AGENDA – PART II

ASSEMBLY BUDGET SUBCOMMITTEE NO. 4
ON STATE ADMINISTRATION

ASSEMBLYMEMBER ADRIN NAZARIAN, CHAIR

MONDAY, MAY 23, 2016

2:30 P.M. - STATE CAPITOL, ROOM 447

VOTE-ONLY CALENDAR

VOTE-ONLY CALENDAR

0559, 7350 SECRETARY OF LABOR AND WORKFORCE DEVELOPMENT AGENCY, DEPARTMENT OF INDUSTRIAL RELATIONS

ISSUE 1: PRIVATE ATTORNEYS GENERAL ACT (PAGA) TRAILER BILL LANGUAGE, MAY REVISION CHANGES

PROPOSAL

The Subcommittee heard the Administration's January trailer bill proposal on PAGA at its April 12, 2016 hearing and chose at that time to request that specific components of the language be removed that raised the most significant policy questions. The Subcommittee held the balance of the proposal open pending continuing dialogue between the stakeholders and the Administration, with a request that the Subcommittee be advised of the status of the proposal prior to the May Revision.

The Administration has revised its proposal and the new language can be found at: http://www.dof.ca.gov/budgeting/trailer_bill_language/forcasting_labor_and_transportation/documents/403PrivateAttorneyGeneralAct_001.pdf

The table below summarizes the status of the trailer bill language as compared to the January version.

Statutory Change Proposed in January	Status in May Revision Proposal
1. Require that initial PAGA notices include more detailed information about the legal contentions and authorities supporting each alleged violation.	Removed.
2. Require that LWDA receive a copy of the complaint when legal action is initiated.	Remains.
3. Require that LWDA receive a copy of proposed settlements in PAGA cases.	Remains. DIR would also receive a copy of the court's judgment in the case.
4. Require that PAGA notices be submitted to LWDA through an online system.	Remains.
5. Require court approval of all settlements in PAGA cases.	Remains.
6. Require a filing fee for PAGA notices.	Remains.
7. Extend the time allowed for LWDA to determine whether to investigate a PAGA notice from 30 to 60 days and increase the time allowed for the investigation to conclude from 120 to 180 days.	Remains. However, extensions to the time allowed for investigations to be completed would occur on a case-by-case basis as needed, and the ability to make these extensions would sunset after five years. (The extended time allowed for LWDA to determine whether to investigate a PAGA notice would apply in every case and would not be subject to the sunset

Statutory Change Proposed in January	Status in May Revision Proposal
	provision.)
8. Specifically allow DIR to comment on proposed settlements in PAGA cases.	Removed.
9. Require that PAGA notices involving multiple employees be verified.	Removed.
10. Clarify that employers may request an investigation in response to a PAGA notice.	Removed.
11. Allow DIR to create ad hoc employer amnesty programs under specified conditions.	Removed.

STAFF COMMENTS

The Administration has worked with stakeholders to arrive at the current draft and there is consensus that these changes will aid in the administration of PAGA given the other budget resources previously approved by this Subcommittee on April 12, 2016.

Staff Recommendation:

Approve the May Revision revised trailer bill language as placeholder.

7350 DEPARTMENT OF INDUSTRIAL RELATIONS

ISSUE 2: CAR WASH WORKER FUND REVENUE AND EXPENDITURE ALIGNMENT TRAILER BILL LANGUAGE, MAY REVISION CHANGES

PROPOSAL

The Subcommittee heard the larger issue of Revenue and Expenditure Alignment at its April 12, 2016 hearing. There were stakeholder questions about the Car Wash Worker Fund, so the Subcommittee held this Fund component open, approving the balance of the budget change proposal and the associated trailer bill language as placeholder.

In the May Revision, the Administration proposed the following amendments for the Car Wash Worker Fund to clarify that the registration fee would not be increased unless the fund balance is projected to fall below 25 percent of annual expenditures. The language is proposed to be changed to read as follows and the updated revised trailer bill proposal can be found at:
http://www.dof.ca.gov/budgeting/trailer_bill_language/forcasting_labor_and_transportation/documents/405RevenueandExpenditureAlignmentforVariousSpecialFunds_002.pdf

Labor Code Section 2059 to be amended to read:

a) (1) The commissioner shall collect from employers a registration fee for each branch location, and, except as provided in paragraph (2), may periodically adjust the registration fee, in an amount sufficient to fund all direct and indirect costs to administer and enforce this part.

(2) The fee established pursuant to paragraph (1) shall not be increased unless the published fund balance is projected to fall below 25 percent of annual expenditures.

(b) In addition to the fee in subdivision (a), each employer shall be assessed an annual fee in an amount equivalent to 20 percent of the registration fee collected pursuant to subdivision (a) for each branch location that shall be deposited in the Car Wash Worker Restitution Fund.

STAFF COMMENTS

The Administration has worked with stakeholders to arrive at the current draft. No issues are being raised with this language.

