

AGENDA

ASSEMBLY BUDGET SUBCOMMITTEE NO. 4 STATE ADMINISTRATION

ASSEMBLYMEMBER TOM DALY, CHAIR

TUESDAY, MARCH 12, 2013
1:30 P.M. - STATE CAPITOL ROOM 447

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ITEMS TO BE HEARD

0890 SECRETARY OF STATE

ISSUE 1: BUSINESS FILINGS AND REGISTRATIONS

The Subcommittee will consider the length of time it takes the Secretary of State to process business filings.

BACKGROUND

Business entities must obtain licenses from the Secretary of State's office (SOS) to legally operate in California. Without a license issued by the SOS, businesses cannot hire employees or pay entity taxes. Because of this, it is very important that filings and registrations be attended to in a timely manner. The SOS is responsible for registering business entities, trademarks, domestic partners, and advance health care directives. The SOS is required by statute to accept roughly 250 types of filing documents and processes more than 2 million documents and information requests a year. Currently, the turnaround time for all business filings is roughly 43 days.

The SOS has had a business filing and registration backlog for years. Last year, the Assembly allocated \$1.2 million of its own operating money to the SOS because Business Entity filing turnaround time reached an all-time high of 85 days. This allowed the SOS to reduce some of the backlog, and return filings and registrations within 30 days.

Currently, the SOS Business Programs Division has backlogs in all areas due to the redirection of staff to focus on Business Entity and Statements of Information filings. Business Entity filings currently have a backlog of approximately 45,000 documents and the Statements of Information (SI) backlog is approximately 77,000 documents, for a total of 122,000 documents. As of March 7, 2013, the turnaround time for Business Entity documents is 65 calendar days and Statements of Information filings is 54 calendar days. Although this is down from the highs of 80+ calendar days for Business Entity filings and 120+ days for Statements of Information filings, which businesses saw following the budget cuts of several years ago, it is worse than the performance prior to the reduction. According to the SOS, the delays are seasonal, with certain months, like January, bringing more filings than other months.

Other States have much better service levels than California: New York takes seven business days; Texas takes three to five business days and also offers applications online.

As a result, California businesses face delayed startup, employee hiring times, and postponed business tax payments. The SOS needs funding for overtime pay and temporary help in order to reduce the backlog and ultimately reach and sustain reasonable processing times (5-7 days). This would allow California businesses to get up and running more quickly, therefore creating jobs and stimulating the economy through both personal and entity taxes.

The SOS collects filing fees and reimbursements associated with processing these business filing requests. In 2013-14, the Governor's Budget estimates a total of \$70.7 million of business fees and reimbursements associated with filings. Of this amount, the Governor's Budget assumes \$22.3 million will be transferred to the General Fund to provide savings, in lieu of providing these funds to administer the program.

The SOS believes that the implementation of their California Business Connect information technology project will allow the California to offer service levels equivalent to other States. The Governor's Budget proposes an increase of \$3.7 million in Reimbursement authority to continue with the implementation of the project, which would create a centralized information database and put SOS services online. This would replace an antiquated paper-based system, which includes a reliance on 3X5 index cards for records storage. The project aims to create a single intake process for the paper and online filings in order to lessen and eventually eliminate all backlogs. As a result, business filing turn-around times would be reduced, allowing businesses to launch quickly in order to generate jobs and tax revenues for California. This automation effort began in July 2011 and has a projected completion date of June 2016.

While the California Business Connect offers the promise of better service levels in 2016 and beyond, until that time the SOS lacks the resources to avoid delays in processing applications. Staff has requested an estimate of the resources needs for SOS to reduce the current backlog to the standard of five days offered by other States.

STAFF COMMENT

The SOS was requested to provide the committee an estimate of the resources needed for the SOS to both eliminate the current backlog and provide California businesses with a less wait time of five days or less to process business filing documents.

A preliminary estimate by the SOS suggested that it would require approximately \$8.9 million and 68 positions in 2013-14 (about \$6.7 million and 39 positions ongoing) to reduce the backlog to 5 business days within six months and maintain service at the level.

Staff notes that the Subcommittee plans to consider other facets of the Secretary of State's budget, including the funding for California Business Connect, at the April 2, 2013 hearing.

