

## AGENDA

## ASSEMBLY BUDGET SUBCOMMITTEE NO. 5

## PUBLIC SAFETY

ASSEMBLYMEMBER SHIRLEY N. WEBER, PH.D., CHAIR

MONDAY, MARCH 13, 2017

2:30 P.M. – CALIFORNIA STATE CAPITOL ROOM 437

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## ITEMS TO BE HEARD

### 0690 OFFICE OF EMERGENCY SERVICES

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#### ISSUE 1: OVERVIEW OF THE OFFICE OF EMERGENCY SERVICES AND UPDATE ON CURRENT STATEWIDE EFFORTS

The Office of Emergency Services will open this issue with a description of recent cost trends and discussion on the primary drivers of those trends, as well as an overview of current statewide disaster efforts.

#### PANELISTS

- Office of Emergency Services
- Department of Finance
- Legislative Analyst's Office
- Public Comment

#### BACKGROUND

The Governor's budget includes \$1.38 billion total funds (\$173 million General Fund) for the Office of Emergency Services (OES) in 2017-18, a decrease of \$132 million or 8.7 percent from the current year.

#### Current OES Efforts

On March 7, 2017, Governor Edmund G. Brown Jr. requested a Presidential Major Disaster Declaration to bolster state and local recovery efforts following late January storms that caused major flooding, mudslides, power outages and damage to critical infrastructure across California.

Governor Brown also issued two emergency proclamations due to storms in late January and February for 53 counties, which direct Caltrans to formally request immediate assistance through the Federal Highway Administration's Emergency Relief Program. The proclamations also direct the Office of Emergency Services to provide assistance to specified counties as a result of the late January storms. Damage assessments for the February storms and for the damaged spillway at Oroville Dam are ongoing.

On February 10 2017, the Governor requested a Presidential Major Disaster Declaration for the state to bolster ongoing state and local recovery efforts following January storms that caused flooding, mudslides, erosion, power outages and damage to critical infrastructure across California.

Governor Brown also issued an executive order that adds the counties of Amador, Mono and Riverside to the 49 counties already included in the emergency proclamation issued last month due to January storms. The order also authorizes state funding through the California Disaster Assistance Act for 34 counties impacted by the storms and directs the California Department of Transportation to formally request immediate assistance through the Federal Highway Administration's Emergency Relief Program for Amador and Riverside counties.

On January 23, 2017, Governor Brown issued two emergency proclamations to secure funding to help communities respond to and recover from severe winter storms that caused flooding, mudslides, erosion, debris flow and damage to roads and highways. The emergency proclamations issued due to January and December storms direct Caltrans to formally request immediate assistance through the Federal Highway Administration's Emergency Relief Program. The proclamations also direct the Office of Emergency Services to provide assistance to local governments.

### **Cyber Security**

Cal OES is currently engaged in several efforts to harden state government cyber defense here in California.

**California Cybersecurity Integration Center (Cal-CSIC).** Last year, the California Cybersecurity Integration Center (Cal-CSIC) was established at Cal OES. The Cal-CSIC integrates disparate efforts and mission sets into a unified, coordinated and streamlined operation that reflects the full intelligence cycle from collection to analysis to dissemination, thereby supporting a robust cyber response.

**Integrating and Automating Data Feeds.** Cal OES-supported project at our California Fusion Centers that supports automating cyber threat intelligence.

**Governor's Cybersecurity Task Force.** This Task Force facilitates cybersecurity outreach to private industry, academic, law enforcement, and government partners both inside and outside of California. California Cybersecurity Task Force is a public-private partnership that serves as the advisory body to the Cal-CSIC to raise awareness of new threats and mitigation techniques.

**Cyber Hygiene Partnership with Department of Homeland Security's (DHS) National Cybersecurity Communications Integration Center (NCCIC).** California is moving to embrace and implement the DHS' National Cybersecurity Communications Integration Center's Cyber Hygiene campaign across state agencies. Although the program is voluntary, OES states that it would allow the Office to establish the state agency's baseline vulnerabilities and provide an overall state profile for a majority of public facing assets. According to OES, this program could establish a good metric for performance and would help the Office develop a long-term state strategy. To date, only thirteen organizations across all of California are taking advantage of this federal program.

**STAFF COMMENTS**

The Subcommittee may wish to ask OES to comment on current statewide efforts and respond to concerns regarding coordination with local governments and the public.

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**Staff Recommendation: This Item is Informational Only.**

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**ISSUE 2: CALIFORNIA DISASTER ASSISTANCE ACT**

The Office of Emergency Services will open this issue with a description of the proposed increase of \$56.7 million General Fund in 2017-18 to support local assistance and state operations activities, primarily related to the drought.

**PANELISTS**

- Office of Emergency Services
- Department of Finance
- Legislative Analyst's Office
- Public Comment

**BACKGROUND**

Governor Brown proclaimed a State of Emergency in January 2014, in response to prolonged drought conditions throughout the State. At that time, OES activated the State Operations Center and regional operations centers to monitor the drought, coordinate a state-level response to the drought, and provide technical assistance to local government agencies. For example, in communities affected severely by the drought, OES helped coordinate the provision of emergency water supplies for drinking and sanitation. Since the drought has not been declared an emergency by the federal government, the state cannot use federal funds to support drought-related activities. Accordingly, drought-related local assistance must be funded exclusively by CDAA (rather than mostly by the federal government), and OES staff must be supported by state funds when engaging in drought-related activities.