Staff Recommendation:

Approve the May Revision revised trailer bill language as placeholder.

ISSUE 3: CONCRETE DELIVERY AND PUBLIC WORKS MAY REVISION TRAILER BILL PROPOSAL

PROPOSAL

The May Revision includes a trailer bill proposal that involved ready-mix concrete delivery and public works projects. A Department of Industrial Relations BCP proposal heard on April 12, 2016 allotted a position for DIR to implement AB 209, which included ready-mix concrete in the definition of public works. The trailer bill language makes technical changes to provide greater clarity for its implementation. Specifically, the language:

- Clarifies that nothing in the section shall cause an entity to be treated as a contractor or subcontractor for any purpose other than this section.
- Extends the time an entity hauling ready-mixed concrete can submit certified payroll records from three to five days.
- Clarifies that the section does not apply to public works contracts that are advertised for bid or awarded prior to July 1, 2016.
- Given the impending implementation date, it is requested that these technical clean ups happen as early as possible.

The proposed trailer bill language can be found at:
http://www.dof.ca.gov/budgeting/trailer_bill_language/forcasting_labor_and_transportation/documents/407ConcreteDeliveryandPublicWorks.pdf

STAFF COMMENTS

No issues have been raised with this request.

Staff Recommendation:

Approve the May Revision revised trailer bill language as placeholder.

ISSUE 4: NAIL SALON LABOR LAW ENFORCEMENT

PROPOSAL

Asm. Ting and advocates have raised concerns to the Subcommittee and requested its consideration of additional resources for DIR to improve labor law enforcement in nail salons.

Nail Salon workers, also called technicians, have complained about being classified as “independent contractors” when they are clearly employees of a salon. Others complain about being denied rest or meal periods. Worse, there is an inherent fear of retaliation if a worker reports any violation of labor laws. Additionally, nail salon owners have expressed that they are oftentimes unaware of labor laws and that perhaps training is in order.

STAFF COMMENTS

Significant legislative attention has recently been focused on the condition and treatment of nail salon technicians. Advocates involved are choosing to pursue many different paths to improve these conditions. DIR and the Labor Commissioner have chosen in the past to select certain industries and worker classes for "strategic" interventions to try to address labor issues.

Given the increased attention on these workers, staff recommends direction to DIR and the Labor Commissioner in Supplemental Reporting Language and the allocation of modest resources toward this effort, as well as resources to facilitate the distribution and posting of signage at nail salons regarding employer and employee obligations and rights. The intention of this recommendation is to promote additional focus and increased attention on this workforce going forward.

Staff Recommendation:

Approval of the following:

1. Adopt Supplemental Report Language (SRL) that would do the following (it is requested that the Legislative Analyst's Office be involved in drafting the final form of this SRL before it's adoption at Conference Committee):

   Require the Labor and Workforce Development Agency (Agency) to examine workplace labor violations within the nail salon industry and report its findings to the Legislature by January 1, 2017. Specifically, the Agency is being asked to:

   a) Perform an assessment of nail salon owners/employers and workers/employees knowledge of existing law labor laws, including, but not limited to, (i) misclassification of an employee as an independent contractor, (ii) wage and hour laws (including minimum wage, overtime compensation, meal periods, rest periods, tip or gratuity distribution, and how to report violations of the law), and (iii) protections from retaliation.

b) Prepare strategies for outreach and education of nail salon owners/employers and workers/employees regarding labor laws per (a) above, including, but not limited to, community workshops and town hall meetings, ensuring that outreach and education is conducted in the language(s) that the workers can understand.

c) Report the frequency of investigations of nail salons, including the number of nail salons investigated to date, the number of violations, and the types of violations that have occurred to date.

2. Approve funding for two positions and their workload to accomplish the goals of the SRL above and for on-going monitoring and interventions related to this industry and workforce, estimated at $400,000, from the Labor Enforcement and Compliance Fund.

3. Approve funding of $1 million as a placeholder amount from the Labor Enforcement and Compliance Fund for the creation and posting of signage for nail salons, with signage translated in the language(s) workers can understand. The content of this signage should include basic labor law rights and other legal protections pursuant to the areas of focus outlined in the SRL. The sign shall include contact information (phone number, physical address, email address, and a website address) within the Agency if a worker has questions or complaints.

7100 EMPLOYMENT DEVELOPMENT DEPARTMENT

ISSUE 5: BENEFIT OVERPAYMENT COLLECTION AUTOMATION PROJECT SPRING FINANCE LETTER

PROPOSAL

This proposal was heard at the Subcommittee's April 12, 2016 hearing and was held open.

The Governor requests a one-time budget augmentation of $1.6 million in 2016-17 and a one-time augmentation of $6.1 million in FY 2017-18. This finance letter also requests an ongoing appropriation of $1.1 million, beginning in FY 2018-19, for the support of the new Benefit Overpayment Collection System (BOCS) application. These requests will be used to fund contracts, hardware, software, ongoing support, and 12.3 new temporary PEs to replace the existing application used to collect unemployment insurance and disability insurance overpayments with an integrated and automated system.

