

**AGENDA****ASSEMBLY BUDGET SUBCOMMITTEE NO. 4  
ON STATE ADMINISTRATION****ASSEMBLYMEMBER JIM COOPER, CHAIR****TUESDAY, MARCH 21, 2017  
1:30 P.M. - STATE CAPITOL ROOM 447**

<b>VOTE-ONLY CALENDAR</b>		
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<b>0890</b>	<b>SECRETARY OF STATE</b>	
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## VOTE-ONLY CALENDAR

### 0890 SECRETARY OF STATE

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#### VOTE-ONLY ISSUE 1: CAL-ACCESS (CALIFORNIA AUTOMATED LOBBYING AND CAMPAIGN CONTRIBUTIONS AND EXPENDITURE SEARCH SYSTEM) REPLACEMENT PROJECT

The Governor's budget requests a one-time augmentation of \$5.5 million General Fund for \$4.7 million in consulting services and 2.0 positions (for one year) to implement SB 1349 (Hertzberg, Chapter 845, Statutes of 2016).

#### BACKGROUND

SB 1349 requires the Secretary of State (SOS), in consultation with the Fair Political Practices Commission (FPPC), to develop and certify for public use a new online filing and disclosure system for statements and reports that provides public disclosure of campaign finance and lobbying information in a user-friendly, easily understandable format. SOS anticipates selecting a prime contractor by January 2018. The bill requires the SOS to make the online filing and disclosure system available for use no later than February 1, 2019, but permits the SOS to extend this date to no later than December 31, 2019. At this time, the project is on track to meet the February completion date.

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**Staff Recommendation: Approve as Budgeted.**

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#### VOTE-ONLY ISSUE 2: HELP AMERICA VOTE ACT SPENDING PLAN

The Governor's budget requests \$4.1 million from the Federal Trust Fund to continue implementation of the statewide mandates of the Help America Vote Act (HAVA) of 2002.

#### BACKGROUND

The requirements of HAVA include statewide modernization or replacement of voting equipment, education and training programs for election officials and poll workers, development and dissemination of voting information to increase voter participation and confidence, voting systems testing and approval, and a statewide voter registration database. This request does not include funding for maintenance and operating costs for VoteCal, the statewide voter registration database, which is requested in a separate budget change proposal. To date California has received \$392.4 million in federal funds (including interest this fund totals \$436.5 million) to implement these mandates. It is estimated that the unexpended balance after implementation of VoteCal in 2017-18 will be \$31.1 million, which can solely be used for HAVA-related needs.

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**Staff Recommendation: Approve as Budgeted.**

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**VOTE-ONLY ISSUE 3: INFORMATION TECHNOLOGY AND MANAGEMENT SERVICES STAFFING INCREASES**

The Governor's budget requests 3.0 positions and \$943,000 (\$778,000 Business Fees Fund and \$165,000 General Fund) of which \$928,000 is ongoing (\$763,000 Business Fees Fund and \$165,000 General Fund). Of this request, \$650,000 (a fixed annual amount for the next three years) is for the software licensing costs associated with the Microsoft Enterprise Agreement.

**BACKGROUND**

Previous Microsoft licensing was obtained via multiple Select Agreements. This was trouble-prone and caused delays. The California Department of Technology is encouraging all State Agencies and Departments to join their licensing program model using Enterprise Agreement. The addition of three permanent accounting analysts would reduce the reliance on six student assistants to assist with fund reconciliation and interfacing with the accounting system of record (CalSTARS and later FI\$Cal).

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**Staff Recommendation: Approve as Budgeted.**

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**8620 FAIR POLITICAL PRACTICES COMMISSION**

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**VOTE-ONLY ISSUE 4: CAL-ACCESS (CALIFORNIA AUTOMATED LOBBYING AND CAMPAIGN CONTRIBUTIONS AND EXPENDITURE SEARCH SYSTEM) REPLACEMENT PROJECT**

The Governor's budget requests \$145,000 General Fund for 1.0 position to assist SOS with the implementation of the provisions of SB 1349.

**BACKGROUND**

As discussed earlier, SB 1349 requires SOS, in consultation with FPPC, to develop a new online filing and disclosure system. The requested position will continue collaboration with SOS to identify and develop system requirements that will enable a user to comply with all of the disclosure and business requirements. CAL-ACCESS will have increased functionality therefore the requested position also will train staff on the new system and develop new business practices. The Online Disclosure Act generally requires elected officials, candidates for elective office, and committees formed primarily to support or oppose a candidate for public office or a ballot measure, along with other entities, to file periodic campaign statements.