Previously, the Legislature has provided OES with funding from the General Fund to support OES' drought-related activities in recent years. This funding has been used to:

- Provide emergency drinking water,
- Remove dead and dying trees, and
- Support the State Operations Center and coordinate assistance to local agencies.

The 2016-17 Budget included a total of \$56.7 million for these purposes (though the tree mortality-related funds could also be used for other types of disasters). The funding for emergency drinking water and tree removal have been provided through the CDAA program.

## Governor's Proposal

The Governor's budget includes adjustments totaling \$56.7 million from the General Fund in 2017-18 for drought and other disaster purposes as follows:

- Drought-Related CDAA Claims (\$52.2 Million). This would continue current-year funding levels related to emergency drinking water (\$22.2 million) and tree mortality (\$30 million).
- Non-Drought-Related CDAA Adjustment (\$1 Million). The budget reflects a \$1 million augmentation to fund disaster assistance through CDAA that is not linked to the drought.
- State Operations Related to Drought (\$3.5 Million). The budget provides \$3.5 million in 2017-18 for drought-related coordination activities. This reflects a decrease in funding of \$1 million from the current-year level of funding.

### **LAO ASSESSMENT AND RECOMMENDATION**

According to documents provided to the LAO, prior-year spending data shows that OES has underspent its budget allocations for emergency drinking water and state operations. Specifically, in 2015-16, OES spent \$14.8 million on emergency drinking water, which was \$7.4 million less than its allocation of \$22.2 million. As of December 31, 2016, it was on-track to spend about \$14.8 million in 2016-17. Similarly, in 2015-16, OES spent \$2.8 million on state operations related to the drought, and it was on pace to spend less than \$2 million in 2016-17.

The LAO notes that the state has been relatively slow in expending CDAA funds on tree mortality - less than \$150,000 through December 31, 2016 - but the department indicates this is largely due to requirements that local governments identify matching funds before state funds can be awarded. The LAO expects that tree removal projects might accelerate in the coming year as local governments secure their matching funds. Moreover, the total need for tree removal is substantial.

The LAO recommendation is three-fold:

- **Delay Decisions Until May When Statewide Conditions Are More Certain.** Given that ongoing weather patterns are still affecting statewide hydrology, we recommend delaying any action on the Governor's drought response proposals until after the May Revision. At that point, the state's rainy season should largely be over, and the state will have better information on the drought. Furthermore, by May, OES should have additional information on current-year expenditures, which would provide further clarity on the amount of funding that likely will be needed in 2017-18. The LAO notes that OES has already indicated it expects to reexamine its proposed funding amount based on evolving conditions, and might propose budget changes in May.

While it is premature to determine final funding amounts related to drought until later this spring, the LAO anticipates the amount of necessary funding will be less than currently proposed. This is because improved hydrologic conditions around the state will negate the need for some amount of state agency response compared to recent years. Based on improved hydrology and prior-year spending data, we find that OES might only require \$14 million to provide emergency drinking water in the budget year, and it might be reasonable to reduce state operations funding for OES' drought response to about \$1.7 million. Finally, while OES' expenditures on tree mortality have lagged so far, the LAO expects that they may accelerate in the budget year and that the vast number of dead and dying trees in the state's forests may need to be removed to reduce fire risk and improve public safety. Therefore, the LAO anticipates that substantial funding for tree removal still will be needed in 2017-18.

- **Segregate Funding for Drought Purposes.** The LAO recommends that if the Legislature chooses to provide additional CDAA funding for emergency drinking water and tree mortality, it restrict the use of those funds to those purposes. Separating these funds from other CDAA funds will ensure that resources are directed to the purpose intended by the Legislature.
- **Direct OES to Make Future Funding Requests Through Budget Proposals.** The LAO recommends that the Legislature direct OES to submit any future requests for funding adjustments to CDAA or other drought-related activities through the submission of budget proposals rather than miscellaneous baseline adjustments. This approach, which is consistent with typical budgeting practice, will ensure that the Legislature has the information it needs to make its budgetary decisions.

<b>STAFF COMMENTS</b>
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Given current statewide emergency conditions, staff agrees with the LAO's recommendation to hold this proposal open May. When the Subcommittee hears this issue again, it may wish to provide OES with directives regarding the spending of CDAA funds.

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**Staff Recommendation: Hold Open.**

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**ISSUE 3: PUBLIC ASSISTANCE BUDGET CHANGE PROPOSAL**

The Office of Emergency Services (OES) will open this issue with an overview and description of this proposal, which requests an increase of \$3.5 million ongoing General Fund state operations and reduction of \$3.5 million Federal Trust Fund authority to realign the funding with workload in the Public Assistance Program.