The proposed solution will significantly reduce the risk of failure of the existing system by integrating the BOCS application into the Accounting and Compliance Enterprise System (ACES), which will also allow for a new revenue collection tool in the form of bank levies, which is estimated to bring in almost $23 million in additional funds annually, once fully implemented.

Staff Recommendation:

Approve the Spring Finance Letter.

ISSUE 6: UNEMPLOYMENT INSURANCE PROGRAM ADMINISTRATION MAY REVISION REQUEST

PROPOSAL

The Employment Development Department (EDD) requests a reduction of $4.5 million and 46.9 Personnel Equivalents (PEs) in Unemployment Administration (UA) authority for 2016-17 due to updated workload estimates. In addition, this request also includes a proposal to reduce Benefit Audit Fund (BAF) by $23.6 million, and replace it with increases of $19.7 million in General Fund and $3.9 million in Contingent Fund. General Fund and Contingent Fund resources are needed due to revenue collections for the Treasury Offset Program (TOP) coming in lower than previously anticipated.

- Item 7100-001-0001 is increased by $19,651,000 and 154.1 positions
- Item 7100-001-0184 is decreased by $23,611,000 and 185.2 positions
- Item 7100-001-0185 is increased by $3,960,000 and 31.1 positions
- Item 7100-001-0870 is decreased by $4,513,000 and 46.9 positions
- Item 7100-011-0890 is decreased by $4,513,000 (non-add item)

The EDD is the only state entity impacted by this proposal. In recent years, the state's UI program drew significant attention for its poor service levels. The 2013-14, 2014-15, and 2015-16 augmentations have offset the program's underfunding at the federal level, increased service levels, and helped the EDD achieve the benchmarks set forth in each request. The federal underfunding is expected to continue, leaving the state to rely on ongoing alternate funding sources to maintain the gains in service that have been achieved to date.

Updated UI Workload Projections. This proposal seeks to change the level of staffing identified in the 2016-17 UI BCP due to updated workload projections (see table 1 below). The overall decrease in workload accounts for a 13.0 PE reduction for EDD and a 33.9 PE reduction for the California Unemployment Insurance Appeals Board (CUIAB), amounting to $4.5 million.

Although workload has dropped resulting in a reduction of expenditures, this also results in EDD and the CUIAB receiving less money from the federal government. The decrease in federal dollars amounts to approximately $4.5 million.

Table 1 - Workload Comparisons

Workload Category	2016-17 October 2015	2016-17 May 2016	Variance	Percentage Change
Initial Claims	2,486,000	2,462,000	-24,000	-0.97%
Weeks Claimed	20,620,000	20,019,000	-601,000	-2.91%
Non-Monetary Determinations	810,000	839,000	29,000	3.58%
Appeals	237,000	213,000	-24,000	-10.13%

Treasury Offset Program. 2014-15 marked the first full year of TOP collections for California, which included almost $185 million dollars being deposited into the UI Trust Fund, BAF, and Contingent Fund. Due to the large influx of additional revenue tied to the first year of TOP collections, the 2016-17 Governor's Budget estimated that Year 2 of TOP would decrease from Year 1 by approximately 25 percent. EDD leveraged other states' experiences because there was only one year of data for California available.

In analyzing the TOP data across the larger states (collections more than $10 million), the Year 1 to Year 2 trends were fairly inconsistent. For example, Florida decreased over 76 percent from Year 1 to Year 2, yet New York only decreased 3 percent. Some states even saw gains from Year 1 to Year 2 (Wisconsin, Pennsylvania, and North Carolina). However, across all of the larger states the total amount of revenue collected dropped approximately 24 percent from Year 1 to Year 2.

Table 2 – TOP State Experience[1]
(Dollars in millions)

State	Year 1	Year 2	% Change
Alabama	10.5	5.8	-44.8%
Arizona	21.5	11.1	-48.4%
Arkansas	19.3	8	-58.5%
Florida	19.6	4.6	-76.5%
Illinois	37.6	29.7	-21.0%
Maryland	16.3	12.6	-22.7%
Minnesota	15.3	10.1	-34.0%
Mississippi	14.5	10.3	-29.0%
Missouri	20.2	13	-35.6%
New York	30.0	29.2	-2.7%
North Carolina	10.4	14.9	43.3%
Pennsylvania	9.4	16.9	79.8%
South Carolina	11.6	11.5	-0.9%
Tennessee	16.1	9.5	-41.0%
Wisconsin	11.6	13.3	14.7%
Total	**263.9**	**200.5**	**-24.0%**

[1]Data taken from Fiscal Year 2014 Report to the States published by the U.S. Department of the Treasury Bureau of Fiscal Services

[2] Year 1 reflects first full year

Unfortunately, as the bulk of the Year 2 TOP revenue was realized in the month of February 2016, EDD experienced a significant reduction compared to what was previously estimated. The revenue collections tied to the TOP BAF component came in over 75 percent lower than estimated for that month. This resulted in a $12.4 million reduction compared to estimates for the month of February 2016. TOP BAF collections for March 2016 have slightly increased over February, coming in about 57 percent lower than estimated. Overall, TOP BAF collections through March 2016 are tracking approximately 67 percent lower than previously estimated for 2015-16, or $15.3 million.