Staff Recommendation: Recommendation Pending

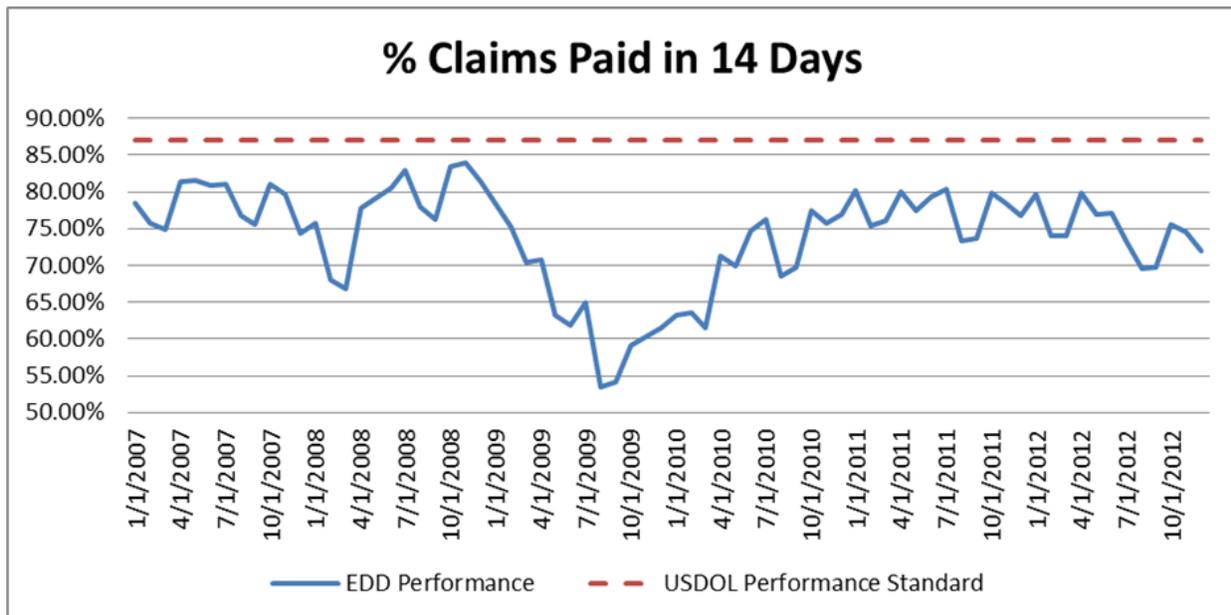
7100 EMPLOYMENT DEVELOPMENT DEPARTMENT

RESPONSE TIMES TO UNEMPLOYMENT INSURANCE CLAIMS

The Unemployment Insurance Program (UI) is a federal-state program that provides weekly UI payments to eligible workers who lose their jobs through no fault of their own. Benefits range from \$40 to \$450 per week depending on the earnings during a 12-month base period.

UI program benefits are financed by employers who pay state unemployment taxes, ranging between 1.5 and 6.2 percent, on the first \$7,000 in wages paid to each employee in a calendar year. Employers responsible for a high number of unemployment claims pay the highest tax rate. Administration of the UI system is also funded by employers, but administration funding is distributed to states by the federal government based on employer-paid federal unemployment taxes.

EDD's performance is below federal standards. The United States Department of Labor (USDOL) sets a number of performance standards for state UI programs. One of the most commonly cited is the timeliness of issuing the first benefit payment. According to USDOL, an acceptable response time for a state department is to pay 87 percent of completed claims within 14 days of receiving claims. EDD has consistently fallen below this measure, before, during and after the recent recession. The following chart was developed by the Assembly Insurance Committee:



Another measurement of EDD's performance is the department's ability to respond to phone calls. Information provided to the Subcommittee indicates that in December 2012, less than 20 percent of callers got through to an EDD agent. EDD received approximately 73.5 million calls in calendar year 2012.

Federal administrative funding does not meet EDD's needs. EDD officials note that federally-provided funding to administer the UI program has fluctuated dramatically in recent years, and funding levels have not matched the state's funding request in more than a decade. The amount of funding states receive to administer the program is based on a formula tied to unemployment levels and other data, but in practice there are not sufficient funds available to provide states with the funding levels that the formula would dictate. Thus, EDD has received about 20 percent less funding than it should have to administer the UI program during the past 7 years.

The table below shows the amount of administrative funding the state has been entitled to under the federal formula and the amount it has actually received.