**PANELISTS**

- Office of Emergency Services
- Department of Finance
- Legislative Analyst's Office
- Public Comment

**BACKGROUND**

The Public Assistance Program is responsible for administering the California Disaster Assistance Act (CDAA) program, providing financial assistance to eligible local and non-profit entities to recover from state-only disasters and those recovery activities not eligible for federal reimbursement. The CDAA is California's primary funding mechanism for providing State General Fund financial assistance and aid in rebuilding efforts to disaster-impacted communities. When California has met the threshold for a Presidential disaster declaration, the Public Assistance program staff work one-on-one with the impacted communities to ensure California maximizes the recovery of costs from the Federal Emergency Management Agency (FEMA).

Since 2007, 42 of 47, or 89 percent, of the disasters in California were state-only events. Current baseline authority for the Public Assistance Program is 50 percent General Fund and 50 percent federal reimbursement authority. However, this does not sustain the program's state-only workload. The General Fund exclusively funds administration in support of state-only disaster events, activities which are not eligible for federal reimbursement, and shares costs for federal events.

For all state-only disaster events, the state is responsible for:

- All costs associated with disaster recovery.

If a federal declaration occurs, the state is responsible for:

- Cost share,
- all pre-declaration recovery activities, and
- non-reimbursable costs such as time spent at the Joint Field Office, applicants' briefings, general travel, and per diem.



Additionally for federal funds, per FEMA regulations, which changed in 2008, states have an eight-year funding cap on administrative activities and must absorb such costs. The change in federal regulation affects costs not directly charged to a specific project such as administrative and management activities, which must be absorbed by the General Fund.

The 2016-17 Budget Act included an additional \$3.5 million from the General Fund for the program on a one-time basis. Last year's budget also included provisional language, which made the availability of these additional funds contingent on OES providing the Joint Legislative Budget Committee with a notification regarding state and federal expenditures compared to funding authority for this program.

<b>LAO ASSESSMENT AND RECOMMENDATION</b>
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According to the LAO, "OES has not provided adequate data to substantiate its request for \$3.5 million in additional General Fund to address its Public Assistance Program... OES has overspent its General Fund allocation for the Public Assistance Program in each of the past three years. Most recently, in 2015-16, OES's General Fund expenditures for the program were \$6.9 million, which was \$1.6 million higher than its authority. (The department has covered these costs by redirecting resources from other programs.) If the recent trend continued, we would expect that the department would need only about \$2 million - rather than the \$3.5 million requested - in additional General Fund support in 2017-18 compared to its budget authority."

The chart below coincides with the data cited by the LAO above.

	2013-14		2014-15		2015-16	
	General Fund	Federal Funds	General Fund	Federal Funds	General Funds	Federal Funds
Budgeted Allocation	\$5.3	\$5.3	\$5.3	\$5.3	\$5.3	\$5.3
Expenditures	6.4	2.8	6.5	3.3	6.9	3.6
<b>Amount Unspent/(Shortfall)<sup>a</sup></b>	<b>(\$1.1)</b>	<b>\$2.5</b>	<b>(\$1.2)</b>	<b>\$2.0</b>	<b>(\$1.6)</b>	<b>\$1.7</b>

### LAO Recommendation

The LAO recommends that the Legislature reduce the Governor's proposed General Fund augmentation from \$3.5 million to \$2 million in 2017-18 and ongoing to support its Public Assistance Program, with a commensurate reduction in federal trust fund authority. Based on historical data, this should allow OES to address its Public Assistance Program workload. To the extent that General Fund expenditures on the Public Assistance Program continue to grow, the department can return to the Legislature in a future year to request additional funding.

**STAFF COMMENTS**

Last year, the Legislature took action to approve the additional funding from the General Fund on a one-year basis with provisional budget language that required OES to notify the Joint Legislative Budget Committee regarding federal and General Fund expenditures. This Subcommittee may wish to take an action similar to last year's and approve this funding on a one-time basis with additional provisional budget language requiring a JLBC notification on funds.

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**Staff Recommendation: Hold Open.**

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**ISSUE 4: VICTIMS OF CRIME ACT BUDGET CHANGE PROPOSAL**

The Office of Emergency Services (OES) will open this issue with an overview and description of this proposal, which requests 23.0 positions for the establishment of permanent positions related to the increase in the Victims of Crime Act federal award.

**PANELISTS**

- Office of Emergency Services
- Department of Finance
- Legislative Analyst's Office
- Public Comment

**BACKGROUND**

On December 16, 2014, President Obama signed into law the "Consolidated and Further Continuing Appropriations Act, 2015." This increased the 2015 Crime Victims Fund appropriation level from \$745 million to just over \$2.3 billion, quadrupling funding for VOCA grant programs administered through the Office of Victims of Crime. For California, the VOCA award increased from the 2014 amount of \$52 million to \$232 million in 2015. This increase presented both a significant opportunity and challenge for Cal OES.

It was unknown if Congress would sustain this level of funding for future years. Therefore, states were recommended to proceed with the assumption that this was a one-time increase. For this reason, temporary positions were hired in the Spring of 2016 to manage the increased workload. Temporary positions cannot be extended beyond a second year; therefore, the temporary positions will terminate in the Spring of 2018.

