

AGENDA

ASSEMBLY BUDGET SUBCOMMITTEE NO. 4 ON STATE ADMINISTRATION

ASSEMBLYMEMBER TOM DALY, CHAIR

TUESDAY, MAY 7, 2013
1:30 P.M. - STATE CAPITOL ROOM 447

VOTE-ONLY CALENDAR

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ITEMS FOR VOTE ONLY**0984 CALIFORNIA SECURE CHOICE RETIREMENT SAVINGS INVESTMENT BOARD****VOTE-ONLY ISSUE 1: MARKET ANALYSIS FOR THE SECURE CHOICE RETIREMENT SAVINGS TRUST ACT SPRING FINANCE LETTER**

The Department of Finance issued a Spring Finance Letter requesting expenditure authority of \$1,000,000 to conduct a market analysis to implement legislation passed in 2012.

BACKGROUND

SB 1234, the California Secure Choice Retirement Savings Program, (SCSRP) (de Leon), Chapter 734, Statutes of 2012 establishes the California Secure Choice Retirement Savings Investment Board and the California Secure Choice Retirement Savings Trust Act. SCSRП will provide a statewide retirement savings plan for private workers who do not participate in any other type of employer sponsored retirement savings plan.

SB 1234 requires the Board to conduct a market analysis to determine whether the necessary conditions exist to implement SCSRП. The market analysis will examine likely participation rates, participant's comfort with various investment vehicles and degree of risk, contribution levels, and the rate of account closures and rollovers.

This proposal would provide expenditure authority of \$1,000,000 and budget trailer bill language for additional expenditure authority upon approval by the Department of Finance and legislative notification.

The following budget bill language is proposed:

Notwithstanding any other provision of law, the Director of Finance may authorize expenditures for the California Secure Choice Retirement Savings Investment Board to conduct a market analysis pursuant to Chapter 734, Statutes of 2012, in excess of the amount hereby appropriated, but not sooner than 30 days after notification in writing of the necessity therefor is provided to the chairpersons of the fiscal committees and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of the joint committee, or his or her designee, may in each instance determine. The additional expenditure authority is contingent upon the receipt of funding provided through a nonprofit or private entity, or from federal funding provided through a non-profit or private entity, or from federal funding above and beyond one million dollars (\$1,000,000).

There is no General Fund impact. Once sufficient funds to initiate and complete the required market analysis are available through a non-profit, private entity, or federal funding, the Board will begin the market analysis and report its findings to the Legislature.

STAFF COMMENTS

As enacted, SB 1234 does not provide spending authority language necessary to conduct the market analysis and implement the bill. This budget bill language will allow the Board to move forward with finding the necessary funds in order to complete the market analysis.

7501 DEPARTMENT OF HUMAN RESOURCES**VOTE-ONLY ISSUE 2: ALTERNATE RETIREMENT PROGRAM REIMBURSEMENT AUTHORITY SPRING FINANCE LETTER**

The Department of Finance issued a Spring Finance Letter to provide provisional language to allow the Department of Human Resources (CalHR) to extend the expenditure period of reimbursed funds received specifically for the administration of Alternative Retirement Program (ARP) in 2013-14 until June 30, 2017.

Additionally, the Spring Finance Letter would allow the reimbursements be split into two schedules to track the administration of ARP separately from CalHR's main reimbursement schedule.

BACKGROUND

The ARP program was established on August 11, 2004, and created a retirement savings program in lieu of retirement service credit and contributions to CalPERS. State miscellaneous and industrial employees who were hired on or after August 11, 2004, are placed in the ARP for a 24-month period, and beginning in the 25th month, they contribute to CalPERS and begin earning service credit. After their four years are up, an employee may elect to do one of the following: 1) choose to transfer their ARP to CalPERS and receive service credit for their state service; 2) require a lump sum distribution of the entire balance; or 3) roll over their ARP funds to a Savings Plus 401(k) account. If an employee does not choose an option, their funds are automatically rolled over to a Savings Plus 401(k) account. Historically, about 45 percent of employees who are subject to ARP choose to use their funds to purchase the two years of service credit from CalPERS.

The California Employees' Pension Reform Act of 2013, AB 340 (Furutani), Chapter 296, Statutes of 2012, terminated the ARP program effective June 30, 2013. There is current legislation, SB 13 (Beall), the Public Employees' Retirement Benefits that proposes to move the termination date from June 30, 2013, to January 1, 2013.

The Governor's proposal anticipates that SB 13 will pass and that the termination date will change to January 1, 2013. Although no new employees will enter ARP on or after January 1, 2013, the program will still exist. ARP employees will be active and still contribute until their two years are up in December 31, 2014, and after will enter their inactive phase until December 31, 2016. An ARP member is part of the program for four years, CalHR only reimburses the department during the first two years when a member is active, and does not pay for the employee during their inactive status.

