

AGENDA

ASSEMBLY BUDGET SUBCOMMITTEE NO. 4 ON STATE ADMINISTRATION

ASSEMBLYMEMBER WENDY CARRILLO, CHAIR

TUESDAY, FEBRUARY 22, 2022

UPON ADJOURNMENT OF SESSION – STATE CAPITOL, ROOM 444

The public may attend this hearing in person or participate by phone. Any member of the public attending this hearing will need to wear a mask at all times while in the building location. 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.

A moderated telephone line will be available to assist with public participation. To provide public comment, please call toll-free number: 877-692-8957 / Access Code: 131 54 44.

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NON-DISCUSSION ITEM

7100 EMPLOYMENT DEVELOPMENT DEPARTMENT

ISSUE 1: MICROSOFT OFFICE 365 ENTERPRISE LICENSE AGREEMENT

The Employment Development Department (EDD) requests \$4.9 million in 2022-23, \$5.7 million in 2023-24, and \$6.2 million in 2024-25, totaling \$16.8 million, split between the General Fund and the Disability Insurance Fund, to cover annual licensing costs associated with the Microsoft Office 365 Enterprise License Agreement (ELA).

Prior to the COVID-19 pandemic, EDD was able to use limited software tools and their supporting infrastructure to meet its business needs. According to EDD, this approach has had the unintended consequence of putting the Department several versions behind in many of its software tools and limited the ability to employ and take advantage of newer technologies and toolsets such as the collaboration tools offered through Microsoft Office 365 product line.

EDD has implemented the Microsoft 365 solution 2020-21. The cost has been absorbed within the Department's existing funding for 2020-21 and will likely be absorbed again in 2021-22. EDD anticipates that the workload increases brought upon by the pandemic will decrease as the economy improves and moves past the pandemic. This also means the federal funds the Department receives will be dramatically reduced in the coming year. Therefore, the Department will not have sufficient funding to pay the annual Microsoft ELA costs in future years beginning with 2022-23. Because EDD has already entered into an ELA with Microsoft during 2020-21, the Department will be able to increase or decrease its license subscription counts annually on the ELA anniversary date as the number of positions change by fiscal year.

The split between General Funding and the Unemployment Compensation Disability Fund for this request is outlined below:

Fund Source	FY22 Current Year	FY22 Budget Year	FY22 BY+1	FY22 BY+2	FY22 BY+3	FY22 BY+4
State Operations - 0001 - General Fund	0	3,892	4,530	4,922	0	0
State Operations - 0588 - Unemployment Compensation Disability Fund	0	1,008	1,170	1,278	0	0
Total State Operations Expenditures	\$0	\$4,900	\$5,700	\$6,200	\$0	\$0
Total All Funds	\$0	\$4,900	\$5,700	\$6,200	\$0	\$0

*dollars in thousands

Staff Recommendation: Hold Open

7120 CALIFORNIA WORKFORCE DEVELOPMENT BOARD

ISSUE 2: AB 680 IMPLEMENTATION RESOURCES

The California Workforce Development Board (CWDB) requests \$160,000 Greenhouse Gas Reduction Fund (GGRF) ongoing and one position, an Interagency Climate Policy Specialist, to implement AB 680 (Burke, Chapter 746, Statutes of 2021).

AB 680. AB 680 requires the State Air Resource Board (CARB) to work with the LWDA to update, by July 1, 2025, the funding guidelines for administering agencies to ensure that all applicants to grant programs funded by the GGRF meet fair and responsible employer standards (e.g.: documented compliance with applicable labor laws and labor-related commitments concerning wages, workplace safety, rights to association and assembly, and nondiscrimination standards) and provide inclusive procurement policies (e.g.: applicant procurement policies that prioritize bids from entities that demonstrate the creation of high-quality jobs or the creation of jobs in under-resourced, tribal, and low-income communities, or both the creation of high-quality jobs and the creation of jobs in those communities).

Planned Compliance. The CWDB states that it will require a full-time staff person to research general and agency-related job standards. It is anticipated this position will be a full-time collaborator with the CARB on implementation requirements.

Staff Recommendation: Hold Open

7320 PUBLIC EMPLOYMENT RELATIONS BOARD

**ISSUE 3: INFORMATION TECHNOLOGY SECURITY MAINTENANCE AND TELEWORK
SUSTAINABILITY**

The Public Employment Relations Board (PERB) requests \$416,000 General Fund and one position for 2022-23 and ongoing to enable PERB to comply with California Department of Technology (CDT) standards and information system modernizations.

PERB is the entity responsible for maintaining labor relations between the state's public employers and approximately 2.5 million employees. According to PERB, due to the rapidly ever-changing cybersecurity landscape, the demands to create a safer environment has become very difficult to keep pace with under the allotted budget and staffing. In recent years, there have been seven major guideline updates from CDT with majority of them requiring PERB to procure enterprise-grade solutions to be in compliance with California standards.

Currently, PERB is using one staff member to manage all aspects of its Information Technology (IT). This proposal would allow PERB to hire an additional Information Systems Specialist in a civil service position through the newly developing IT Apprentice Program.

Staff Recommendation: Hold Open

7350 DEPARTMENT OF INDUSTRIAL RELATIONS

ISSUE 4: ELECTRONIC FILING ACCESS FOR WORKERS' COMPENSATION COMMUNITY
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The Division of Workers' Compensation (DWC) within the Department of Industrial Relations (DIR) requests \$1.2 million from the Workers' Compensation Administration Revolving Fund for 2022-23, and \$500,000 on-going, to support the purchase of software to enable stakeholders to e-sign documents and also for licenses to allow all users to electronically file documents. These resources will allow for all users to e-file their documents in the division's electronic adjudication management system (EAMS) and to allow users to electronically sign documents.

This funding is requested by DIR to comply with a recent Department of General Services requirement which establishes the legal validity of e-Signatures. Under this requirement, state departments and agencies must use electronic signatures in place of a wet signature unless prohibited by law.

Staff Recommendation: Hold Open

ITEMS TO BE HEARD

7100 EMPLOYMENT DEVELOPMENT DEPARTMENT

OVERVIEW

The Governor's budget includes six BCPs for the Employment Development Department (EDD) to improve operations and invest in fraud-prevention activities. This Subcommittee will receive an operational update from EDD and discuss EDD's request for additional resource and staff to extend its contract with vendors, strengthen its IT systems, increase its cybersecurity resilience, and implementing its Unemployment Insurance Command Center Division (UICCD).

ISSUE 1: UPDATE ON EMPLOYMENT DEVELOPMENT DEPARTMENT & BUDGET CHANGE PROPOSALS

EDD will provide an update on its operations and discuss its long-term plan to ensure it has capacity to adequately respond to potential, future surges in unemployment insurance (UI) benefit claims. It will also provide an overview of its various operations and fraud-related BCPs.

PANEL

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

- Nancy Farias, Director, Employment Development Department
- Caleb Horel, Chief of Fiscal Programs, Employment Development Department
- Rita Gass, Deputy Director of Information Technology, Employment Development Department
- Grecia Staton, Deputy Director of Unemployment Insurance, Employment Development Department
- Kris Cook, Assistant Program Budget Manager, Department of Finance
- 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. The Employment Development Department is the state entity responsible for administering California's UI benefit program, which issues partial income replacement for Californians who become unemployed through no fault of their own. Every year, EDD disburses billions of dollars to individuals seeking unemployment benefits. California's UI

program is funded through taxes on employers, and beneficiaries may receive weekly financial support intended to replace up to 50 percent of a worker's prior earnings, up to a maximum of \$450 per week, for up to 26 weeks.

Generally, a person seeking unemployment benefits must determine eligibility for the program. This includes submitting an application through EDD, providing employment and wage history, and verifying identity. Through a combination of automated and manual processes, EDD reviews claim applications before issuing payments.

Surge in Unemployment & Challenges. In March 2020, in response to the Coronavirus Disease 2019 (COVID-19) global pandemic, California directed businesses to close to the public and enacted stay-at-home orders in order to bring down the rate of infections. Unemployment rates subsequently increased, and millions of Californians were in need of financial assistance to supplement lost income in order to cover basic necessities such as food, rent, and utilities. To supplement regular state UI benefits, the federal government also moved quickly to expand UI benefits to individuals who were otherwise not eligible for regular UI – such as self-employed workers or business owners. This federal program was known as the Pandemic Unemployment Assistance (PUA) program.

At the height of the pandemic, EDD received an unprecedented volume of claim applications. According to EDD, from March to November of 2020, the Department processed more than 17 million regular and PUA claims, eight times as many claims that were filed in all of 2019. This historical surge in applications overwhelmed EDD and created a severe backlog in processing claims and issuing payments, with the number of applicants waiting over 21 days for EDD processing sharply increasing overtime. The 21 days window is a metric used by both EDD and the U.S. Department of Labor to determine cases as backlogged.

EDD also experienced a significant increase in UI fraud throughout the pandemic. With the accelerated roll-out of federal assistance programs, reports began to emerge about fraudulent applications for UI benefits that were ultimately approved for payment. In California, it is estimated that about \$20 billion were improperly disbursed as a result of fraud, some reported to be committed by domestic and transnational criminal groups and incarcerated individuals. The problem was not unique to California, as fraudulent activity has impacted UI programs across the entire country. The United States Department of Labor Office of the Inspector General estimated that up to \$87.3 billion in UI benefits were potentially paid improperly as a result of fraud as of September 2021.

Strike Team & State Auditor Report. 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. Additionally, the legislature requested that the

California State Auditor perform an audit of EDD's operations. The audit was completed and delivered in January 2021. Among its findings, the state auditor identified significant weaknesses in EDD's claims processing and workload management, call center deficiencies, and inadequate long-term planning. EDD acknowledged the need to make improvements, and agreed with the strike team and the auditor's reports. EDD has since been working to implement the identified recommendations.

Improvements at EDD. EDD worked through the surge of pandemic applications to implement various improvements to its systems and operations. The strike team noted in its report that it has "seen a remarkable transformation in the department's approach, in their capacity to use data to make critical decisions, and in their willingness to take bold steps to address the crisis" and that although more work needs to be done, "the level of collaboration and enthusiasm for new methods exceeded [...] expectations." Notable areas of improvement include implementing automated processes, expanding access to customer service, and ongoing improvements to the online application.