Year	Formula Amount	Amount Received	% Difference
2007	\$405.9 million	\$332.5 million	-18%
2008	\$387.1 million	\$319.1 million	-18%
2009	\$407.7 million	\$341.6 million	-16%
2010	\$417.3 million	\$346 million	-17%
2011	\$444.1 million	\$344.5 million	-22%
2012	\$438.2 million	\$339.9 million	-22%
2013	\$474.2 million	\$345.7 million	-27%

EDD has implemented IT projects in an attempt to address problems. EDD has launched several IT projects to address its deficiencies in administering the UI program. The UI Modernization Project sought to modernize the department's call center and allow for electronic submittal of UI continued claims and provide other self-service options for claimants. The call center project has been fully implemented, while the self-service functions are projected to go live this year. The UI Modernization Project is expected to cost \$185 million, with funding from federal sources and EDD's UI administration funds.

In addition, EDD completed a major upgrade of its database system in 2011, replacing a 30-year-old system with a more modern system. That project converted 1.2 billion records and cost about \$40 million.

EDD has been asked to provide an update on its UI response times and call center activity, and to provide its plan and goals for improvement. The Subcommittee may also wish to ask how the federal sequestration process will impact EDD administrative funds.

7100 EMPLOYMENT DEVELOPMENT DEPARTMENT

The Employment Development Department (EDD) pays benefits to eligible workers who become unemployed or disabled, collects payroll taxes, and provides employment and training programs under the federal Workforce Investment Act of 1998. In addition, the EDD collects and provides comprehensive economic, occupational, and socio-demographic labor market information concerning California's workforce.

The Governor's Budget proposes a total spending of \$16.9 billion (\$313.3 million General Fund), a decrease of \$3.4 billion (16.7 percent) compared to the current year, and 8,932.1 positions, a decrease of 763.7 positions compared to the current year. The decrease in expenditures is largely due to continuing reductions in the Unemployment Fund, a result of a reduction in the unemployment rate and the potential end of federal extensions of Unemployment Insurance benefits at the end of December 2013.

Fund Source (in thousands)	2011-12 Actual	2012-13 Projected	2013-14 Proposed	Change from CY	% Change
General Fund	\$344,217	\$329,875	\$313,314	(\$16,561)	(5.0%)
Unemployment Fund	\$15,674,055	\$12,794,696	\$9,374,786	(\$3,419,910)	(26.7%)
Other Funds (8)	\$6,632,127	\$7,160,857	\$7,200,051	\$39,194	.5%
Total Expenditure	\$22,650,399	\$20,285,428	\$16,888,151	(\$3,397,277)	(16.7%)
Positions	9,386.4	9,696.1	8,932.4	(763.7)	(7.9%)

ISSUE 1: UNEMPLOYMENT INSURANCE FUND DEBT

The state faces a \$10.2-billion dollar debt to the federal government, due to borrowing that has occurred to pay unemployment claims during the recession. The Governor's 2013-14 proposal would use General Fund to pay interest owed on the debt, and the Administration has convened a stakeholder group involving labor and business interests to work on a solution to paying the debt and addressing the imbalance between employer contributions and employee benefits. The Department will provide an update on the stakeholder process. It is unclear if an over-arching solution will be finalized this year.

PANELISTS

- Employment Development Department
- Department of Finance
- Legislative Analyst's Office

BACKGROUND

In part due to double-digit unemployment rates, the state's UI Fund was exhausted in January 2009 due to an imbalance between the benefit payments and annual employer contributions. To make UI benefit payments without interruption, the EDD began borrowing funds from the Federal Unemployment Account (FUA) to pay benefits to an increasing number of unemployed claimants. California is one of 32 states forced to borrow money from the federal government in recent years to handle surging unemployment. At the end of 2009, the UI Fund had a deficit of \$6.2 billion. Based on EDD economic assumptions, this deficit will grow to \$10.2 billion at the end of 2013.

Consequences of the debt. Beginning in September 2011, the state was required to pay interest on the outstanding federal loan. The interest must come from state funds, and the state faces dire consequences if the interest is not paid: federal unemployment insurance taxes on employers would skyrocket (about \$6 billion annually), and the federal government would stop covering administrative costs for unemployment insurance.

The Governor proposed and the Legislature approved a plan during the past two years to use General Fund monies to pay interest due in September 2011 and September 2012. To offset the General Fund expenditure, loans were approved from the Disability Insurance (DI) Fund to the General Fund, resulting in no net cost to the General Fund. The Administration made interest payments to the federal government of \$303.5 million in September 2011 and \$308.2 million in September 2012. The DI Fund is now owed \$611.7 million plus interest.

