AGENDA

ASSEMBLY BUDGET SUBCOMMITTEE NO. 4 STATE ADMINISTRATION

ASSEMBLYMEMBER WENDY CARRILLO, CHAIR

TUESDAY, FEBRUARY 23, 2021

1:30 P.M. - STATE CAPITOL, ROOM 437

Due to the ongoing COVID-19 safety considerations, including guidance on physical distancing, seating for this hearing will be very limited for the press and for the public. All are encouraged to watch the hearing from its 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.

*A moderated telephone line will be available to assist with public participation. The public may provide comment by calling the following toll-free number: **877-692-8957, Access Code: 437 13 15.***

ITEMS TO BE HEARD

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7100 EMPLOYMENT DEVELOPMENT DEPARTMENT

OVERVIEW

The Governor's budget includes one budget change proposal for the Employment Development Department (EDD). The Subcommittee will discuss oversight of EDD in the first panel and discuss the budget proposal in the second panel.

ISSUE 1: EMPLOYMENT DEVELOPMENT DEPARTMENT OVERSIGHT

California's EDD has faced significant challenges during the COVID-19 pandemic, including a massive backlog of claims, fraud, an overwhelmed call center and staff, and decisions made at agency level that will increase the department's workload. The Subcommittee, in continuing its oversight role from last year, seeks to find solutions and partner with EDD to meet those challenges in order to ensure that Californians who need unemployment benefits are able to receive them in a timely manner.

PANEL

The following individuals will participate virtually in the discussion of this issue:

- Nancy Farias, Chief Deputy Director of External Affairs, Legislation and Policy, Employment Development Department
- Carol Williams, Chief Deputy Director of Operations, Employment Development Department
- Chas Alamo, Principal Fiscal & Policy Analyst, Legislative Analyst's Office
- Mark Jimenez, Staff Finance Budget Analyst, Department of Finance

BACKGROUND

Across the state, California's unemployment was at its peak at 16% in April and May last year, meaning 6.4 million Californians were without work. EDD has processed nearly 20 million claims for unemployment insurance (UI) and pandemic unemployment assistance (PUA) since the COVID-19 pandemic began, eight times as many claims that were filed in 2019, and paid more than $111 billion in UI benefits. During the height of the Great Recession, EDD received 3.8 million claims applications in 2009 and 2010.

The workload that EDD faced was unprecedented but EDD's lack of recession planning, reliance on old and outdated systems, and lack of continued leadership exacerbated problems.

Leadership. On February 3, 2021, the Assembly Insurance Committee and Joint Legislative Audit Committee held a hearing to discuss two audits released by the State Auditor on EDD's handling of the COVID-19 pandemic and fraud issues. During the hearing, it was revealed that EDD has had four different UI deputy directors in the last five years with the UI deputy director having just left the post after only having the position for three months. Additionally, the California Labor and Workforce Development Agency Secretary Julie Su was chosen to become the Deputy Secretary of Labor for President Biden's Administration, and the Agency's Undersecretary position has been vacant since November. At the end of 2020, EDD Director Sharon Hilliard retired and Rita L. Saenz was appointed to fill the vacancy. While EDD has hired more than 6,000 staff since the pandemic began, nearly 1,600 staff have left the department. The constant changing in EDD's leadership presents a lack of consistency for the department and staff.

Backlog. In September 2020, the UI backlog reached 1.6 million claims. With an updated identity fraud detection tool, EDD was able to clear most of this backlog at the end of January. While this first backlog has been cleared, since late November, the backlog has begun to increase and this secondary backlog has surpassed 1 million claims.

Fraudulent Claims. Individuals have been exploiting the UI claims system to file fraudulent claims to EDD. Fraud has ranged from sophisticated criminal enterprises to individuals who are incarcerated. The State Auditor's report, released on January 28, 2021, found that EDD has potentially paid about $10.4 billion in fraudulent payments and estimates that EDD has paid $810 million to claims filed under names of people who are incarcerated in state prisons and county jails. EDD and Bank of America froze approximately 350,000 claims in September and October of 2020 and at the start of 2021, EDD froze an additional 1.4 million claims flagged as suspicious. At the end of last year, EDD has increased its fraud detection tools, including starting the use of ID.me, an identity verification system used by other states, cross-checking inmate data with the California Department of Corrections and Rehabilitation, and an expanded contract with Thomson Reuters fraud detection software. EDD additionally announced hiring Accenture to refine their fraud detection tools.

Audit. As mentioned above, the State Auditor released a report with many findings, including:

- EDD was unprepared for an economic downturn and did not begin recession planning until 2019. These efforts were uncompleted due to the COVID-19 pandemic.

- Most calls made to the call center did not reach staff. At the height of unemployment in April 2020, the call center only picked up 0.5% of calls. With additional staff hired, EDD is now picking up 8% of calls, however claimants state that call center staff are poorly prepared and aren't able to assist them.
- EDD could not automatically process most claims until ID.me was implemented.
- Decisions made at the agency level to attempt to send out benefits more quickly will create additional workload challenges and review for staff.

STAFF COMMENTS

Staff points out that EDD has had a massive workload change and it would not be possible for the department to have been able to predict or prepare for the scope and scale of the COVID-19 pandemic.

May and October Revise. The Budget Act allows EDD to adjust funding for the UI and disability insurance programs based on workload projections. The October Revise requested an increase of 6,810 staff and an increase of $1.1 billion from the Unemployment Administration Fund to align estimated expenditure levels in 2020-21. For 2021-22, the October Revise requested an increase of 3,976 staff and $766.2 million from the Unemployment Administration Fund. Due to the October Revise changes, EDD is only requesting one budget change proposal to pay interest on a federal loan.

Despite these additional resources, constituents continue to need assistance from EDD and legislative offices, and it is unclear if the resources from the October Revise will address these concerns. The Auditor's report found the following increased workloads that EDD will need to address:

- Review of eligibility issues for 2.4 million claims
- Review of pending retroactive certifications
- Review of 77,000 identity fraud cases
- Continuing call center challenges

Staff notes that the January 26, 2021 Assembly Budget Subcommittee #4 oversight hearing on EDD issues flagged that EDD does not provide proper language access to Californians who do not speak English or Spanish. Numerous community-based organizations raised this issue with EDD as early as July 28, 2020, but this Subcommittee has not seen a proposal from EDD to ensure that Californians who have language barriers can access UI benefits.

Questions that Members may wish to ask EDD:

1. Will EDD need to request additional resources to address the workload concerns in the May Revise?
2. Does EDD have a plan to address language access challenges? Will EDD request resources for this in the May Revise?
3. Who will oversee EDD now that Secretary Su is departing for the Biden Administration? What assurances does the Legislature have that the above concerns will be addressed?
4. Why has this secondary backlog grown so much? What is EDD's plan to reduce this backlog?

Staff Recommendation: No Action Required, this issue is for oversight discussion purposes.

ISSUE 2: OTHER EMPLOYMENT DEVELOPMENT DEPARTMENT BUDGET PROPOSAL

The Governor's budget requests $555 million from the General Fund to make the estimated interest payment on the federal loan that was necessary to pay benefits when the Unemployment Insurance (UI) Trust Fund became insolvent.

PANEL

The following individuals will participate virtually in the discussion of this issue:

- Caleb Horel, Chief, Fiscal Programs Division, Employment Development Department
- Chas Alamo, Principal Fiscal & Policy Analyst, Legislative Analyst's Office
- Mark Jimenez, Staff Finance Budget Analyst, Department of Finance

BACKGROUND

During periods of high unemployment, the UI taxes paid by employers are not sufficient to cover the full cost of UI payments to the unemployed. When the state's UI Trust Fund becomes insolvent, the state is still obligated by federal law to pay benefits to eligible workers. These loans are ultimately the obligation of California employers under the existing financing structure, and they must be paid back with interest. In addition to repaying any outstanding federal loan, states are also required to pay interest incurred on the loan. Federal law does not allow interest on such a loan to be paid by the UI Trust Fund or by a state's UI administrative grant.

