

**AGENDA****ASSEMBLY BUDGET SUBCOMMITTEE NO. 5 ON PUBLIC SAFETY****ASSEMBLYMEMBER GIL CEDILLO, CHAIR****Wednesday, April 25, 2012****4:00 P.M. - STATE CAPITOL ROOM 444****VOTE ONLY CALENDAR**

ITEM	DESCRIPTION
<b>5227</b>	<b>BOARD OF STATE AND COMMUNITY CORRECTIONS</b>
ISSUE 1	ESTABLISHMENT OF THE BOARD OF STATE AND COMMUNITY CORRECTIONS
<b>2720</b>	<b>CALIFORNIA HIGHWAY PATROL</b>
ISSUE 1	INSURANCE AUGMENTATION

**ITEMS TO BE HEARD**

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## VOTE-ONLY AGENDA

### 5227 BOARD OF STATE AND COMMUNITY CORRECTIONS

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#### ISSUE 1: ESTABLISHMENT OF THE BOARD OF STATE AND COMMUNITY CORRECTIONS

##### BACKGROUND

Legislation associated with the 2011 Budget Act abolished the Corrections Standards Authority (CSA) and established the new Board of State and Community Corrections (BSCC) as an independent entity, effective July 1, 2012. The BSCC will absorb the previous functions of the CSA as well as other public safety programs previously administered by Cal EMA.

The BSCC will be an entity independent from Cal EMA and California Department of Corrections and Rehabilitation (CDCR). The BSCC will be chaired by the Secretary of CDCR, and its vice-chair will be a local law enforcement representative. The BSCC will have 12 members including state, local, judicial, and public stakeholders.

##### PROPOSAL

The Governor's Budget proposes \$109.2 million (\$16.9 million General Fund and \$92.2 million other funds) for the state operations and local assistance programs included under the BSCC. The funding is comprised of resources transferred from the CSA and Cal EMA. The Governor's Budget also includes trailer bill language to clarify the BSCC's authority for administration of certain federal funds.

## VOTE-ONLY AGENDA

### 2720 CALIFORNIA HIGHWAY PATROL

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#### ISSUE 1: INSURANCE AUGMENTATION

##### BACKGROUND

Government Code Section (GC) 11290 grants the Department of General Services (DGS) the authority to calculate the costs of insuring motor vehicles belonging to a state agency. The DGS may fix the cost or pro rata share, or in its discretion an amount it considers equivalent to the cost or pro rata share. The DGS can collect this cost from each state agency in advance or any other basis that is determined.

In FY 2010-11, the California Highway Patrol (CHP) paid DGS \$7.75 million for vehicle insurance. In FY 2011-12, the Department's insurance premium is \$7.7 million. For FY 2012-13, the insurance premium will be increased to \$13.3 million. The CHP contends that this increase stems from 395 claims against the Department, which resulted in \$12.089 million of incurred auto liability costs for the period of July 1, 2010, through June 29, 2011.

##### PROPOSAL

The CHP is requesting a permanent augmentation of \$5.6 million (from the Motor Vehicle Account, State Transportation Fund) in FY 2012-13 to support an insurance premium increase paid to the DGS' Office of Risk and Insurance Management.

**0820 DEPARTMENT OF JUSTICE**

The constitutional office of the Attorney General, as chief law officer of the state, has the responsibility to see that the laws of California are uniformly and adequately enforced. This responsibility is fulfilled through the diverse programs of the Department of Justice (DOJ).

The DOJ is responsible for providing skillful and efficient legal services on behalf of the people of California. The Attorney General represents the people in all matters before the Appellate and Supreme Courts of California and the United States; serves as legal counsel to state officers, boards, commissioners and departments; represents the people in actions to protect the environment and to enforce consumer, antitrust, and civil laws; and assist district attorneys in the administration of justice. The DOJ also provides oversight, enforcement, education and regulation of California's firearms/dangerous weapon laws; provides evaluation and analysis of physical evidence; regulates legal gambling activities in California; supports the telecommunications and data processing needs of the California criminal justice community; and pursues projects designed to protect the people of California from fraudulent, unfair, and illegal activities.

The Governor's Budget proposes \$723.4 million (\$201.2 million General Fund) and 4,653.3 positions. This reflects an increase of \$51.6 million (\$32.5 million General Fund) and a decrease of 135.9 positions as compared to the 2011-12 budget.