Continuing the trend of TOP collections in the current year and further reducing in budget year (tied to other states experience) results in an estimated loss of almost $40 million of BAF revenue. With TOP collections trending lower over the next few years, BAF will not be able to provide the level of support previously estimated to the UI Program. In order to fill the remaining funding gap, EDD is requesting $19.7 million from the General Fund, an increase of $3.9 million from the Contingent Fund, and a decrease of $23.6 million in BAF. These changes, along with the reduced expenditure level and reduced above-base earnings are highlighted in Table 3 below.

Table 3 - Funding and Expenditure Changes[1]
(Dollars in millions)

	Governor's Budget	May 2016 Update	Variance
Program Funding			
Federal Funds (Base/Above-Base)	$362.1	$357.6	($4.5)
Benefit Audit Fund	51.3	27.7	(23.6)
Contingent Fund	95.4	99.3	3.9
Electronic Base Period Revenue	1.2	1.2	-
Grand Total Funding	**$509.9**	**$485.8**	**($24.2)**
Estimated Expenditures	**$509.9**	**$505.4**	**($4.5)**
Funding Gap (Funding less Expenditures)			**($19.7)**

[1] Does not include resources or expenditures for "base" pro-rata.

If the revenue projections do not materialize to the level that EDD anticipates, EDD would need to reduce expenditures, which could impact UI program service levels.

BACKGROUND

Over the past several years, the Unemployment Insurance (UI) program has received multiple augmentations from state and special funds in order to address a structural funding deficit and to increase service levels. These augmentations have made it possible for EDD to continue to meet the service level targets which were identified as part of the 2014-15 Finance Letter. Specifically, these resources were used to increase the number of telephone calls answered and to reduce call demand by processing Internet and paper claims, Internet inquiries (EDDComm messages), and scheduling eligibility determination interviews more timely.

In 2013-14, the EDD implemented the TOP to leverage Federal Income Tax refunds of UI claimants with overpayment liability owed due to fraud or claimant's failure to report earnings. Through March 2016, the Department has collected over $245 million dollars by leveraging the TOP collection tool. Due to the anticipated revenue collection tied to the second year of TOP (2015-16), the EDD was appropriated $27.8 million of BAF and $14.0 million of Contingent Fund in the 2015 Budget Act to continue to support the UI Program Service levels which began in 2013-14. The amount appropriated in the 2015 Budget Act replaced $40.9 million of General Fund in support of the UI program.

The 2016-17 Governor's Budget included EDD's proposal for a reduction of $33.9 million and 148.2 PEs in UA Fund authority for updated workload estimates, reduced federal carryforward, and reduced Electronic Benefit Payment (EBP) earnings. To offset the decrease in federal earnings, carryforward, and EBP revenue, the request also included an increase of $10.4 million of Contingent Fund and $10.4 million of BAF to continue to support the UI Program. The 2016-17 BCP also proposed budget language that would allow EDD to adjust its state supplemental funding in both the BAF and the Contingent Fund. This proposal was approved by the Assembly Budget Subcommittee No.4 on April 12, 2016, and the Senate Budget and Fiscal Review Subcommittee No.5 on April 21, 2016.

STAFF COMMENTS

In January, EDD proposed to increase funding for UI administration from the Benefit Audit Fund (BAF) and the Contingent Fund (CF) to backfill a loss in federal funds. A portion of available BAF and CF funds were anticipated to come from the Treasury Offset Program (TOP), which allows the state to collect from UI claimants with overpayment liabilities by deducting the overpayments from claimants' federal income tax refunds. Revenues to BAF and CF from TOP were higher than expected in 2015-16. However, revenues from TOP in 2016-17 are now anticipated to be significantly less than estimated in EDD's January proposal. As a result, EDD estimates that $19.7 million of General Fund support is needed to continue meeting service level targets.

The LAO views this change as a technical adjustment to reflect better information about available fund sources and does not have any concerns at this time.

Staff Recommendation:

Approve the May Revision proposal.

ISSUE 7: PAID FAMILY LEAVE AND STATE DISABILITY INSURANCE RATE INCREASE MAY REVISION REQUEST

PROPOSAL

This May Revision request is for a one-time augmentation of $5,028,000 in 2016-17, along with a one-time augmentation of $629,000 in 2017-18, to support the costs incurred as a result of Assembly Bill (AB) 908 (Chapter 5, Statutes of 2016).