ID.me for Identify Verification. To minimize staff manual intervention on claims, EDD entered into a contract with vendor ID.me to implement automated identity verification. Prior to ID.me, EDD performed manual identity verification. This step has allowed the Department to accelerate claims processing and verify the vast majority of applications automatically. Areas of improvement remain to be examined, however, as the state auditor points out that 20% of legitimate applicants were unsuccessful in validating their identity. As part of its recommendations, the auditor recommended to identify the reasons why claimants cannot successfully complete their identity verification through ID.me and work with its vendor to resolve these problems.

Customer Service & Call Center. To respond to the pandemic surge, the Governor signed an executive order to extend EDD's call center hours to meet the overwhelming demand. In April of 2020, the Department began to accept calls from 8am-8pm seven days a week. EDD also implemented a new phone system, known as a Virtual Contact Center, which allowed EDD staff to work remotely and answer calls during the pandemic's stay-at-home orders. Figure 1, which is based on data made available by EDD, shows the number of unique callers contacting EDD and how many of these calls were answered by Department staff. Of note, the state auditor provided several recommendations to improve call center operations, such as improved case tracking and implementation of specialized training modules to quickly train new call center staff.

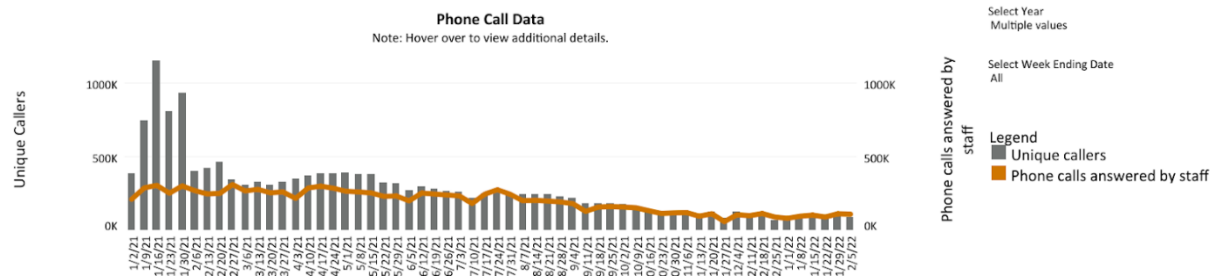


Figure 1. EDD Phone Call Data

NOTE: On February 11, EDD announced it would reduce its call center hours. According to EDD, following the end of federal benefit programs last year, call center volume has fallen dramatically, with calls into the unemployment insurance call center are reported down 95 percent from January 2021. In response, EDD will be shifting the call center hours to weekdays 8:00 a.m. to 7:00 p.m.

UI Online. As more Californians turn to online solutions to file their applications, EDD implemented upgrades to make the online claims application, known as UI Online, mobile-friendly. These upgrades allow claimants to apply for benefits, upload documents, and submit certification documents from any electronic devices, including mobile phones. Prior to this upgrade, a separate mobile app was needed for claimants to interact with their account.

Preparing for the Future. Combined with operational improvements at EDD, the end of federal benefits, and declining COVID-19 cases at the time of writing, the number of UI benefit claims submitted to the Department has significantly declined. As indicated in Figure 2, total claims filed with EDD peaked in January of 2021 with 378,936 cases, and came down to 56,711 in February of 2022.

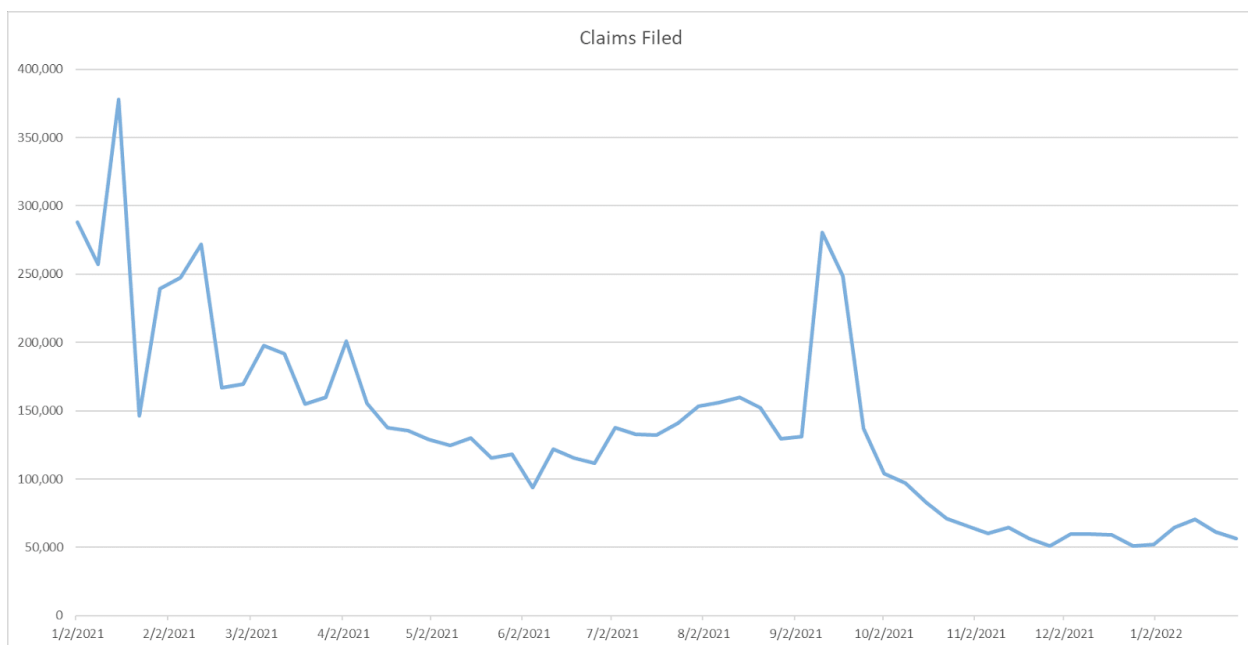


Figure 2: UI Claims between 1/2/2021 and 1/2/2022

NOTE: According to EDD, the peak in claims in September of 2021 were attributed to federal programs expiring, and individuals filing for new regular UI claims hoping they've earned enough in employer-paid wages since the start of their last claim to qualify.

EDD's backlog also significantly reduced. According to EDD's data dashboard, the number of claimants pending EDD action beyond 21 days peaked from 265,117 claimants in February of 2021 and went down to 7,292 claimants in February of 2022, as indicated in Figure 3 below.

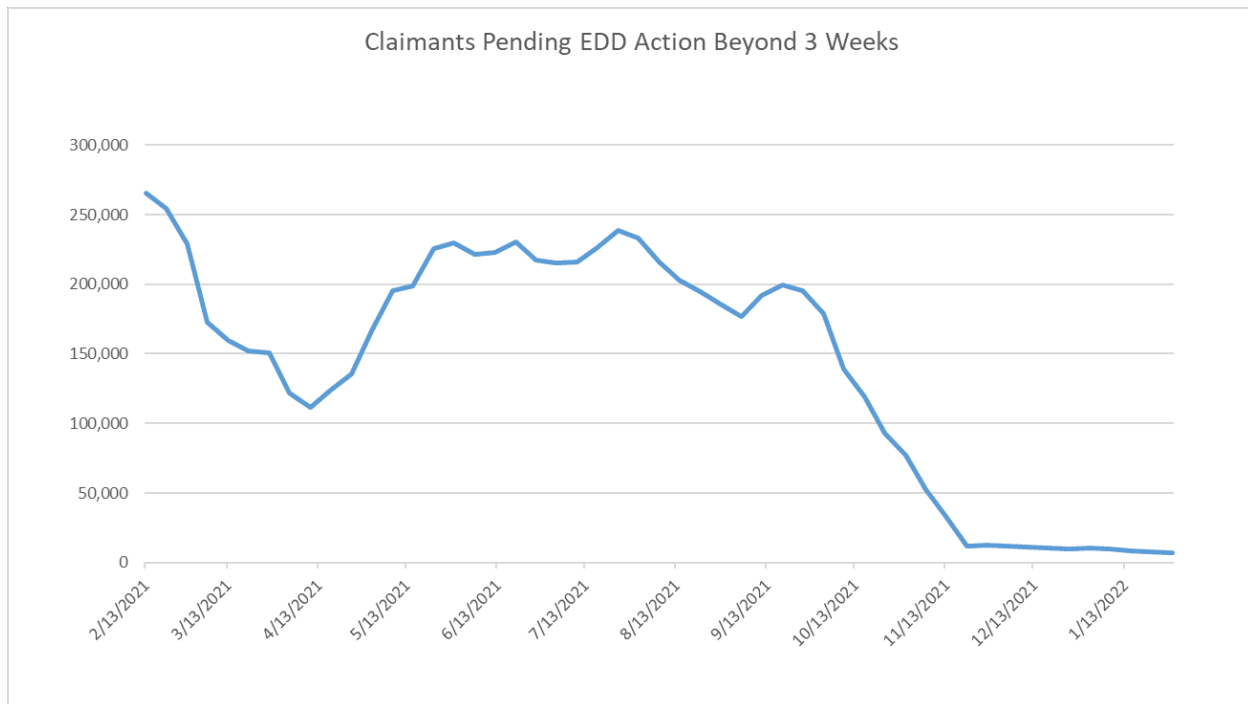


Figure 3: Claimants Pending EDD Action Beyond 3 Weeks

As EDD emerges from the historic challenges brought on by the pandemic, the Department is currently in a good position to assess and implement long-term strategies that will ensure resilience against future potential surges in UI claims. As part of this effort, 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 due to an economic recession. The plan must provide detail on several fronts, including past lessons learned, staff hiring and training, facilities and operations, budget constraints, and more. The Department is expected to deliver this report by March 1, 2022.

EDD BUDGET CHANGE PROPOSALS RELATED TO OPERATIONS AND FRAUD PREVENTION

BCP 1: Vendor Services (\$186.5M GF and Unemployment Compensation Disability Fund)

EDD requests \$96.3 million in 2022-23, and \$45.1 million in 2023-24 and 2024-25, for a total of \$186.5 million, split between the General Fund and the Unemployment Compensation Disability Fund, in order continue financing vendor services contracts that were entered into during the COVID-19 Pandemic. Vendors provide services to reduce fraud, manage the workload backlog, and improve the claimant experience for Californians filing for benefit payments.