This proposal extends the program for six months after the end of the four-year period in order to allow billing to come in and be paid beyond the time the last person will leave the ARP program.

The following language is proposed to be added to Item 7501-001-0001:

The reimbursement funds received for purposes of the administration of the Alternative Retirement Program, as identified in Schedule 7 of this item, may only be expended for the administration of the Alternative Retirement Program. Any reimbursement funds received for the administration of Alternative Retirement Program, which are not expended in the 2013-14 fiscal year shall be available for expenditure until June 30, 2017.

STAFF COMMENTS

Staff has no comments on this item.

7502 DEPARTMENT OF TECHNOLOGY
7760 DEPARTMENT OF GENERAL SERVICES

VOTE-ONLY ISSUE 3: DEPARTMENT OF TECHNOLOGY SPRING FISCAL LETTER

The Subcommittee will consider a Spring Fiscal Letter concerning the shift of various technology procurement and communications functions between departments.

BACKGROUND

The Department of Finance issued a Spring Fiscal Letter for the Department of Technology, which reflects the changing role of the new department, as called for by recent legislation.

Procurement

The procurement of both information technology and telecommunications were moved from Department of General Services (DGS) to the Department of Technology in statute. This Spring Fiscal letter effectuates that move in the budget. As part of the move \$3.2 million and 27.5 positions would be transferred from DGS to the Department of Technology.

Public Safety Communications

The responsibility for Public Safety Communications Office has moved from the Department of Technology to the Office of Emergency Services. The Spring Fiscal Letter makes various line items to reflect this shift.

STAFF COMMENTS

Subcommittee # 5 will consider conforming actions regarding the transfer of the Public Safety Communications Office to the Office of Emergency Services.

7760 DEPARTMENT OF GENERAL SERVICES

VOTE-ONLY ISSUE 4: CENTRAL PLANT RENOVATION

The Administration issued a Spring Finance Letter requesting a reappropriation of funds for the renovation of the Central Plant in Sacramento.

BACKGROUND

The Finance Letter requests a reappropriation of the remaining supplemental construction funds dedicated to renovating the Central utility Plant in Sacramento. The project is scheduled to be complete by June 2014.

STAFF COMMENTS/QUESTIONS

Staff has no concerns with this request.

VOTE-ONLY ISSUE 5: TECHNICAL ADJUSTMENTS

The Administration issued a Spring Finance Letter requesting the following three technical adjustments.

1. A \$4.387 million increase to correct a posting error and support a contract between the Office of Administrative Hearings and the Department of State Hospitals.
2. A \$68,000 increase to correct a posting error related to the Office of Public School Construction program reduction.
3. Adjustment of eleven items to more accurately reflect administrative costs within the Department of General Services.

VOTE-ONLY ISSUE 6: AGNEWS DEVELOPMENTAL CENTER

The Administration issued a Spring Finance Letter requesting a one-time increase of \$993,000 in expenditure authority to support the surplus disposition of the Agnews Developmental Center.

BACKGROUND

SB 136 (Chapter 166, Statutes of 2009) provides that the Department of General Services may dispose of any portion of approximately 85 acres of property located at the East Campus of the Agnews Developmental Center in San Jose. Pursuant to an agreement between the Department of General Services (DGS), Department of Developmental Services (DDS), and the Administration (DOF), jurisdiction of the Agnews Developmental Center was transferred to DGS effective July 1, 2011. The Asset Management Branch of the Real Estate Services Division has requested the one-time \$933,000 increase in Property Acquisition Law Money Account expenditure authority to provide for property management services, security, fire protection, grounds keeping, repair costs and utilities at the Agnews Developmental Center.

STAFF COMMENTS/QUESTIONS

The Property Acquisition Law Money Account would receive a one-time loan from the General Fund to be recouped upon completion of the sales transaction of the property.

0845 CALIFORNIA DEPARTMENT OF INSURANCE

VOTE-ONLY ISSUE 7: ELIMINATION OF CAP ON CIVIL SERVICE POSITIONS

The Governor's Budget includes trailer bill language to amend Section 10089.7 of the Insurance Code, related to the California Earthquake Authority.

BACKGROUND

Existing law provides for the California Earthquake Authority (CEA) governed by a 3-member governing board consisting of the Governor, the Treasurer, and the Insurance Commissioner. The Speaker of the Assembly and the Chairperson of the Senate Committee on Rules serve as nonvoting, ex-officio members of the board. The CEA is vested with certain powers and duties, including, but not limited to, the authorization to employ a maximum of 25 people subject to civil service provisions. This trailer bill language would remove the limit on the number of people, subject to civil service provisions, that the CEA can employ. This bill would also make an appropriation of \$1,000 to the CEA from the General Fund for administration.