In addition to the added costs to the state related to interest payments, businesses also are facing increased taxes due to the deficit. Pursuant to federal law, the employer tax credit is reduced annually in states facing UI insolvency in order to pay off the deficit. This reduced credit cost California businesses an extra \$290 million in federal taxes in calendar year 2012, according to EDD estimations, and that cost will grow to \$582 million in calendar year 2013.

Imbalance between benefits and funding will remain an issue beyond recession.

As both the Department of Finance and Legislative Analyst have noted, the imbalance in the UI Fund was dramatically exacerbated by high unemployment during the past five years, but the problem may remain even in better economic times. Key reasons for this imbalance include:

- Significant statutory increases to UI benefit levels that began in 2002 and increased maximum weekly benefits from \$230 per week to \$450 per week
- No change in the UI financing structure since 1984, despite the benefits increases. In addition, average weekly wages and the minimum wage have doubled since then.

The maximum amount California employers are required to pay for unemployment benefits is the second lowest in the nation, while benefits levels are among the top third in the nation.

Governor's Proposal. The Governor's 2013-14 Budget proposes a \$291.2 million General Fund payment to the federal government in September 2013 to cover interest owed on the debt. Unlike the previous two years, the General Fund payment would not be backfilled by borrowing from the Disability Insurance Fund. The Administration also has convened a stakeholder group to discuss the UI problem and identify possible solutions to meet annual federal interest obligations, repay the federal and DI loans and return the UI Fund to solvency.

STAFF COMMENTS/QUESTIONS

The consequences of not paying the interest owed to the federal government are severe. Thus, the Governor's proposal to use General Fund to pay the interest may be the only alternative in the near term. The specific amount required by the federal government for interest is subject to change due to changing federal interest rates. Budget Bill Language included in this proposal allows the Administration to alter the payment amount owed in September 2013 based on current interest rates.

As for the longer-term issue of bringing the UI system into balance, the Legislative Analyst recommended in a 2010 report a balanced approach of tax increases, benefit reductions, and eligibility changes to restore long-term financial health to the system. The Governor's 2012-13 Budget Proposal included a plan to limit UI eligibility for some workers and add a surcharge on employers, but the plan only raised enough revenue to repay interest payments and therefore did not address the long-term problem. Assembly Budget Subcommittee No. 4 rejected the proposal at its March 7, 2012 hearing.

The Subcommittee should ask the Administration for an update on the stakeholder process and a timeline for a proposal to address the long-term issues. Because a working group has been formed to help determine a final proposal, the Subcommittee may wish to hold this issue open for further discussion.

Staff Recommendation: Hold Open

ISSUE 2: DISABILITY INSURANCE AUTOMATION PROJECT

The Governor's Budget proposes a \$10.6 million augmentation from the Disability Insurance Fund (DI Fund) and a redirection of \$1.9 million from the DI Fund and a net 26 additional positions to continue operation of the Disability Insurance Automation (DIA) Project.

PANELISTS

- Employment Development Department
- Department of Finance
- Legislative Analyst's Office

BACKGROUND

Disability Insurance provides temporary, partial wage replacement to eligible disabled workers who suffer a loss of wages when they are unable to work due to illness or injury. The program is funded through employee payroll deductions and covers about 15 million Californians.

The DIA Project is intended to automate several manual processes associated with filing disability insurance claims. The project allows claimants, medical providers, and employers to use the Internet to submit claims. The project also will convert paper claims to electronic formats and allow some claims to be paid automatically. In addition, the project allows EDD to better interact with medical providers and employers who have automated their health-data systems to comply with the federal Health Insurance Portability and Accountability Act (HIPPA).

First approved by the California Technology Agency in 2005, DIA went live on September 6, 2012, with claimants, medical providers, and employers able to use the system on October 9, 2012.

The state has been authorized for \$120.6 million in DI funds for the project so far. Last year, the Legislature approved a Spring Finance Letter for \$33.8 million to support activities in 2012-13 that brought the project on-line.

Governor's Proposal. The Governor's Budget seeks a one-time augmentation of \$10.6 million from the DI Fund to continue operations and a redirection of \$1.9 million from the DI Fund. The redirection is attributed to costs savings associated with the elimination of 36 Key Data Operator positions due to the automation project. The request also seeks 26 new positions.

Funding in 2013-14 would include:

- Training state staff to take over maintenance and operations functions from the vendor;
- Fully fund costs associated with electronic record storage at state Data Center; and,
- Working with the vendor to identify future system enhancements.

EDD states that future BCPs will not be needed, as savings associated with efficiencies in the system should fully fund ongoing operations costs, which it estimates will be \$8.9 million annually.