**10 Year History**

Victims of Crime Act

	<b>Total Award</b>
16VOCA	264,297,285
15VOCA	232,722,931
14VOCA	51,829,052
13VOCA	48,127,169
12VOCA	42,593,117
11VOCA	48,244,446
10VOCA	46,204,706
09VOCA	40,622,608
08VOCA	34,342,000
07VOCA	41,785,000

OES states that the 2016 VOCA award is increasing further to \$268 million, generating additional concerns with supporting the workload beyond the Spring of 2018. The 2016 VOCA funds expire September 30, 2019, which, without approval of this proposal, leave approximately 18 months without these staff to manage the increased workload.

### **Governor's Proposal**

The Governor's Office of Emergency Services (Cal OES) requests 23.0 positions for the establishment of permanent positions related to the increase in the Victims of Crime Act (VOCA) federal award.

### **STAFF COMMENTS**

In response to concerns regarding fluctuations in federal funding, OES stated that hiring for the positions would only occur should funding levels remain at the current state. If funding were to decrease, OES would hire less staff and provide a negative BCP, as no General Fund is used to support any portion of this program. OES also does not anticipate that the federal award will decrease to an amount lower than \$200 million.

Staff recommends holding this proposal open in order to allow additional time to assess federal award amounts.

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**Staff Recommendation: Hold open.**

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**ISSUE 5: HAZARDOUS MATERIALS TRAINING SUPPORT BUDGET CHANGE PROPOSAL**

The Office of Emergency Services will open this issue with a description of the proposal, which requests two positions for support of the Hazardous Materials Training Program at the California Specialized Training Institute.

**PANELISTS**

- Office of Emergency Services
- Department of Finance
- Legislative Analyst's Office
- Public Comment

**BACKGROUND**

The HMEP training grant requires states to work through their Local Emergency Planning Committees (LEPC) to identify hazardous materials response training needs statewide. The LEPCs identify training needs, including type of training and location of training. Cal OES/CSTI, the state training and certifying agency for all hazardous materials response, then develops an annual training plan based on LEPC training needs that have been identified. Much of the response training is hands-on with 35 to 40 responders per class, making it not feasible or cost effective to require responders to all travel to one headquarters location.

Conducting training at regional and local training sites provides the capability for first responders to quickly access needed life-safety training with minimal disruption to their day-to-day services. Since the courses are held throughout the state in addition to the CSTI campus in San Luis Obispo, the positions will work both in San Luis Obispo and at the other training sites. According to OES, the request for two Maintenance Mechanic positions is further supported by the need to have sufficient Maintenance Mechanics available to work when two classes are held simultaneously at remote or separate locations.

**Governor's Proposal**

The California Governor's Office of Emergency Services (Cal OES) requests 2.0 positions for support of the Hazardous Materials Training Program at the California Specialized Training Institute (CSTI). The increase in state-offered training courses has created the need for two Maintenance Mechanics to support the equipment, trailers, and infield training related to the response to hazardous materials incidents.

These positions would be funded by existing federal Hazardous Materials Emergency Preparedness (HMEP) grant funds.

**STAFF COMMENTS**

Staff notes no concerns with this proposal at this time.

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**Staff Recommendation: Hold open.**

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**ISSUE 6: DOMESTIC VIOLENCE VICTIMS FUND BUDGET CHANGE PROPOSAL**

The Office of Emergency Services will open this issue with a description of the proposal, which requests \$250,000 ongoing local assistance authority to pass through from the California Domestic Violence Victims Fund, contributions collected pursuant to Chapter 289, Statutes of 2016.

**PANELISTS**

- Office of Emergency Services
- Department of Finance
- Legislative Analyst's Office
- Public Comment

**BACKGROUND**

The Cal OES' Victim Services Division provides federal and state financial assistance to victim service agencies in California through the competitive and non-competitive processes. These programs provide a wide range of support services for victims and their families including, but not limited to, direct services, advocacy, training, and technical assistance. The Personal Income Tax Law authorizes taxpayers to contribute amounts in excess of their tax liability for the support of specified funds. Chapter 289, Statutes of 2016, authorizes taxpayers to designate on their tax returns that a specified amount in excess of their tax liability be transferred to the California Domestic Violence Victims Fund.

**Governor's Proposal**

The California Governor's Office of Emergency Services (Cal OES) requests \$250,000 ongoing local assistance authority to pass through from the California Domestic Violence Victims Fund, in accordance with Revenue and Taxation Code section 18713. This request would allow OES to obtain authority to distribute monies collected, pursuant to Revenue and Taxation Code section 18711, to domestic violence programs in California that are in active status, and are active recipients under the Comprehensive Statewide Domestic Violence Program within the Cal OES as described in Section 13823.15 of the Penal Code.

**STAFF COMMENTS**

Staff notes no concerns with this proposal at this time.

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**Staff Recommendation: Hold Open.**

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**ISSUE 7: CAPITAL OUTLAY: RELOCATION OF RED MOUNTAIN COMMUNICATIONS SITE, DEL NORTE COUNTY**

The Office of Emergency Services will open this issue with a description of the proposal, which requests a total of \$3.1 million for the Relocation of the Red Mountain Communications Site project.