These resources will be used to fund vendor contracts and 16.4 Personnel Equivalents to performmodifications to the State Disability Insurance (SDI) program applications and processes as required to comply with AB 908. AB 908 modifies the SDI program by increasing the wage replacement rate to 60 percent for middle and high income workers, and to 70 percent for low income workers. In order to comply with AB 908, extensive programming of the Employment Development Department's automated systems is required along with updates to SDI forms, publications, procedures, and training.

The benefit changes proposed by AB 908 would result in estimated additional SDI benefits paid of $348 million in 2018, an increase of approximately five percent over the projected benefit amounts estimated under current law. This bill would also increase the projected contribution rate that workers would pay. Based on EDD's October 2015 SDI Fund Forecast, the projected contribution rate in 2019 is 1.1 percent. Under AB 908, the contribution rate in 2019 is projected to be 1.2 percent. The maximum rate allowed by law is 1.5 percent. Removing the waiting period for all PFL claims instead of solely for new mother claims and increasing the Weekly Benefit Amount (WBA) issued to DI/PFL claimants supports California's emphasis on customer service. These actions will also align with the DI Branch Strategic Plan goal of improving the quality of customer service.

Eliminating the waiting period for PFL benefits will have a minimal impact on the DI Fund and will allow claimants to exhaust their PFL benefits after 6 weeks (under current law, approximately 44 percent of the PFL claimants, including transitional bonding claims which do not have the waiting period requirement, only receive the full six weeks of paid PFL benefits after being out of work for a total of seven weeks).

IT Changes. The EDD will need to make programming changes to two major IT systems - the Single Client Database (SCDB) and the SDI Online system. The SCDB is EDD's main database and contains the wage and benefit data for the Unemployment Insurance and SDI programs. The SDI Online system allows customers to file SDI claims online. These systems would need to be programmed to capture the state average weekly wage for benefit calucation, and provide editing capabilities to accommodate future increases to the average weekly wage. EDD IT staff will be utilized to make changes to the SCDB, while vendor staff will be leveraged to make changes to the SDI Online system.

For SFY 2016-17, EDD requires 11.1 PEs of state IT staff and one program position for the following activities in addition to the vendor:

- Project management including scheduling, identifying and managing project risk
- Requirements elicitation and refinement
- Developing test scripts, test plans for system, interface, user, penetration, end to end and stress testing (these are done by non-prime vendor staff to ensure the solution truly meets the Department's needs)
- Analysis, design, coding, and testing of mainframe (SCDB) changes to both the SDI and PFL calculations
- Setting up performance environments, databases, and providing support during project phases
- Updating of SDI/PFL forms and publications, updating of information on the EDD website, and updating manuals and procedures for staff along with providing staff training on the new program changes

Additionally, a significant portion ($3.3 million) of the estimated one-time IT costs would be for a vendor to make changes to the SDI Online system, and for testing of those changes by vendor staff (along with EDD staff). Changes would also be required to the PFL application and the claims scanning/data capture system that EDD uses.

For SFY 2017-18, EDD requires 4.3 PEs of state IT staff for continued testing of the changes to the SCDB and SDI Online applications and to ensure that they will be able to revert to the previous calculation methodologies (effective January 1, 2022, per the provisions of AB 908). The required legislative reports will also be developed during this time period.

In order to meet the January 1, 2018, implementation date for AB 908, the EDD will need to begin a number of tasks in late SFY 2015-16. These tasks include beginning to outline the new business requirements that will result from AB 908 and refining the vendor procurement schedule.

Outcomes and Accountability. The main outcome of this BCP will be compliance with the legislatively mandated requirements of AB 908. The DI Branch also anticipates a slight increase in the number of initial and continued claims as a result of removing the PFL waiting period and increasing the WBA. This workload increase is projected to be approximately 1 percent in initial DI claims and 3 percent in DI continued claims. For PFL, the workload increase is anticipated to be approximately 8 percent in initial claims filed, with no increase in continued claims. Provisional language in the Budget Act allows the EDD to adjust its staffing and benefit amounts for the DI and PFL programs associated with workload changes in October and April each year.

The EDD project management framework will ensure accountability for the requested funds. All vendor contracts related to this project will be deliverables-based to ensure delivery of appropriate hardware, software, documentation, etc., prior to payment. The vendor contracts will include language that states EDD shall be the sole judge of the acceptance of all work performed and all work products produced by the contractor to ensure quality standard are met.

The EDD uses the Cost and Resources Management Group within the Information Technology Branch to account for all dollars spent on staffing, hardware, software, and vendor contracts. EDD management will review staffing reports to ensure all project team members are fully engaged on the project.

EDD will report to the Legislature by March 1, 2021, how DI and PFL benefits are utilized based on income categories, the cost of the increased wage replacement rates, and on the SDI contribution rates. EDD will also perform a cost/benefit analysis of the one-week waiting period for DI claims.

BACKGROUND

California SDI is a partial and temporary wage replacement insurance plan for California workers. The SDI program is state-mandated and funded through employee payroll deductions. Workers covered by SDI are covered by two benefits: Disability Insurance (DI) and Paid Family Leave (PFL). An estimated 17 million California workers are covered by the SDI program. The DI program provides short-term benefits to workers who suffer a wage loss when they are unable to work due to a non-work-related illness, injury, or pregnancy. Benefits are payable for up to 52 weeks.