<b>Fund Source (000s)</b>	<b>2010-11 Actual</b>	<b>2011-12 Projected</b>	<b>2012-13 Proposed</b>	<b>BY to CY Change</b>	<b>% Change</b>
<b>General Fund</b>	\$287,455	\$168,633	\$201,152	\$32,519	19%
<b>Other Funds</b>	379,082	503,165	522,226	19,061	4
<b>Total Expenditure</b>	\$666,537	\$671,798	\$723,378	\$51,580	8%
<b>Positions</b>	4,564.5	4,789.2	4,653.3	(135.9)	(3)

**ISSUE 1: NATIONAL MORTGAGE SETTLEMENT AGREEMENT (INFORMATIONAL ITEM)**

The Subcommittee will review California's participation in the National Mortgage Settlement Agreement.

**BACKGROUND**

On February 9, 2012 the federal government and 49 states reached a settlement with five of the nation's largest lenders with respect to past mortgage servicing and home foreclosure practices. The agreement was approved by a federal judge on April 6, 2012. The settlement provides for relief to borrowers in the form of loan modifications, mortgage loan servicing reforms, increased compliance monitoring, and enforcement. In joining the national settlement, California was able to secure to \$18 billion in support for the state.

According to the Department of Justice, the settlement will be structured as follows:

- \$12 billion will be dedicated to reducing the principal balance on loans by offering either affordable modifications or short sales to approximately 250,000 California homeowners.
- \$430 million payment to the state for penalties, costs, and fees.
- \$849 million to help refinance the loans of approximately 28,000 California homeowners with interest rates above 5.25 percent who are current on their mortgage payments but underwater on their loans.
- \$279 million will be dedicated to provide payments to approximately 140,000 homeowners foreclosed upon during the worst period of servicing misconduct.
- \$1.1 billion will be distributed to California communities to repair blight and devastation left by waves of foreclosures in hard-hit areas.
- \$3.5 billion to forgive unpaid debts to banks for about 32,100 homeowners who have lost their homes to foreclosure.

In addition to the level of funding agreed to in the settlement, the following reforms will also be implemented:

- Information in foreclosure affidavits must be personally reviewed and based on competent evidence.
- Holders of loans and their legal standing to foreclose must be documented and disclosed to borrowers.
- Borrowers must be sent a pre-foreclosure notice that will include a summary of loss mitigation options offered, an account summary, description of facts supporting lender's right to foreclose, and a notice that the borrower may request a copy of the loan note and the identity of the investor holding the loan.

- Borrowers must be thoroughly evaluated for all available loss mitigation options before foreclosure referral, and banks must act on loss mitigation applications before referring loans to foreclosure; i.e. “dual tracking” will be restricted.
- Denials of loss mitigation relief must be automatically reviewed, with a right to appeal for borrowers.
- Banks must implement procedures to ensure accuracy of accounts and default fees, including regular audits, detailed monthly billing statements and enhanced billing dispute rights for borrowers.
- Banks are required to adopt procedures to oversee foreclosure firms, trustees and other agents.
- Banks will have specific loss mitigation obligations, including customer outreach and communications, time lines to respond to loss mitigation applications, and e-portals for borrowers to keep informed of loan modification status.
- Banks are required to designate an employee as a continuing single point of contact to assist borrowers seeking loss mitigation assistance.
- Military personnel who are covered by the SCRA will have enhanced protections.
- Banks must maintain adequate trained staff to handle the demand for loss mitigation relief.
- Application and qualification information for proprietary loan modifications must be publicly available.

<b>PANEL</b>
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- ❖ California Attorney General, Kamala D. Harris – Please be prepared to address the following in your testimony:
  - Please provide an overview of the settlement.
  - Has the Department of Justice identified any priorities for utilizing the \$430 million payment to the state?
- ❖ Legislative Analyst's Office
- ❖ Department of Finance

**ISSUE 2: DIVISION OF LAW ENFORCEMENT**

The Subcommittee will review the proposal to re-authorize 51.0 positions and \$11.8 million (\$4.9 million General Fund and \$6.9 million in Legal Services Revolving Fund) in support of the Department of Justice's (DOJ) Division of Law Enforcement (DLE).

