the notification process does not require the same level of information that would normally be required for a budget change proposal. For example, a budget change proposal typically includes a narrative describing the justification for the proposal, expected outcomes, and an evaluation of other alternatives. This type of information is not a required part of the notification, but would be valuable to assist the Legislature in determining the merit of the administration's proposals.

***Require DCC to Report at Budget Hearings on Specific Resource Needs.*** We recommend that the Legislature require DCC to report at spring budget hearings with specific details on the amount of funding it would likely need to access through the provisional language or how such funding would be used. To the extent that DCC has identified specific resource needs, we recommend the Legislature to direct the department to consider submitting these as proposals through this year's budget process, either through an April Finance Letter or at May Revision.

**STAFF COMMENTS**

The subcommittee may wish to ask the following questions:

1. Why does the Department require the ability to augment its funding during the budget year?

2. Are there circumstances where the need for urgent resources would necessitate circumventing the regular budget process

**Staff Recommendation: Hold Open**

## 7502 DEPARTMENT OF TECHNOLOGY
## 8660 CALIFORNIA PUBLIC UTILITIES COMMISSION

### ISSUE 21: BROADBAND

The Subcommittee will receive an update on the State's Broadband investments and the likely disposition for forthcoming federal funds.

### PANELISTS

- Rob Osborn, California Public Utilities Commission
- Jonathan Lakritz, California Public Utilities Commission
- Mark Monroe, California Department of Technology
- Eamon Nalband, Department of Finance
- Brian Metzker, Legislative Analyst's Office

### BACKGROUND

In 2021, the State leveraged $4.3 billion in federal ARPA (American Rescue Plan Act) funding awards and $1.7 billion in General Fund with existing funding to increase state investments in broadband over several fiscal years. In concert with AB 14 (Aguiar-Curry) and SB 4 (Gonzales), the budget package created a range of different programs designed to bridge the digital divide. This initiative was spread between two departments, with California Public Utilities Commission working on last mile efforts and the Department of Technology developing the State "Middle Mile" investment.

Last year, the State increased its Middle Mile investment by $550 million General Fund and changed the funding mix for the initiative to include $2.9 billion in total ARPA funds, with the balance coming from General Fund. Out of the revised total $6.55 billion, $3.64 billion is General Fund and $2.91 billion is federal ARP fiscal relief funds.

**What the Broadband package looks like:**

The chart below articulates these various programs and funding levels as funded in the current budget plan:

| Program | Purpose(s) | Funding Amount |
|---|---|---|
| California Public Utilities Commission | | |
| Local Agency Technical Assistance (LATA) Grant Program | Technical assistance program for tribes and local governments. | $50 million |

| | | |
|---|---|---|
| Federal Funding Account (FFA) | Broadband Last Mile infrastructure grants in underserved areas | $2 billion |
| Loan Loss Reserve (LLR) Program | Assist local-governments and non-profit entities to finance the build out of their own last-mile broadband infrastructure. | $750 million |
| California Advanced Services Fund (CASF) subprograms | Broadband Public Housing Account, Broadband Adoption Account, Rural and Urban Regional Broadband Consortia | Infrastructure: $24,860,000<br>Consortia: $10,710,000<br>Public Housing: $15,000,000<br>Adoption: $20,024,000<br>Tribal Technical Assistance: $2,000,000 |
| California Department of Technology | | |
| State Middle Mile Network | Grants for middle mile development projects | $3.8 billion |

**January Budget proposed delays to some funding:**

The Governor's January budget includes two changes to the Broadband plan in the California Public Utilities Commission budget to delay funding for two items. This delay would retain the same funding level, but move back the year the funding would be available. The two proposed changes are:

- Deferral of $550 million at the CPUC for last-mile infrastructure grants in 2023-24 to future years ($200 million in 2024-25, $200 million in 2025-26, and $150 million in 2026-27). This would leave $1.45 billion available for these grants in the budget year.
- Deferral of $175 million from 2022-23 and $400 million from 2023-24 for the Loan Loss Reserve Fund at the CPUC to future years ($300 million in 2024-25 and $275 million in 2025-26). This would leave $175 million for these reserves in the budget year.