In 2002, the PFL program was established in California – the first state in the nation to have such a program. This program provides benefits to individuals who take time off work to bond with a new child or to care for a seriously ill family member, including a spouse, registered domestic partner, child, parent, parent-in-law, grandparent, grandchild, or sibling. The PFL benefits are payable for up to six weeks.

The benefit amounts and the contribution rate for both DI and PFL are the same. For claims beginning on or after January 1, 2016, weekly benefits range from $50 to a maximum of $1,129. The maximum weekly benefit amount is increased each year by a statutory formula. The weekly benefit amount is calculated based on the calendar quarter with the highest earnings in the claimant's base period. The base period covers 12 months and is divided into four consecutive quarters each consisting of 13 consecutive calendar weeks. The wages the claimant was paid approximately 5 to 18 months before the claim begins are included in the base period. The weekly benefit amount for PFL and DI is approximately 55 percent of the claimant's earnings up to the maximum weekly benefit amount.

The SDI program is funded by workers through a payroll deduction. The contribution rate is calculated each year according to a formula in statute, with a maximum allowable rate of 1.5 percent. The contribution rate for 2016 is 0.9 percent. Covered employees have paycheck withholdings up to a designated wage ceiling, which is also calculated by a formula in statute. The taxable wage ceiling is $106,742 in 2016.

The first week of a claim for DI or PFL benefits is an unpaid waiting period week lasting for seven days. Individuals may use any available leave from their employers to cover that week; however, no benefits are payable for the first week of the claim.

AB 908 modifies the SDI program by increasing the wage replacement rate for both the DI and PFL programs to 60 percent for middle and high income workers, and to 70 percent for low income workers. This increase will take effect in January 2018, and would sunset on January 1, 2022. This bill also repeals the unpaid one-week waiting period for PFL benefits and requires a report to the Legislature on the impact of reducing or eliminating the current one-week waiting period for the DI program.

STAFF COMMENTS

The LAO states that estimated costs to implement the AB 908 changes appear reasonable and raises no issues at this time.

Staff Recommendation:

Approve the May Revision proposal.

ISSUE 8: UNEMPLOYMENT AND INSURANCE PROGRAM ADMINISTRATION TECHNICAL MAY REVISION ADJUSTMENTS

PROPOSAL

The Governor's May Revision includes various technical changes:

Item	
7100-002-0001	Unemployment Insurance Loan Interest Rate Reduction—Decrease of $13.06 million to reflect reduced interest due to the federal government for borrowing that has occurred to provide unemployment benefits without interruption.
7100-101-0871 and 7100-111-0890	Unemployment Insurance Benefit Adjustments—Decrease of $124.42 million to reflect a projected decrease in UI benefit payments due to historical trends and benefit payment projections. Decrease current year UI Benefit Authority in 2016-16 Fiscal Year by $358.176 million due to improvement in the economy.
7100-101-0588	Disability Insurance Benefit Adjustment—Decrease of $315.04 million to reflect a projected decrease in benefit payments due to lower anticipated average weekly benefit payments. Additionally, DI benefit authority in 2015-16 is decreased by 131.51 million based on decrease of current year benefit durations.
7100-101-0908	School Employees Fund Adjustment—Increase of $11 million to reflect a projected increase of benefit payments and increase of $12.58 million in current year benefit authority.

Staff Recommendation: Hold open.

Approve the May Revision proposal.

7100, 7120 EMPLOYMENT DEVELOPMENT DEPARTMENT, CALIFORNIA WORKFORCE INVESTMENT BOARD

ISSUE 9: WORKFORCE INNOVATION OPPORTUNITY ACT (WIOA) DISCRETIONARY FUND MAY REVISION REQUEST

PROPOSAL

The May Revision includes a proposal for the use of Workforce Innovation Opportunity Act (WIOA) additional funds for a mix of purposes.

California's total WIOA state allocation increased $21.3 million, from $400.3 million in 2015-16 to $421.6 million in 2016-17. In addition, the percentage allowable for discretionary use was increased from 10 percent to 15 percent of the total allotment. This results in a 2016-17 WIOA Discretionary Fund level of $63.2 million (or 15 percent of $421.6 million). The 2015-16 WIOA Discretionary Fund level is $41.1 million (10 percent of $400.3 million plus $1 million of 2014-15 carry forward).