EDD Vendors. As noted previously, the Governor established a strike team to assess EDD's operations as the number of UI claims surged during the pandemic. Based on the findings of the report, the EDD took action to implement several of the strike team's recommendations, including contracting with vendors to shore up the vulnerabilities within the IT systems with a focus on more efficient claim processing, fraud risk mitigation, detection, and identity management.

EDD currently has 19 unique vendor contracts, which this BCP would continue funding. According to EDD, these vendors currently provide critical services in several areas, most notably fraud prevention and detection, identity management, IT security, document upload functionality, and more. As an example, current vendors provide services such as automated batch review of claims to determine the fraud risk level of each claim. Other examples include automated identity verification, online document upload and website security services.

EDD is currently implementing fraud mitigation tools for its Disability Insurance program, as it was done for the UI program. Disability Insurance program-related enhancements are also covered under this BCP.

The split between the General Fund and the Unemployment Compensation Disability Fund for this proposal is outlined below:

Fund Source

Fund Source	FY22 Current Year	FY22 Budget Year	FY22 BY+1	FY22 BY+2	FY22 BY+3	FY22 BY+4
State Operations - 0001 - General Fund	0	86,000	36,800	36,800	0	0
State Operations - 0588 - Unemployment Compensation Disability Fund	0	10,318	8,336	8,336	0	0
Total State Operations Expenditures	\$0	\$96,318	\$45,136	\$45,136	\$0	\$0
Total All Funds	\$0	\$96,318	\$45,136	\$45,136	\$0	\$0

*dollars in thousands

BCP 2: Cybersecurity Resilience and Instrumentation (\$22.4M GF)

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

Cybersecurity. According to EDD, the Department has experienced an unprecedented scale of cyber-attacks and fraud against EDD systems. These include the criminal use of Botnet (compromised computers that are controlled by cybercriminals) to deny EDD services to legitimate benefit claimants. In addition, EDD is routinely audited by control agencies, such as the United States Department of Labor, the Internal Revenue Services, the CA Military Department, and the CA Department of Technology, to assess cybersecurity preparedness.

In 2016, EDD was subject to a cybersecurity audit, and the findings were not remediated. More recently, as a result of an independent security assessment conducted in 2020, EDD has accrued and additional 40 findings related to business security and operations. These audits were conducted by the CA Military Department and the Department of Technology. According to EDD, the inability to address audit findings timely is due to the lack of resources, ineffectiveness of the current ITB structure of siloed security lines of business and lack of appropriate tools. For example, EDD current cybersecurity is managed via cross divisional lines within EDD ITB and a siloed Information Security Office.

Proposed Improvements. This BCP proposes funding a Cyber Security Division (CSD), augment staff focused on cybersecurity, supporting fraud related technologies risk management, and implement additional security and internal controls and tools. This CSD will consolidate EDD's Information Security Office with all the security related functions across EDD's divisions. According to EDD, the additional resources would allow, among other activities, for the following:

- Continuous identification and mitigation of evolving cyber threats and fraud;
- Additional security and data integrity for claimants and employers' data;
- Implementation of security controls to support technical modernization against identity theft, identity fraud, ransomware, and cyber-attacks threats and reducing the risk and adverse impacts of data breaches;
- Resolve audit findings from the Military Department and Department of Technology.

This BCP also requests 29 new permanent positions to staff the CSD, which includes a new Career Executive Assignment (CEA) level staff to provide governance in the existing EDD structure.

BCP 3: Information Technology Branch Resources Alignment (\$70.5M GF)

EDD requests \$23.5 million General Fund for 2022-23, 2023-24, and 2024-25, totaling \$70.5 million, for continued funding of the Department's Information Technology Branch (ITB) 122 UI workload positions to maintain support for current and future workload at the Department.

Role of the Information Technology Branch. The ITB provides project planning, policy development, system maintenance, support, operations, and oversight of automated solutions within EDD. In partnership with the UI Branch, ITB provides technology solutions to allow customers to file benefit claims and access other services online. This includes EDD's UI Online platform.

According to EDD, the cost to administer the regular UI program in California has steadily increased and continues to increase with cost-of-living adjustments and increases in state operating expenditures. No additional federal UI funding is made available for these cost increases. Of note, in 2022-22, UI federal grant dollars represented 38% of ITB's budget, down from 44% in 2020-21.

Planned Activities for ITB. This budget proposal will fund ITB staffing costs to directly support the UI benefit payment process. EDD has outlined 14 major activities that will be supported, among them:

- Application development and support for UI Online;
- Testing services for new systems / sub-systems and programs to ensure changes to the UI benefit system are implemented correctly;
- Administration and support for the Virtual Contact Center and EDD's Interactive Voice Response system;
- Various IT operational support, including database and server administration, data processing, and data analytics.

BCP 4: Unemployment Insurance Command Center Implementation (\$4.5M GF)

EDD requests \$1.5 million General Fund and 10 positions annually for three years, totalling \$4.5 million to operate the Unemployment Insurance Command Center Division

(UICCD). According to the Department, this funding is requested to address UI workload forecasting and management, and call center data collection.

UICCD. EDD established the UICCD in January 2021 in a limited capacity to begin centralizing and providing oversight of the workload planning and staff resource allocations for the Department's UI Branch. The UICCD's primary functions are forecasting future UI workload volumes, performing quality assurance management, enhancing customer experience, and ensuring adequate staffing levels.

Prior to the establishment of the UICCD, workload management activities and the management of the contact centers were fragmented across the four divisions within the UI Branch, resulting in workload oversight inefficiencies, impacting timely communication to staff and managers, delaying workload distribution, and overall, drastically impacting the UI program's performance.

Planned Activities for UICCD. EDD outlines three areas that will be included in the UICCD scope of work:

- Virtual Contact Center Operations: UICCD will ensure that EDD's Customer Service Center meets current and future UI needs. UICCD will manage agent resources for incoming call volumes.
- Workforce Operations: UICCD will provide administrative and operational support for staffing and resource allocations. This includes the management of agent schedules based on forecasted workloads.
- Workload Analysis and Forecasting: UICCD will be responsible for forecasting all UI workload inventories and future UI Branch workload performance (e.g. phone and off-phone) by modeling workload projections for all UI workload inventories. This will include proactively addressing economic and cyclical workload trends and performing workload analysis.

Note on State Auditor Recommendations: This BCP is directly related to one of the state auditor's recommendations, which urged EDD to "immediately begin modeling workload projections that account for possible scenarios that would cause a spike in UI claims. EDD should plan its staffing around the likelihood of those scenarios, including having a contingency plan for less likely scenarios that would have a significant impact on its workload."

BCP 5: AB 110 - Fraudulent Claims for Unemployment Compensation Benefits: Inmates (\$3.8M EDD Contingent Fund)

EDD requests \$2,199,000 and 4.6 positions in 2022-23, \$934,000 and 3.6 positions in 2023-24, and \$720,000 and 3.5 positions 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 110. This legislation, enacted in 2021, 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. The bill also requires EDD to cross match that information before any payment of unemployment compensation benefits is provided. Finally, AB 110 requires EDD to complete necessary system programming or automation upgrades to allow electronic monitoring of CDCR inmate data no later than September 1, 2023

Fraud in the PUA program. In 2020, the federal Pandemic Unemployment Assistance program was enacted to provide UI benefit payments to individuals otherwise not eligible for regular UI. To ensure benefit payments could reach claimants quickly during the pandemic, certain eligibility rules were relaxed, such as income documentation and verification. Domestic and transnational criminal organizations, as well as incarcerated individuals took advantage of these circumstances to commit widespread fraud and file illegitimate UI claims. In January of 2021, of the confirmed fraud, EDD reported that 95% was committed through the federal PUA program, and 5% was associated with California's UI program.

In response, the Governor's Office of Emergency Services in partnership with State District Attorneys and the U.S. Attorney's Office, with EDD's participation, has served as the single point of contact related to ongoing and future fraud investigations. This task force was established on November 24, 2020, and also includes participation from the Federal Bureau of Investigation, CDCR, and the U.S. Department of Labor, among other organizations. The task force also established a joint executive level multi-agency coordination group to facilitate unified efforts, coordinate actions, and streamline statewide investigations.

Coordination with CDCR. Incarcerated individuals are not eligible to receive UI benefits. As reports began to emerge that fraud was being committed by inmates against the UI program, EDD began to collaborate with CDCR to secure data on suspected incarcerated individuals. Agreements are currently in place between EDD and CDCR to share data on inmates. However, there is an understanding that a long-term data sharing agreement requires explicit authority under state law which has now been provided with the passage of AB 110.

Planned Compliance with AB 110. Although EDD already leverages CDCR data to identify incarcerated individuals attempting to file for UI benefits, the current process requires manual intervention by EDD staff. In order to implement and comply with AB 110, EDD will establish an automated system to identify an individual's incarceration

status to prevent and deter fraud. This BCP would cover the complete development, testing, deployment, and ongoing maintenance and support of the automated solution.

BCP 6: AB 397 - Unemployment Insurance: Benefits: Disqualification: Notice

EDD requests \$241,000 EDD Contingent Fund and one position in 2022-23 in order to administer the provisions of AB 397 (Mayes, Chapter 516, Statutes of 2021).

AB 397. Existing law provides that an individual may be disqualified from receiving UI benefits if they are found to have knowingly provided false information or withheld information when applying for benefits. This legislation, enacted in 2021, requires the EDD to provide notice and allow a claimant to dispute the potential disqualification prior to actually disqualifying an individual from receiving benefits. The legislation also requires EDD to implement the necessary changes by September 1, 2022.

Current Process. According to EDD, the most commonly identified false statements occurs when a claimant fails to report or underreports wages they earned during the duration of the claim. As a result, the claimant receives benefits to which they are not entitled. EDD identifies these potential false statements through multiple processes, including claim processing, anonymous tips, and most commonly, benefit audit cross-matches. The cross-match process uses wages and new hire information reported by employers quarterly to identify claimants who may have received wages, but did not report them while collecting UI benefits. In instances that a claimant may have been overpaid, the EDD will issue the claimant a Notice of Potential Overpayment

Planned Implementation. To implement AB 397, the EDD would revise its notices to provide more information related to the false statement or misrepresentation, and provide claimants with an opportunity to respond. This BCP covers the development, testing, and deployment of new systems to accept, store, and use information provided by claimants.