**The Status of these Broadband programs:**

| Program | Status |
|---|---|
| California Public Utilities Commission | |
| Local Agency Technical Assistance (LATA) Grant Program | • Possibly oversubscribed<br>• To date, the CPUC has awarded LATA grants to 82 applicants for a total of $36.4 million.<br>• The CPUC has received 119 applications totaling $53.7 million in funding requests, as of March 1, 2023 |
| Federal Funding Account (FFA) | • April 2023: Expected to release a new "underserved locations" map to identify eligible locations<br>• June 2023: Expected to being accepting applications for funding |
| Loan Loss Reserve (LLR) Program | • July 1 Implementation of this time expected (At the lower $175 million level as proposed by the Governor) |
| California Advanced Services Fund (CASF) subprograms | Adoption Account<br>• Received 100 applications totaling $29,027,844.<br>• To date, awarded 75 projects via ministerial approval totaling $6,052,226.25 (74 projects accepted totaling $5,922,606.25)<br>• Reviewing 37 applications totaling $7,570,735 from a January round of solicitation.<br>Public Housing Account<br>• Received and approved 19 applications totaling $1,398,593.<br>• Reviewing a January round of proposals for 31 projects totaling $1,738,223.<br>Consortia Account<br>• Received 15 applications for $10,333,173<br>.Tribal Technical Assistance January 2023 Application Round:<br>• Received and awarded two project applications totaling $300,000. |
| California Department of Technology | |
| State Middle Mile Network | • 7,095 miles of project delivery bids closed, 460 miles currently advertised<br>• Environmental Review 24 percent completed, with an additional 71 percent in progress<br>• Received "Requests for Innovative Ideas" RFI2 proposals in January of 2023 |

The map below illustrates the middle mile project locations:


**Time Limit for $2.9 billion in ARPA Funding**

With federal ARPA funding constituting a large source of funds for the Broadband initiative, including all of the proposed middle mile, the State has limited time to use these funds. Consistent with federal administrative guidance and deadlines in the ARP Act, this funding is available for allocation until December 31, 2024 and for encumbrance and liquidation until December 31, 2026.

### Billions in new Federal Funds Expected

The Federal Government has allocated $42.45 billion nationwide for Broadband Equity, Access and Development (BEAD) Program. California expects to receive its allocation amount in June, with planning, deployment, upgrades, digital equity, multifamily installation, and workforce activities all being eligible uses of the funds. The State anticipates creating a five year plan to expend these funds from 2024 until 2029.

The CPUC estimates that based on previous federal allocation methodology based upon mapped need, the State will receive between $900 million to $1.1 billion in BEAD funds. The CPUC intends to use the entire amount of new funds to supplement the existing state investment with a new program that conforms to the federal rules for this funding.

## LAO RECOMMENDATION

We recommend the Legislature direct the administration through trailer bill language to spend federal ARP fiscal relief funds first. We also recommend including increased encumbrance and expenditure reporting. We also recommend the Legislature evaluate the updated spending plan to consider (1) how anticipated additional federal funds could supplement existing and/or planned appropriations; (2) how General Fund spending might be prioritized among existing programs and projects to achieve statutory goals; and (3) how, based on this prioritization, spending delays and/or reductions (including delays in the Governor's proposed budget) could be made with the least adverse impact on meeting these statutory goals.

## STAFF COMMENT

The pandemic exposed the essential need for Californians to have access to a reliable high speed internet connection. The new federal funds, plus the State's record budget surplus gave the state a chance to intervene to address this newly identified public need. As a result, State's role in the area has grown from almost no presence two years ago, to a $6.5 billion investment that is positioned to further expand.

With the federal government providing additional funds for Broadband, the question is: Should the State layer this additional $1 billion on top of the existing programs for additional investment, or look for ways to use those funds to offset the investment we have already envisioned? While the state already acknowledges that our investment does not fully meet the total need for all Californians to access broadband to justify expansion, there is also a legitimate question about to what extent the State strategy will be effective at solving the Broadband gap. Given the early stages of the various programs have not resulted in deliverables yet, it hard to know which view is correct.

The assumed expansion of Broadband investments contrasts with proposed budget cuts to funding for key Assembly-priorities infrastructure areas, include reductions to climate programs, transit capital funding, and student housing at higher education institutions. Is it appropriate to grow further grow this Broadband initiative at a time when these reductions are on the table?