**BACKGROUND**

The Attorney General's DLE is a team of special agents and staff who are charged with fighting crime in California. These men and women are trained to provide services in specialized fields including:

- Conducting narcotic and criminal investigations
- Enforcing state gambling and firearm laws and regulations
- Working in forensic sciences
- Training and education

The division works in partnership with local, state, and federal law enforcement agencies to incapacitate criminal street gangs, stop the trafficking of dangerous narcotics, and bring criminals to justice.

The 2011 Budget Act identified the elimination of all General Fund support for the DLE as one of the many solutions for closing the \$26.6 billion budget gap projected for the 2011-12 fiscal year.

This reduction was reflected as a General Fund reduction of \$36.8 million beginning in 2011-12 and \$71.5 million in 2012-13 and ongoing. General Fund resources for the forensic laboratory program, the Armed Prohibited Persons Program, and investigation teams to assist the Department's legal services division were maintained.

The 2012 Governor's Budget proposes to partially restore DLE funding. However, failure of the Governor's November tax initiative would trigger a reduction that would undo the proposed restoration of DLE funding.

Specifically, this budget proposal would reauthorize \$11.8 million and 51 positions to support the DLE's mission.

- 17.0 positions in the Special Operations Unit. The Special Operations Unit provides statewide enforcement for combating intrastate drug trafficking and violent criminal activity. Personnel within the Special Operations Unit often conduct undercover operations to gather evidence leading to the arrest and prosecution of individuals conducting criminal activity.
- 6.0 positions in the Office of the Director. The positions within the Office of the Director would provide managerial support for the Division's enforcement and administrative functions.

- 22.0 positions in the Special Investigations Team. The Special Investigations Team is responsible for conducting complex investigations involving the allegations of civil rights violations, public corruption, underground economy, environmental contamination, federal and state habeas litigation involving capital and non-capital cases, homicides, officer involved shootings, consumer fraud, money laundering, conflict of interest, bribery, tax evasion, race discrimination, death in custody evaluations, misappropriation of public funds, suspected criminal activity involving public officials and mortgage fraud.
  
- 6.0 positions in the Foreign Prosecution and Law Enforcement Unit. The Foreign Prosecution and Law Enforcement Unit assists state and local law enforcement agencies in the location and prosecution of suspects accused of committing violent crimes in California and fleeing to Mexico to avoid arrest and prosecution in California.

**LAO RECOMMENDATION**

Approve as budgeted. Shift the existing \$2 million General Fund appropriation for the Special Investigations Team to the Legal Services Revolving Fund.

**PANEL**

- ❖ California Attorney General, Kamala D. Harris – Please be prepared to address the following in your testimony:
  - How many positions (sworn and non-sworn) were eliminated in association with recent DLE reductions?
  - How is the Department operationalizing recent reductions?
  
- ❖ Legislative Analyst's Office
  
- ❖ Department of Finance
  
- ❖ Public Comment



**ISSUE 3: ARMED PROHIBITED PERSONS SYSTEM**

The Subcommittee will review the proposal to authorize 8.0 positions and \$1.6 million from the Dealers Record of Sale (DROS) Account to support workload associated with the Armed Prohibited Persons System (APPS).

**BACKGROUND**

Chapter 944, Statutes of 2001 (SB 950) established the Prohibited Armed Persons File, a database that cross-references information for persons in possession of, or attempting to purchase, firearms with information on persons who have are prohibited from owning or possessing firearms.

According to the DOJ, there are on average, 4,500 newly identified automated Armed Prohibited Persons added to the database on an annual basis. In addition, there are approximately 440,000 historical files that need to be manually processed. The DOJ currently has resources to investigate over 1,700 cases per year leaving a significant number of cases unaddressed on an annual basis. The requested positions would be distributed throughout the state to aid in addressing backlogged and new cases. The DOJ estimates the new staff will be able to conduct in excess of 1,000 additional investigations per year.

Chapter 743, Statutes of 2011 (SB 819) authorized the Department of Justice to utilize the Dealers' Record of Sales Account to fund firearms related regulatory and enforcement activities associated with the Armed Persons Prohibited Persons System. The Department of Justice has requested \$1.6 million dollars from the DROS Account, on a three year limited-term basis to support this request.

**STAFF COMMENT**

The fiscal analysis for SB 819 identifies the level of resources necessary to implement the measure at approximately \$1 million per year. It is unclear whether the plan was modified or costs were calculated based on a different set of assumptions.