LAO COMMENTS

LAO notes that the Governor's budget includes \$29.8 million General Fund at EDD for six third-party contracts to prevent future fraud within the state's UI program. The six fraud-related contracts are:

- ***Automated Batch Review.*** Thompson Reuters software tool used to flag potentially fraudulent claims. Same tool used in January 2021 to suspend 1.1 million claims.
- ***Identity Risk Analytics.*** Thompson Reuters software contract to allow EDD to review new UI claims daily instead of weekly. Aim of more frequent review is to stop fraud.

- **Identity Verification.** Extension of state's existing contract with ID.me.
- **Website Managed Security Services.** Expanding an existing statewide partnership with Akamai to detect and prevent organized, automated cyber-attacks—known as “bot attacks”—that could disrupt or disable EDD's benefit application website.
- **Business Intelligence Competency Center Consulting.** Consulting contract with Executive Information Systems to improve reporting of potentially fraudulent activity and crossmatching that data with Department of State Hospitals patient data or California Department of Corrections and Rehabilitation records.
- **Fraud Services.** Rehiring Accenture to continue advising EDD on how to identify and prevent future fraud.

State Already Set up ID.me, Providing Substantial Protection Against Fraud... EDD's implementation of ID.me during the pandemic has had two major benefits: (1) with ID.me in place, the department now can automate more claims so fewer are redirected to the time-consuming manual review process; and (2) fraudulent actors using stolen identity information are no longer able to successfully claim benefits. With ID.me now in place, EDD has taken steps to substantially limit opportunities for fraud while also addressing the manual review bottleneck that caused the backlog during pandemic.

...But ID.me Has Come Under Scrutiny in Recent Days. The state hired ID.me to confirm workers' identities using so-called “one-to-one” face matching; that is, when a computer algorithm matches the photo or video submitted by the worker to the worker's identification card. Earlier this month, the company CEO admitted to misleading ID.me clients: although ID.me uses one-to-one matching to confirm identity, the company also made so-called “one-to-many” matches without their client's knowledge. One-to-many matches scan one person's face against large databases and therefore could help identify fraudulent actors who claim multiple benefits. However, privacy experts warn that these matching systems are prone to error, suffer from systematic racial bias, and have the potential to be misused. In light of this scrutiny, the Internal Revenue Service recently called off its planned adoption of ID.me for tax filing.

New Anti-Fraud Proposals No Longer Needed and Run Counter to Strike Team Recommendations. Moving forward at this time with additional layers of fraud protection is not necessary because (1) recent fraud was concentrated in temporary federal benefit programs that have now ended, (2) recent fraud in the state's regular UI program appears to have been minimal, and (3) adopting additional fraud protection now runs counter to the strike team recommendations.

- ***Recent Fraud Concentrated in Temporary Federal Benefits That Have Ended.*** EDD reports that the vast majority of fraud occurred in the temporary federal programs that now have ended. According to the administration, \$18.7 billion (94 percent) of UI benefit fraud may have occurred in the federally funded PUA program, while EDD suspects \$1.3 billion (6 percent) in state UI benefits fraud.
- ***Administration's Estimates of Fraud in State UI Benefits Likely Significantly Overstated.*** The \$1.3 billion estimate of fraud in the state UI benefits program likely is overstated. EDD counts state UI claims as fraudulent if a worker did not confirm their identity when EDD requested additional documentation or verification. Yet there are several reasons why workers with legitimate claims may not have followed up with EDD. Many of the suspected fraudulent claimants already had run out of benefits, meaning legitimate claimants would have had little reason to log in to confirm their identity. Other claimants may have given up in frustration after trying unsuccessfully to send requested documentation to EDD. While widespread frustration and an inability to contact EDD are problematic for other reasons, the claims from this group of workers did not represent fraudulent activity so including them contributes to the overstatement. Another estimate of likely fraud in the state's program (based on findings in the administration's strike team report) suggests that state UI fraud during the pandemic could be much smaller—just \$100 million in fraud out of \$35 billion in benefits paid. (The small red area represents this smaller likely fraud estimate.) Given that relatively little fraud seems to have targeted the state's regular UI program, new, additional layers of fraud prevention are not needed.
- ***Runs Counter to Key Strike Team Recommendation.*** Moving forward at this time with new, additional layers of fraud protection also would move the department further out of balance by again prioritizing fraud elimination at the expense of prompt and straightforward payments. To ensure that an anti-fraud emphasis does not come at the expense of prompt and straightforward payments, the strike team recommended that new anti-fraud proposals must be supported by data and take into consideration how the new protocols might impact legitimate claimants. The department's use of the Thompson Reuters software to suspend 1.1 million claims, of which at least 600,000 were legitimate, raises concerns that EDD has not internalized the strike team's fraud-related recommendations. Moving forward with this contract and others therefore runs counter to the administration's own assessment and recommendations and would move the department further out of balance.

STAFF COMMENTS

Federal Rules related to Overpayment

In 2021, the federal government requested that state's UI programs recover potential overpayment of federal benefits. As a result, EDD launched an effort to require individuals who received federally-funded UI benefits to retroactively prove that they were working or seeking work.

February 2022, EDD joined other states in requesting that the federal government relax mandates and waive overpayments when the payment was not the claimant's fault. Shortly after, the US Department of Labor issued instructions for processing waivers for overpayments. Those waivers would allow a state to waive recovery of overpayments where an individual is without fault on an individual, case-by-case basis and expanding the existing limited scenarios for permissible use of "blanket waivers." At the time of writing, EDD is reviewing the federal directives and will provide information about how these scenarios and information will apply in the future.

Benefit System Modernization. In 2016, EDD launched a multiyear "Benefit Systems Modernization" (BSM) project to modernize State Disability Insurance, and Paid Family Leave benefit systems by implementing a single, integrated benefit system. EDD had planned to implement the UI portion of the BSM solution last, with an expected completion date of March 2024. However, at the recommendation of the strike team, EDD paused the implementation of BSM. The strike team recommended that EDD restart the project with an incremental approach of modernizing the benefits systems based on areas of critical need.

ID.me and privacy concerns. ID.me, the third-party vendor providing automated identify verification services for EDD, currently uses facial recognition technology to verify a person's identity. This generally requires a person to send a picture of themselves along with a copy of identity documents. On February 7, 2022, in response to concerns about privacy and facial recognition systems, the United States Internal Revenue Services announced it will transition away from ID.me.

This Subcommittee may wish to ask the following questions:

1. Does EDD plan on continuing using ID.me for identity verification, and specifically its facial recognition technology? Do alternatives exist that ensure efficient fraud prevention while simultaneously safeguard consumer privacy?
2. Does EDD plan to rely on existing vendor contracts for the long-term? Are any vendor services planned to be eventually folded in-house through the BSM project?

3. When does EDD anticipate issuing public guidance on the federal waivers for overpayment? How does the Department plan to identify individuals who were overpaid through no fault of their own?
4. Is EDD prepared to withstand another surge in UI claims should the pandemic worsen or should unemployment levels rise?

Staff Recommendation: Hold Open

ISSUE 2: UI TRUST FUND REPAYMENT

EDD requests \$1.0 billion in General Fund for 2022-23 and \$2.0 billion for 2023-24, totaling \$3.0 billion, to pay down the Unemployment Insurance Trust Fund debt. This loan was taken out from the Federal Government to continue the uninterrupted disbursement of UI benefits.

PANEL

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

- Kris Cook, Assistant Program Budget Manager, Department of Finance
- 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

UI Program Financing. California's UI program is funded through both state and federal UI payroll taxes. California's UI tax is based on a rate established by law. The state rate increases when the condition of the UI trust fund is poor, up to a maximum of 6.2 percent. Due to longstanding solvency issues, California's UI tax rate has been at this maximum amount since 2004. The federal UI tax typically is used to pay for state UI program administration costs and is set at a rate of 0.6 percent. Both state and federal UI payroll taxes are applied to each employee's first \$7,000 in annual wages.

Federal UI Loan During the Pandemic. 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. Federal law permits states, when they exhaust their state UI trust funds, to receive loans from the federal government to continue paying benefits. California, among other states, has used federal loans to continue paying UI benefits throughout the pandemic. The state's current outstanding loan balance is roughly \$20 billion.

Repaying Federal Debt. Under federal law, for states with federal UI loans outstanding, the federal UI tax rate on employers increases by 0.3 percentage points. The additional revenues generated from the tax increase go to paying down the state's federal loan. The federal UI tax rate continues to increase by increments of 0.3 percentage points each year until the loans are fully repaid, at which point the federal tax returns to its usual rate of 0.6 percent.

LAO COMMENTS

Updated Forecasts Under Two Economic Scenarios—Low Cost and High Cost. To illustrate state and employer costs to repay the federal UI loans, LAO's analysis updates its earlier low- and high-costs forecast scenarios for the state's UI system based on different underlying economic scenarios. Under the low-cost scenario, employment quickly returns to pre-pandemic levels and interest rates remain historically low for the entire period. Under the high-cost scenario, the state's full economic recovery is delayed several years, and interest rates paid on the UI loans increase gradually over the next several years.

Loan Will Take Many Years to Repay Under Either Scenario. Under the low-cost scenario, the state and employers pay off the federal loan in 2030. Under the high-cost scenario, the payoff occurs in 2032. Neither of these scenarios capture the possibility of another recession sometime this decade. Should that occur, payoff of the federal loan would extend well beyond 2032.

Larger State Interest Payments Begin This Year. The figure below shows LAO's projections for upcoming state interest payments under two interest rate scenarios. Under our low interest rate scenario, the federal interest rate charged on outstanding federal UI loans rises slightly from its current low and remains near 2.5 percent. Under the high interest rate scenario, the federal interest rate increases from 2.2 percent to 4.5 percent over the next several years and remains at that level.

Looking Ahead at State Costs to Repay the Federal UI Loan

LAO Projections (In Millions)

Fiscal Year	Estimated State Interest Payment	
	Low-Cost Scenario	High-Cost Scenario
2021-22	\$36	\$36
2022-23	460	630
2023-24	520	890
2024-25	480	1,030
2025-26	440	1,020
2026-27	380	970
2027-28	300	880
2028-29	210	750
2029-30	110	600
2030-31	20	430
2031-32	—	240
2032-33	—	50
Totals	\$3,000	\$7,200

Note: low-cost scenario assumes 2.5 percent interest rate, whereas high-cost scenario assumes 4.5 percent interest rate.