Due to the severity of the COVID-19 pandemic and the massive scale of economic disruption that has come from it, California's UI Trust Fund became insolvent since prior to June 2020 and is projected to remain insolvent through at least 2021, based on EDD's May 2020 UI Fund Forecast. EDD began borrowing funds from the federal government in order to continue paying UI benefits to qualifying unemployed claimants.

While the federal 2020 Coronavirus Aid, Relief, and Economic Security (CARES) Act waives all interest due from states for any advances taken in 2020, interest will become due and payable for any outstanding balance in 2021. If the state does not pay the interest payment, California's employers would not receive federal tax credits that are triggered when the UI trust is insolvent, resulting in a full federal tax liability (approximately $6 billion for California employers) and the state would risk losing its federal UI grant funding.

LAO

$555 Million Interest Payment Estimate Based on Outdated Economic Forecast. The administration's interest payment estimate is based on underlying economic assumptions made by the Department of Finance in April, 2020. However, the administration's interest payment estimate is based on these outdated forecasts. Specifically, the estimate is based on the assumption that the average state unemployment rate in 2021 will be 18 percent. The state's current unemployment rate is about half that level. As a result, the $555 million interest payment is based on an implausibly large projection of outstanding federal loans at the end of 2021— $48 billion. Taking updated economic conditions into account, we believe the 2021 year-end federal loan balance is likely to be closer to $25 billion.

Does Not Reflect Extended Interest Waiver Under Recent Federal Law. The federal Families First Coronavirus Response Act, enacted in March 2020 in response to the COVID-19 pandemic, allows states to waive interest accrued during calendar year 2020 on federal UI loans. The administration's interest payment estimate accounts for this waiver. However, after the administration developed its estimate, the federal government, on December 27, extended the interest accrual waiver from the end of 2020 through March 14, 2021. As a result, the state's interest payment for 2021-22 will cover roughly 6 months of accrued interest (March 15 through September 30), whereas the administration's interest payment estimate reflects 9 months of interest. The administration has stated that it plans to update their interest payment estimate as part of the May Revision to account for the recent federal law change.

As a Result, Governor's Budget Overstates Interest Payment by Roughly $300 Million. We estimate the state's first interest payment on federal UI loans will total roughly $260 million. This amount is roughly $300 million less than the amount estimated by the administration.

Adopt Updated $260 Million Estimate of Federal Interest Payment Due. We recommend the Legislature adopt an up-to-date estimate of the overall interest amount likely due in September. For planning purposes, we suggest the Legislature adopt our estimate of $260 million. This estimate reflects current economic conditions and federal law. If the federal government takes further action to extend the interest waiver beyond March 14, this estimate would need to be revisited and likely reduced accordingly.

Defer Interest Until Later Years. In addition to adopting an up-to-date estimate of the total interest payment, we recommend the Legislature adopt provisional budget legislation to request an interest payment deferral from the U.S. Department of Labor, given that the deferral does not have the effect of increasing state payments. This would allow the state to pay one-quarter of this year's interest payment in 2021-22 and an additional one-quarter in each of the next three years. Should the Legislature pursue this course, we estimate that the total interest due this year would be roughly $65 million

STAFF COMMENTS

The amount estimated in the proposal does not take into account the Continued Assistance Act, which does not require states to start paying interest until after March 14, 2021. Other additional federal action may also reduce this amount. Staff notes that EDD will likely provide a new estimate in the May Revise.

Staff Recommendation: Absent member questions or input from the public relating to these issues at this hearing, staff recommends these items be considered for a vote-only calendar whenever the Committee takes action.

0559 LABOR AND WORKFORCE DEVELOPMENT AGENCY

OVERVIEW

In the Governor's 2021 Budget, the Labor and Workforce Development Agency (LWDA) proposes one budget change proposal as well as trailer bill language. For the hearing, the Subcommittee will hear from a panel to discuss the proposed Department of Better Jobs and Higher Wages (BJHW) and a panel to discuss a workload proposal.

ISSUE 3: DEPARTMENT OF BETTER JOBS AND HIGHER WAGES

The Governor's budget requests trailer bill language to authorize the creation of the Department of Better Jobs and Higher Wages within the LWDA.

PANEL

The following individuals will participate virtually in the discussion of this issue:

- Tim Rainey, Executive Director, California Workforce Development Board
- Michael Cable, General Counsel, California Employment Training Panel
- Chas Alamo, Principal Fiscal & Policy Analyst, Legislative Analyst's Office
- Mark Jimenez, Staff Finance Budget Analyst, Department of Finance

BACKGROUND

The California Department of Better Jobs and Higher Wages will fully integrate policy development and workforce innovation with existing employment, training, and data collection services currently provided by the California Workforce Development Board (CWDB), Employment Development Department (EDD), Department of Industrial Relations (DIR), and the Employment Training Panel (ETP).

The Administration asserts that consolidation of existing workforce and training programs will lead to better equity, efficiency, and enhance customer service. The functions that each entity that will be transitioned to BJHW from their existing agencies are as follows:

- **California Employment Development Department.** The EDD provides a comprehensive range of employment and training services in partnership with state and local agencies and organizations through numerous America's Job Center of California locations. The EDD administers several federal employment and training programs, the largest being the Workforce Innovation and Opportunity

Act (WIOA) and the Wagner-Peyser Act, in addition to numerous workforce-related programs.

- **California Workforce Development Board.** CWDB assists the Governor in performing the duties and responsibilities required by the WIOA. The CWDB is responsible for the oversight and continuous improvement of the workforce system in California, which encompasses a wide array of work, including policy development; workforce support and innovation; and performance assessment, measurement and reporting.

- **Division of Apprenticeship Standards.** The DIR, Division of Apprenticeship Standards (DAS), administers California's apprenticeship law and approves apprenticeship standards for wages, hours, working conditions, and the specific skills required for state certification as a journeyperson in an occupation appropriate for apprenticeship. The DAS creates opportunities for Californians to gain employable lifetime skills and provides employers with a highly skilled and experienced workforce while strengthening California's economy.

- **Employment Training Panel.** ETP provides funding to employers to assist in upgrading the skills of their workers through training that leads to good paying, long-term jobs. The ETP is funded by California employers through a special payroll Employment Training Tax. The ETP's role in the workforce and economy is moving large numbers of unemployed workers quickly into employment and saving the jobs of workers threatened with displacement.

A full list of duties that each program that will be transitioned to the proposed BJHW can be found on the next page:

DISTRIBUTION OF WORKFORCE TRAINING PROGRAMS & ASSOCIATED FUNCTIONS

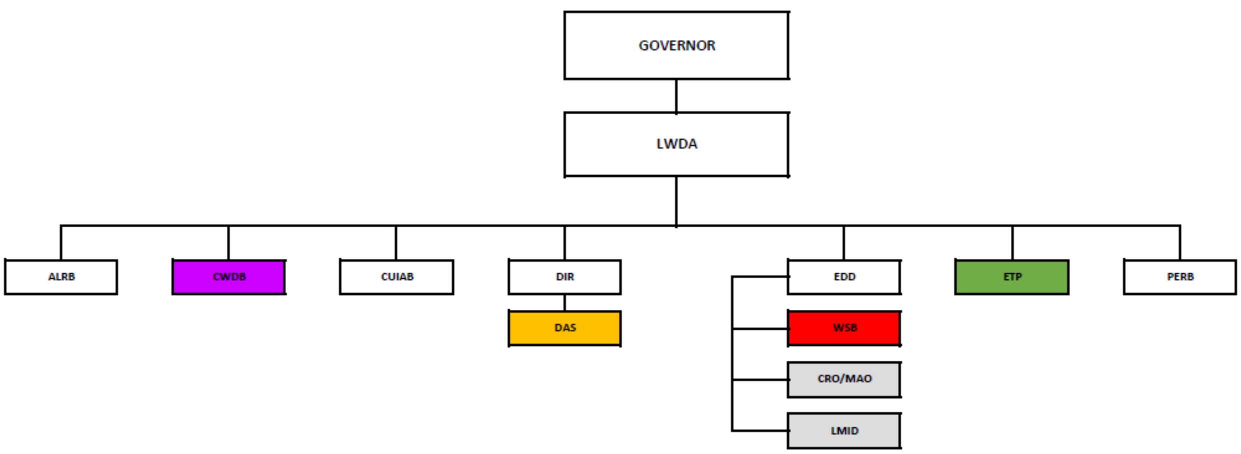
California Workforce Development Board	Department of Industrial Relations	Employment Development Department	Employment Training Panel
1. WIOA Policy Development	1. Sets Apprenticeship Standards	1. WIOA Administrative & Fiscal Agent	1. Funds Incumbent Worker Training
2. WIOA State Plan Development	2. Assists Employers with Apprenticeship Development	2. WIOA Compliance Monitoring	2. Funds Unemployed Worker Training
3. WIOA State Board Support	3. Enforces Apprenticeship Laws & Standards	3. WIOA Guidance & Technical Assistance to Local Areas	3. Vocational Skills Training For Businesses Creating New Jobs
4. WIOA Program Performance & Evaluation	4. Approves Pre-Apprenticeship Programs	4. State Special Projects – Grants & Initiatives Fiscal Agent	4. Administrative & Employer Technical Assistance
5. Workforce Data Collection & Research	5. Approves On-the-Job Trainee Programs	5. State Special Projects – Compliance Monitoring	5. GOBiz Critical Proposal fast track for employers
6. State Special Projects – Grants & Initiatives Management		6. National Dislocated Worker Grant Administration	
		7. Workforce Innovation Grant Administration	
		8. Employment Training Tax Collection	
		9. Employment Services & Job Match In all AJCCs	
		10. Reemployment Services & Eligibility Assessments	
		11. Trade Adjustment Assistance Training Services	
		12. Veteran Training Programs & Services	
		13. Collects Labor Statistics	
		14. National Farmworker Jobs Administration	
		15. H2A Guest Worker Administration & Enforcement	

Workforce Innovation & Opportunity Act (WIOA)
America's Job Centers of California (AJCC)
Governor's Office of Business & Economic Development (GOBiz)

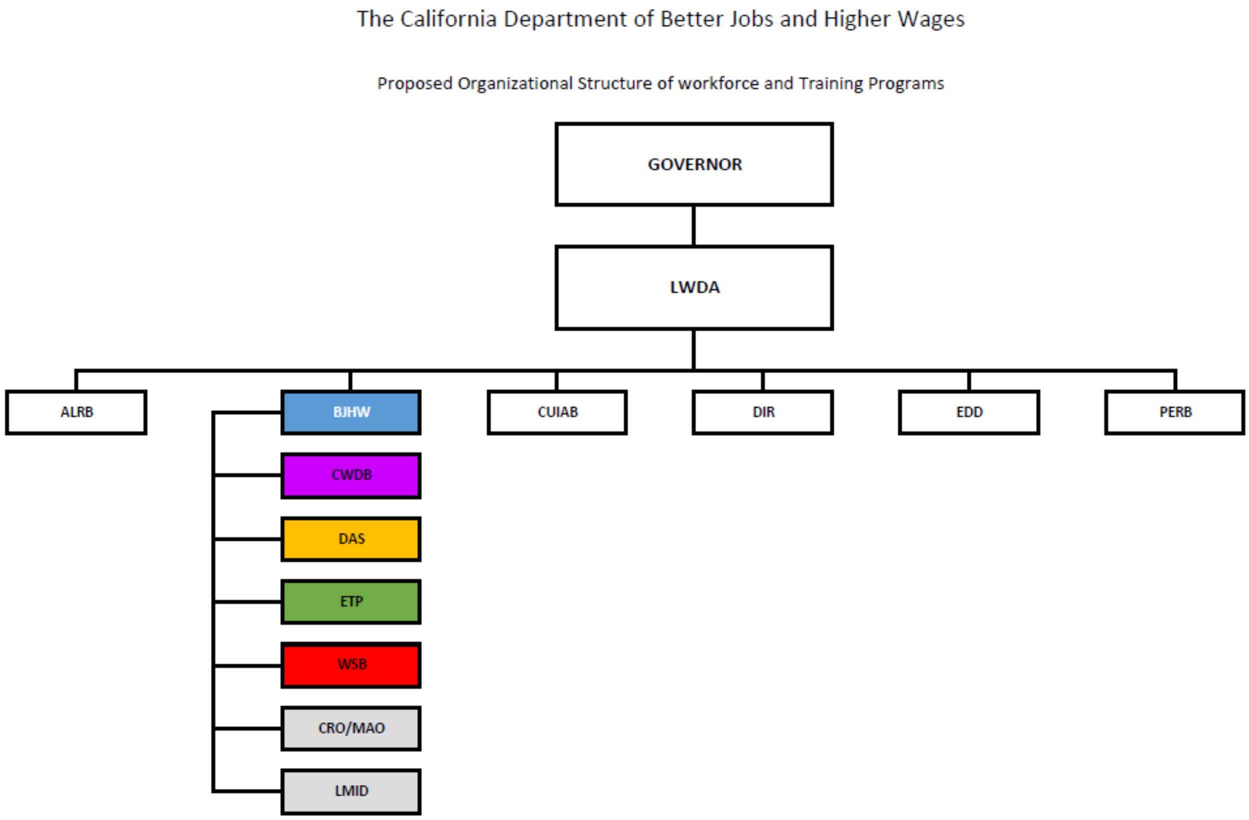
Below is the current organization structure of these various programs:

The California Department of Better Jobs and Higher Wages

Current Organizational Structure of workforce and Training Programs



Below is the new proposed organization structure of BJHW:



2020-21 Budget Act. The Administration proposed BJHW last year, but without sufficient time to adequately review the proposal amid the reduction of budget subcommittee hearings due to COVID-19, the Legislature rejected the proposal.

LAO

Labor Agency Serves Similar Functions as Proposed New Department. According to the administration's budget change proposal for the new department, released last year, consolidating the entities will (1) improve equity for all workforce participants, (2) provide efficiency by bringing the programs together, and (3) enhance customer service for workers and employers. However, each of these entities resides currently within the Labor and Workforce Development Agency (LWDA). The LWDA was created in 2002 to (1) improve accountability and access to services, (2) eliminate program duplication, and (3) achieve cost-effectiveness. Achieving the objectives identified for the new department appears well within the original and ongoing responsibilities of the LWDA.

Not Clear What Problem the Reorganization Is Intended to Solve. To the extent that problems exist within the current structure that prevent LWDA entities from aligning resources, decision-making, and policy, we are unsure how creating a new department addresses these problems. Without a clear problem definition, the Legislature may find it difficult to judge the proposal or establish accountability and expectations for the new department.

Reorganizing EDD During Unemployment Insurance Challenges Poses Risks. To create the new department, the administration proposes to shift about 1,600 staff from EDD to the new department. These staff currently work within EDD's workforce services branch and therefore are not responsible for the day-to-day administration of the state's unemployment insurance program. Nevertheless, a reorganization presents logistical and personnel challenges that call for considerable focus from EDD and Labor Agency leadership at a time when the state's urgent goal is to eliminate the backlog of unemployment insurance claims and prevent further fraud. In our view, the administration's decision to move forward with a complex reorganization during the pandemic poses a potentially serious risk to the state's ongoing efforts to eliminate the backlog of unemployment insurance claims.