STAFF COMMENTS/QUESTIONS

Staff has no concerns with this proposal.

VOTE-ONLY ISSUE 8: IMPLEMENTATION OF HEALTH COVERAGE LEGISLATION

The Administration issued a Spring Finance Letter requesting \$218,000 (Insurance Fund) for costs related to AB 1083 (Monning), Small Group Health Care Coverage, 2012 and SB 951 (Hernández), Essential Health Benefits Coverage, 2012.

BACKGROUND

The Finance Letter requests a \$218,000 increase to reflect adjustments made related to implementing SB 951 and AB 1083.

SB 951 reflects the “benchmark plan” that California has chosen to define the scope of Essential Health Benefits (EHBs) requirements and its enactment would impose additional policy form reviews. Non-grandfathered health insurance plans sold in the individual and small group markets would be required, starting January 1, 2014, to cover EHBs starting January 1, 2014. The Finance Letter requests a \$139,000 (Insurance Fund) increase for one 12-month limited-term attorney due to the new workload associated with implementing SB 951.

AB 1083 gives the Department of Insurance (CDI) broad authority for emergency rulemaking in the small group market, for both grandfathered and non-grandfathered health insurance products. The Finance Letter requests \$79,000 (Insurance Fund) to address the need for additional rulemaking associated with the legislation.

STAFF COMMENTS/QUESTIONS

Staff has no concerns with this proposal.

1750 CALIFORNIA HORSE RACING BOARD

VOTE-ONLY ISSUE 9: EXCHANGE WAGERING OVERSIGHT

The Administration issued a Spring Finance letter requesting two-year limited term funding, at \$443,000 per year, to manage cost increases involved with implementing exchange wagering in California, pursuant to SB 1072 (Calderon), Chapter 283, Statutes of 2010.

BACKGROUND

The Finance Letter requests two-year limited funding of \$443,000 annually to provide the California Horse Racing Board (CHRB) with the resources necessary to regulate and oversee exchange wagering as defined and authorized by SB 1072. The legislation authorizes the CHRB to license entities to operate "exchange wagering systems," a form of betting allowing account holders to buy and sell the outcome of horse races in a way similar to day trading on the stock market.

The Finance Letter would permit an increase to the Board's annual appropriation to spend the license fee revenue designed to enforce and regulate the wager. License fees collected would be deposited into Horse Racing Fund to allow the department to recover costs for licensing, enforcing, auditing, and regulating exchange wagering.

STAFF COMMENTS/QUESTIONS

Staff has no concerns with this proposal.

1111 DEPARTMENT OF CONSUMER AFFAIRS

VOTE-ONLY ISSUE 10: CALIFORNIA STATE ATHLETIC COMMISSION

The Governor's Budget includes one Budget Change Proposal related to a Special Fund board adjustment.

BACKGROUND

The Governor's Budget proposes reducing the California State Athletic Commission Fund by \$814,000 in FY 2013-14 and ongoing to help rebuild the Fund's balance. This proposal would align expenditures with projected revenue and more accurately reflect the Commission's current workload. According to the Commission, restructuring expenditures would allow the commission to build up a reserve of 2.9 months by the end of 2013-14.

STAFF COMMENTS/QUESTIONS

The Senate adopted Supplemental Reporting Language which includes:

- The number of inspectors in the state and what type of event each inspector is capable of regulating
- The number of Athletic Commission staff required for each type of event
- The amount required to provide training to athletic inspectors over the last three years
- Include a long-term solvency Plan due to the Legislature in February, 2014

Staff recommends adopting the BCP and above Supplemental Reporting Language to conform to Senate action.

ITEMS TO BE HEARD

8885 COMMISSION ON STATE MANDATES

INFORMATIONAL ONLY: MANDATE OVERVIEW

A presentation on the Commission of State Mandates, including a discussion about mandate reform and a request for staff for timely mandate review will be provided.

BACKGROUND

The Commission on State Mandates (COSM) is charged with the duties of examining claims and determining if local agencies and school districts are entitled to reimbursement for increased costs for carrying out activities mandated by the state. COSM was created as a quasi-judicial body and made up of the Director of Finance, the State Controller, the State Treasurer, the Director of the Office of Planning and Research, a public member with experience in public finance, and two additional members of local public bodies appointed by the Governor and approved by the Senate. This budget item appropriates the funding for staff and operations costs of COSM and appropriates non-education mandate payments to local governments. The Governor's Budget calls for expenditures of \$52.9 million, representing a slight decrease from the current year of \$53 million. State operations and administrative costs are approximately \$1.9 million and the number of positions is proposed to increase by two positions to 13.0 over the current year.