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**Staff Recommendation: Approve as Budgeted**

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## ITEMS TO BE HEARD

### 7350 DEPARTMENT OF INDUSTRIAL RELATIONS

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#### ISSUE 1: DIVISION OF APPRENTICESHIP STANDARDS FEDERAL APPRENTICESHIP GRANT FUNDING

The Department of Industrial Relations (DIR) requests six positions and \$923,000 for 2017-18 from the Federal Trust Fund for the Division of Apprenticeship Standards (DAS) to expand the number of opportunities for Californians to gain employable lifetime skills and provide employers with a highly skilled and experienced workforce. Through focused outreach and education, DAS aims to register 6,000 new apprentices, including women and under-represented low-income apprentices; and engage 100 non-traditional industry sponsors from advanced manufacturing, information technology, health care and transportation for potential apprenticeship program development.

#### BACKGROUND

As part of the California workforce development system, the primary responsibility of DAS is to promote and develop employment based apprenticeship training programs, to improve apprentices' working conditions, and to advance profitable employment opportunities for apprentices. DAS accomplishes these objectives by providing consultative services to apprenticeship program sponsors, employers, employee organizations, and education providers.

DIR and its key partners, such as the Labor and Workforce Development Agency (LWDA) and the Employment Development Department (EDD), are responding to the state's workforce need by developing a strategy to enhance current apprenticeship programs and develop new programs that will help address the need for workers in high-demand sectors, and from under-served populations and/or geographic areas of the state.

The Employment and Training Administration (ETA) and the U.S. Department of Labor (DOL) announced the availability of approximately \$50.5 million to fund an estimated 33 quality grant applications competitively awarded to states through grant funds authorized by the Consolidated Appropriations Act of 2016 for ApprenticeshipUSA State Expansion Grants. The grant was designed to provide states with an opportunity to further align resources to innovate, expand, and diversify registered apprenticeship to better respond to industry workforce demands. California was awarded \$1.8 million over 18 months from the ApprenticeshipUSA State Expansion Grant.

On October 5, 2011, Governor Jerry Brown signed into law Assembly Bill 554 (Chapter 499, 2011), which requires the Workforce Development Board (WDB) to partner with apprenticeship programs, creating a smoother training pathway that broadens access to apprenticeships. In addition, in 2014 the federal government reauthorized the old Workforce Investment Act (WIA) with the Workforce Investment and Opportunity Act (WIOA). As a result, DAS staff have been collaborating with WIA and WIOA partners,

namely the WDB and community colleges, to provide training through pre-apprenticeship as well as apprenticeship offered by approved apprenticeship programs and to create new on the job training and apprenticeship programs. DAS has been working with the Community Colleges' Sector Navigators to broaden opportunities for apprenticeship by recreating existing program curricula and developing apprenticeship programs for new industries. DAS also continues to work with multiple private and public entities that received Accelerator Grants from the California Community College Chancellor's Office in 2014, helping them to set up new apprenticeship programs.

**Apprenticeship Program Expansion in Non-Traditional Industries.** High-growth industries in California that are best suited for potential apprenticeship programs have been identified. The EDD Regional Economic Analysis Profile details projected growth in specific geographical areas where it is expected that apprenticeship expansion in these industry clusters will stimulate economic market growth and boost employment opportunities statewide. Four of these industries (healthcare services, information and communication technologies, transportation and logistics, and advanced manufacturing), will be targeted for apprenticeship expansion based on the need for workforce and education programs.

California is in its second grant application cycle for creation of innovative new apprenticeship demonstration projects, as part of its "California Apprenticeship Initiatives." The first round of state grants, which included a \$15 million grant program, awarded eight pre-apprenticeship grants, 14 apprenticeship grants, and one grant for technical assistance and evaluation. These grants provided innovative approaches to new kinds of apprenticeship programs in a wide range of non-traditional industries and occupations ranging from registered nurses, medical coders, early childhood educators, cyber security, help desk technicians to microbiology quality control technicians and light rail maintenance workers.

**Training.** This proposal also will help facilitate an educational campaign directed to California employers and their associations, informing them of their benefits of registered apprenticeship. DAS will provide a two-day training session for front-line staff in regional DAS offices to provide ongoing technical assistance, consultation and oversight to all program sponsors to ensure continuous compliance with apprenticeship law and regulation.

DAS will continue to work with and engage the California Apprenticeship Council (CAC) to focus on expanding and improving the overall quality of apprenticeship programs. The CAC meetings provide an ideal setting for training the CAC and the public on ways to promote new programs, utilizing its partnerships with local communities involving parents, educators, and businesses to better educate each other on apprenticeship principles and providing policy advice to attract new apprenticeship sponsors and increase apprenticeship registration.