STAFF COMMENTS

Is this the right time? Staff shares LAO's concerns about this proposal, most notably that it may shift focus and prioritization of LWDA's functions away from crucial areas such as resolving the multitude problems that EDD's unemployment insurance (UI) program has. Additionally, given the COVID-19 pandemic impact on the economy and the apprenticeship and job training programs that each entity is overseeing, staff is concerned that there may be disruptions in implementing these programs while transitioning to a new department. LWDA states that there will be no programmatic disruptions as a result of the transition.

Questions that members may wish to ask the Administration:

1. Is it appropriate transition EDD staff away from while the department is undergoing serious challenges? Is it appropriate for LWDA to shift focus from resolving the many challenges that EDD has? Given EDD's leadership issues, would it not be more appropriate for LWDA focus on hiring a deputy director of UI that will stay at EDD for longer than three months?
2. The stated purpose of this new department is to coordinate functions of EDD, CWDB, DIR, and ETP. What issues in existing law or practice prevents these entities from coordinating at this time? Are the individuals in charge of these entities not able to meet or discuss coordination? Would a task force be able to adequately meet the goals of BJHW?

3. Who will oversee this transition? How long will it take? Will this be disruptive to current workforce development programs?
4. Will this reorganization improve efficiency and reduce duplicative workloads? Will this lead to reductions in staffing at a later date?

Staff Recommendation: This proposal reflects a major policy change that may require the Subcommittee to revisit at a later time.

ISSUE 4: LABOR LAW IMPLEMENTATION AND INTERPRETATION WORKLOAD

The Governor's budget requests $765,000 ongoing from the Labor and Workforce Development Fund for 4 positions (2 Attorney III and 2 Associate Governmental Program Analysts) and to increase its capacity to ensure consistent implementation and interpretation of laws within the Labor Agency's jurisdiction.

PANEL

The following individuals will participate virtually in the discussion of this issue:

- Marc Pilotin, General Counsel, Labor and Workforce Development Agency
- Chas Alamo, Principal Fiscal & Policy Analyst, Legislative Analyst's Office
- Mark Jimenez, Staff Finance Budget Analyst, Department of Finance

BACKGROUND

LWDA provides leadership on the issues relating to California workers and their employers. LWDA is tasked with strengthening and improving the operation and management of programs that protect and provide services to California's workers, promoting program access, and coordinating enforcement activities to maximize revenues and protect workers that are exploited in the underground economy.

Successfully implementing California's labor laws requires closely coordinating the state entities responsible for their enforcement and interpretation and providing guidance to workers and the regulated community about those laws. These tasks are particularly crucial with our response to the COVID-19 pandemic, laws enacted as part of that response, and laws like AB 5, all of which involve multiple state entities that are responsible for implementation. Given the central importance of these tasks, the Labor Agency requires additional legal staff resources to lead its units in implementing and interpreting the laws within its jurisdiction.

Although the initial workload of the new positions will focus on implementing laws enacted in response to the COVID-19 pandemic and the ongoing implementation and interpretation of Assembly Bill (AB) 5 and its anticipated amendments, LWDA will use the positions and funding on a permanent basis to support these functions for all laws within LWDA's jurisdiction.

STAFF COMMENTS

The Assembly and Senate Appropriations Committees identified cost impacts to the Department of Industrial Relations and Employment Development Department but not to LWDA in its analysis of AB 5. However, AB 5 has been amended and may face future changes. Additionally, during the 2020 legislative session, bills related to COVID-19 worker safety were passed and signed into law. Staff would recommend funding these positions on a limited-term basis until an analysis can be done on whether or not these positions should be permanent.

Staff Recommendation: Absent member questions or input from the public relating to these issues at this hearing, staff recommends these items be considered for a vote-only calendar whenever the Committee takes action.

7120 CALIFORNIA WORKFORCE DEVELOPMENT BOARD

OVERVIEW

In the Governor's 2021 Budget, the California Workforce Development Board proposes two budget change proposals. For the hearing, the Subcommittee will hear from one panel to discuss a proposal for apprenticeship funding and encumbrance extensions.

ISSUE 5: WORKFORCE DEVELOPMENT BOARD BUDGET PROPOSALS

The California Workforce Development Board (CWDB) proposes to accelerate economic recovery by investing in apprenticeship programs. Additionally, CWDB seeks authority to extend encumbrance periods on some funds.

PANEL

The following individuals will participate virtually in the discussion of this issue:

- Tim Rainey, Executive Director, California Workforce Development Board
- Curtis Notsinneh, Chief Deputy Director, California Workforce Development Board
- Chas Alamo, Principal Fiscal & Policy Analyst, Legislative Analyst's Office
- Mark Jimenez, Staff Finance Budget Analyst, Department of Finance

BACKGROUND

The Governor's budget includes two CWDB proposals:

1. **Apprenticeships and Workforce Services.** The Governor's budget proposes $25 million General Fund to expand the Earn Learn/Apprenticeship training programs. Utilizing the High Road model of sector-led partnership development, CWDB and the Labor and Workforce Development Agency will work with the Division of Apprenticeship Standards, other state workforce development entities, employers, unions, local workforce boards and other community and labor partners to build bridges into good quality jobs, including across multiple employers with shared labor force needs.

   Under the Earn and Learn/Apprenticeship model, an employer must be willing to hire and train a worker in a structured program while also paying wages. The costs of on-the-job training are primarily borne by the employer in the form of wages paid. However, apprenticeship, pre-apprenticeship, and other earn and learn programs require other critical expenses, such as the costs of project startup, curriculum development, cost of trainers, recruitment and preparation of new apprentices, tools, classroom materials, and support and technical assistance for grantees. For disadvantaged workers, costs can be much higher and include employability training, counseling and mentoring, language or math remediation, transportation and childcare supports.

This proposal includes priority sectors for immediate focus, based on projected hiring demand:

- **Construction**: $8.5 million to expand access to the MC3 pre-apprenticeship programs for young adults, displaced workers and justice-involved individuals, including partnership with the Prison to Employment Initiative. (500 workers trained)
- **Forestry and Agriculture**: $6.5 million to train tree trimmers, in partnership with the International Brotherhood of Electrical Workers (IBEW) Training Trust Fund, for jobs with PG&E and other utility tree contractors for wildfire prevention, as well as new apprenticeship and earn-and-learn training in agriculture and food processing and sales, especially in the inland areas of the state and the Central coast. (500 workers trained)
- **Healthcare and Dental**: $4 million to expand training for allied health roles to address COVID-related health care needs, including respiratory technicians and medical assistants, and to launch training for Registered Dental Assistants in partnership with the California Dental Association a recommendation of the Jobs and Recovery Task Force. (350 workers trained)
- **Trade and Logistics**: $4 million to pilot a training partnership with UPS and the Teamsters for opportunity youth in Ontario, Compton, Visalia, San Francisco and Oakland, through Youth Works, a recommendation of the Jobs and Recovery Task Force, as well as other training for high-road jobs in trade and logistics in the Inland Empire and Bay Area. (500 workers trained)
- **Information Technology**: $2 million to expand cybersecurity training and apprenticeships with public and private employers, as well as other roles in information technology. (200 workers trained)

2. **Encumbrance Extensions.** The Governor's budget requests to extend the encumbrance periods of State Operations and Local Assistance funding from the General Fund and the Greenhouse Gas Reduction Fund (GGRF) to fund administrative costs and the continued implementation of the associated programs under each fund. CWDB manages multiple grants and initiatives aimed at reorienting and realigning California's workforce programs that offer Californian's an opportunity for a higher quality of life. The following funds were appropriated for several grant programs and initiatives that the CWDB manages:

- $15 million General Fund for the Breaking Barriers to Employment Initiative (2018 Budget);
- $37 million General Fund over three years for the Prison to Employment Initiative (2018 Budget);
- $3.3 million General Fund for Breaking Barriers to Employment Initiative and the Prison to Employment initiative, with encumbrance or expenditure of those funds until June 30, 2022 (2019 Budget); and
- $35 million General Fund ($30 million Local Assistance and $5 million State Operations funding), and identified an additional $120 million in Local Assistance Funds over the next four budgets in support of a suite of workforce development programs related to reducing greenhouse gas emissions (2019 Budget Cap and Trade Expenditure Plan).