Mandate Process. The Commission is responsible for determining whether a new statute, executive order, or regulation contains a reimbursable state mandate on local governments, and for establishing the appropriate reimbursement to local governments from a mandate claim. The Constitution generally requires the state to reimburse local governments with its mandates that they provide a new program or higher level of service. Activities or services required by the Constitution are not considered reimbursable activities.

The Constitution, as amended by Proposition 1A of 2004, requires that the Legislature either fund or suspend local mandates. Payments for mandate costs incurred prior to 2004 are one exception noted in the Constitution and such pre-2004 costs can be repaid over time. In most cases, if the Legislature fails to fund a mandate, or if the Governor vetoes funding, the legal requirements are considered suspended pursuant to the Constitution.

Mandate Reimbursement Claims. Claims are filed with the State Controller's Office for the prior fiscal year, after the fiscal year is completed and actual costs are known. The state pays the mandate costs in the following fiscal year. Suspending a mandate does not relieve the state of the obligation to reimbursing valid claims from prior years, but it does allow the state to defer payment.

Mandate Reform. State and local officials have expressed significant concerns about the mandate determination process, including the length and complexity of the reimbursement claiming methodologies.

In 2007, the LAO released a report about the mandate process that showed the following:

- It took the Commission over five years to complete the mandate determination process for a successful local government test claim.
- Almost three years from the date a test claim was filed to render a decision as to the existence of a state-reimbursable mandate.
- An additional year to estimate costs and report the mandate to the Legislature.

Since 2007, the backlog has grown and as a result, the time for a determination has continued to increase. Included in the Administration's proposal is a budget change proposal for the Commission for additional staff to address the backlog, which will be discussed later in this agenda.

The main challenges for the state and local governments, due to the lengthy process, were identified in the LAO's report. These include:

- Local governments must carry out the mandated requirements without reimbursements for five years, plus any additional time associated with the development of the mandate test claim, appropriation of reimbursement funds, and the issuance of checks.
- State mandate liabilities accumulate during the determination period and make the amount of state costs reported to the Legislature higher than they would be with an expedited process. Policy review of mandates is delayed because the Legislature receives cost information years after into the process.

STAFF COMMENTS

In 2007, the LAO had recommended best practices to improve the process. The Subcommittee may wish to inquire about what reforms are needed to improve the mandate process, decrease the backlog and to shorten the time that is needed for mandate review.

ISSUE 1: ADDITIONAL STAFF FOR TIMELY MANDATE DETERMINATIONS

The Administration's proposal includes an ongoing augmentation of \$245,000 and two positions to hire additional staff to comply with statutory timeframes and to accelerate the reduction of test claim, parameters and guidelines (Ps&Gs), parameters and guidelines amendment (PGA), and statewide cost estimate (SCE), and incorrect reduction claim (IRC) backlogs.

BACKGROUND

Due to the ongoing budget challenges, staffing levels at the Commission have slowly decreased. In 2001-02, the Commission had a high of 17 positions, in the last fiscal year the staffing level was 11 positions. While staffing has decreased, the amount of work has increased.

At its May 26, 2011, meeting, Commission staff unveiled the first Backlog Reduction Plan, which was last updated in May 2012, and is planned to be updated again in July 2013. The 2012 plan indicates that all of the backlogged test claims may be complete by the end of 2014-15.

STAFF COMMENTS

As a short term fix, additional staff is needed to address the current backlog at the Commission. However, a larger approach is needed to reform the mandate process and should be discussed.

ISSUE 2: GOVERNOR'S PROPOSAL TO FUND AND SUSPEND MANDATES

The Governor's Budget includes a proposal to fund and suspend mandates consistent with the mandates that are currently funded and suspended. Those proposed mandates are outlined below.

BACKGROUND

- 1. Proposed Mandates to be Funded:** The Governor's Budget proposes to fund \$48.4 million (General Fund) for non-education mandates. These mandates are consistent with the mandates funded in the current year budget. The mandates proposed to be funded are related to law enforcement and property taxes.

2013-14 Funded Mandates (000s)	2013-14 Total Estimate
<i>Allocation of Property Tax Revenues</i>	520
<i>Crime Victims' Domestic Incident Reports</i>	175
<i>Custody of Minors - Child Abduction and Recovery</i>	11,977
<i>Domestic Violence Arrest Policies</i>	7,334
<i>Domestic Violence Arrests and Victim Assistance</i>	1,438
<i>Domestic Violence Treatment Services</i>	2,041
<i>Health Benefits for Survivors of Peace Officers and Firefighters</i>	1,780
<i>Medi-Cal Beneficiary Death Notices</i>	10
<i>Peace Officer Personnel Records: Unfounded Complaints & Discovery</i>	690
<i>Rape Victim Counseling</i>	344
<i>Sexually Violent Predators</i>	21,792
<i>Threats Against Peace Officers</i>	3
<i>Unitary Countywide Tax Rates</i>	255
Total Funded Costs	\$48,359

2. Proposed Mandates to be Suspended: The Governor's Budget proposes the suspension of mandates that were included in current year budget. Mandates suspended in prior years are listed below for a total of \$408.7 million.