**Increased Apprentice Participation in Underrepresented Populations.** Both the federal government and the state have placed a priority on providing apprenticeship opportunities to individuals with barriers to employment and increasing diversity amongst all economic backgrounds. This proposal builds on the success of existing pre-

apprenticeship and apprenticeship pilot programs, and will begin expanding opportunities to low-income areas with training and high quality job opportunities.

Women represent 50.3 percent of the population (U.S. Census Bureau, 2016) in California but only 6 percent of registered apprentices in the state. A Blue Ribbon Panel met to address this issue and produced a set of recommendations focused on enhanced recruitment through outreach, retention strategies to increase graduation rates, and leadership pathways to train, support, and motivate women to enter positions of leadership. These recommendations are central to the current strategic plan to engage and successfully graduate more women apprentices in California.

#### STAFF COMMENTS

Staff notes that there are number of requests for additional funding for various proposals related to apprenticeships, and workforce training and education programs. The subcommittee may wish to ask the Department to comment on whether the proposals below align with some of the goals in the BCP.

Assemblymember Heath Flora asked the Subcommittee to consider allocating \$300,000 (General Fund) one-time funding to the Division of Apprenticeship standards to collaborate with the California Firefighters Joint Apprenticeship Council in the development of a new firefighter pre-apprenticeship pilot program.

Assemblymembers Waldron and Salas asked the Subcommittee to consider providing \$310 million (General Fund) in one-time funding that could be allocated over five years. These funds would be used for the following purposes:

- \$100 million for Employment Training Panel to establish competitive performance contracts that would be allocated to organizations that facilitate creative training solutions that help people move up the workforce ladder.
- \$200 million to California Workforce Development Board to establish competitive performance grant program that links workforce boards to community-based organizations that help people with multiple barriers to employment receive remedial education and work readiness skills that help them to get training, apprenticeship, or other employment opportunities.
- \$10 million to EDD to expand an existing Workforce Accelerator Grant program that has demonstrated success with improving persistence and completion rates of community college students that face obstacles to completing higher education.

Staff also notes that Assemblymember E. Garcia also has a bill that focuses on the workforce and education, similar to the letter received by Waldron and Salas.

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**Staff Recommendation: Hold Open.**

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**ISSUE 2: STRATEGIC ENFORCEMENT OF LABOR STANDARDS**

The Department of Industrial Relations (DIR) requests 31.0 positions and \$4.6 million in 2017-18, and an additional 51.5 positions phased in over the next two years for a total of 82.5 positions, and \$11.4 million ongoing, from the Labor Enforcement and Compliance Fund (LECF). These resources will enable the Division of Labor Standards Enforcement (DLSE) to implement and expand a strategic enforcement approach to labor law enforcement and provide a more effective means of combatting wage theft and labor law violations.

This proposal also includes proposed trailer bill language to increase the overall effectiveness of labor law enforcement.

**BACKGROUND**

**Division of Labor Standards Enforcement (DLSE) Responsible for Enforcing Labor Standards.** State law places responsibility for enforcing labor standards on DLSE within the Department of Industrial Relations (DIR). The division is headed by the Labor Commissioner and carries out its enforcement responsibilities through several units:

- Bureau of Field Enforcement (BOFE). The BOFE carries out investigations of employers to enforce labor standards. Most BOFE investigations are the result of a complaint submitted to DLSE, but BOFE also initiates some investigations proactively. When an investigation identifies noncompliance, BOFE issues citations with penalties plus the amount of unpaid wages due to workers, if any. The BOFE also defends citations when they are appealed.
- Wage Claims Adjudication (WCA). This unit provides an administrative process for individual workers to pursue unpaid wages and other damages from an employer who has violated wage and hour requirements.
- Judgment Enforcement Unit (JEU). The JEU collects unpaid wages and penalties that are assessed against employers. Several strategies are used for collection, including the use of liens (which prevent the employer's property from being sold until unpaid wages and penalties are paid) and levies (which allow DLSE to seize unpaid wages and penalties from an employer's bank accounts and other property).
- Retaliation Complaints Investigations (RCI). The RCI unit investigates complaints from workers who allege that they faced unlawful retaliation - such as dismissal - because they engaged in certain protected activities, such as reporting a labor

standards violation to DLSE or threatening to report a violation. Following an investigation, the RCI unit issues a determination that may include requiring the employer to take actions to address the retaliation, such as reinstating the

worker. If an employer does not comply with a determination, DLSE may pursue enforcement of its determination in trial court.