UI = Unemployment Insurance.

Proposal. The 2022-23 Governor's Budget proposes to make a \$1 billion General Fund payment in 2022-23 and an additional \$2 billion General Fund payment in 2023-24 toward repaying the outstanding balance on the state's federal UI loans. The proposed supplemental payment would reduce the state's outstanding loan balance by about 15 percent.

\$3 Billion Repayment Would Lower State Interest Costs and Employer Costs... The Governor's proposal would reduce the amount of outstanding federal UI loans. As a result, the proposal would reduce state interest costs immediately. The state also would face lower interest payments each year the loan remains outstanding. We estimate that the Governor's proposed \$3 billion payment likely would reduce General Fund interest costs over the repayment period by a total of \$550 million to \$1.1 billion.

...But Provide No Near-Term Economic Relief to Employers or Workers. The proposed state payment also would reduce employer costs in the future. In general, the \$3 billion deposit would reduce the amount employers must repay by \$3 billion. However, employers would not benefit from these lower costs for many years. This is because the federal tax increases remain in place until the loan is fully repaid, which would still take several years even with the \$3 billion payment. Further, although the state payment could shorten the number of years that employers pay the increased federal tax rates, employers may see no direct benefit if the payment is too small to reduce the repayment schedule by a full year. (In this case, employers would nevertheless pay the higher federal UI tax rates, but the carryover revenue would instead be deposited into the state UI trust fund. These funds would be available to pay UI benefits in future years.)

To Provide Immediate Benefit, Legislature Could Instead Provide UI Tax Credits to Businesses. Should the Legislature instead wish to provide immediate tax relief to employers while the economic effects of the pandemic linger, one option to consider would be to provide employers state UI tax credits to offset the upcoming federal UI tax increase. Tax credits could be designed in various ways to meet the Legislature's policy objectives and priorities.

STAFF COMMENTS

The Subcommittee may wish to ask the following questions:

1. Does the Administration and EDD have a projected date to repay the federal UI debt?
2. Are there estimates about how much relief this proposed repayment would bring on businesses and employers?

Staff Recommendation: Hold Open

**0559 LABOR AND WORKFORCE DEVELOPMENT AGENCY
7120 CALIFORNIA WORKFORCE DEVELOPMENT BOARD
7100 EMPLOYMENT DEVELOPMENT DEPARTMENT****OVERVIEW**

The Governor's budget includes a one-time \$1.7 billion investment over three years in care economy workforce development. These investments are proposed across state departments under the LWDA and the California Health and Human Services Agency (CalHHS) – including EDD, ETP, the California Workforce Development Board (CWDB), the Department of Health Care Access and Information (HCAI) and the Department of Health Care Services (DHCS). The aim of this investment is to recruit, train, hire, and advance an ethically and culturally inclusive health and human services workforce, with improved diversity, wages, and health equity outcomes.

ISSUE 3: HEALTHCARE WORKFORCE PROPOSALS

This subcommittee will hear the various health care workforce investment proposals that would be under the jurisdiction of the LWDA, which includes investments channeled through EDD, ETP, and the CWDB.

PANEL

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

- Abby Snay, Deputy Secretary, Labor & Workforce Development Agency
- Jaime Gutierrez, Chief Deputy Director, Employment Training Panel
- Javier Romero, Deputy Director of Workforce Services, Employment Development Department
- Tim Rainey, Executive Director, California Workforce Development Board
- Curtis Notsinne, Chief Deputy Director, California Workforce Development Board
- Kris Cook, Assistant Program Budget Manager, Department of Finance
- 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: Labor Agency Coordination Resources for Healthcare Workforce Development**

LWDA requests \$500,000 General Fund for 2022-2023, 2023-24 and 2024-25 and two positions (Assistant Secretary for Health Care Workforce and a Research Data Specialist

II), totaling \$1.5 million, to implement the Workforce for a Healthy California Initiative in partnership with California Health and Human Services Agency.

LWDA specifically requests \$500,000 annually from 2022-23 through 2024-25, two positions, and temporary staffing, which will be responsible for collaborating with CalHHS to plan and execute the larger initiative care economy initiative.

The roles and responsibilities of both positions and the temporary staffing is described below:

- Assistant Secretary for Healthcare Workforce: will collaborate with CalHHS and its multiple departments to conduct ongoing analysis of workforce shortages, trends and training modalities, and to develop specific training programs in partnership with CalHHS departments, as well as directing LWDA's training entities. This position will also lead collaborative planning and program development with the Department of Consumer Affairs and other licensing agencies, as well as the state's Community Colleges and Adult Education system under California Department of Education.
- Research Data Specialist II: will conduct research in support of this initiative, including labor market projections for targeted occupations, analysis of projected workforce shortages, assessment of certification and licensing practices that limit growth, analysis of regulations and policies to expand workforce and improve job quality, including policies and programs of other states.
- Temporary Staffing: will provide research and evaluation, stakeholder outreach, program development and employer engagement.

BCP 2: High Road Training Partnerships for Health and Human Services (\$340 GF)

CWDB requests \$120 million General Fund in 2022-23, and \$110 million in 2023-24 and 2024-25, totaling \$340 million, to recruit, train, hire, and advance California's health and human services sectors.

In its report "Putting California on the High Road: A Jobs and Climate Action Plan for 2030," the UC Berkeley Labor Center describes the "high-road" as an approach to economic development that creates family-supporting jobs while optimizing climate policy outcomes. In this context, building a high-road economy requires investments in workforce development so businesses and employers pay the wages and benefits necessary to attract and retain skilled-workers.

CWDB has several high-road initiatives in place, including the High-Road Training Partnership (H RTP) which focuses on regional strategies to improve economic factors while creating environmentally resilient communities; or the High-Road Construction Careers (HRCC) which centers on partnerships with local building and construction trades

council, workforce boards, community colleges, and other entities to create pathways to construction careers.

This proposal will focus on expanding and training the health and human services workforce. According to CWDB, efforts will primarily support careers in allied health (e.g. medical assistants, pharmacy technicians, radiology technologists, etc...). Similar to other CWDB efforts, funding would be awarded through regional grants. Partners may include community colleges, workforce boards, employers, and non-profit organizations. CWDB projects that grants would range from \$250k to 1M. CWDB projects training approximately 22,000 individuals through this proposal.

BCP 3: Employment Training Panel Expansion for Health and Social Work (\$90M GF)

ETP requests \$90 million one-time General Fund dollars to launch a Healthcare Workforce Advancement Program. This program aims to support job entry and career advancement for entry-level and other workers in care, healthcare, and human services social work settings.

According to ETP, funding may go directly to employers to provide their own training, as well as organized labor groups, community-based organizations, or trade associations.

ETP plans to prioritize which health and human service jobs to support based on several factors, including sectors with a high demand for entry-level occupations, or sectors that provide greater access to services to marginalized groups. Additionally, ETP will include occupations with opportunity for growth in wages and continued education that would lead to additional license and state certifications.

Based on occupational employment projections provided by EDD, potential health care sectors that ETP would support under this proposal include:

- Acute care
- Skilled nursing
- Long term care
- Home care
- Outpatient and ambulatory care
- Homeless services / Housing Assistance
- Child welfare & Family Assistance
- Social work (clinical and non-clinical)
- Community Outreach
- Patient and Case Managers
- School-based behavioral health
- Behavioral health
- Rehabilitative services
- Early learning and care

- Developmental services
- Emergency services
- Public health services
- Health and wellness education
- Food Assistance

Health and Human Service Job sector settings may include:

- In Patient Facilities (Hospitals, Skilled Nursing, Adult Senior and other Care / Rehab facilities)
- Out-patient Centers
- Public Health Organizations
- Community-Based Organizations
- Child Care Centers
- Homeless Shelters
- Behavioral Health Centers
- Home Health Settings

ETP notes that at the conclusion of the program, a third party will conduct an independent evaluation to assess the investments impact on worker retention, skills, and wages.

BCP 4: Targeted Emergency Medical Technician Training (\$60M GF)

EDD requests \$20 million General Fund annually from 2022-23 through 2024-25, totaling \$60 million, to launch a program that provides targeted emergency medical technician training.

This proposal targets youth and those who may have barriers to employment for roles as Emergency Medical Technicians. These will be developed, in partnership with local public health systems and their contracted emergency medical providers. This proposal is based on a program developed and tested in Alameda County, which includes 380 hours of classroom instruction following a pre-course in medical terminology. Students will also participate in 20 hours of direct medical treatment and job shadowing, and receive intensive wrap-around support, including case management, mentoring, life coaching and job readiness. A training stipend of \$1,000 a month will allow participants to focus on their training program without part-time or full-time employment.

According to EDD, this proposal's initial planning process will identify program sites best suited for success. Factors will take into account stakeholder input, current regional health care workforce needs, assessment of counties' population of underserved youth, and regional capacity to administer the program.

STAFF COMMENTS

Staff notes that because the Governor's health care workforce package involves multiple state agencies and departments, this Subcommittee may convene a joint hearing with other relevant Subcommittees to consider the proposals as a whole.

The Subcommittee may want to ask the following questions:

1. The Governor's \$1.7 billion proposal to expand the care economy workforce involves a large-scale effort that involves multiple state departments across two agencies. Will LWDA be the lead entity to coordinate all of the proposals? What will be the role of CalHHS in implementing this larger initiative?
2. The workforce proposals include several components on diversity, equity and inclusion. Will LWDA be responsible to make sure the implementation plan includes culturally and linguistically competent outreach, and ensuring that marginalized communities are included? What would be LWDA's target communities?
3. What are the metrics that will be used to determine the success of these proposed investments?
4. Who will conduct third party assessments of these programs and how will that third-party be selected?

Staff Recommendation: Hold Open

ISSUE 4: OTHER WORKFORCE PROPOSALS

The Governor's budget includes other workforce development proposals to support immigrant communities and climate resiliency.