With the COVID-19 pandemic reducing Cap and Trade revenue, the control section was triggered and CWDB's 2019-20 GGRF local assistance appropriation was reduced by approximately $4.4 million and planned $30 million 2020-21 appropriation was eliminated.

The CWDB has utilized extended encumbrance dates in the past to manage large one-time funding allocations. Allowing CWDB to extend current funding allocations will enable the continued administration and oversight of millions of dollars in Local Assistance funding, will support the success of these critical workforce development programs, and reduce reliance on new funding to continue existing grant program and evaluation work.

STAFF COMMENTS

Staff has made the following observations about these proposals:

1. **Apprenticeships and Workforce Services.** This was identified in the Governor's Budget as an early action item. CWDB provides grants to employers and other hiring entities who participate in the earn/learn program. Those grants cover training costs for the employers and apprentices and individuals who are participating in the program may be eligible for income supports to cover needs-related expenses or stipends that allow low-income participants succeed in the program. Examples of income supports include childcare, housing, transportation, tools, or technology needed for training.

This proposal targets regions with high unemployment, and healthcare and logistic sectors were chosen because of the demand for that work statewide and in those regions. Staff recommends that two years after the funds are appropriated that CWDB provide reporting so that the Legislature can assess the success of this apprenticeship and job training program.

2. **Encumbrance Extensions.** Staff does not have concerns with this proposal at this time.

Staff Recommendation: Absent member questions or input from the public relating to these issues at this hearing, staff recommends these items be considered for a vote-only calendar whenever the Committee takes action.

7350 DEPARTMENT OF INDUSTRIAL RELATIONS

OVERVIEW

In the Governor's 2021 Budget, the Department Industrial Relations (DIR) proposes five budget change proposals. For the hearing, the Subcommittee will hear from a panel to discuss increasing staffing for California Occupational Safety and Health Administration (Cal/OSHA) and elevator inspectors. The second panel will hear all other DIR requests.

ISSUE 6: INSPECTION STAFFING

The Governor's budget requests funding to hire additional inspection staff.

PANEL

The following individuals will participate virtually in the discussion of this issue:

- Katie Hagen, Director, Department of Industrial Relations
- Doug Parker, Chief, Cal/OSHA
- Chas Alamo, Principal Fiscal & Policy Analyst, Legislative Analyst's Office
- Patrick Toppin, Staff Finance Budget Analyst, Department of Finance

BACKGROUND

DIR has two proposals for increasing inspection staff:

1. **Restoration and Enhancement of Occupational Safety and Health Program.** The Governor's budget includes $14.4 million in 2021-22 and $13.3 million ongoing from the Occupational Safety and Health Fund for up to 70 positions. In a recent evaluation report, the federal Occupational Safety and Health Administration (OSHA) found that California is delayed in issuing citations after a workplace has been inspected; understaffing is the cause for this problem, and for other enforcement shortcomings.

   With the unprecedented COVID-19 pandemic, California Occupational Safety and Health Administration (Cal/OSHA) is being called upon for emergency response efforts fielding complaints of COVID-19 related hazards at almost 9,100 workplaces. Cal/OSHA has provided compliance assistance to over 12,800 employers regarding COVID-19 hazards (as of mid-December 2020), while investigating over 600 serious illnesses and fatalities, with the number of investigations growing each day.

Cal/OSHA's vacancy rate, as of December 8, 2020, was 21% and the enforcement unit's vacancy rate was 24%. DIR and new leadership are putting substantial effort towards reducing the vacancy rate to normal levels. Cal/OSHA's lack of technical capacity in the field of industrial hygiene has frustrated the speed and scope of their response to the pandemic. Additional safety training is being provided to staff on an ongoing basis so they can assist without being exposed to the virus, but qualified staff are limited, and statutory mandates are not being met.

The need to address health hazards has grown beyond Cal/OSHA's current capacity to address and will continue to grow. Some of the health hazards are currently regulated under standards adopted or amended during the past decade or will be regulated under upcoming new or amended standards. However, the enforcement of these regulations has been minimal to non-existent due to the lack of occupational health inspectors. As a result, workers in California continue to be exposed to COVID-related and other health hazards, and sustain serious illnesses and injuries, including death.

An independent study found that Cal/OSHA needed as many as 258 additional staff to meet projected needs for health and safety work. To address the workload needs of the division, Cal/OSHA plans to build a robust industrial hygiene (IH) program adding new positions in the IH series as well as necessary operational support and legal staff based on established ratios over the next few years. Given the significant number of positions identified per the study, Cal/OSHA plans to submit in phases to allow for the recruitment and hiring, onboarding and training of staff in these positions. Furthermore, this "first phase single year approach" will allow for an ongoing evaluation of economic and other conditions before additional phases of the expansion are proposed and funded. Therefore, this proposal only requests the authority to add up to 70 positions in 2021-22.

2. **Elevator Public Safety Unit.** The Governor's budget includes $6.7 million in 2021-22, $11.6 million 2022-23, and $11.2 million ongoing from the Elevator Safety Account for 56.5 positions phased-in over two years to reduce inspection backlog, and to conduct mandated conveyance-related activities that are currently unmet. Cal/OSHA Elevator Unit (EU) protects the safety of the public who ride the over 115,000 conveyances (elevators, escalators, moving walkways and other lifts) operating in the State each year.

There are currently 115,100 conveyances that require permitting each year. By comparison, in 2010 there were approximately 85,000 elevators in service. On average, the EU's stock of existing conveyances grows by 3,030 units per year. The 2015 Budget included 27.5 positions to the EU to address inspection backlogs and to help the Division meet permitting mandates. Due to the increase in conveyances driven by new construction, the resources added proved insufficient to fully meet the annual inspection mandate.

Due to the limited number of available inspectors, and the propensity for new and altered conveyance inspection activities to consume a disproportionate percentage of labor hours, only about 50% of the stock of existing conveyances are inspected annually. This has created a chronic backlog of expired annual operating permits. In order to eliminate this backlog and continue annual inspections, 56.5 positions over two years are necessary.

STAFF COMMENTS

Staff has made the following observations about these proposals:

1. **Restoration and Enhancement of Occupational Safety and Health Program.** The COVID-19 pandemic has exposed the importance of worker safety protections and the need for the state to inspect workplaces. Staff notes that DIR had hiring infractions and was subject to a hiring freeze by Cal/HR in 2018 and DIR has not had hiring authority reinstated. The vacancy rate has peaked at 25% since the loss of delegation authority. In 2019-20, Cal/OSHA had 73 positions vacant, and 81 positions in 2020-21. Additionally, Cal/OSHA had vacancy issues because some entry-level examinations had been expired and recruitment efforts had to be re-initiated. DIR will be working with the Administration and Cal/HR to examine the pay scale of some classifications due to challenges in retaining staff.

Staff notes that the independent study found that a total of 153 enforcement positions are needed and the positions requested in this proposal is the first step in filling these necessary vacancies. With all 70 positions filled, approximately 1,000 additional onsite inspections will be conducted, of which about 30% would be in response to worker complaints.

Staff points out that training for inspection staff can take several months to a year. The Subcommittee may wish to explore if there are expedited training or hiring options given the ongoing COVID-19 pandemic and need for inspections to ensure that California workers.

DIR has had difficulties hiring staff in areas with higher cost of living. The Subcommittee may wish to ask DIR if they have explored hiring incentives and salary scale bumps for regions with higher cost of living.

2. **Elevator Public Safety Unit.** The Subcommittee may wish to explore whether or not hiring for EU will create a workload backlog for hiring for workplace inspectors in the other proposed budget request.