	2015-16	2016-17	Change
State Allocation for WIOA	$400.3	$421.6	$21.3
Less: Formula Allocations to Locals and Rapid Response Allotment	-360.2	-358.4	1.8
WIOA Discretionary Funds	$40.1	$63.2	$23.1
2014-15 Carry-Forward	1.0	0.0	-1.0
Total WIOA Discretionary Funds	$41.1	$63.2	$22.1

The administration has proposed a mix of new programs and augmentations to previously existing programs, as shown in the table below. As in recent years, the administration's proposal prioritizes the use of discretionary funds to develop the capacity of the state's local workforce development system in areas that are emphasized by the federal WIOA legislation, including regional coordination and planning, program alignment, data sharing, and sector strategies. A portion of the discretionary are also provided to support programs that directly provide services to certain target populations. For example, the May Revision proposal includes additional funding for the Governor's Award for Veteran's Services and the Regional Workforce Accelerator program, focusing on ex-offender and immigrant populations.

Proposed Allocation of Increased WIOA Discretionary Funds in 2016-17

Funding for New Programs/Activities	
Technical assistance and training for state and local staff to implement State Strategic Workforce Plan	$5.0
Funding to place unemployment insurance staff in AJCC's	3.5
Awards for development of model multiple-employer industry sector programs	2.0
Awards for "high performing boards," pursuant to Chapter 497 of 2011 (SB 985, Lieu)	1.7
Improvements to the CalJOBS system	1.6
WIOA program evaluation	1.5
Increased staff capacity for regional planning	1.2
Performance and Participant Data Alignment	1.0
Support for Local Workforce Area consolidation planning	0.6
Labor market information support for local boards	0.5
Subtotal	*($18.6)*
Augmentations to Existing Programs/Activities	
Governor's Award for Veteran's Grants	$2.3
Regional Workforce Accelerator Program (focusing on formerly incarcerated and immigrant populations)	2.0
Disability Employment Initiative	0.6
Local program oversight and technical assistance	0.5
CWDB administration, policy development, and program partner coordination	0.5
Financial management and information technology	0.3
EDD administration	0.1
Subtotal	*($6.3)*
Total	***$24.9a***

a. Reflects a $23.1 million year-over-year increase discretionary funds plus $2.8 million in funds freed up by year-over-year reductions in funding for certain items, partially offset by a $1 million year-over-year reduction in WIOA discretionary funds available to be carried in from the prior year.
AJCC = America's Job Center of California (formerly known as OneStops), WIOA = Workforce Innovation and Opportunity Act, CWDB = California Workforce Development Board, and EDD = Employment Development Department.

The Administration has provided the following detail on their WIOA expenditure plan. The requested budget items can be classified in groups of Staff Resources and Training, Grant Expansions, Technological Upgrades and Local Support, and State and Local Program Development.

The below breakout covers the significant changes from the approved October 2015 WIOA Revision. These figures do not reflect the $2.8 million in decreases from the approved October Revision.

Staff Resources and Training (Total resources: $10.4 million and 67 positions)

- **Employment Development Department, Local Program Oversight and Technical Assistance, Finance Management and Information Technology, Labor Market Information Support for Local Boards**
  $1.4 million and 10 positions for Employment Development Department to process and review an increased level of grants, provide system support to local partners with extracting and manipulating system data, and fund yearly annual employment projections and tools to measure skills gaps in the workforce.

- **Comprehensive Services in AJCCs**
  $3.5 million and 48 positions for Employment Development Department to fund at least one UI trained individual in a designated comprehensive America's Job Centers of California to train existing workforce service staff and provide UI assistance.

- **CWDB Administration, Policy Development and Program Partner Coordination**
  $0.5 million and 9 positions for the California Workforce Development Board to handle the increased workload and responsibilities associated with WIOA implementation.

- **Technical Assistance and Staff Training**
  $5.0 million to provide training to program staff and improve one-stop procedures to improve the integration of services in the AJCC system through Customer Centered Design.

Grant Expansions (Total resources: $8.6 million)

- **Regional Workforce Accelerator Program: Focus on Ex-Offender and Immigrant Populations**
  $2.0 million for additional Workforce Accelerator grants award to local programs to develop strategies and services to remove barriers and create improvements in training and job placement.

- **Model Multiple-Employer Industry Sector Programs**
  $2.0 million for competitive Industry Sector grants for local workforce areas of coalitions to develop multi-employer workforce initiatives to develop career pathways for sectors with projected job growth.

- **High Performing Boards (State Requirements)**
  $1.7 million to provide grant awards to 33 local workforce investment boards that have received High-Performing Board status to engage businesses and workforce partners.

- **Governor's Award for Veterans' Grants**
  $2.3 million to fund competitive grants with a focus on transitioning veterans into high-wage, high-demand occupations.

- **Disability Employment Initiative**
  $0.6 million to expand funding for the Disability Employment Accelerator to support people with disabilities gain the necessary skills for employment.

Technological Upgrades and Local Support (Total resources: $1.6 million)

- **CalJOBS**
  $1.6 million to develop a mobile job search application, enhance document management and scanning capabilities, automate tracking of services using scan card technology, and develop a customer relationship management system.

State and Local Program Development (Total resources: $4.3 million)

- **Performance and Participant Data Alignment**
  $1 million to fund the development and implementation of state-level and local data sharing to improve services for job seekers as required under WIOA.