PANEL

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

- Jaime Gutierrez, Chief Deputy Director, Employment Training Panel
- Javier Romero, Deputy Director of Workforce Services, Employment Development Department
- Tim Rainey, Executive Director, California Workforce Development Board
- Curtis Notsinneh, Chief Deputy Director, California Workforce Development Board
- Kris Cook, Assistant Program Budget Manager, Department of Finance
- 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**IMMIGRANT COMMUNITIES BUDGET CHANGE PROPOSALS****BCP 1: Workforce Literacy Pilot Program (\$20M GF)**

ETP requests \$20 million one-time General Fund dollars to launch a Workforce Literacy Pilot Program. These funds aim to support expanding workplace literacy in contextualized English, digital skills, and technical skills training for incumbent and newly hired workers, as well as for unemployed individuals, who are limited English proficient. Similar to the program above, this pilot program aims to provide funding to employers, organized labor, community-based organizations, and trade associations and support immigrants, refugees, and other communities identified as limited English proficient individuals.

Similar to the proposed funding for health and human services workers, ETP plans to conduct an independent evaluation to assess the investments impact on worker retention, skills, and wages, with a focus on increasing literacy, digital, and technical skills.

BPC 2: Integrated Education and Training for English Language Learners (\$30M GF)

EDD requests \$30 million one-time General Fund for 2022-23 to expand the Integrated Education and Training for the English Language Learners (ELL) program.

The ELL program uses various strategies to increase the rate at which adult basic education and English-as-a-second language students advance to college-level occupational programs and complete postsecondary credentials in fields offering good wages and career advancement. Entities eligible for funding for this program include local workforce development areas, education and training providers, county social service agencies, business-related non-profit organizations, and workforce intermediaries. Funding awardees are responsible for the design, development, and implementation of projects that accelerate employment and re-employment strategies for English language learners.

In May of 2021, \$1.6 million of Workforce Innovation and Opportunity Act Governor's Discretionary funds were awarded to six organizations under the solicitation for proposals for the ELL grant. An additional \$200,000 was awarded to one organization to provide technical assistance to the programs and produce a final report outlining successes and opportunities for improvement.

This proposal would expand the ELL program. According to EDD, its Workforce Services Branch will coordinate state efforts across multiple agencies and departments, including adult education partners, for skills training and support services Community-based organizations and workers' centers that have a demonstrated history of assisting immigrants and refugees in successfully completing education. Training programs would provide wrap-around and follow-up services, such as child care, mental health, health, financial literacy, support for documentation and citizenship applications, and other supportive services.

In partnership with the State's adult education providers such as the California Department of Education, the EDD will also assist in creating on-ramps to training for undocumented and other immigrants by working with workers' rights centers across the state. These on-ramps could accelerate training by offering contextualized English language instruction for vocational skills training for in-demand occupations.

BCP 3: Allocation to California Youth Leadership Corps for Language Justice Pathways (\$10M GF)

CWDB requests \$10 million one-time General Fund for the California Youth Leadership Corps (CYLC) Language Justice Pathways Initiative.

About the CYLC. The California Youth Leadership Corps is a recent statewide partnership between the California Labor and Workforce Development Agency, the Community

Learning Partnership, selected California community colleges, local nonprofit organizations, local community partners, the California Endowment and the Hilton Foundation. The effort was created as a response to an increase in the number of unemployed young people.

The current statewide initiative serves community college students with low incomes, including youth of color and immigrant youth, primarily between the ages of 18-24. Through a combination of partnerships with community colleges and paid internship placements, CYLC provides career pathways to a variety of community-based sectors, such as public and community health, community planning and economic development, neighborhood improvement, and related areas.

Justice Pathways Proposal. This proposal would expand the CYLC program to create a pipeline for community-based immigration legal services and other immigrant rights and social and climate justice organizations. Similar to the existing pilot program, CYLC will partner with deans, faculty, and program staff at CYLC community college partnership sites. Paid internship placements and training are planned to be in the areas of pre-law, paralegal services, translation services, and leadership or social change in the community-based immigration legal services and non-profit sectors.

According to CWDB, funding will extend programs at the following institutions:

- Mission College in Los Angeles and Fresno City College
- DeAnza College in San Jose
- Los Angeles Trade Tech College
- Riverside Community College

Funding may extend to additional community colleges, depending on various factors, such as community college capacity to administer the program, availability of internship placements, and student demographics.

CLIMATE-RELATED BUDGET CHANGE PROPOSALS

BCP 1: Displaced Oil and Gas Worker Fund (\$50M GF)

EDD requests \$50 million one time General Fund for 2022-23 to launch the Displaced Oil and Gas Worker fund.

This proposal is part of a larger initiative related to the state's oil and gas well capping efforts and its impact on oil and gas workers. The Governor's budget includes a separate proposal for \$200 million General Fund over two years for the Department of Conservation to plug abandoned or idle oil wells and complete related environmental remediation. The effort also includes a \$15 million one-time General Fund proposal to

support a workforce training pilot to train displaced oil and gas workers (which will be discussed under the California Workforce Development Board's proposal at this hearing).

This specific proposal would advance \$50 million to provide financial awards that would complement the State's existing Workforce Innovation and Opportunity Act Dislocated Worker program, in an effort to minimize disruptions to the livelihoods of impacted workers and their families. The funding aims to create access to transitional jobs, career counseling, employment and training services to help displaced oil and gas workers for careers in other industries. Grant funding will additionally aim to provide immediate financial support for housing, groceries, utilities, and childcare.

EDD plans to collaborate with existing partners to identify impacted workers, including the Workforce Development Board, the Department of Rehabilitation, and the Department of Social Services.

Trailer Bill Language: Displaced Oil and Gas Worker Fund. The BCPs on oil and gas workers are accompanied by Trailer Bill Language (TBL) made available on February 2, 2022. Of note, the TBL:

1. Defines populations eligible to be served by grant funding as workers on the front-lines of the state's transition to carbon neutrality, and specifically workers in California's oil and gas industry that are transitioning and/or dislocated.
2. Provides that grant applications must be competitive, and must be accepted from public and private non-profit organizations, private for-profit organizations, Local Workforce Development Areas, education and training providers, tribal organizations, faith-based organizations, and community based organizations.
3. Requires grant recipients to have demonstrated experience working to ensure populations who have been dislocated from the labor market have access to quality jobs in their regions, with an emphasis on those displaced from the oil, gas and related industries.
4. Outlines eligible activities used for grant funding, including skills and vocational training, work-based learning, stipends for trainees, supportive services, high-school diploma and GED acquisition, and more.

BPC 2: Well-Capping Workforce Pilot (\$15M GF)

CWDB requests \$15 million one-time General Fund to support the Oil and Gas Well Capping Workforce pilot initiative.

As noted previously, this proposal is part of a larger initiative related to the state's oil and gas well capping efforts and its impact on oil and gas workers. This proposal would create a pilot initiative in Kern County to provide training and employment for impacted oil and

gas workers. Similar to other high-road initiatives under CWDB, this pilot aims to prioritize partnerships and industry engagement. CWDB estimates training approximately 1,500 workers through this program.

The CWDB notes that it plans to use 5 percent of the proposed \$15 million allocation to launch and manage this program.

BCP 3: Low Carbon Economy Grant Program (\$60M GF)

CWDB requests \$20 million General Fund annually from 2022-23 through 2024-25, totaling \$60 million, to support the Low Carbon Economy Initiative.

In 2019, the Legislature approved \$165 million in Greenhouse Gas Reduction Fund (GGRF) over five fiscal years to the CWDB for the H RTP and HRCC initiatives. Only one budget appropriation has been made for \$25.6 million for local assistance and \$4.2 million for operations. In June 2021, the CWDB released the \$25.6 million in local assistance funds to 22 new and existing H RTPs and expanded the work of the 11 regional HRCC partnerships. New sectors that are supported include zero emission bus manufacturing, energy storage, food and agriculture, fossil fuel transition, clean transportation, forestry, utility line tree-trimming, and offshore wind. Grant terms are for 22 months and are expected to conclude in March of 2023.

According to CWDB, the funding covered in this proposal will train and employ 4,300 participants, and 10 of the existing 22 H RTPs will expand or build new apprenticeships.

This effort is part of the Governor's broader package to provide workforce investments focused on climate change. Separate proposals include a \$35 million General Fund for the University of California to create regional workforce development and training hubs focused on climate change and \$30 million General Fund over two years to the California Community Colleges to train, develop, and certify forestry professionals

STAFF COMMENTS

The Subcommittee may wish to ask the following questions:

1. What outreach strategies will be used use to ensure a broad diversity of communities can access literacy programs? What languages will be supported through these programs?
2. Does LWDA have an estimate on how many displaced oil and gas workers these proposals will assist? What percentage of funding will go towards grants, and how much will go towards direct financial support? (e.g. stipends or supplemental income)

Staff Recommendation: Hold Open

7120 CALIFORNIA WORKFORCE DEVELOPMENT BOARD

ISSUE 5: SUPPLY CHAIN RESILIENCE: TRAINING CAMPUS

CWDB requests \$110 million in General Fund to build a Goods Movement Workforce Training Campus. The panel will discuss this proposal.

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
- Kris Cook, Assistant Program Budget Manager, Department of Finance
- 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 CWDB requests \$110 million General Funding over three years to build and establish the Goods Movement Workforce Training Campus. This campus would allow worker training and upskilling in a safe and controlled environment. Some of the training areas that the campus would provide include:

- Freight equipment training, including trucks, forklifts, and ship-to-shore cranes;
- Zero-emission cargo handling equipment training ground for workers to learn how to operate, maintain and repair equipment;
- Replicating goods movement environments, such as marine cargo terminals.

According to the CWDB, the Port of Los Angeles, in coordination with the Port of Long Beach, has identified a 15-acre site for the campus. Total project cost is currently estimated \$150 million, with the ports expected to finance the remainder of the construction cost not covered by CWDB.

This BCP is part of a larger proposal in the Governor's budget, which includes a package of \$1.38 billion General Fund for port, freight and goods movement infrastructure. Separate proposals include \$1.2 billion for the California State Transportation Agency for port-specific high priority projects increasing goods movement on rail and roadways, \$40 million for the Department of Motor Vehicles to enhance

capacity to issue Commercial Driver's License, and \$30 million for Go-Biz to invest in operational improvements at the port.

LAO COMMENTS

New Campus Not Likely to Address Short-Term Challenges... Planning and construction of the new campus likely would take several years. The new campus therefore is not a solution to the current supply chain disruptions at the ports that have impacted businesses and consumers.