2013-14 Suspended Mandates (000s)	2013-14 Total Estimate
<i>Adult Felony Restitution</i>	\$0
<i>Absentee Ballots*</i>	49,598
<i>Absentee Ballots – Tabulation by Precinct*</i>	68
<i>AIDS/Search Warrant</i>	1,596
<i>Airport Land Use Commission/Plans</i>	1,263
<i>Animal Adoption</i>	45,321
<i>Brendon Maguire Act*</i>	0
<i>Conservatorship: Developmentally Disabled Adults</i>	349
<i>Coroners Costs</i>	222
<i>Crime Statistics Reports for the Department of Justice & CSRDOJ Amended</i>	160,705
<i>Crime Victims' Domestic Violence Incident Reports II</i>	2,010
<i>Deaf Teletype Equipment</i>	0
<i>Developmentally Disabled Attorneys' Services</i>	1,198
<i>DNA Database & Amendments to Postmortem Examinations: Unidentified Bodies</i>	310
<i>Domestic Violence Information</i>	0
<i>Elder Abuse, Law Enforcement Training</i>	0
<i>Extended Commitment, Youth Authority</i>	0
<i>False Reports of Police Misconduct</i>	10
<i>Fifteen-Day Close of Voter Registration*</i>	0
<i>Firearm Hearings for Discharged Inpatients</i>	156
<i>Grand Jury Proceedings</i>	0
<i>Handicapped Voter Access Information*</i>	0
<i>In-Home Supportive Services II</i>	444
<i>Inmate AIDS Testing</i>	0
<i>Judiciary Proceedings (for Mentally Retarded Persons)</i>	274
<i>Law Enforcement Sexual Harassment Training</i>	0
<i>Local Coastal Plans</i>	0
<i>Mandate Reimbursement Process I</i>	6,910
<i>Mandate Reimbursement Process II (includes consolidation of MRPI and MRPII)</i>	0
<i>Mentally Disordered Offenders': Treatment as a Condition of Parole</i>	4,909
<i>Mentally Disordered Offenders' Extended Commitments Proceedings</i>	7,215
<i>Mentally Disordered Sex Offenders' Recommitments - Verify Name</i>	340
<i>Mentally Retarded Defendants Representation</i>	36
<i>Missing Person Report III</i>	0
<i>Not Guilty by Reason of Insanity</i>	5,213
<i>Open Meetings Act/Brown Act Reform</i>	113,101
<i>Pacific Beach Safety: Water Quality and Closures</i>	344
<i>Perinatal Services</i>	2,337

<i>Personal Safety Alarm Devices</i>	0
<i>Photographic Record of Evidence</i>	279
<i>Pocket Masks (CPR)</i>	0
<i>Post Conviction: DNA Court Proceedings</i>	411
<i>Postmortem Examinations: Unidentified Bodies, Human Remains</i>	5
<i>Prisoner Parental Rights</i>	0
<i>Senior Citizens Property Tax Postponement</i>	481
<i>Sex Crime Confidentiality</i>	0
<i>Sex Offenders: Disclosure by Law Enforcement Officers</i>	0
<i>SIDS Autopsies</i>	0
<i>SIDS Contacts by Local Health Officers</i>	0
<i>SIDS Training for Firefighters</i>	0
<i>Stolen Vehicle Notification</i>	1,117
<i>Very High Fire Hazard Severity Zones</i>	0
<i>Victims' Statement-Minors</i>	0
<i>Voter Registration Procedures*</i>	2,481
	\$408,703

STAFF COMMENTS

The LAO has raised concerns about the six elections mandates (identified above with an *) that have been suspended since 2011-12, as well as the newly identified elections mandates proposed to be suspended, which will be discussed below. The LAO states that the State has an interest in election uniformity and that suspending elections mandates could lead to inconsistencies in elections. If the Legislature were to fund the six long-standing elections in addition to the newly identified mandates, it is estimated to cost about \$60 million in 2013-14 and \$30 million in ongoing costs.

ISSUE 3: GOVERNOR'S PROPOSAL TO SUSPEND MANDATES WITH STATEWIDE COST ESTIMATES

The Governor's Budget includes the suspension of nine new mandates. The first five of these mandates include statewide cost estimates.