**DLSE Funding.** DLSE is funded almost entirely from various special funds. The LECF receives revenues from an assessment on all employers that equals a percentage of the workers' compensation insurance premiums paid by employers. The amount of this assessment is set annually by DIR to cover the amount of spending from the LECF approved in the state budget.

**BCP Request.** The BCP includes a significant increase to BOFE staff phased in over three years. Additionally, the BCP includes funding and positions to allow DLSE to increase the number of investigations conducted under the strategic enforcement approach. This approach focuses on wage and hour violations, which are relatively complex and time-consuming to investigate over violations of more easily verified violations, like not carrying workers' compensation coverage. The Administration's strategic enforcement approach also involves collaboration with worker and industry organizations (such as community-based groups, unions, and employer or industry associations) to identify targets for investigation and otherwise facilitate the investigation process.

Finally, the proposal identifies several industries as priorities for additional investigations. The priority industries include janitorial services, garment manufacturing, construction, residential care homes for the elderly and the disabled, car washes, agriculture, food processing, and restaurants. These industries overlap with industries previously identified by the Legislature as warranting an elevated level of oversight.

#### TRAILER BILL LANGUAGE

According to the DOF and the Department, the proposed trailer bill language addresses many investigative and administrative process inefficiencies that encumber the Division staff in their investigations, enforcement actions, and payment of final wage judgements to workers. The main changes of the trailer bill are summarized below:

#### Changes to General Labor Standards Enforcement Processes

- Specify that the statute of limitations on workers recovering unpaid wages and other penalties (generally two to four years) looks back from the date that an employer is notified of a BOFE investigation instead of the date citations are issued, to preserve the ability to recover unpaid wages and penalties that would have moved beyond the statute of limitations by the time a citation is issued.
- Allow BOFE citations to be served through certified mail. Currently, citations generally must be served in person.
- With some exceptions, prohibit employers from introducing documents as evidence to appeal a BOFE citation if those documents were previously requested as part of the BOFE investigation but were not provided.
- Allow certain workers in the car wash, farm labor, and garment manufacturing industries to recover unpaid wages and other damages from existing state special funds, and allow DLSE to subsequently recover the unpaid wages and damages from employers to reimburse those special funds. Currently, workers in

these industries may only be compensated from the special funds for amounts they are unable to recover from the employer.

- Require the Department of Alcoholic Beverage Control, the Board of Barbering and Cosmetology, and the Bureau of Automotive Repairs to suspend or revoke licenses for employers if they have not satisfied judgments for unpaid wages and other damages. This is similar to an existing process at the Contractors State License Board.

### **Changes to Retaliation Investigation Processes**

- Pause the statute of limitations for workers to pursue legal action against an employer for retaliation while a retaliation complaint is investigated by DLSE.
- Allow DLSE to decline to investigate a retaliation claim if the worker has initiated a parallel claim in another venue, such as challenging the alleged retaliation with the State Personnel Board, through a collective bargaining agreement grievance procedure, or through the courts.
- Allow DLSE to request a court order to temporarily reinstate a worker while a retaliation complaint investigation is ongoing.
- Extend the time the RCI unit has to investigate a retaliation complaint from 60 days to 1 year.
- Extend the time for employers to comply with DLSE's determination on a retaliation complaint investigation from 10 days to 30 days.
- Give the Labor Commissioner the discretion to delegate the approval of reports that are generated from retaliation complaint investigations. Currently, only the Labor Commissioner or a chief deputy may approve the reports.
- Eliminate the ability for parties to a retaliation complaint investigation to appeal DLSE's determinations to the Director of DIR, except in certain cases where an administrative appeal is required by federal law.
- Specify that, if DLSE pursues court action to enforce its determination from a retaliation complaint investigation, it must do so within three years.
- Require an employer to pay for DLSE's legal costs when DLSE prevails in an action to enforce its determination on a retaliation complaint investigation.
- Place penalties on employers that willfully refuse to comply with a court order to enforce DLSE's determination from a retaliation complaint investigation.
- Clarify that workers may not be retaliated against for reporting a work-rated fatality, injury, or illness, or other activities protected by the federal Occupational Safety and Health Act.

**STAFF COMMENTS**

This proposal makes significant increases to staffing for Labor Standards Enforcement. In addition to the significant increases in staffing, the Labor Commissioner has been working to focus resources to make enforcing the labor law stronger. According to the Labor Commissioner, the approach will address changing behaviors and working with others to make positive changes in the industry

Similar to the LAO, staff has some concerns about the some of the provisions included in the trailer bill language. There are some technical issues that are suited for the TBL. For example, allowing BOFE to serve citations through the mail is a technical issue that is appropriate for the TBL. However, there are some larger policy questions that may be better suited for a policy discussion, and if not a policy discussion, stakeholder feedback is needed on how these changes will be implemented and who they will affect.