**PANEL**

- ❖ California Attorney General, Kamala D. Harris – Please be prepared to address the following in your testimony:
  - Please explain the discrepancy between the original fiscal analysis of SB 819 and the requested level of resources.
- ❖ Legislative Analyst's Office
- ❖ Department of Finance
- ❖ Public Comment

**ISSUE 4: HAWKINS DATA CENTER**

The Subcommittee will review the proposal to authorize \$486,000 from the Dealers Record of Sale (DROS) Account, on a one-time basis, to support software development and enhancements pursuant to Chapter 745, Statutes of 2011 (AB 809).

**BACKGROUND**

AB 809 applied the same regulations relating to the reporting and retention of records for handguns to long guns. Specifically, this bill:

1. Conformed reporting and record retention provisions in order that transfers and formation reporting and retention requirements for handguns and firearms other than handguns are the same.
2. Deleted the prohibition on peace officers, DOJ employees, and the Attorney General (AG) from retaining or compiling certain information relating to transactions regarding firearms that are not handguns, as specified. A violation of these provisions under current law is a misdemeanor. The deletion of this misdemeanor prohibition takes effect on January 1, 2013.
3. Expanded the requirement for a personal handgun importer to report certain information relative to bringing a handgun into the state, as specified. A violation of these provisions is a misdemeanor. On January 1, 2013, "personal handgun importer" shall be redefined as a "personal firearm importer," as defined, and expands the reporting requirements to apply to the importation of firearms that are not handguns.
4. Deleted a provision under existing law wherein DOJ requires firearms dealers to keep a register or record of electronic or telephonic transfers of information pertaining to firearms transactions, as specified. Existing law exempts from these requirements certain transactions involving firearms that are not handguns. The deletion of this provision occurs on January 1, 2013.
5. Made conforming changes to code to reference "firearms" in lieu of "handguns."
6. Prohibits a "personal firearm importer" from importing a firearm that is a .50 browning machine gun rifle or a destructive device.

**PANEL**

- ❖ California Attorney General, Kamala D. Harris
- ❖ Legislative Analyst's Office
- ❖ Department of Finance
- ❖ Public Comment

**ISSUE 5: LEGAL SERVICES ALLOCATIONS AND SMALL CLIENT POT**

The Subcommittee will review the proposal to redirect \$1.86 million to the small client pot beginning in 2012-13 to address the departments legal service's needs. Additionally, the Governor's 2012-13 Budget includes a request to augment the Department of Justice's budget by \$600,000 dollars by utilizing funds within the Indian Gaming Special Distribution Fund. The \$2.5 million dollar augmentation would be utilized to fund legal services provided for the Governor's office.

**BACKGROUND**

The DOJ is responsible for providing legal advice and representation to state entities in various matters. As part of its 2011-12 budget package, the Legislature implemented a billable service model, which required DOJ to begin billing twelve of its larger General Fund-supported client departments for the cost of legal services. (Prior to 2011-12, DOJ was already billing special fund-supported departments for legal services.) Under this new approach, these twelve client departments receive a direct General Fund appropriation—totaling about \$50.6 million in the current year—for the purpose of paying DOJ legal fees. The appropriation each of these departments receives each year is based on the number of legal service hours performed for those agencies in prior years. When DOJ performs legal services for one of these departments, DOJ bills the client department and funds are transferred from the client department's budget to DOJ's Legal Services Revolving Fund (LSRF).

The DOJ also receives a General Fund appropriation to provide legal services for some departments with smaller legal workloads. In 2011-12, the budget provides DOJ's LSRF with \$1.5 million to fund work for these clients. In addition, DOJ receives about \$1 million from the Indian Gaming Special Distribution Fund (SDF) and about \$360,000 from the Gambling Control Fund in 2011-12 for gaming-related legal work. According to LAO estimates that the LSRF will have a year-end fund balance of roughly \$25 million in 2012-13, or about 13 percent of its proposed \$192 million in expenditures.

**LAO RECOMMENDATION**

The LAO recommends (1) approving the Governor's proposal to augment DOJ's budget by \$600,000 from the SDF and (2) delaying by one year the proposed \$1.9 million increase in DOJ's General Fund appropriation for legal services. Doing so would mean that the LSRF would continue to absorb these costs for one additional year, providing the state a one-time budget savings totaling \$1.9 million.