- **Regional Staff Capacity for State Plan Implementation**
  $1.2 million to support regional staff capacity to provide assistance and consulting grantee communities, Slingshot work, and the development of WIOA regional plans.

- **Local Workforce Area Consolidation Grants**
  $0.6 million to support and assist multiple local workforce areas to within a planning region to facilitate the re-designation into a single workforce area.

- **WIOA Required Program Evaluation**
  $1.5 million for research and evaluation of program practices from all discretionary and other CWDB and EDD investments.

BACKGROUND

Federal law provides that a certain portion of federal Workforce Innovation and Opportunity Act (WIOA) funding, up to 15 percent, may be held by the state for "statewide workforce investment activities," while the remainder of WIOA funds are passed on to Local Workforce Development Boards to provide services to unemployed or underemployed adults and youth. The statewide funds are sometimes referred to as "discretionary funds." The actual amount of discretionary funds that may be reserved at the state level, subject to the 15 percent cap, depends on congressional appropriations. In 2015-16, the state was able to reserve 10 percent of WIOA funds as discretionary funds. In 2016-17, the state may reserve 15 percent of WIOA funds as discretionary workforce funds. This results in an increase in total discretionary funds in 2016-17 of $23.1 million relative to the prior year.

STAFF COMMENTS

The LAO states that the May Revision proposal is consistent with federal law and with the recently completed State Strategic Workforce Plan. The LAO raises no issues at this time, but notes that the Legislature may have different priorities for discretionary programs and activities than those reflected in the May Revision proposal.

Staff Recommendation:

Approve the May Revision proposal.

ISSUE 10: WIOA DATA SHARING TRAILER BILL LANGUAGE MAY REVISION REQUEST

PROPOSAL

The May Revision includes a trailer bill proposal that would allow various departments to share information to support performance measurement and program evaluation under the WIOA. Specifically, the language:

- Provides the California Workforce Development Board and other state agencies access to any relevant quarterly wage data for performance evaluation purposes under WIOA along with other groups such as the Adult Education Grant Consortia and the community college Strong Workforce Taskforce.

- Authorizes the Department of Education to share necessary confidential information for performance tracking purposes with the Employment Development Department.

The Administration states that these changes will address data sharing gaps and legal barriers that could impede reporting requirements detailed under the WIOA. Without access to this information, under WIOA the failure to report timely or complete performance data could result in a sanction to the Governor's Discretionary fund. While late quarterly reports (which begin later this year) do not appear to specifically be subject to sanctioning, they are necessary to track performance goals.

The proposed trailer bill language can be found at:
http://www.dof.ca.gov/budgeting/trailer_bill_language/forcasting_labor_and_transportation/documents/408WorkforceInnovationandOpportunityActDataSharing.pdf

STAFF COMMENTS

No issues have been raised with this request.

Staff Recommendation:

Approve the May Revision trailer bill language as placeholder.

ISSUE 11: WIOA LOCAL ASSISTANCE ADJUSTMENTS MAY REVISION REQUEST

PROPOSAL

The May Revision proposes to decrease Item 7100-101-0869 and 7100-101-0890 by $3.3 million to align budget authority with current federal allotments for local area activities. The benefit authority in 2015-16 is also being increased by $834,000 to align with the federal youth activities funding.

Staff Recommendation:

Approve the May Revision proposal.

ISSUE 12: CONTRACTS IMPACT BY MINIMUM WAGE MAY REVISION REQUEST

PROPOSAL

In the May Revision, the Governor's requests adding Control Section 3.63 to grant the Director of Finance the authority to fund expenditures for personal service contracts, or other personnel costs outside of standard civil service compensation, that are in accordance with Senate Bill 3 (Leno), Chapter 4, Statutes of 2016. This proposal would add Item 9804-001-0001 with the amount of $2 million, and Item 9804-001-0494 with the amount of $500,000, for additional costs related to personal service contracts impacted by the minimum wage.

As part of regular operations, the state may enter into personal service contracts with local governments and other business entities to perform services for California. Some personal service contracts are directly impacted by minimum wage, notably California Department of Forestry and Fire Protection (CAL FIRE), which contracts with cities and counties to protect remote areas of the state. As the minimum wage rises for locally contracted fire fighters, there is an increased pressure on the state to augment contracts with these entities. This control section provides the Administration authority to augment departmental budgets that are directly impacted by minimum wage-related personal service contracts. Absent this control section, each individual department impacted by minimum wage personal service contracts would be required to submit annual budget change proposals. The legislature maintains the authority to augment this item (9804) annually, providing the Administration flexibility to allocate these funds without the need for individual budget change proposals. This proposal provides both the Administration and Legislature the flexibility to fund the impacts of the minimum wage legislation.

Six departments will be impacted by the new control section, CAL FIRE, California Conservation Corps, California Science Center, California Department of Transportation, Board of Equalization, and the Department of Industrial Relations.

Staff Recommendation:

Approve the May Revision proposal.