With both PUC and CDT still very much in implementation mode, the various programs are moving forward with optimism and roughly on schedule. Yet, the discussion of how this giant investments changes the expectations Californians have for government has not been explored by this Subcommittee. After the completion of the Middle Mile project, the State will own one of the largest Broadband networks in the world. With the push to fund municipal projects, many local governments may expand their enterprise services from traditional water and garbage collection, to include the provision of internet last mile access. Will it make sense to have the State have this fragmented approach to Broadband governance and oversight going forward? How will we define our state role to the public and set expectations about what level of service the public will provide? The Subcommittee may wish to explore this issue, which would echo conversations currently underway in the policy process.

Staff agrees with LAO's recommendation to prioritize expenditure of the ARPA funds, given the closing window on the availability of those funds and will follow up with Finance on how to encourage such a practice in the budget package.

Staff also want to acknowledge that the there was an administration-led discussion to consider expanding technical assistance funding in the current year, given the anticipated oversubscription of that program. No consensus on such an expansion was reached, and it appears the interest in the program exceeded the $50 million available. The Subcommittee may wish to weigh in on whether the budget package should try to address this small shortfall, which currently is estimated to be $3.7 million.

**Staff Recommendation: Hold Open.**

## 9210 LOCAL GOVERNMENT FINANCING

### ISSUE 22: COUNTY VEHICLE LICENSE FEE REVENUE SHORTFALL BACKFILL

The Governor's Budget does not include funding to continue the practice of reimbursing counties for lost revenue due to the State's decision to lower the Vehicle License Fee.

### PANELISTS

- Chris Hill, Department of Finance

### BACKGROUND

Vehicle License Fee revenues have been a major source of city and county funding for decades. In 2004, the tax rate for the Vehicle License Fee was permanently reduced from 2 percent of a vehicle's value to 0.65 percent--implementing the 2003 Recall election promise to "Stop the Car Tax". The State offset this reduction by providing cities and counties with $4.3 billion in property tax revenue from school districts to full offset the lost revenue. Because of current state law, these school property taxes would the naturally be replaced by State General Fund to keep schools fully funded.

While this mechanism worked for most of the State, certain communities with either very small school populations and/or very high land values can lack sufficient property tax revenue available for such a shift to occur. If this occurs, the cities and counties in this area lack an automatic mechanism to recover the lost revenue from the State's decision to reduce the Vehicle License Fee. As a matter of practice, the State would typically make these jurisdictions whole through an alternative payment mechanism.

In 2023-24, the Governor's budget does not acknowledge a claim for $32.9 million from San Mateo County to make up the Vehicle License Fee shortfall that has occurred. This lack of proposal is an unspoken end to the previous practice of making jurisdictions whole from the Vehicle License Fee reduction.

In future years this Vehicle License Fee shortfall is expected to grow to as more school districts become basic aid as property taxes grow and enrollment shrinks. For example, the 2022 cost for this backfill was $98 million for San Mateo and Alpine counties. The recent record school funding package in the 2022-23 budget has temporarily moved some school districts out of basic aid, but over time the gap is expected to grow, as are the number of school districts.

***2022 Trailer Bill Proposal***

Last year, the Department of Finance proposed a funding mechanism for the Vehicle License Fee shortfall that would have provided a continuous appropriation for impacted jurisdictions, but capped the State General Fund contribution moving forward. This proposal was opposed by the counties and was not included in the 2022 budget package.

**STAFF COMMENT**

When the State made the decision to reduce the Vehicle License Fee, it was acting on behalf of the local governments that depended on this revenue. At the time a creative funding scheme was devised to keep local jurisdictions whole. Twenty years later, this mechanism stopped working for certain communities with either very small school populations and/or very high land values. At issue is whether the State should try to uphold the spirit of the 2004 VLF agreement with local governments or should let local governments weather the unexpected impact of the funding mechanism chosen at that time?

**Staff Recommendation: Hold Open.**

## 0650 OFFICE OF PLANNING AND RESEARCH

### ISSUE 23: CALVOLUNTEERS

The Subcommittee will consider the Governor's CalVolunteers budget proposals.