...But Could Prove Helpful Over Long-Term. In theory, the new campus could help port workers adopt new practices and technologies more rapidly in the future. The campus also might help encourage more workers to enter the port workforce. These developments could prove helpful in the future because an adequate number of workers who have the needed skills is a key element of smooth operations at the ports.

Unclear if Workforce Shortage Exists or if Training Is Key Bottleneck. As noted earlier, the administration's stated aim of the campus is to address a future workforce and skills shortage. The proposal does not include additional information about the future skills and workforce shortage. Key information might include: (1) the types of ports jobs that have historically been difficult to fill; (2) the training background and experience needed for these jobs; (3) the types of ports jobs that likely will be needed in the future; and (4) the gap, if any, between the current workforce and the projected needs for future port operations. This key information would assist the Legislature in assessing the extent to which a labor shortage exists at the ports. Further, although insufficient training opportunities can lead to workforce shortages, many other dynamics also affect workforce supply and therefore could instead be causing the purported shortage. For example, in addition to training opportunities, working conditions, scheduling, and work pay/benefits also affect workers' decisions about whether to work at the ports. Additionally, some of the conditions may be out of the ports' immediate control. For example, the ports could struggle with a workforce shortage, irrespective of whether a training campus is available, if the demand for similarly skilled workers increases in other nearby sectors.

Details About Funding Sources Remain Outstanding. The Governor proposes to provide \$110 million toward the \$150 million in total project costs but the proposal does not identify the funding source for the remaining project costs. The proposal also does not specify whether the state and CWDB would commit to funding training costs at the campus and, if so, at what cost and over what time frame.

Building Campus Would Mark New Role for State in Workforce Training. The training campus would build on an existing CWDB-funded training partnership at the ports. Under its longstanding workforce training model, the CWDB convenes training parties and funds a portion of the total training costs. Training costs might include worker pay during

training, costs for curriculum development, and instructor pay. CWDB does not customarily fund the construction of physical infrastructure—in this case, the campus itself. The proposal therefore marks a new, untested role for CWDB that may not align with legislative priorities.

Issues for Legislative Consideration:

The administration has provided limited information about the new training campus. As the Legislature assesses the Governor's proposal, the following issues merit consideration:

- **Existing Training Capacity.** Before moving forward with this proposal, the Legislature will want to confirm that existing training capacity at the Southern California ports is insufficient to meet future workforce training demand.
- **Workforce Labor Supply.** According to the administration, the campus would help address a workforce and skills shortage. It will be important for the Legislature to consider how the campus would alleviate these shortages and help prevent goods movement delays in the future. Furthermore, the Legislature might want to inquire about how port worker unions and the port authority manage labor supply and support new hiring and training.
- **Identifying and Addressing Other Potential Causes of Workforce Shortage.** The administration has indicated that expanded training access is needed to ensure a stable and skilled workforce at the ports. Many other factors also could contribute to workforce insufficiencies. The Legislature could direct the administration to identify other potential bottlenecks to a stable and skilled workforce. With this information available, the state could consider taking steps to also address these areas of concern.
- **State's Role in Recruiting New Workers.** Under normal circumstances, the state has a limited role in determining who enrolls in training programs. (We would note that CWDB's flagship training program—High Roads Training Partnership—does prioritize underserved workers.) Given the state's larger financial role here, it will be important for the Legislature to ensure that parties recruit in a way that is consistent with state priorities.
- **Understanding Need for State Funding.** Throughout the state, ports and other facilities operate training sites. To better understand the need for state funding, the Legislature will want to request the administration provide additional information on how these sites have been funded and built in the past, as well as why the proposed campus needs state funding, while other training sites have not required state funding.

- ***Outstanding Project Costs and Ongoing Operational Costs.*** The Legislature will want to confirm that full project funding has been committed before appropriating state funds to build the campus. After the campus has been built, training programs that take place there will need ongoing funding. Before acting on this proposal, the Legislature will want to request the administration provide additional information on whether the state plans to provide funding for operational costs in the future, and if so, at what ongoing level.

STAFF COMMENTS

The Subcommittee may want to ask the following questions:

1. This proposal does not cover the entire project cost to build the campus. Can CWBD provide additional details on how remaining costs will be funded?
2. What is the projected completion time for this training campus?
3. Does CWDB anticipate ongoing maintenance costs?
4. What would be the campus' training capacity? Who will be eligible to use the training campus?
5. Has CWBD build physical infrastructure like this proposal before?

Staff Recommendation: Hold Open

7350 DEPARTMENT OF INDUSTRIAL RELATIONS**OVERVIEW**

The Governor's budget includes seven BCPs for the Department of Industrial Relations. Six BCP are related to increasing staffing levels to meet workload demands, and a BCP requests additional resources for the Reaching Every California (REC) campaign.

ISSUE 6: DIR BUDGET CHANGE PROPOSALS

This Subcommittee will hear about the Department's request for additional resources to meet increasing workload demand and fund worker outreach campaigns.

PANEL

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

- Deanna Ping, Chief Deputy Director, Department of Industrial Relations
- George Parisotto, Administrative Director, Division of Workers' Compensation, Department of Industrial Relations
- Josh Iverson, Chief Financial Officer, Department of Industrial Relations
- Kris Cook, Assistant Program Budget Manager, Department of Finance
- 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: Enhanced Enforcement and Compliance (Various 2021 Legislation)**

The Department of Industrial Relations requests \$10.4 million and 53.5 positions from various funds in 2022-23, \$10.1 million and 53.5 positions in 2023-24, \$9.8 million and 52.5 positions in 2024- 25, and \$2.7 million and 13.0 positions in 2025-26 and ongoing, to implement the provisions of recently chaptered legislation:

- AB 701 (Chapter 197): Warehouse Distribution Centers
- AB 1023 (Chapter 326): Contractors and Subcontractors – Records: Penalties
- SB 62 (Chapter 329): Employment: Garment Manufacturing
- SB 606 (Chapter 336): Workplace Safety: Violations of Statutes: Enterprise-Wide Violations: Egregious Violations
- SB 727 (Chapter 338): Labor-Related Liabilities: Direct Contractor

AB 701. AB 701 requires warehouse distribution center employers to provide upon hiring employees a written description of each quota employees are subject to, including any potential adverse employment action that could result from failure to meet the quota. The bill provides that an employee shall not be required to meet a quota that prevents compliance with meal or rest periods or other occupational health and safety laws as specified. AB 701 also prohibits an employer from taking adverse action against an employee for failure to meet a quota that has not been disclosed or that does not allow a worker to comply with meal or rest periods or occupational health and safety laws. AB 701 requires the Labor Commissioner to enforce these provisions by engaging in coordinated and strategic enforcement efforts. The Division of Labor Standards and Enforcement (DLSE) would also collaborate with stakeholders to educate workers and employers about their rights and obligations under AB 701.

For this specific bill, DIR requests 11 positions and \$2.2 million in Fiscal Year 2022-23, with \$2 million in 2023-24 and 2024-25 from the Labor Enforcement and Compliance Fund. DIR additionally requests 1 position and \$175,000 in 2022-23, with \$164,000 in 2023- 24 and 2024-25 from the Occupational Safety and Health Fund. Those staff and resources would go to DSLE and Cal/OSHA for implementation, outreach, and enforcement of AB 701.

AB 1023. This bill clarifies the prescribed format that contractors and subcontractors must use when submitting certified payroll records, including how often electronic payroll records must be submitted. The bill also adds a monetary penalty for a contractor or subcontractor's failure to timely submit certified payroll records.

DIR projects that AB 1023 will have a significant impact on the workload of DLSE's Public Works unit. Approximately 25,000 contractors register with DLSE each year, and of those, approximately 15,000 are required to submit payroll records to DLSE. At present, 10,000 contractors are delinquent in their compliance with this requirement and would be subject to the penalty prescribed by the bill. DLSE estimates that levying the penalty on 50 percent of those delinquent contractors would result in 5,000 penalties levied per year.

DIR requests 27.5 positions and \$5 million in Fiscal Year 2022-23, with \$4.9 million in 2023-24 and 2024-25 from the Labor Enforcement and Compliance Fund to implement AB 1023.

SB 62. SB 62 updated California laws related to employment of workers in the garment industry. Specifically, among other things, SB 62 makes the common practice of "payment by the piece" prohibited except as an incentive bonus, creates a new category of entities called "brand guarantors" (any person contracting for the performance of garment manufacturing as defined), and introduces joint and several liability for payment of wages, reimbursement for expenses, and other compensation due, including interest, between manufacturers and brand guarantors. The bill also establishes joint liability for damages, and penalties between garment manufacturers and contractors.

In the preceding three years, DSLE received an average of 384 claims per year from garment workers. The division estimates a 25 percent increase in the number of claims received each year, projecting in 96 additional claims per year

DIR requests 4 positions and \$893,000 in 2022-23 and \$837,000 in 2023-24 and beyond to provide resources for DSLE to meet the requirements of SB 62.

SB 606. The California Occupational Safety and Health Administration (DOSH or Cal/OSHA), is responsible for protecting workers from health and safety hazards on the job. Prior to SB 606, DOSH has limited the scope of its inspections to individual workplaces, even if DOSH has received complaints alleging similar hazards at more than one work site operated by the same “chain” employer. SB 606 authorizes DOSH to issue a single, enterprise-wide citation that covers all of an employer’s California work sites and requires the employer to abate the violation at all of its job sites statewide.

According to DIR, Cal/OSHA currently lacks sufficient staffing to absorb the work necessary to implement SB 606. Expected workload includes promulgating new regulations, and handling more complex litigation caseload, as egregious-violation citations can come with higher civil penalties.

DIR requests \$615,000 and 2 positions in 2022-23, \$588,000 and 2 positions in 2023-24, with \$305,000 and 1 position in 2024-25 and ongoing from the Occupational Safety and Health Fund to provide resources Cal/OSHA to address the new requirements of SB 606.

SB 727. Existing law makes direct contractors on private construction projects jointly liable with any subcontractor at any tier for all unpaid wages, fringe or other benefit payment or contribution. SB 727 extends the liability to make direct contractors jointly liable for penalties and liquidated damages in addition to unpaid wages, fringe benefits, and labor trust fund contributions so long as specified conditions are met.