The LAO provides some key questions that the subcommittee may wish to consider with regard to the TBL:

- How would the proposed changes affect workers' ability to pursue remedies for Labor Standards violations?
- Are additional restrictions on employers defined narrowly enough to avoid negatively affecting complaint employers?
- How would the proposed changes affect workload in other state agencies?

Finally, staff has received opposition to Labor Code Section 238.6, which would allow the Labor Commissioner to revoke or suspend a license for a failure to pay a wage order judgement due to an employee.

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**Staff Recommendation: Hold Open.**

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**ISSUE 3: PUBLIC WORKS EDUCATION AND ENFORCEMENT**

This proposal requests an augmentation of six positions and \$805,000 in 2017-18 and \$759,000 in 2018-19 (Labor and Workforce Development Fund) to educate awarding bodies of their requirements under public works law to maximize compliance with registration requirements and increase revenue into the State Public Works Enforcement Fund (SPWEF). This includes proposed Trailer Bill Language (TBL) to enhance the overall effectiveness of public works labor law enforcement and compliance with registration requirements. Additionally, this proposal includes one attorney position and \$212,000 in 2017-18 and \$204,000 ongoing, from SPWEF to adequately address debarment workload.

To address solvency concerns in the SPWEF, this proposal also includes a funding shift of \$2.2 million from the SPWEF to the Labor Enforcement and Compliance Fund (LECF) for activities related to prevailing wage determinations.

**BACKGROUND**

**Public Works Funding.** The 2014-15 Budget Act included TBL to impose an annual \$300 registration fee on contractors and subcontractors wishing to conduct work on public works projects. At the time, it was estimated that there were at least 40,000 contractors statewide that would register, resulting in annual revenue of \$12 million in the SPWEF. Prior to this funding construct, the Public Works (PW) Unit had a bifurcated funding model wherein the investigation of bond-funded projects was supported by a fee not to exceed  $\frac{1}{4}$  of one-percent of the bond funds on that particular project. Investigatory work on all other public works projects and the Prevailing Wage Determination function (housed within the Director's Office) was funded through the LECF. There were problems collecting sufficient revenue from bond-funded projects and as a result, PW was forced to hold positions vacant. The 2014-15 TBL was designed to solve this problem and consolidate most funding for public works activity, including prevailing wage rate determinations, under the SPWEF which now derives its revenues from the \$300 contractor registration fee.

Unfortunately, the new funding model is experiencing challenges and the SPWEF is facing a structural imbalance. The Fund Condition Statement shows that if revenue stagnates at the current level and expenditures are equal to the budget appropriation, the SPWEF will be insolvent by 2018-19. In addition, there are a number of outstanding loans to other funds, including a \$1.3 million loan from the General Fund that has yet to be repaid.

The SPWEF has budgeted expenditures of \$13 million in 2016-17. However, there were less than 30,000 contractor registrations in 2015-16, generating only \$8.8 million in revenue. Current law provides that an unregistered contractor or subcontractor found to be working on a public works project pay an additional \$2,000 registration fee or be disqualified from bidding on future public works projects. In 2015-16, nearly 600 contractors paid this fee, resulting in an additional \$1.2 million in revenue to the SPWEF. There may be a significant noncompliance rate with the contractor/subcontractor registration requirement.

Through 2012-13, Prevailing Wage Determinations was funded through the General Fund and was later shifted to the LECF in 2013-14 and the SPWEF in 2014-15. Since the prevailing wage unit primarily performs research and does not have enforcement responsibilities, this proposal requests that the \$2.2 million in expenditures for this unit be shifted from the SPWEF back to the LECF.

**Education and Outreach.** Awarding bodies have the greatest opportunity to prevent prevailing wage and other labor law violations from being committed on public works projects and should be partners in DLSE's efforts to ensure that all public works contractors are in compliance with labor laws. Currently, outreach presentations are conducted in response to requests from an awarding body or an association of awarding bodies that serve similar functions (school districts, utilities, etc.). The PW unit conducts approximately four outreach presentations per month statewide.

Creating an outreach team dedicated to educating awarding bodies on the benefits of the new pre-qualification guidelines and how to better handle their responsibilities on public works projects will greatly increase the efficacy of DLSE's public works enforcement. Educating and engaging awarding bodies and providing them with a strong tool to weed out unscrupulous contractors will enable the unit to work as partners on the offensive to prevent labor law violations, including non-registration.