STAFF COMMENTS/QUESTIONS

While a necessary automation project, DIA has had a complicated history and implementation.

EDD estimated in 2006 that the project would cost \$35 million, be implemented by June 2009 and require annual maintenance and operations costs of \$3.2 million. All of those estimates were considerably off: the project is now expected to cost \$158 million and was implemented in 2012. Annual costs are projected to be \$8.9 million. Some of the additional costs were due to a legislative change that expanded unemployment insurance rules, which in turn required IT changes that impacted this project.

Implementation has led to slower response times for the Department. State law requires EDD to process initial claims within 14 days of receiving a fully-completed claim. According to EDD data, the Department was processing 88.2 percent of claims within that 14-day period before DIA went live, but that rate was down to 66.3 percent in January. EDD has been struggling as it sought to convert paper forms into the new format, but suggests it's response time is improving as the Department, claimants, medical providers, and employers become accustomed to the new system.

The Subcommittee may wish to ask the Department about the following issues:

- What are your current response times and what are your goals and timelines to meet response-time requirements?
- What percentage of claimants, medical providers, and employers are now using the automated processes?
- How will EDD handle claimants who do not have Internet access?
- How accurate are your estimates for ongoing maintenance and operations costs?

Despite the cost overruns and setbacks, the project has gone live and appears to be on track to make disability insurance a more efficient process without further costs beyond 2013-14.

Staff Recommendation: Approve the BCP

ISSUE 3: AB 118 – ALTERNATIVE AND RENEWABLE FUEL AND VEHICLE TECHNOLOGY PROGRAM

The Governor's Budget proposes an ongoing reimbursable budget authority appropriation of \$3 million that will allow the California Energy Commission to provide funds to EDD to provide workforce development and training related to the Alternative and Renewable Fuel and Vehicle Technology Program.

PANELISTS

- Employment Development Department
- Department of Finance
- Legislative Analyst's Office

BACKGROUND

AB 118 (Nuñez), Chapter 750, Statutes of 2007 created the Alternative and Renewable Fuel and Vehicle Technology Program, which seeks to develop new fuel and vehicle types to address the state's climate change policies. The program is funded by vehicle registration fees, vessel registration fees, and smog abatement fees.

As part of the program, the California Energy Commission entered into an interagency agreement with EDD's Employment Training Panel (ETP) to provide funds to help employers train employees in "green collar" jobs, such as renewable fuel production and maintenance of mass transit fleets that use renewable and low-emission fuels. ETP has used a total of \$10.3 million between 2009-10 and 2011-12 to award grants to employers. To date, \$7.2 million has been encumbered to train 6,170 workers under 20 approved contracts, and \$384,000 has been expended on administrative costs. EDD notes that five of those contracts have been cancelled and two have been closed, leaving \$1.5 million in unused funds, which will be reinvested in 2012-13.

Legislative authorization to expand funds for this program has occurred in the past through Budget Control Section 28.50, which allows reimbursements between agencies to occur mid-year with approval from the Department of Finance. The section also requires a 30-day notice to the Legislature for any expenditures over \$200,000.

Governor's Proposal. The Governor's Budget proposes to alter the manner in which funds are authorized. Instead of using the Control Section 28.50 process, EDD is requesting authority to receive \$3 million from the Energy Commission in 2013-14. This amount is based on historic grant awards and expenditures.

In addition, EDD is proposing provisional language that would allow them the authority to expend up to an additional \$3 million with approval from the Department of Finance but without the 30-day legislative notice period.

STAFF COMMENTS/QUESTIONS

The request for \$3 million in reimbursement authority appears appropriate and will allow the program a base amount of funding to quickly award grants. The LAO recommends approval of this request.

However, the request to add provisional language to the budget would remove legislative oversight of up to \$3 million. While the Administration argues this is necessary to allow for quickly responding to grant requests, a 30-day legislative notification period does not appear to be too onerous and provides appropriate oversight and transparency. The LAO recommends denying this part of the request.

Staff Recommendation: Approve the \$3-million Reimbursement Authority but Reject the Provisional Language Proposal.

7300 AGRICULTURAL LABOR RELATIONS BOARD

The Agricultural Labor Relations Board is responsible for: 1) conducting secret ballot elections so that farm workers in California may decide whether to have a union represent them in collective bargaining with their employer; and, 2) investigating, prosecuting, and adjudicating unfair labor practice disputes.