**PANELISTS**

- Office of Emergency Services
- Department of Finance
- Legislative Analyst's Office
- Public Comment

**BACKGROUND**

The Red Mountain communications site hosts 5 communication vaults and towers needed to support critical radio communications for 12 government public safety agencies and private industry serving the western side of Del Norte and Humboldt Counties. California owns one vault and two towers at this location which serves as the primary public safety communication hub. This site has been used for public safety communications since the mid 1950's. The Red Mountain communications facilities provide public safety communication services supporting a population of approximately 250,000 people in Del Norte and Humboldt counties and provide vital communication links to state, federal, and local law enforcement, transportation, and resource agencies.

Due to delays in awarding the architectural and engineering contract and in pursuing long-term leases for the sites, which resulted in delays in other elements of the preliminary plans phase, including accessing communications sites to complete the California Environmental Quality Act and National Environmental Policy Act work, the preliminary plans phase will not be completed until August 2017. This proposal also includes a shift of \$1.8 million agency retained costs from the construction phase to the working drawing phase. This transfer is necessary to expedite the purchase and configuration of the tower equipment to provide for timely installation and completion of the connectivity between the existing towers and new towers, which all must be accomplished before demolition of the existing Red Mountain tower, vault, and equipment and restoration of the Red Mountain site.

**Governor's Proposal**

The Governor's Office of Emergency Services (Cal OES) requests a reappropriation of the working drawings phase (\$1,261,000 General Fund) of the Relocation of Red Mountain Communications Site project. This project is currently in the preliminary plans



phase; however, because of contracting delays and in pursuing long-term leases for the sites, completion of preliminary plans is scheduled for August 2017. Working drawings are scheduled for completion by April 2018, and construction is scheduled to begin in October 2018. Project completion is scheduled for April 2021. This reappropriation will allow Cal OES to complete the working drawings phase of the project without further delay.

Cal OES also requests that \$1,856,000 General Fund be shifted from the construction phase of the project to the working drawings phase, to allow for the purchase, configuration, and installation of long-lead tower equipment to ensure that the relocated communications towers are operational before the existing site is demolished (December 2022). Total project costs are estimated to be \$19,999,000 (\$2,683,000 for preliminary plans, \$3,117,000 for working drawings, and \$14,199,000 for construction).

<b>STAFF COMMENT</b>
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Staff notes no concern with this proposal at this time.

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**Staff Recommendation: Hold Open.**

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**ISSUE 8: CAPITAL OUTLAY: HEADQUARTERS COMPLEX, RANCHO CORDOVA: PUBLIC SAFETY COMMUNICATIONS NETWORK OPERATIONS CENTER**

The Office of Emergency Services will open this issue with a description of the proposal, which requests a total of \$5.6 million for the construction phase of the continuing Public Safety Communications Network Operations Center project.

**PANELISTS**

- Office of Emergency Services
- Department of Finance
- Legislative Analyst's Office
- Public Comment

**BACKGROUND**

California Public Safety Microwave Network (CAPSNET), which consists of more than 500 microwave towers and vaults across the state, has been in service for over 50 years and has evolved into a critical public safety communications network that the state's emergency responders depend on. The Governor's Office of Emergency Service (Cal OES)' Public Safety Communication (PSC) Division oversees the operation of the state's microwave network through the Network Operations Center (NOC), located in Sacramento.

Currently, inspecting or repairing microwave circuits or radio equipment at a remote site typically requires a minimum of two technicians, one of whom must be at a single hub location. Some conditions require additional technicians located at other remote sites. Troubleshooting and aligning the network's analog routes that terminate at the NOC are a significant challenge as the analog terminations can only be evaluated and maintained by on-site controlled equipment at the NOC. The circuits are hardwired at the hub and the microwave routes terminate at the same hub, so moving these terminations would be an extremely costly and time consuming effort. Moreover, moving the terminations would simply move the test and access point to another location without providing redundancy.

As such, the proposed project's scope also includes PSC working with a vendor to develop, test, and install remote interface test appliance (RITA) devices to eliminate the need for changes in hardwiring. Without implementing a RITA solution the cross-connections for more than 500 circuits would need to be hardwired and up to six microwave paths would need to be routed to the new, proposed NOC location at the Cal OES headquarters. The significant staff hours, cost to duplicate the hardwiring and an outage to public safety radio service make this a non-viable option.

Strategically locating the RITA devices will allow PSC technicians to troubleshoot and repair radio channels and microwave circuits without requiring a technician to be physically present at the existing NOC location. The advantage gained is the ability to perform testing and diagnosis from remote locations. This remote access will allow testing and repair of circuits from remote sites that may not be accessible to personnel during inclement weather. This remote access feature, along with the completion of Sacramento Ring, will allow Cal OES to perform the NOC's functions at an alternative location.

When a new NOC is developed at the Cal OES headquarters complex, the existing NOC will continue to act as a radio vault like others in the public safety microwave network backbone and will also serve as the secondary NOC. Moving the primary microwave NOC and having a secondary NOC available will build in the redundancy described in the Public Safety Microwave Network Strategic Plan and in the Public Safety Microwave Network Roadmap.