DIR expects that the bill would impact workload on claims of wages owed to workers employed by subcontractors who fail to pay their employees. Additional staff time would be required to determine who is a “direct contractor” for one or more projects a claimant worked on, to add defendants, provide statutorily required notice, obtain documents, and to prepare subpoenas seeking information held by direct contractors and subcontractors. Additionally, DIR projects increased workload for inspections performed on private construction worksites. BOFE investigations on construction worksites typically involve numerous interviews of workers who have worked on a number of different jobs for different general contractors in a short time frame

DIR requests 8 positions and \$1.6 million in Fiscal Year 2022-23 and \$1.5 million ongoing from the Labor Enforcement and Compliance Fund to provide resources for the Division of Labor Standards Enforcement (DLSE or Labor Commissioner’s Office) to meet the requirements of SB 727.

BCP 2: Continued Support for Subsequent Injuries Benefit Trust Fund

DIR requests \$2.5 million and 15 positions in 2022-23, and \$4 million and 24 positions in 2023-24, and ongoing, from the Workers' Compensation Administration Revolving Fund to address rising workloads in the Subsequent Injuries Benefit Trust Fund (SIBTF) program. DIR additional requests to convert 16 limited-term positions received from a 2019- 20 BCP to permanent, full-time positions.

About the SIBTF. The SIBTF program encourages employment of workers with disabilities by relieving employers of liability for the greater levels of permanent disability that may result if an already-disabled worker later suffers an industrial injury. The SIBTF is a source of additional compensation to injured workers and enables employers to hire disabled workers without fear of being held liable for the effects of previous disabilities or impairments. SIBTF benefit checks are issued to injured workers by the SIBTF Claims Unit after benefits are awarded by the Workers' Compensation Appeals Board.

Increased Caseload. According to DIR, several factors have led to a sharp increase in the number of SIBTF cases, including reforms and case law that have made it easier for applicants to meet threshold eligibility requirements, or employers that increasingly seek to shift partial liability to the SIBTF. DIR states that case inventory continues to rise, increasing from 6,796 in calendar year 2013 to 14,824 at the end of 2020. As a result, each workers' compensation consultant – staff members who are responsible for SIBTF claims – have an average caseload of approximately 797 cases. DIR explains that this caseload is highly unmanageable.

Workload history, as provided by DIR, is shown below:

Workload History						
Workload Measure	2016	2017	2018	2019	2020	2021 (To Date)*
Beginning Case Load	8,461	9,832	10,030	11,026	12,996	14,824
New Cases	1,656	1,880	2,425	2,491	2,438	2,672
Cases Closed	314	1,702	662	279	334	439
Ending Case Load ³	9,832	10,030	11,026	12,996	14,824	N/A
Annual Case Load Change	1,371	1,569	996	1,970	1,828	N/A

*as of July 14, 2021

BCP 3: Workers' Compensation Workload

DIR's Division of Workers' Compensation (DWC) requests \$933,000 and 5 positions in 2022-23 and \$864,000 ongoing from the Workers' Compensation Administration Revolving Fund to increase staffing in DWC's Medical Unit.

About the DWC Medical Unit. The DWC currently collects comprehensive workers' compensation claim data, which is used to better understand the conditions of injured workers and subsequently shape and improve policy and regulations to provide better services. DWC is currently in the process of building two additional databases to capture data electronically from physicians and utilization review organizations. Taken together, DWC would have a much more comprehensive and readily accessible information on all claims, and put the unit in a better position to improve the delivery of benefits to injured workers. However, the DWC also cautions that this means it will have exponentially greater data than what the Division currently manages.

Managing future data workloads. The DWC reports that currently, five positions are being used to keep up with the current workload of answering data requests, assisting and helping internal and external entities on research projects through mutual agreements, and monitoring, publishing, and maintaining numerous fee schedules that impact workers' compensation.

This proposal would bring additional staff to analyze new and incoming data from the electronic doctor's first report of occupational illness and from utilization review data collected from claims administrators. DWC explains it would be able to produce studies and reports, develop its own data, trends analysis, and forecasts, and work with other databases within DWC. As an example, DWC has been collecting comprehensive COVID-19 data since the start of the pandemic. With additional staff, the division can analyze the impact and trends of COVID19 and publish its findings and conclusions to help employers prevent and minimize the impact of the disease. Additional DWC would be able to respond to external data requests and assist other entities in their research.

BCP 4: Occupational Safety and Health Appeals Board Legal Staff

DIR requests \$267,000 and one position for 2022-23, and \$253,000 ongoing from the Occupational Safety and Health Fund for its Occupational Safety and Health Appeals Board Legal Unit to address an increase in petitions for reconsideration and writs of mandate required as a result of COVID-19.

About OSHAB. OSHAB adjudicates appeals that resulted from Division of Occupational Safety and Health (DOSH, or CalOSHA) citations. When an employer operating in California is found by DOSH to be in violation of a DOSH regulation, DOSH issues a citation or multiple citations to the employer. The employer can appeal the citation(s) to OSHAB.

OSHAB's legal team duties include calendaring relevant deadlines, reviewing administrative records and hearings, engaging in legal research, providing legal recommendations to Board members, drafting decisions after reconsideration, and drafting denials of petitions for reconsideration. The legal team also prepares, processes, and implements regulatory changes to the Board's rules of practice and procedure, through the state's rulemaking process. Finally, the legal team represents and defends the Board in court, at all stages of review, when a petition for writ of mandate is filed.

Increased Workload. According to DIR, when the Board began scheduling all hearings to be held remotely by video conference instead of in person due to the pandemic, 17 challenges to the video process had been filed. Each challenge has required the Legal Unit involvement because the employers have filed for petitions for reconsideration. Each challenge has created the additional work of the Legal Unit to prepare an analysis of the challenge, recommend appropriate action to Board and draft a decision embodying the Board's views. Employers have also filed 10 Writs of Mandate in various Superior Courts in California.

BCP 5: Occupational Safety and Health Standards Board Legal Program Support

DIR requests \$983,000 and five positions in 2022-23, and \$914,000 ongoing from the Occupational Safety and Health Fund for the Occupational Safety and Health Standards Board (OSHSB) to assist with legal unit workload levels that have increased significantly over the past six years. These positions will help provide timely processing of variance applications.

Variance Applications. Among other responsibilities, OSHSB is responsible for adopting occupational safety and health regulations. As part of this role, OSHSB may also grant permanent variance from these regulations, if it determines that an applicant for variance has shown an alternate program, method, practice, means, device, or process which will provide equal or superior safety for employees. Any employer may apply with OSHSB for a variance. When variance applications are received, OSHSB staff review the application, prepare an evaluation and issue a recommendation. OSHSB may grant variances only after holding a hearing in which evidence is presented on the record.

Increased workload. OSHSB reports an increase in variance applications and in variance complexity (referred to as "uncommon variance". For example, in 2020, OSHSB received an application for variance from PepsiCo. for a first in the nation installation of an underground pressure containment unit that will require referencing building standards that are most similar to nuclear containment units. According to OSHSB, uncommon variance applications can consume significant amount of time, involve multiple technical expert witnesses, and involve thousands of pages of exhibits.

Even with temporary staff added for support, OSHSB variance program is currently experiencing an eight month backlog. Variance operations experienced a critical failure in June of 2021 due to a staffing shortage, negatively impacting construction projects in

California. Future failures will occur without dedicated staffing for the variance program, which OSHSB projects will continue to grow at an averages 8% per year.

Additionally, the legal unit is responsible for analyzing legislation and respond to Public Records Act request from the public. Both activities have been reported to increase in workload as well.

Workload history, as provided by DIR, is included below:

Workload History

Workload Measure	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22
Variance Applications Received	497	515	638	591	617	649
Public Records Requests Received	17	20	23	24	38	95
Bill Analysis	N/A	3	5	5	9	17

DIR hopes that the additional resources under this BCP will allow for improved processing of variance applications and faster scheduling of administrative hearings, decreasing the time from initial application to resolution by as much as four weeks. Legal review of proposed regulations will be able to proceed at pace with the Board's workload and eliminating bottlenecks.

BCP 6: Reaching Every Californian Campaign Expansion

The Department of Industrial Relations (DIR) requests 2 positions and \$650,000 General Fund in Fiscal Year 2022-23, and ongoing, to provide resources for the Division of Labor Standards Enforcement (DLSE or Labor Commissioner's Office) to expand its interdisciplinary outreach campaign "Reaching Every Californian" (REC)

In 2014, the Labor Commissioner's Office created an outreach campaign in multiple languages that partnered with community-based organizations, legal aids, workers centers, unions, industry associations, and employer groups to help educate the lowest-wage workers in the state and their employers. According to DIR, REC has four main initiatives:

- Workplace Rights Ambassador Project (WRAP): Building new relationships with community-based organizations who serve workers who experience access and functional needs and trauma survivors.
- Business Engagement Program (BEP): This is an effort to build common ground with responsible employers and develop pathways to lead development of cases

that expose unfair competition. Show the LCO as a resource for law abiding employers and remind employers as to their obligations under California law.

- Wage Theft Is A Crime: A multi-media awareness campaign amplifying workplace protections and LCO resources. In addition to new materials, materials from the initial campaign will be revamped to be conducive to workers with low literacy levels and visual learners. Includes radio and digital ad campaign that targets worker populations and employers in areas the LCO does not service regularly.
- Workshops and Clinics: A partnership with community-based organizations to host online and in-person Know Your Rights and claims process workshops and wage clinics addressing basic workplace protections, mechanical processes, retaliation and judgment enforcement.

DIR requests additional resources for materials and a media consultant for creative design and monitoring of media spots. Additionally, DIR requests two positions, who will be responsible for relationship building with partners and internal team members; implementing the initiative programs such as WRAP, BEP and community workshops/clinics; following up with impacted workers; training; and developing content for materials.

STAFF COMMENTS

The Subcommittee may wish to ask the following questions:

1. DIR has a significant number of staff vacancies (approximately 25%). As the Department requests additional staff resources, what are its recruitment, hiring, and retention strategies for the short and long-term?
2. There have been significant reported delays in setting hearings through DLSE and resolving wage theft claims. With these additional mandates and resources, what is DIR's strategy to address the extended timelines?
3. Regarding the REC campaign, how will the additional resources improve and build upon existing outreach efforts? Which worker communities and labor topics will the campaign prioritize or focus on?

Staff Recommendation: Hold Open

****** PUBLIC COMMENT ******