### PANELISTS

- Josh Fryday, Office of Planning and Research
- Rachael Ehlers, Legislative Analyst's Office
- Kevin Clark, Department of Finance

### BACKGROUND

CA Volunteers, housed under the Governor's Office of Planning and Research, operates programs and initiatives to engage Californians in service, volunteering, and civic action. It is supported by a 25-member board of commissioners. One of CA Volunteers' primary responsibilities is to receive and coordinate federal AmeriCorps funds on behalf of the state. Other programs and initiatives run by CA Volunteers include the College Corps (which provides college students with opportunities to support and learn from community-based organizations), volunteer programs organized to support disaster response, and the two programs discussed in this brief—Youth Jobs Corps and Climate Action Corps.

The Governor has two significant new proposals for California (CA) Volunteers beginning in 2023-24. Both would convert limited-term funding and efforts to permanent and ongoing programs using General Fund. These include (1) $78.1 million ongoing to continue the Youth Jobs Corps program that was established as a 2.5-year program using federal funds, and (2) $4.7 million annually through 2025-26 and $9.3 million ongoing thereafter to double and extend the Climate Action Corps program that was established as five-year pilot effort.

### LAO RECOMMENDATION

We recommend the Legislature reject both proposals. We find the proposed funding augmentations and ongoing commitments to be premature given that neither program can yet present comprehensive data that it is a more cost-effective approach to achieving its goals than other existing or alternative approaches. This lack of evidence is particularly problematic given that, because of the budget problem, both proposals come at the expense of other existing General Fund-supported commitments. Given the state budget problem, we also recommend the Legislature approve the Governor's proposal to reduce $25 million General Fund previously provided for the Youth Jobs Corps program to augment its services in summer 2023.

## STAFF COMMENT

The Newsom administration has made volunteerism and service a signature effort and this proposed ongoing funding for this program reflects this priority. However, this year this expansion is contrasted with proposed reductions to other budget priorities in this budget, due to the diminished revenue collections. The Subcommittee may wish to consider whether the State is in the fiscal position to make this level of an ongoing commitment for this program at this time given this dynamic and other priorities held by the Assembly.

As mentioned in previous years, the Subcommittee may wish to explore whether this newly expanded role for volunteerism justifies its own freestanding department, to allow a more consistent and focused organizational vision and better accountability.

**Staff Recommendation: Hold Open.**

## ISSUE 24: OTHER OPR BUDGET PROPOSALS

The Office of Planning and Research has seven other budget proposals contained in the Governor's January proposal.

### PANELISTS

- Scott Morgan, Office of Planning and Research
- Rachel Ehlers, Legislative Analyst's Office
- Kevin Clark, Department of Finance

### BACKGROUND

**OPR proposes $80 million reduction to COVID-19 Outreach activates**

The proposed reduction to federal funds would be made to Office of Community Partnerships and Strategic Communication, which was established in last year's budget. $150 million would be retained in the current year for this purpose.

**OPR has seven other budget proposals.**

The Office of Planning and Research proposes seven Budget Change Proposals to implement various changes associated with their broad mission. Specifically, these proposals are:

- $3,789,000 General Fund in 2023-24, and $3,112,000 from 2024-25 through 2029-30 to support the new Racial Equity Commission as required by Executive Order N-16-22 and the Youth Empowerment Commission to meet statutory requirements enacted in Chapter 660, Statutes of 2021 (AB 46 (L Rivas)). Of the total amount, $1,500,000 General Fund is a net-zero transfer from the Youth Empowerment Commission to the Office of Planning and Research. This request also includes trailer bill language to effectuate the transfer of the Youth Empowerment Commission to OPR.
- $2,289,000 General Fund in 2023-24 and $714,000 in 2024-25 and 2025-26 to support comprehensive update of General Plan Guidelines as a result of 150 enacted laws since 2017 and alignment with the State Housing, Equity and Climate priorities.
- The Office of Planning and Research proposes a Budget Change Proposals for $1,433,000 General Fund and 5.0 positions in 2023-24 and ongoing to respond to OPR's growing amount of legal and legislative workload with a dedicate staff unit for these purposes.
- $944,000 General Fund in 2023-24 and $564,000 in 2024- 25 and 2025-26 to support the development and implementation of a statewide heat ranking system pursuant to Chapter 264, Statutes of 2022 (AB 2238 (L. Rivas)).