The Governor's Budget proposes total spending of \$6 million (\$5 million General Fund) for the board, a 9.4 percent increase from 2012-13, and 45.5 positions, a 4.6 percent increase from 2012-13.

Fund Source	2011-12 Actual	2012-13 Projected	2013-14 Proposed	BY to CY Change	% Change
General Fund	\$4,744	\$4,811	\$4,996	\$185	3.8%
Reimbursements	\$311	\$189	-	(189)	(100%)
Labor and Workforce Development Fund	-	\$490	\$1,011	\$521	106.3%
Total Expenditures	\$5,055	\$5,490	\$6,007	\$517	9.4%
Positions	32.8	43.5	45.5	2	4.6%

ISSUE 1: FUNDING FOR THE ADMINISTRATION OF THE AGRICULTURAL LABOR RELATIONS BOARD

The Governor's Budget proposes \$189,000 in 2012-13 and \$502,000 in 2013-14 in new funding from the Labor and Workforce Development Fund for 4 new administrative support staff positions and to fund increased travel costs and costs associated with the newly reestablished Oxnard field office.

PANELISTS

- Agricultural Labor Relations Board
- Department of Finance
- Legislative Analyst's Office

BACKGROUND

The Agricultural Labor Relations Board (ALRB) was created in 1975 to enforce the Agricultural Labor Relations Act (ALRA), which sets labor standards in the agricultural industry, provides that workers are to be free from restraint or coercion by unions or employers, and protects employees' rights to act with other employees to seek changes in working conditions.

Within the ALRB, the Office of the General Counsel receives, investigates and prosecutes unfair labor practice claims and is based in four regional offices in Salinas, Visalia, Oxnard, and El Centro. The Board, which is based in Sacramento, holds evidentiary hearings and adjudicates unfair labor practice cases and disputes that arise out of representation elections, administers the mandatory mediation law and adopts regulations to implement the ALRA.

The ALRB regulates an industry with an estimated 80,000 employers and 800,000 employees.

The ALRB has primarily been funded through the General Fund, and the state's recent budget troubles have impacted the agency. Eighteen positions were eliminated between 2001-02 and 2011-12, or nearly one-third of its workforce.

With its current workforce, ALRB contends that it is not meeting its mandate of enforcing the ALRA. The Office of the General Counsel last year enacted new goals to improve outcomes, requiring that investigations be completed in 90 days, and decisions on whether to prosecute violators at a board hearing within 180 days of a filed complaint. These tight timelines are necessary, ALRB states, because of the migratory nature of most agricultural employees. In addition, investigation processes were changed to require attorneys, instead of investigators, to lead investigations. ALRB's backlog of cases was the subject of a September 2010 legislative hearing, and the new procedures are intended in part to address that issue.

Governor's Proposal. The Governor's Budget proposes four new administrative positions. Three positions would be assigned to the Office of the General Counsel: an Accounting Officer, an Associate Information Systems Analyst, and an Associate Governmental Program Analyst. The fourth position would be a Senior Legal Typist assigned to the board. Overall, the ALRB notes that the increased support staff is needed to address increasing workloads related to the improvement in processes.

The new funding also would cover increased travel costs related to the changes in business practices, as well as the reopening in 2012 of the Oxnard field office.

STAFF COMMENTS/QUESTIONS

Until last year, ALRB was entirely supported by the General Fund. The 2012 Budget Act provided \$500,000 annually from the Labor and Workforce Development Fund for two clerical and two attorney positions. The Labor and Workforce Development Fund is established in Labor Code Section 2699 and is a repository for funds awarded through civil actions by employees against employers. A majority of the revenue raised is intended to be used by the Labor and Workforce Development Agency to enforce labor laws and educate employees and employers about labor laws.

The Administration estimates the fund will receive about \$4 million annually going forward. Based on current uses of the fund and one expense that will be eliminated after 2013-14, it appears the fund can support the additional \$502,000 annually as requested in the BCP.

As determined last year when the Legislature supported using this fund for the ALRB's work, it appears appropriate to use the Labor and Workforce Development Fund to support the board's overall mission to enforce the ALRA.

ALRB notes recent improvements in timeliness and increasing workload in its justification for these positions. The table below indicates a comparison between 2010-11 and 2012-13:

Activity	2010-11	2012-13 (projected)	% Change
Unfair Labor Practice Charges	86	135	57%
Election Petitions Filed	7	12	71%
Number of Checks Issued for Past Wages	196	3,000 (between 2012-2014)	

Staff Recommendation: Approve the BCP