Staff Recommendation: Absent member questions or input from the public relating to these issues at this hearing, staff recommends these items be considered for a vote-only calendar whenever the Committee takes action.

ISSUE 7: OTHER DEPARTMENT OF INDUSTRIAL RELATIONS BUDGET PROPOSALS

The Governor's budget includes three other budget proposals relating to workload increases to implement legislation and other programs.

PANEL

The following individuals will participate virtually in the discussion of this issue:

- Katie Hagen, Director, Department of Industrial Relations
- Deanna Ping, Chief Deputy Director, Department of Industrial Relations
- Chas Alamo, Principal Fiscal & Policy Analyst, Legislative Analyst's Office
- Patrick Toppin, Staff Finance Budget Analyst, Department of Finance

BACKGROUND

The Governor's budget includes three other DIR budget proposals:

1. **Enhanced Enforcement and Compliance (Various 2020 Legislation).** The Governor's Budget requests the following from the Workers Compensation Administration Revolving Fund, Occupational Safety and Health Fund, and the Labor Enforcement and Compliance Fund:

- 43 positions and $8.7 million in 2021-22
- 43 positions and $7.7 million in 2022-23
- 41 positions and $7.3 million 2023-24
- 38 positions and $6.7 million in 2024-25 and 2025-26
- 8 positions and $1.7 million in 2026-27 and ongoing

The purpose of this request is to fulfill the provisions of recently chaptered legislation and increase staff workload:

- AB 685 (Chapter 84): tasks California Occupational Safety and Health Administration (Cal/OSHA) with prohibiting places of employment from operating if there is a COVID-19 outbreak and provide a notice to the employer to be posted in a conspicuous place.
    - The Governor's budget includes 8 positions and $1.8 million in 2021-22, and $1.7 million ongoing in Occupational Safety and Health Fund.
    - Cal/OSHA estimates that it will conduct approximately 100 COVID-related inspections a year independent of AB 685. With AB 685, Cal/OSHA estimates needing to spend more time on inspections and an increase of complaints, resulting in an additional 160 inspections per year.

- SB 275 (Chapter 301): requires health care employers to keep a 45-day stockpile of personal protective equipment (PPE) and for DIR to adopt regulations on what is deemed to be an appropriate 45-day stockpile for an employer.
  - The Governor's Budget requests 2 limited-term positions and $457,000 in 2021-22 and $431,000 in 2022-23 from the Occupational Safety and Health Fund.
  - One-time resources for Cal/OSHA and Occupational Safety & Health Standards Board will be required to develop and adopt regulations in consultation with the California Department of Public Health that would set forth requirements for determining the 45-day surge capacity levels, as specified, for a health care employer's PPE inventory.
  - Once a regulatory timeline is established, DIR will submit a request in the next budget change proposal cycle for additional staff for enforcement of the new regulations.
- SB 1159 (Chapter 85): extends the presumption of worker compensation benefits to employees who become ill or die from COVID-19 and requires the Commission on Health and Safety and Workers' Compensation to conduct a study on the impact of COVID-19 and the presumption created by the bill.
  - The Governor's budget requests 30 positions and $5.8 million in 2021-22 and $5 million in 2022-23 through 2025-26 from the Workers' Compensation Administration Revolving Fund. The Governor's budget additionally requests an additional 3 positions and $584,000 in 2021-22 and $536,000 in 2022-23 and 2023-24 from the Labor Enforcement and Compliance Fund.
  - The Division of Worker's Compensation Claims Adjudication estimates an increase of more than 6,200 litigated claims, which would result in more than 18,600 hearings. Based on current workload levels, an additional 8.5 teams would be needed.
  - The Division of Labor Standards Enforcement estimates the number of enforcement actions it will undertake to be 500 per year, and 70% will be appealed. This will require 3 additional staff.

2. **Apprenticeships Federal Innovation Grant.** The Governor's budget includes $240,000 from the Federal Trust Fund for the Division of Apprenticeship Standards (DAS) to complete the goals and associated deliverables set forth in the Building State Capacity to Expand Apprenticeship through Innovation federal grant agreement.

As an integral part of the California Workforce Development System, the primary responsibility of DAS is to promote and develop employment-based apprenticeship training programs, to improve apprentice working conditions, and to advance profitable employment opportunities for apprentices. In July 2020, the U.S. Department of Labor awarded DAS with $450,000 in Building State Capacity to

Expand Apprenticeship through Innovation grant funding to achieve the goals and associated deliverables outlined in the grant agreement including:

- Procurement and integration of data analysis software to properly assess current data and provide improved reporting.
- A digital apprenticeship and work-based learning Tool Kit that will be created, in a printable format, and distributed for use by educational and workforce development stakeholders.
- Partnering with established outreach programs, DAS will create and distribute updated educational resources and outreach materials targeting underrepresented populations, including high schools, community college students, women and veterans.

Due to the schedule of deliverables agreed upon in the approved grant agreement, DIR has submitted a Section 28 package, requesting a $210,000 budget augmentation in FY 2020-21, to enable DAS to start work immediately on the deliverables. This FY 2021-22 proposal will allow DAS to utilize the remaining $240,000 in funds and complete the deliverables outlined in the grant award.

3. **Schools' Occupational Injury & Illness Prevention Programs.** The Governor's budget requests $175,000 from 2021-22 through 2023-24 and $55,000 on-going from the Workers' Compensation Administration Revolving Fund (WCARF) to allow the Commission on Health and Safety and Workers' Compensation (Commission) to assist schools in establishing effective occupational Injury and Illness Prevention Programs (IIPP).

The Commission is responsible for examining the health and safety system, the workers' compensation system, and the state's activities to prevent industrial injuries and occupational illnesses. The Commission also administers the funding of training programs to assist organizations in establishing effective occupational IIPPs. Cal/OSHA-related civil or administrative penalties assessed to school districts, state universities, or other educational facilities are deposited into the WCARF, which assists schools in establishing effective occupational IIPPs.

The Commission has an on-going appropriation of $75,000 annually to assist schools to develop and maintain IIPPs and received $250,000 for three years in the 2018-19 Budget to extend the reach of the program. The Commission subsequently contracted with the University of California (UC) Regents to develop a model training program for California schools, the School Action for Safety and Health Program (SASH).

The SASH program conducts an average of nine SASH trainings each year. To date, SASH training classes have been conducted statewide for over 1,800 staff from nearly 500 school districts. In addition to the regular SASH IIPP trainings, trainings have been conducted that focus on prevention of specific hazards for relevant school occupations and IIPP training of trainer courses will be developed and conducted for the Joint Powers Authorities and California Technical Education instructors.

Additional funding would enable the Commission to award grants to high-risk school districts and/or do an interagency contract to significantly extend its reach of the SASH program. This augmentation will allow the Commission to utilize $360,000 in funds that have accumulated in the WCARF specifically for the schools IIPPs (spread out at $120,000 over three fiscal years from 2021-22 to 2023-24) and will allow for an increase to the annual ongoing appropriation from its current $75,000 to $130,000.

STAFF COMMENTS

Staff has made the following observations about these requests:

1. **Enhanced Enforcement and Compliance (Various 2020 Legislation).** Staff has no concerns about this proposal at this time.

2. **Apprenticeships Federal Innovation Grant.** Staff has no concerns at this time.

3. **Schools' Occupational Injury & Illness Prevention Programs.** Staff has no concerns at this time.

Staff Recommendation: Absent member questions or input from the public relating to these issues at this hearing, staff recommends these items be considered for a vote-only calendar whenever the Committee takes action.

1701 DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION

OVERVIEW

In the Governor's 2021 Budget, the Department of Financial Protection and Innovation (DFPI) proposes four budget change proposals and trailer bill language. For the hearing, the Subcommittee will hear from one panel to discuss debt collector licensing and the associated trailer bill language. The second panel will discuss all other DFPI requests.