- $284,000 ongoing General Fund for 1.0 Tribal Liaison position. OPR must advise local governments on General Plans and Environmental Justice Elements, as described in Government Code 65302(h). Additionally, OPR should be coordinating with other State Government Agencies and Federal Agencies to better align State policies and funding programs, as described by Government Code 65040.12.
- $283,000 General Fund and 1.0 position in 2023-24, and ongoing to be the technical lead in maintaining the current California Environmental Quality Act document online processing system, provide planning resources for a system redesign, and maintaining the new system.
- $188,000 General Fund and one position in 2023-24 and ongoing to develop and report on implementation progress of the California Climate Adaptation Strategy (Strategy) pursuant to Chapter 338, Statutes of 2022 (AB 1384(Gabriel))

**STAFF COMMENT**

**The Administration and OPR provides only a 21 word description of a proposed $80 million reduction**

The budget includes a proposed reduction of $80 million, but there is no detail, analysis, justification, or rationale provided by the Office, Finance, or the administration besides 21 words in the Governor's Budget Summary, as illustrated below:

*The Office of Community Partnerships and Strategic Communications manages the state's highest priority public awareness and community outreach campaigns. The 2022 Budget Act included $65 million General Fund annually through 2025-26 to establish the Office and provided $230 million one-time California Emergency Relief Fund in 2022-23 for the Office to continue COVID-19 vaccine-related public education and outreach campaigns.* ***Due to declining General Fund revenues, the Budget proposes to remove $80 million in 2022-23 for the COVID-19 Outreach campaign, reducing the one-time investment to $150 million.***

The Office provided no detail regarding this proposal. In addition, the actual Governor's Budget document does not include any reference to this reduction and shows the funds unchanged for this purpose.

Given the State's difficult financial position, a reduction to COVID-19 community outreach is likely a reasonable proposal. However, in order for the Legislature to make an informed choice shaping the budget, the administration should give enough information to allow stakeholders to bring other perspectives to the discussion, especially if a reduction is proposed. In this case, the entire proposal is just a single sentence, hidden at the end of a paragraph on page 115.

The Subcommittee may wish to inquire as to why the Legislature and the public received virtually no information about this proposal. For the proposals where OPR is requesting new resources, there are detailed write ups and justification. For example, the Office prepared a seven page Budget Change Proposal to justify the $188,000 request to implement AB 1384.

**OPR Continues to Expand in Scope and Mission**

The proposed budget augmentations for OPR reflect the increasing scope of work of this extension of the Governor's office. While each of these proposals is rooted in demonstrated workload needs for important state policy, the wide variety of issues covered by this office illustrates the challenges for this Office. Over the last decade, this office has evolved from a small outpost that handled special projects on behalf of the Governor to a climate focused grant making entity with a $1.2 billion annual budget. This expansion results in an organization that has three major problems:

1. Focus. From empowering poor communities to fight pollution in their neighborhoods, helping developers with CEQA project approvals, linking college students to volunteer opportunities, outreaching to Californians, and overseeing cutting-edge biomedical precision medicine research, OPR covers many areas. With this budget, the office is adding tribal affairs and youth empowerment to this giant and disconnected portfolio. As the Office becomes more identified with its climate mission, many of these other initiatives appear to get lost in a giant organization with many missions and goals. Does it make sense to continue to add new organizational missions to this Office?

2. Coordination. Much of OPR's core functions, especially in the climate space, overlap with the work of the Natural Resources Agency, the Environmental Protection Agency, and, to some degree, the Business, Consumer Services and Housing Agency. As the Office's Strategic Growth Council continues to add programs, some argue the Office itself fragments California government's response to the climate crisis, rather than integrates the efforts across many state governments. How does the $750 million in climate investment at OPR's Strategic Growth Council integrate with our overall climate approach and does it make sense for the State to continue to develop these distinct silos of programs?

3. Accountability. The Office of Planning and Research looks like a state department, but is essentially a subdivision of the Governor's Office. Traditionally, this office housed special projects that were of interest to the current Governor, which would often change as administrations transitioned. In the last decade, this office has become a home to programs that are intended to be durable and long lasting. At what point should some of these programs be treated like other state functions and migrated to a dedicated department? Should the leadership of these programs to be subject to the same level of legislative accountability as other senior state leaders?

The Governor's budget also proposes reducing $75 million allocate to the Office of Planning and Research for the Extreme Heat and Resiliency Program, leaving $100 million for this purpose. This reduction is part of a total $205 million cut proposal that is being considered by Assembly Budget Subcommittee 3 as part of the climate package discussions.

**Staff Recommendation: Hold Open**