BACKGROUND

Suspension of Five New Mandates with Statewide Cost Estimates: The first of these mandates include the suspension of five mandates with a cost savings of about \$111.0 million. These mandates include:

- *Domestic Violence Background Checks* (\$18.2 million). For any charges involving act of domestic violence, prosecutors must perform a background check on the defendant. The prosecutor must present background information to the court when it considers a plea agreement, sets bond or releases a defendant on his or her own, or issues a protective order. The costs of drafting and sending report also are reimbursable. According to the LAO, the requirements placed on local prosecutors by this mandate program are unnecessary to achieve the Legislature's objectives of ensuring that judges have pertinent information when setting bail.
- *Identity Theft* (\$79.2 million). Requires law enforcement agencies to take a police report and begin an investigation when identity theft is reported. There is concern from agencies representing identity theft victims that suspending the mandate could lead to confusion among law enforcement agencies over who is responsible for creating a report when theft crimes involve victims and perpetrators in different locations. However, current law states that in cases where the identity theft occurred, local law enforcement may refer the matter to the law enforcement agency where the suspected crime was committed for further investigation.
- *Modified Primary Election* (\$1.7 million). Requires county election offices to add information to the voter registration card stating that voters who decline to state a party affiliation can vote a party ballot if the political party authorizes such persons to do so.
- *Permanent Absentee Voters* (\$4.6 million). Requires county election offices to make permanent absent voter status available to any voter – previously this only applied to physically disabled. An explanation of the absentee voting procedure and how voters' names will be deleted from the permanent absent voter list if they fail to return an executed absentee voter ballot for any statewide election must be included.

- *Voter Identification Procedure* (\$7.2 million). Requires local election officials to compare the signature on each provisional ballot envelope with the signature on the voter's affidavit or registration. If the signatures do not compare, the ballot shall be rejected.

STAFF COMMENTS

As mentioned above, the LAO recommends that the election mandates not be suspended. The concern is that the mandates will not be applied consistently. However, the LAO also states that despite the suspension of the current six election mandates, local governments have continued performing the mandated functions.

ISSUE 4: GOVERNOR'S PROPOSAL TO SUSPEND MANDATES WITHOUT STATEWIDE COST ESTIMATES

The Governor's Budget includes the suspension of nine new mandates. The last four mandates do not include statewide cost estimates.

BACKGROUND

Suspension of Four Mandates without Statewide Cost Estimates: The budget includes proposals to suspend four mandates that were determined by the COSM to be reimbursable activities. However, the Commission has not adopted cost estimates for the suspension of these mandates. These mandates include:

- *California Public Records Act.* The main provisions of the California Public Records Act (CPRA) that provide the right of residents to inspect public records and receive copies of those documents are not reimbursable mandates. The portion of the law that is reimbursable pertains to assistance in seeking records, notification of the requestor as to whether or not records may be disclosed, and removing employee information from records that are disclosed. The suspension of this mandate will not affect the main provisions of the CPRA law. The LAO recommends recasting the provisions that are determined to be reimbursable as best practices.
- *Local Agency Ethics.* AB 1234 requires local governments to adopt written policies detailing the conditions under which elected officials are entitled to reimbursement for expenses and provides specified ethic training to elected officials who receive a salary or other form of compensation. Current state law makes it optional for most local governments to provide compensation or expense reimbursement to elected officials. However, state law makes payment of compensation or expense reimbursement for a small number of local governments that include general law counties and certain special districts. The suspension of this mandate would affect the general law counties and the special districts. Since there is no cost associated with the suspension of the mandate, it would seem that suspended the mandate would be premature. Alternatively, a policy discussion should be had about making the payment of the compensation or expense reimbursement optional for all local governments. The LAO recommends eliminating all future costs related to this mandate by modifying state law to make payment of compensation or expense reimbursement optional for all local governments.

- *Tuberculosis Control.* Requires local detention facilities to submit a written treatment plan to relevant health officers for tuberculosis (TB) patients when they are released or transferred to another jurisdiction and requires local health officers (LHO) to review treatment plans from a health facility within 24 hours. The activities required by the TB control mandate likely reduce the spread of TB through a standardized application of a treatment plan. LAO's analysis states that it is premature to weigh the public health benefits of suspending the mandate before understanding the cost information.
- *Interagency Child Abuse and Neglect Investigation Reports.* Imposes requirements relating to child abuse investigations on local agencies including distributing Department of Justice's (DOJ) suspected child abuse form to mandated reporters, referring and cross-report child abuse and neglect matter to relevant agencies, and notifying suspected child abuser that they have been reported to the Child Abuse Central Index. According to the LAO the child abuse and neglect reporting required under the ICAN mandate represents, in most cases, a critical component of the state's child welfare system in that it affects how child abuse and neglect reports are received, how local governments share information about such reports, and the core functionality to identify suspected child abusers. This item was heard in Subcommittee No. 1 and they recommended the adoption of the LAO recommendation to (1) reject the Governor's proposal on this mandate, and (2) establish a workgroup to evaluate the ICAN mandate.