One-time costs will include the construction of a telecommunication tower and one digital microwave pathway to provide an alternative path to connect to the microwave network. The current towers at the Cal OES headquarters complex cannot support the additional weight loading and antenna placement for the microwave equipment that will be needed. Because the existing Cal OES headquarters has been deemed an essential services building per the California Essential Services Buildings Seismic Safety Act of 1986, any additions or modification to the facility must meet essential services criteria and be approved by the Division of the State Architect within the Department of General Services (DGS).

### **Governor's Proposal**

The Governor's Office of Emergency Services (Cal OES) requests \$5,571,000 General Fund for the construction phase of the continuing Public Safety Communications Network Operations Center project. This project will design and construct a new Public Safety Communications Network Operations Center at the Cal OES headquarters complex in Rancho Cordova. The project includes design and construction of a new microwave path and a 120-foot communications tower next to the headquarters complex, as well as testing and installing microwave circuit monitoring devices at various locations in the Sacramento Area. Total project costs are estimated to be \$6,272,000 (\$609,000 for preliminary plans, \$92,000 for working drawings, and \$5,571,000 for construction).

### **STAFF COMMENT**

Staff notes no concerns with this proposal at this time.

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**Staff Recommendation: Hold Open.**

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**ISSUE 9: STATE PENALTY FUND TRAILER BILL LANGUAGE**

The Department of Finance will open this issue with an overview of the proposed trailer bill language regarding the State Penalty Fund (SPF), followed by recommendations from the Legislative Analyst's Office. Finally, OES will provide an overview of the programs within their jurisdiction that would be impacted by this proposal.

**PANELISTS**

- Department of Finance
- Legislative Analyst's Office
- Office of Emergency Services
- Public Comment

**BACKGROUND**

Currently, fine and fee revenue deposited into the SPF is allocated to nine different state special funds, which then support various state and local programs (such as local law enforcement). The amount of revenue deposited into the SPF peaked in 2008-09 at about \$170 million and has steadily declined since. In the 2016-17 Budget, the Legislature appropriated on a one-time basis General Fund monies to specific programs supported by SPF revenue to essentially backfill the projected decline in fine and fee revenue. Total revenue deposited into the SPF in 2017-18 is expected to be about \$94 million, a decline of about 45 percent since 2008-09.

For 2016-17, the Administration estimates that a total of \$97 million from the SPF will be spent on specific programs. It is also estimated that \$209 million from other fund sources (such as other state funds and federal funds) will be spent on these programs, for a total of \$306 million in current-year expenditures (as shown in Figure 8). We note that the amount of other funds includes \$19.6 million from the General Fund that was provided in 2016-17 on a one-time basis to backfill a projected reduction in SPF revenues, \$16.5 million to the Commission on Peace Officer Standards and Training (POST) and \$3.1 million to the Standards and Training for Corrections Program. Similarly, the 2016-17 Budget also provided \$4.2 million from the Restitution Fund on a one-time basis to backfill SPF support for various victim programs administered by the Office of Emergency Service (OES).

A total of \$94 million is estimated to be deposited into the SPF in 2017-18. Of this amount, the Administration estimates that \$90.4 million will be available to support various programs. (After accounting for a few other relatively minor expenditures, the SPF is expected to retain a fund balance at the end of 2017-18 of \$1.6 million.) When

combined with an estimated \$174 million in funding from other sources, we estimate that total expenditures on SPF-supported programs will be almost \$265 million in the budget year under the state's current distribution system for SPF revenues. This is a decline of about \$41 million (or 13 percent) from the estimated 2016-17 level. While part of this reduction reflects a decline in revenues to SPF, a majority of it is due to the expiration of the above one-time backfills that were provided in the current year.

The Governor proposes an alternative 2017-18 expenditure plan for programs supported by the SPF that reflects both the projected reduction in SPF revenues and the expiration of the various one-time offsets that were provided in the current year. However, the Governor proposes to allocate SPF revenues in a manner different than required under current law, which, results in different levels of reductions for certain programs. Specifically, the Governor proposes to eliminate existing statutory provisions that require the transfer of specified amounts of SPF revenue to the nine other state funds. Instead, the Governor's budget proposes to appropriate specific dollar amounts from the SPF directly to certain programs based on the administration's priorities.

### **Governor's Proposal**

The Governor's Budget proposes to eliminate funding for the Motorcyclist Safety Program, Local Public Prosecutors and Public Defenders Training Program, Internet Crimes Against Children Task Forces, and the California Gang Reduction, Intervention, and Prevention Programs (CalGRIP) from the State Penalty Fund. Registration revenues are sufficient to continue the Motorcyclist Safety Program, federal funding will continue 35 percent of the funding for the Local Public Prosecutors and Public Defenders Training Program, and local and federal contributions would continue for the Internet Crimes Against Children Task Forces. However, this proposal would eliminate all funding for the grants associated with CalGRIP.