**Debarments.** The Labor Commissioner has the authority to ban a contractor from bidding on or performing work as a contractor (subcontractor or prime) on a public works project for up to three years if it is determined the contractor was in violation of public works laws with an intent to defraud. Over the last five years, the PW unit has pursued an average of 16 debarments annually. The unit currently does not pursue as many debarments as it would like due to the significant citation appeal workload and backlog already being handled by DLSE's legal staff.

**LAO Comments.** The LAO makes a number of comments with regard to the BCP:

- Shift of support for prevailing wage determinations to LECF is a reasonable way to address funding imbalance in short run but SPWEF is preferable as a long-term funding source.
- Unclear whether outreach to awarding bodies would, on its own, increase compliance and fee revenue.
- Direct DLSE to comment on additional steps to increase compliance with contractor registration requirement.
- Even if compliance with registration requirement increases, fee revenues may not meet initial expectations.
- Require a report on ongoing public works enforcement.
- Premature to approve additional staff for debarment proceedings given SPWEF solvency concerns.

**TRAILER BILL LANGUAGE**

Below is a summary of some of the key provisions included in the TBL:

**Effective Date.** Applies requirement to register as a public works contractor to work performed on or after January 1, 2018, regardless of a contract date.

**Small Projects Exemption.** Provides administrative relief for contractors and awarding agencies on small projects. Among the provisions, the TBL creates a new minimum threshold triggering registration requirement for projects over \$25k for new construction; over \$15k for maintenance.

**Unregistered Contractor Sanctions.** Among its provisions, the TBL requires all contractors and subcontractors engaged in the performance of a public work must be registered. If the Labor Commissioner determines that a contractor or subcontractor has violated the registration requirement, unregistered contractors shall forfeit as a civil penalty to the state \$100 day up to \$8,000.

**Public Works Fund.** Specifies that DOF and LWDA may approve a short-term loan each fiscal year from the LECF to the SPWF. Amends previous language specifying the loan source was the Labor and Workforce Development Fund.

**Awarding Agency Sanctions.** Specifies that an Awarding Agency (AA) authority that fails to provide the notice to DIR, or enters into contract with or permits unregistered contractor or subcontractor to engage in work, is subject to fine of \$100/day up to \$10,000. Additionally, if Labor Commissioner determines that AA willfully violated requirements of this section or chapter on 2 more projects within a 12 month period, the AA shall be ineligible to receive state funding or financial assistance for any construction project undertaken by the AA for one year. Penalties received shall be deposited into the State Public Works Enforcement Fund.

**Liquidated Damages Waiver.** This bill deletes authority to waive liquidated damages for unpaid wages.

**STAFF COMMENTS**

The subcommittee may wish to discuss with the Department what strategies are available to ensure oversight and the long term success of the program. The changes proposed in the trailer bill assume that shifting the responsibility and penalties to the awarding bodies will increase compliance. The funding for the program has had a history of challenges and it is uncertain how these changes will provide stability.

The LAO makes a reasonable argument that increasing staff for debarment may be premature, especially since the future funding for the program is uncertain.

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**Staff Recommendation: Hold Open.**

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**ISSUE 4: PROCESS SAFETY MANAGEMENT UNIT – INCREASED NON-REFINERY INSPECTIONS**

This proposal requests 13.0 positions, 10.0 of which will be safety engineers, and an augmentation of \$2.5 million in 2017-18 and \$2.4 million ongoing, to the Occupational Safety and Health Fund for the Division of Occupational Safety and Health (DOSH) to expand the existing Process Safety Management (PSM) non-refinery inspection program from 45 annual Program Quality Verification inspections to a total of 113 inspections annually.

**BACKGROUND**

The 2014-15 budget increased the PSM function by 15.0 positions (11.0 new positions and 4.0 redirected from within DOSH) and \$2.4 million. This augmentation increased the overall number of inspectors from 8.0 to 20.0, and added management and support personnel. This initial PSM expansion focused exclusively on the refinery inspection needs for the 15 refineries located in the state, as a matter of priority, but also to allow DOSH to acquire the necessary data, and develop the requisite methodology for evaluating and categorizing risk in the various non-refinery facilities.

California is home to approximately 1,940 non-refinery industrial facilities that handle or process anywhere from 50 to 120 million pounds of hazardous chemicals. These facilities include, but are not limited to, ammonia refrigeration, water treatment and waste water treatment, chemical plants, and explosives manufacturers. All of these facilities fall under the jurisdiction of the PSM Unit.