STAFF COMMENTS

In the past, mandates have been suspended only after a statewide cost estimate has been adopted. The mandates listed above do not contain these costs. Without a statewide cost estimate, there are no budgetary savings in 2013-14 and therefore the question can be raised as to whether or not these mandates are being suspended prematurely.

ISSUE 5: REPEAL SELECTED MANDATES – TRAILER BILL LANGUAGE

The Governor has proposed trailer bill language to repeal five mandates by making them permissive. These five mandates identified have been suspended in the Budget Act each year since 1992. These mandates have either been pre-empted by federal law/state constitutional amendments or are best practices that local governments have been providing citizens without state involvement for years.

BACKGROUND

Below are the five mandates proposed to be amended by the trailer bill:

- *Adult Felony Restitution.* The California Penal Code requires probation officers to recommend to the sentencing judge whether restitution to the victim should be a condition of a defendant's probation before a probation-eligible defendant is sentenced for a felony conviction. Under current law, victims have a constitutional right to restitution and courts must order restitution from the wrongdoer in every case where a victim suffers a loss – independent of probation's recommendation. Therefore, making this statute permissive will have no effect on the core issue.
- *Victims' Statements-Minors.* The California Welfare and Institutions Code requires probation officers to obtain a statement from a victim of felony committed by a minor. The officer must include the statement in the officer's social study that is submitted to the court. Marsy's Law gives victims the constitutional right to give probation officers information regarding an offense's impact on them. These activities are part of a probation department's core responsibilities and should be a "best practice" to conform with Marsy's Law.
- *Deaf Teletype Equipment.* The California Government Code requires counties, which provide any emergency services, to provide deaf teletype equipment at a central location within the county to relay requests for such emergency services. This mandate is preempted by federal law (Title II of the American with Disabilities Act (1990)), and its implementing regulations, which prevent a public entity from denying a benefit to a qualified individual on the basis of his or her disability. Locals are potentially subject to an ADA lawsuit should they not provide this equipment.
- *Pocket Masks.* The California Penal Code requires law enforcement agencies to provide each peace officer a portable manual mask designed to prevent the spread of communicable diseases when applying CPR. Pocket Masks should be standard operating procedures and best practices without the state being responsible for reimbursement, since local governments have an inherent interest in maintaining the public safety by using such measures.

- *Domestic Violence Information.* The California Penal Code imposes a reimbursable mandate by requiring the following from local law enforcement agencies: development and implementation of policies for officers' responses to, and recording of, domestic violence calls; preparation of a statement of information for domestic violence victims; monthly compilation of summary reports submitted to the Attorney General; and, development and maintenance of projection order records and systems to verify such orders at an incident scene. The statutes that make up this mandate were enacted in 1984. The requirements in these statutes should be standard operating procedure.

STAFF COMMENTS

The five mandates discussed have been suspended for over 20 years. While some mandates have been pre-empted by federal law or the California Constitution, the others should be best practices used by local governments.

**0515 SECRETARY FOR BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY
2240 DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT****ISSUE 1: EMERGENCY HOUSING AND ASSISTANCE PROGRAM**

This Subcommittee proposes placeholder trailer bill language to provide (1) 1.0 position at the Business, Consumer Services, and Housing Agency, and (2) to coordinate and integrate the Emergency Housing and Assistance Program Operating Facilities Grant (EHAP) and Emergency Housing and Assistance Capital Development (EHAP-CD) funds with the federal Homeless Emergency Assistance and Rapid Transition to Housing Act (HEARTH Act).

BACKGROUND

The Secretary for Business, Consumer Services, and Housing Agency is tasked with leading interagency collaboration on homeless policy and funding. This proposal will place one additional staff at the Agency with the responsibility of interagency coordination related to strategies to reduce homelessness.

The Department of Housing and Community Development (HCD) administers the EHAP program, which consists of EHAP and EHAP-CD, a continuously appropriated fund, for the purpose of providing financial assistance to service providers assisting the homeless population.

Traditionally, the EHAP and EHAP-CD funds have focused on emergency shelters and transitional housing projects. However, action at the federal level now focuses on ways to provide permanent housing and long-term solutions to ending homelessness.