<b>LAO ASSESSMENT AND RECOMMENDATION</b>
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The LAO provided the following comments on the Governor's proposal on the State Penalty Fund:

- **Helps Increase State Control Over Use of Fine and Fee Revenue.** Our January 2016 report, *Improving California's Criminal Fine and Fee System*, identified a number of key problems with the state's existing fine and fee system. One key weakness was that it was difficult for the Legislature to control the use of fine and fee revenue due to the various statutory formulas dictating how such revenue must be allocated. The Governor's proposal to eliminate the statutory formulas allocating SPF revenue is a step in the right direction towards helping address this weakness by increasing state control over the use of SPF revenue. Eliminating the formulas allows the state to more easily reprioritize the use of funding to those programs that are deemed to be of higher priority. For example, state and local law enforcement training programs would have been required to reduce expenditures the most under

existing state law. However, the Governor's proposal prioritizes these programs and ensures expenditure reductions are minimized, such as eliminating support for four other programs entirely and distributing reductions across more programs. Taking this targeted approach is particularly important as the amount of fine and fee revenue deposited into the SPF can fluctuate depending on factors outside of the Legislature's control, such as the number of citations issued by law enforcement, individual's willingness to make payments, and the amount collected by collection programs.

- **But Unclear What Impact Proposed Reductions Will Have.** The administration's proposal, however, does not specify how the programs would accommodate the proposed funding reductions. Rather, the budget reflects unallocated reductions to specific programs and gives the programs maximum flexibility to take whatever steps they deem appropriate to implement the reductions, which may or may not be aligned with legislative priorities. For example, it is unclear the extent to which law enforcement officers may no longer be in full compliance with training requirements due to reduced revenues to POST or the Standards and Training for Corrections program. Accordingly, the programmatic impact of the proposed reduction is unknown.
- **Proposal Does Not Include Plan if SPF Revenues Are Lower Than Estimated.** The Governor's budget includes an expenditure plan to allocate \$90.4 million from the SPF, leaving a \$1.6 million fund balance. As mentioned previously, revenue deposited into the SPF can fluctuate significantly from year to year. To the extent revenues are lower than expected in a given year, existing state law dictates how the reductions will be allocated among programs. In contrast, the Governor's proposal does not include a plan on how a decline in estimated SPF revenue of more than \$1.6 million would be accommodated. Without such a plan, the Legislature could be in a position to have to make midyear funding adjustments.
- **Legislature May Have Different Priorities.** While the Governor's proposal reflects the administration's funding priorities, it is likely that the Legislature has different priorities. The Legislature could decide that different programs should be eliminated or that programs should implement different levels of expenditure reductions. For example, the Legislature could decide that victim programs are of greatest priority and should then implement fewer expenditure reductions than proposed by the Governor. In addition, the Legislature may be concerned that choices made by departments to reduce expenditures may not be consistent with its priorities. For example, the Legislature may want to ensure that departments maintain expenditures on prioritized activities, like certain types of law enforcement training.

**LAO Recommendation.**

1. **Modify Governor's Proposal to Reflect Legislative Priorities.** As discussed above, the Governor's proposal to increase legislative oversight over SPF revenue is a step in the right direction. However, to address concerns with the Governor's proposal, the LAO recommends the Legislature modify the Governor's proposal to reflect its priorities. For example, the Legislature may want to target reductions at specific programs in a manner different than proposed by the Governor. Additionally, we recommend the Legislature direct programs to take specific actions in implementing the expenditure reductions - rather than giving departments complete discretion—in order to ensure that legislative priorities are maintained.

For example, with respect to the California Department of Education (CDE) Bus Driver Training Program, the Legislature could direct the department to reduce specific expenditures (such as no longer providing lodging for program participants) or to operate the program more cost-effectively (such as by increasing class size). Alternatively, the Legislature could direct programs to look for alternative funding sources to maintain expenditures. For example, CDE currently charges a \$1,000 fee for its training program (as well as fees for various other services) that generates roughly \$100,000 annually. This fee has not changed since 2008 and could potentially be increased to generate additional revenue to offset the proposed reduction. Finally, the Legislature could specify a plan to the extent SPF revenues are lower in 2017-18 than projected. For example, the Legislature could approve an expenditure plan that ranks programs in priority order. To the extent revenues are lower than expected, lower priority programs would be required to implement additional expenditure reductions.

To assist the Legislature in determining its SPF funding priorities, we recommend directing each administering department to report in budget hearings on how it would implement expenditure reductions and what impact such reductions would have upon program operations under the current distribution system, as well as under the Governor's proposal. Such information would help the Legislature determine the appropriate funding level for each program and ensure that each department plans to implement any expenditure reductions in a manner that is consistent with legislative priorities.

Additionally, we recommend that the Legislature direct departments to assess whether alternative fund sources are available to support program operations. For example, OES received a substantial increase in federal funds to support crime victim assistance programs beginning in 2015, with millions of dollars of these funds subsequently allocated to the Victim-Witness Assistance Program and the Rape Crisis Program. With an expected increase in such federal funding in the coming year, it is possible that these programs require less SPF revenues—thereby increasing the amount available to support other programs.