In response to legislative inquiries and Supplemental Report Language regarding the number of staff and inspections required to provide adequate oversight of non-refinery facilities, the Department submitted a status report to the Legislature during 2016-17 budget hearings. The status report outlined the amount of resources needed to achieve various inspections levels, but did not make any specific recommendations regarding enforcement levels requested by DOSH at that time. This proposal identifies the augmentation needed to increase the capacity to inspect non-refinery facilities.

The PSM non-refinery program currently has six Safety Engineers (SE's) that are trained to conduct program quality verification (PQV) inspections. Three are located in the Santa Ana District Office and three are located in the Concord District Office. A PQV is a planned, proactive inspection and is a thorough assessment of a facility's safety preparations and emergency response procedures. A PQV inspection is more expansive than complaint and/or accident inspections, which are reactive in nature and generally focused on the specifics which gave rise to the accident or complaint. The other inspections may include, but are not limited to: referrals from other government agencies, and records and permit inspections.

Each inspector is able to conduct about 7.5 inspections per year, at a rate of 200 to 300 hours per inspection, for an annual total of 45 PQV inspections statewide, exceeding the goal of 40 inspections which had been established for 2014-15.



**STAFF COMMENTS**

The resources provided in the proposal were in response to reporting requested through the budget process with regard to the non-refinery side of inspections. A case could be made for increasing staffing for refinery inspections in addition to those positions that are currently included in the proposal. Last year, multiple safety deficiencies were found at a Torrance refinery plant that may have been discovered earlier with additional inspections.

The subcommittee may wish to ask the Department what challenges it faces when adding additional inspector positions and how many inspectors can be trained during a calendar year.

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**Staff Recommendation: Hold Open**

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**ISSUE 5: OCCUPATIONAL SAFETY AND HEALTH PENALTY COMPLIANCE TRAILER BILL LANGUAGE**

The Governor's budget proposes trailer bill language to address occupational and health penalty compliance conformity.

**BACKGROUND**

The proposed trailer bill language would increase the civil penalties from \$7,000 to up to \$12,471 for each violation that is not of a serious nature and each violation of the posting, recordkeeping, or notice requirements, and from \$70,000 to up to \$124,709, but not less than \$8,908, for each willful or repeated violation of any of these occupational safety or health standards or orders.

Additionally, the trailer bill proposes to permit the maximum penalty amounts to be increased on January 1, 2018, and each January thereafter based on the Consumer Price Index (CPI).

The trailer bill would exempt any regulation issued increasing those penalty amounts from the Administrative Procedure Act, but would require the filing of the regulations with the Office of Administrative Law.

Finally, this trailer bill would delete the civil penalties for violation of the asbestos safety provisions.

**STAFF COMMENTS**

Staff has not received any comments or feedback on the proposed trailer bill language from stakeholders.

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**Staff Recommendation: Hold Open.**

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**ISSUE 6: ENHANCED ENFORCEMENT COMPLIANCE AND APPRENTICESHIP SERVICES**

The Department of Industrial Relations requests 11 positions and \$1.7 million in 2017-18, 25 positions and \$3.4 million in 2018-19, with 19 positions and \$2.6 million ongoing, to fulfill the provisions of recently chaptered legislation including:

- AB 1066 (Chapter 313, Statutes of 2016) Phase-In Overtime for Agriculture Workers.
- AB 1978 (Chapter 373, Statutes of 2016) Property Service Workers
- SB 693 (Chapter 774, Statutes of 2016) Workforce Expansion
- SB 1001 (Chapter 782, Statutes of 2016) Immigrant Workers Document Protections
- SB 1063 (Chapter 866, Statutes of 2016) Equal Pay – Race and Ethnicity
- SB 1167 (Chapter 839, Statutes of 2016) Indoor Heat Regulations

**BACKGROUND**

**AB 1066.** AB 1066 removes an exemption for agriculture employees regarding hours, meal breaks, and other working conditions. The bill includes specific wage requirements, bringing farmworkers in line with the majority of employees in California who are protected by the existing mandate that pay hours worked in excess of 8 hours per day or 40 hours per week be paid at 1.5 times the regular pay. The bill provides for a phase-in approach for overtime requirements that gradually implement the 8-hour workday for farmworkers over a four-year period.

The Department requests \$40,000 for outreach in 2017-18, and two positions and \$308,000 in 2018-19, (\$267,000 ongoing) to support its Division of Labor Standards Enforcement (DLSE) for increased workload created by the passage of AB 1066.

**AB 1978.** AB 1978 establishes specific standards and protections for property service workers (otherwise known as janitors). The intent of the new law is to combat wage theft, ensure compliance with existing labor laws, and also lower instances of sexual harassment, sexual violence, and human trafficking in the property services industry, where it is particularly prevalent.