This proposal would reorient existing state resources included in the EHAP and EHAP-CD funds with the goals outlined in the federal HEARTH Act; in order to better position the state and our local partners to leverage resources to address the homeless population. Currently EHAP has a balance of \$1 million dollars and EHAP-CD has \$7 million dollars. This funding will be used to leverage federal funds and to fund the new position created within the Secretary for Business, Consumer Services, and Housing Agency.

EHAP – Operating Facilities Grants. EHAP provides operating facility grants for emergency shelters, transitional housing projects, and supportive services for homeless individual and families. EHAP traditionally has been funded by the General Fund through the budget appropriations process. In 2000, the Legislature appropriated \$14 million for the program, however, due to the state budget crisis from 2004-2007, the funding level dropped to \$4 million per year. The last budget appropriation for the program occurred in 2008-09, but the appropriation did not stay in the final budget act. In 2010, the program had slightly over \$4 million in the fund, and it is anticipated that \$1,028,000 remains in the fund for future allocations.

EHAP – Capital Development. EHAP-CD provides capital funding for acquisition, new construction, and rehabilitation of emergency shelters, transitional housing, and safe havens for persons experiencing homelessness. Proposition 46, the Housing and Emergency Shelter Trust Fund Act of 2002, provided \$195 million in bond funds and Proposition 1C, the Housing and Emergency Shelter Trust Fund Act of 2006, provided \$40 million in bond funds for the program. Less than \$10 million of EHAP-CD funds remain unallocated.

HEARTH Act. In 2009, Congress passed the HEARTH Act, which substantially amended the McKinney-Vento Act, which authorizes the federal Department of Housing and Urban Development (HUD) homeless programs. The HEARTH Act is that built on a set of performance and system measures, which will determine HUD's future funding decisions. HUD will use the following selection criteria and system measures:

- Do the people served leave homelessness for permanent housing?
- How quickly do they leave homelessness?
- Do they have jobs or income to help them remain stable?
- Do they later return to homelessness?
- Is the system successfully reaching all people who need its assistance?
- Is the system decreasing the number of people who newly enter homelessness?

STAFF COMMENTS

Given that California is ranked No. 1 in the nation on homelessness and in order to protect the interests of the state, action should be taken to assure that California is in the best position to leverage federal funds to address the homeless population. This proposal moves California in that direction.

7501 DEPARTMENT OF HUMAN RESOURCES

ISSUE 1: EXAMINATION AND CERTIFICATION ONLINE SYSTEM (ECOS) PROJECT

The Department of Finance issued a Spring Finance Letter requesting 2.0 positions and for a total of \$821,000, \$468,000 from the General Fund and \$353,000 from the Central Cost Recovery Fund in order to fund the Examination and Certification Online System (ECOS) project.

BACKGROUND

The State Personnel Board (SPB) was responsible for the creation and administration of civil service examinations, certification of hiring lists, and the review of appointments. Pursuant to the Governor's Reorganization Plan (GRP) No. 1, selection-related responsibilities were transferred from SPB to CalHR, including the ECOS project.

The ECOS project is intended to upgrade the current electronic exam and list certification systems, which are comprised of the following: Examinations, Certifications, Web Exam, Profile, State Restriction of Appointment (SROA), Reemployment, Vacant Position Online Search (VPOS) and the manual Career Executive Assignment (CEA) examinations and certification systems.

Timeline of Project:

- In 2009, SPB implemented a modified Commercial Off the Shelf (COTS) product or Modified Off the Shelf (MOTS) product from a vendor named JobAps. Under the MOTS, the system did not perform adequately.
- As a result, in 2011, SPB submitted a feasibility study report (FSR) to replace the MOTS product purchased from JobAps with an in-house custom application. The FSR was approved at a project cost of \$4,705,157 and work began on the project.
- In July 2012, after the transfer of duties from SPB to CalHR, CalHR began reviewing the original plan and found several issues with the project's schedule, budget, and resources. CalHR determined that the project was not adequately staffed, the budget was under estimated by \$1.8 million dollars, and the schedule was underestimated by 22 months.
- On April 2, 2013, the California Technology Agency (CTA) approved a special project report (SPR) #1 for the continuation of the ECOS project. The approved SPR resulted in a revised project cost of \$9,946,210.

STAFF COMMENTS

From the last approved FSR on July 18, 2011, to the approved revision of the SPR No. 1, the project cost increased from \$4,705,157 to \$9,946,210, a 111 percent project cost increase.

The Legislature may wish to ask the following:

- How is CTA reviewing these projects?
- What measures have been put in place to ensure that the project remains on budget?
- Does the project automatically end if the project does not meet its metrics?
- What are the cons to reverting back to the legacy examination and certification systems?

Although these projects are small in comparison to other IT projects that the committee has approved, it is important to ensure that the appropriate oversight is occurring during in the process.