2. **Alternatively, Deposit Most Criminal Fine and Fee Revenue in State General Fund.** While the Governor’s proposal to change the allocation of SPF revenues would be a step in the right direction in improving the state’s fine and fee system, we continue to believe that taking a much broader approach to changing the overall distribution of fine and fee revenue would be preferable. As discussed in our January 2016 report, we find that eliminating all statutory formulas related to fines and fees would give the state maximum control over fine and fee revenue. Accordingly, we recommend the Legislature require that nearly all fine and fee revenue, excluding those subject to certain legal restrictions (such as monies collected for violations of state law protecting fish and game), be deposited into the General Fund for subsequent appropriation by the Legislature in the annual state budget.

Depositing all fine and fee revenue in the General Fund would allow the Legislature to maximize its control over the use of these monies and to ensure that annual funding for state and local programs is based on workload and legislative priorities. Moreover, an annual review of programmatic funding levels would facilitate periodic reviews of programs to help ensure that they are operating effectively and efficiently. In addition, any fluctuations in the collection of fine and fee revenue would no longer disproportionately impact programs supported by fines and fees. Instead, fluctuations in revenue would be addressed at a statewide level across other state programs, ensuring that adjustments in funding levels were based on statewide legislative priorities.

Depositing all fine and fee revenue into the General Fund would eliminate the need for the Legislature to continuously identify and implement short-term solutions to address problems with various special funds currently facing or nearing structural shortfalls or insolvency. These funds include the Trial Court Trust Fund, the Improvement and Modernization Fund, the State Court Facilities Construction Account, the Restitution Fund, and the DNA Identification Fund. (In the nearby box, we provide an example of one fund—the DNA Identification Fund—that faces potential insolvency.) In addition, other funds could be in a similar situation in the future if collections of criminal fine and fee revenue continue to decline. Instead, the Legislature could focus on ensuring that programs provide legislatively desired service levels. However, because these programs would now be supported by the General Fund, decisions about General Fund expenditures would be more difficult as the Legislature would need to weigh funding for these programs against all other programs currently supported by the General Fund.

<b>STAFF COMMENT</b>
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This Subcommittee held an Informational Hearing, which included an in-depth conversation about the State's Fines and Fees system. Several recommendations for simplifying and modifying the SPF were provided to the Subcommittee. Staff recommends holding this item open in order to continue to evaluate the various programs funded by the State Penalty Fund and prioritize funding accordingly.



The Subcommittee is also in receipt of letters of concern regarding programs that currently receive funding from the State Penalty Fund. Staff recommends that this issue be brought back before the Subcommittee at hearings later in the Spring.

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**Staff Recommendation: Hold open.**

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**8120 COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING****ISSUE 10: COMMISSION OVERVIEW AND LAW ENFORCEMENT DRIVING SIMULATORS REPLACEMENT PROJECT**

The Commission on Peace Officer Standards and Training will provide a brief overview of the Commission's 2017-18 Budget and the budget change proposal on the Law Enforcement Driving Simulators Replacement Project.

**PANELISTS**

- Commission on Peace Officer Standards and Training
- Department of Finance
- Legislative Analyst's Office
- Public Comment

**BACKGROUND**

Since January 1, 2002, POST Regulation 1005, mandated all peace officers (except reserve officers) below the rank of middle management and assigned to patrol, traffic or investigation who routinely effect physical arrest of criminal suspects are required to complete Perishable Skills training. Studies have shown that incidents involving Perishable Skills make up the majority of law enforcement deaths and serious injuries. Additionally, events associated with perishable skills are the primary impetus for a significant portion of civil litigation. These same studies show that after two years without refresher training, these skills begin to deteriorate. The skills for peace officers that have been identified as most perishable are driving, tactical firearms, force options, arrest and control, and verbal communication.

Perishable Skills training is mandated to consist of a minimum of 12 hours over the course of a two-year period. Of the total 12 hours required, a minimum of four hours of each of the following topical areas is required to be completed:

- Arrest and Control
- Driver Training/Awareness or Driving Simulator (LEDS)
- Tactical Firearms or Force Options Simulator (FOS)

With both the statutory mandate, and safety of officers and the community in mind, POST developed 24 Regional Skills Training Centers (RSTCs) (Attachment A) to provide a cost effective means of providing perishable skills training to the more than 80,000 sworn officers affected by this training requirement. Each RSTC is equipped with

Law Enforcement Driving Simulators (LEDS) commensurate with the number of potential trainees requiring the training in their region.

As part of a 2009 contract, POST invested over \$11 million in LEDS, which included hardware, software and firmware (108 simulators, 26 instructor stations, six trailers, six generators, warranties and initial operations training). To meet these regulatory perishable skills training mandates, POST has trained approximately 57,796 Regular Basic Training recruits and peace officers for Perishable Skills training since the LEDS acquisition (2009-2015).

### **Governor's Proposal**

The Commission on Peace Officer Standards and Training (POST) requests limited term funding of \$1.8 million Motor Vehicle Account (MVA) to replace 16 driving simulators (8 annually) and continue to maintain the remaining simulators that are out of warranty. During this time, POST will develop an ongoing replacement schedule and plan for the driving simulators.

<b>STAFF COMMENT</b>
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Staff notes no concerns with this proposal at this time.

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**Staff Recommendation: Hold open.**

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