ISSUE 8: DEBT COLLECTOR LICENSING AND REGULATION (SB 908)

The Governor's budget includes 44 positions and $10.7 million from the Financial Protection Fund in 2021-22, $10.3 million and 51 positions in 2022-23, and $10.9 million and 55 positions in 2023-24 to implement Chapter 163, Statutes of 2020 (SB 908), the Debt Collection Licensing Act.

PANEL

The following individuals will participate virtually in the discussion of this issue:

- April Levens, Chief of Fiscal Management Office, Department of Financial Protection & Innovation
- Drew Soderborg, Deputy Legislative Analyst, Legislative Analyst's Office
- Charlene Manning, Staff Finance Budget Analyst, Department of Finance

BACKGROUND

SB 908 requires the DFPI to license, regulate, and examine debt collectors. The DFPI is to begin implementing the Act on January 1, 2021 and is required to allow any debt collector that applies for a debt collection license prior to January 1, 2022 to operate pending the approval or denial of the application.

SB 908 requires a debt collector to apply for a license and pay fees to cover application costs, as well as submit to a fingerprint and criminal history record check with the application. The legislation outlines licensee requirements and the process and reasons for application denial. SB 908 establishes within the Department a Debt Collection Advisory Committee to advise the Commissioner on matters relating to debt collection, including proposed fee schedules and the mechanics and feasibility of implementing requirements proposed in regulations. The legislation additionally requires the Commissioner to appoint seven members, including one representing consumers, to the committee. SB 908 outlines the terms for serving on the committee and requires the committee to meet at least twice a year.

DFPI recently secured limited-term funding for the registration (but not full licensing) of debt collectors and other unregulated financial service providers in compliance with Chapter 157, Statutes of 2020 (AB 1864), the California Consumer Financial Protection Law (CCFP). SB 908 requires the DFPI to license (not simply register) and monitor debt collectors, for which the DFPI does not currently have full resources. DFPI has identified resources and positions from the CCFP program to be redirected to the Debt Collectors program as indicated in the table below. This proposal requests the remaining resources and positions needed to fully license and regulate debt collectors.

Consumer Financial Protection Law (CFPL) - New Covered Persons Registration

Program Area Position Title	**CFPL POSITIONS**	**REDIRECTED to Debt Collectors ****	**POSITIONS REMAINING IN CFPL**
Supervision and Registration	**28**	**19**	**9**
Deputy Commissioner - Consumer Financial Protection Division	1	0	1
Deputy Commissioner - Securities and Franchise Regulation	1	0	1
Deputy Commissioner, C.E.A. -B - Supervision & Registration	1	1	0
Corporations Examiner IV (Supervisor)	3	3	0
Supervising Corporation Examiner	1	0	1
Corporation Examiner IV (Specialist)	3	1	2
Corporation Examiner	15	11	4
Associate Governmental Program Analyst	2	2	0
Office Technicians (Typing)	1	1	0
Market Monitoring	**15**	**0**	**15**
Research Data Manager	1	0	1
Research Data Specialist III	5	0	5
Staff Services Manager I (Specialist)	6	0	6
Staff Services Manager II	1	0	1
Associate Governmental Program Analyst	2	0	2
Ombudsperson	**1**	**0**	**1**
Staff Services Manager I (Specialist)	1	0	1
Consumer Outreach & Communication	**2**	**0**	**2**
Information Officer I (Specialist)	1	0	1
Information Officer II (Specialist)	1	0	1
Financial Technology & Innovation	**4**	**0**	**4**
C.E.A. - B	1	0	1
Attorney III	1	0	1
Associate Governmental Program Analyst	1	0	1
Research Data Specialist III	1	0	1
Legal, Enforcement, and IT Support	**40**	**16**	**24**
Legal Analyst - Legal Division	1	1	0
Assistant Chief Counsel - Legal Division	1	1	0
Attorney III - Legal Division	6	1	5
Legal Analyst - Enforcement	1	1	0
Assistant Chief Counsel - Enforcement	1	1	0
Attorney V - Enforcement	1	0	1
Attorney III - Enforcement	8	7	1
Supervising Special Investigator - Enforcement	1	1	0
Investigator - Enforcement	4	3	1
Associate Personnel Analyst - HR	2	0	2
Senior Personnel Specialist - HR	2	0	2
Senior Accounting Officer - Fiscal	1	0	1
Accounting Officer - Fiscal	1	0	1
Associate Budget Analyst - Fiscal	1	0	1
Associate Governmental Program Analyst - Business Operations	2	0	2
Business Services Assistant - Business Operations	1	0	1
Information Technology Specialist II - IT Operations	3	0	3
Information Technology Specialist I - IT Operations	3	0	3
Total Positions	**90**	**35**	**55**
TOTAL COSTS	**$ 19,150,000**	**$ 7,104,000**	**$ 12,046,000**

** In addition to the 35 redirected positions, the SB 908 Debt Collection BCP requests 55 new positions, for a total of 90 positions.

DFPI expects up to 7,000 licensees to apply for a license before December 31, 2021. The estimated number of licensees is based on the debt collector registration program of the State of Texas. Applicants will operate with a provisional license while DFPI validates their applications. DFPI expects to process 4,000 license applications in 2021-22, and 3,000 license applications in 2022-23. In the first year of licensure, DFPI will perform examinations of new licensees. The purpose of the examination is to obtain first-hand knowledge of the licensee's operation, establish a baseline of their compliance with California Law, and introduce DFPI's regulatory expectations. By the third year of licensure, DFPI anticipates licensees will be examined every 10 years as a best practice to comply with the Act. Workload estimates for the examination and licensing teams, as shown in the table below, were formed by the department's knowledge and experience in developing and implementing the California Financing Law (CFL) program.

Licensing and Examination Workload

Workload Measure	2021-22	2022-23	2023-24
Issue new licenses	4,000	3,000	700
Process license amendments	500	1,000	5,500
Preliminary examinations	17	42	56
Full scope examinations	21	83	391
Special Examinations	0	42	28

To license and examine of debt collectors, DFPI requests a total of 39.0 positions: 1 Executive Secretary II, 4 Associate Governmental Program Analysts (AGPAs), 17.0 Financial Institutions Examiners, 11 Senior Financial Institutions Examiners, 4 Financial Institutions Managers, and 2 Office Technicians (General). The Debt Collection program will be divided into two teams with one Regional Deputy Commissioner supervising the licensing team and the other supervising the examination team.

DFPI will support the program in the first year mostly through reserves in the Financial Protection Fund. However, this is not sustainable. To continue to regulate debt collectors, DFPI will collect revenues associated with fees from debt collectors, including application, investigation, amendment fees, and payments associated with examinations and assessments, and settlements. The following table details the total revenue needed to cover the cost for DFPI to implement the Act, including the cost of resources redirected from the CCFP.

Cost of Debt Collector Licensing (In Thousands)

Appropriation Description	2021-22	2022-23	2023-24
This proposal	$10,713	$10,253	$10,920
Redirected from CCFP	$5,768	$7,180	$7,104
Total DCL Cost	**$16,481**	**$17,433**	**$18,024**

Department licensees are required to support the Department's cost to regulate them. Debt collectors are expected to pay for the cost of debt collection activities. The proposed fee schedule for debt collector regulation is modeled on the fee schedules of DFPI's existing licensing laws. Thus, DFPI expects to support the program by charging licensees flat-rate application, investigation, amendment, and hourly examination fees while using a pro rata method to calculate annual assessment fees. The following table displays projected revenue from these sources. DFPI calculated the projected application and investigation fees assuming it will process 4,000 applications in 2021-22, 3,000 applications in 2022-23, and 700 applications in 2023-24.

Proposed Debt Collector Licensing Revenues (In Thousands)

Funding Source	2021-22	2022-23	2023-24
Application fees @ $350 per application	$1,400	$1,050	$245
Investigation fees @ $150 per application	$600	$450	$105
Amendment fees @ $300 per amendment	$150	$300	$1,650
Examination revenues	$167	$1,076	$2.783
Assessments – pro rata to cover costs	$0	$13,757	$12,441
Settlements	$600	$800	$800
Financial Protection Fund Reserve	$13,564	$0	$0
Total Projected Revenues	**$2,917**	**$17,433**	**$18,024**

Trailer bill language. Additionally, DFPI is requesting trailer bill language to allow the Department to begin collecting a $350 application fee with each application. In determining the proposed $350 application fee, DFPI considered both the cost recovery allowable, and the application fees charged to other comparable DFPI licensees. The proposed $350 application fee, comparable to the application fees charged to other similar DFPI licensees, is fair and reasonable. DFPI's application fees for similar programs range from $200 to $850 with an average fee between $315 and $416.

LAO

Overall Need for Resources Subject to Uncertainty. To estimate the amount of resources necessary to implement SB 908, DFPI made various workload assumptions. For example, the department estimates that it will need to license 7,000 debt collectors—consistent with its assumption that it will need to register 7,000 debt collectors under CCFPL. According to the department, this estimate is based on the fact that Texas currently licenses roughly 7,000 debt collectors and the assumption that California would have at least the same number of debt collectors. In addition, because the department is still in the process of drafting SB 908 regulations, it had to make assumptions about the level of staff time and resources needed to license and regulate debt collectors.

Approve Proposed Resources, but Require Future Reports on Actual Workload. We recommend that the Legislature approve the proposed level of limited-term resources to implement SB 908 as they appear reasonable based on the assumptions made by the department. However, it is unclear how much funding the department will need on an ongoing basis due to the uncertainty about the accuracy of the assumptions. In order to assist the Legislature to make future funding decisions, we recommend requiring the department to report on:

- *Debt Collector License Applications.* We recommend the Legislature require the department to report on the number of debt collectors who have applied for a license as of January 1, 2022. This report would provide the Legislature with sufficient information to assess whether the department's assumption that it will need to license and regulate 7,000 debt collectors is accurate.
- *Assumed Versus Actual Workload.* We recommend the Legislature require the department to report by January 10, 2024 on how actual workload compares to the level of workload assumed for each position approved for SB 908 implementation. Since much of the SB 908 regulatory framework will be in place and workload will be underway by then, the department should have a much clearer understanding of the actual resources necessary to implement SB 908.

STAFF COMMENTS

The Assembly Appropriations Committee analysis estimates that DFPI would need to license between 3,000 and 7,000 entities and that SB 908 would cost at least $10 million to implement. However, representatives from the debt collection industry have pointed out that the 7,000 estimate that DFPI is using is likely to be inflated because Texas's registration program includes more professions than what is required under SB 908 Additionally; Texas's registration includes businesses that have closed and some entities that have been registered more than once. The Subcommittee may wish to hold open this proposal until a new estimate is available.

Staff Recommendation: Staff recommends holding this proposal open until a revised estimate is available.

ISSUE 9: OTHER DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION BUDGET PROPOSALS

The Governor's budget includes three other budget proposals.

PANEL

The following individuals will participate virtually in the discussion of this issue:

- April Levens, Chief of Fiscal Management Office, Department of Financial Protection & Innovation
- Drew Soderborg, Deputy Legislative Analyst, Legislative Analyst's Office
- Charlene Manning, Staff Finance Budget Analyst, Department of Finance

BACKGROUND

The Governor's budget includes the following proposals:

1. **Information Security Strategy and Operations.** The Governor's budget requests $710,000 in 2021-22 and $573,000 in 2022-23 and ongoing from the Credit Union Fund and Financial Protection Fund for 1 Information Technology Manager I, 1 Information Technology Specialist II, 1 Information Technology Specialist I, and information security tools to strengthen DFPI's information technology security safeguards protocols, and state security requirements.

   DFPI underwent the Military Department's Independent Security Assessment in May 2017 and May 2019; and the California Department of Technology's (CDT) Information Security Program Audit in July 2018 and a December 2019 Check-In Audit. The final reports from both showed many deficiencies in DFPI's ability to implement and manage the state's required security controls due to an overall lack of maturity in DFPI's security program. DFPI's sole security officer is unable to perform the numerous daily workload activities necessary to meet the State's mandated IT security requirements.

   In December 2019, the CDT returned for a check-in audit to verify that DFPI's critical systems and information were well-protected by assessing the actions taken to remediate findings from the 2018 ISPA. While CDT found multiple findings had some components completed, only three findings had been completely remediated. It has taken DFPI two and a half years to completely remediate three findings with only one position dedicated to the Information Security Officer role.

The 2021-22 request includes $51,000 for one-time purchase of IT hardware, and $100,000 for one-time purchase of IT software and services. The 2022-23 and ongoing request includes $35,000 for information security software and services.

2. **Legal Division Rulemaking Workload.** The Governor's budget includes $426,000 in 2021-22 and $408,000 in 2022-23 and ongoing from the Credit Union Fund and Financial Protection Fund for 1 Attorney III and 1 Legal Analyst to address increased rulemaking workload. DFPI's Legal Division is charged with drafting all regulations that it publishes. The amount of work involved in promulgating regulations is substantial, and DFPI does not have the resources to make sure that regulations are issued timely. Almost all regulations the DFPI successfully adopted in recent years were mandated by urgency clauses in legislation.

Over the past five years, DFPI has not had the resources to complete anywhere from eight to 14 rulemaking packages per year that are required by new laws or other changing circumstances. The inability to complete these rulemaking packages has frustrated legislators, licensees, and consumer advocates.

The rulemaking workload has grown substantially beyond the capacity of the Legal Division's resources to address the workload in a timely and effective manner. In calendar year 2018, DFPI proposed ten rulemaking packages in the rulemaking calendar filed with the Office of Administrative Law (OAL). All ten packages were carried over from the prior year, representing a 100 percent backlog. By the end of 2018, DFPI was able to file three rulemaking packages with the OAL, of which only one was approved.

Thirteen attorney positions within the Legal Division provide in-house legal services to Department programs, including 2 Attorney IVs, 7 Attorney IIIs, and 4 Attorneys. These 13 attorneys are supported by 1 Assistant Chief Counsel, 1 Legal Assistant, and 1 Legal Secretary. DFPI is requesting 1 Attorney III to provide the Department with the legal expertise to competently handle complex analytical work and 1 Legal Analyst to provide administrative and analytical support to the attorneys engaged in rulemaking activities.

3. **Student Loan Borrower Protection (AB 376).** The Governor's budget requests $733,000 in 2021-22 and $705,000 in 2022-23 and ongoing from the Financial Protection Fund to support 1 Staff Services Manager II, 1 Senior Financial Institutions Examiner, and 1 Attorney IV to implement the provisions of Chapter 154, Statutes of 2020 (AB 376).

AB 376 imposes servicing standards on student loan services, increases borrower protections, and expands prohibitions against predatory student loan industry practices. The bill establishes a Student Borrower Bill of Rights to prevent student loan services from engaging in abusive or deceptive practices when servicing a student loan and requires a Student Loan Ombudsman to be established. DFPI requests the following staff to implement AB 376:

- 1 Staff Services Manager II to handle the required duties of the Student Loan Ombudsman;
- 1 Senior Financial Institutions Examiner to help manage the anticipated increased workload associated with the requirements of AB 376 due to higher than estimated licensees and an expanded definition of a servicer; and
- 1 Attorney IV to manage the increased enforcement caseload expected from AB 376.

STAFF COMMENTS

Staff has no concerns with these proposals at this time.

Staff Recommendation: Absent member questions or input from the public relating to these issues at this hearing, staff recommends these items be considered for a vote-only calendar whenever the Committee takes action.

PUBLIC COMMENT