The Department requests an augmentation of three positions and \$442,000 in 2017-18, nine positions and \$1 million in 2018-19, with nine positions and \$967,000 ongoing. These positions will support DLSE in implementing the requirements under AB 1978.

**SB 693.** DAS promotes and develops apprenticeship training and enforces minimum apprenticeship standards. Among other mandates, DAS is the division within DIR responsible for approving new apprenticeship programs, ensuring that programs are adhering to its approved training standards, registering apprentices in approved programs, investigating apprentice complaints against programs, and issuing State certificates of completion to graduates of programs.

Because only registered apprentices may be paid a lower prevailing wage on publicly-funded “public works” projects, DAS regularly receives inquiries from the public to verify that a worker is a registered apprentice. Employers also contact DAS when they wish to confirm that worker has completed an apprenticeship and has graduated into a journey person.

The Department requests one position and \$123,000 in 2017-18, (\$116,000) to provide resources for the Division of Apprenticeship Standards (DAS) to address additional workload as a result of SB 693.

**SB 1001.** SB 1001 adds Labor Code section 1019.1 and makes it unlawful for an employer in the course of satisfying requirements of the Immigration Reform and Control Act of 1986. The bill provides that an applicant for employment or an employee who believes their rights have been violated under this law may file a complaint with DLSE for equitable relief and penalties not to exceed \$10,000 per violation.

The Department requests three positions and \$437,000 in 2017-18 and 2018-19 as a two-year limited-term funding, to support its DLSE for increased workload created by SB 1001.

**SB 1063.** Existing Labor Code section 1197.5 prohibits payment of a wage less than the wage rate paid to employees of the opposite sex for substantially similar work, when viewed as a composite of skill, effort, and responsibility, and performed under similar working conditions. SB 1063 amends Labor Code section 1197.5 to add a new and discrete equal pay protection to the existing protection for gender based disparity to also include a prohibition against paying lesser wage to an employee based on race or ethnicity. The amendments made by SB 1063 are an individual worker protection that will be enforced by the DLSE’s Retaliation Complaint Investigation unit within DIR.

The Department requests three positions and limited-term augmentation of \$415,000 in 2017-18 and \$392,000 in 2018-19, to implement the requirements of SB 1063 that will expand equal pay protections to include a prohibition against paying a lesser wage to an employee based on race or ethnicity.

**SB 1167.** The Division of Occupational Safety and Health (DOSH) is the sole agency responsible for protecting workers from health and safety hazards on the job. DOSH protects workers in almost every workplace in California through its enforcement, research, and standards, and consultation programs.

SB 1167 requires DOSH to develop a new heat-illness prevention standard for indoor workers which would specify necessary measures to control indoor exposures to heat and would make compliance and enforcement easier and more effective. The new standard completed by this bill could prompt engineering and administrative changes to reduce risks of heat stress for indoor employees.

The Department requests one position and \$212,000 for 2017-18 and seven positions and \$1.1 million in 2018-19 (\$1.3 million ongoing) to provide resources for DOSH to address the new activity of indoor heat exposure inspections to protect California workers as required by SB 1167.

<b>STAFF COMMENTS</b>
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The resources provided in these bills will enable DIR to implement provisions and the intent of recently enacted legislation. All resources are consistent with the appropriation estimates provided during the legislative process.

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**Staff Recommendation: Hold Open.**

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**7100 EMPLOYMENT DEVELOPMENT DEPARTMENT****ISSUE 7: BENEFIT SYSTEM MODERNIZATION**

This request includes one-time budget augmentation of \$4,022,000 (Special Fund) and 15 positions and a redirection of \$3,162,000 (Special Fund) and 15 positions in 2017-18 for the Benefit Systems Modernization (BSM) project. The resources will be for state staff, requirements vendor, project oversight from California Department of Technology, and for Independent Verification and Validation (IV&V) vendor services to continue activities towards building an integrated, secure and sustainable Benefits System to service California claimants seeking unemployment, disability or paid family leave benefits. The funding also includes \$1.8 million as part of the one-time budget augmentation toward the requirements vendor contract.

**BACKGROUND**

The EDD administers several multi-billion dollar benefit programs, including the Unemployment Insurance (UI), Disability Insurance (DI), and Paid Family Leave (PFL) programs that provide financial stability to workers and communities.

Partial system modernization was completed for both the State Disability Insurance (SDI) program, which implemented SDI Online in 2012, and for the UI program, which implemented UI Online in 2015. The PFL system has not been modernized since being implemented in 2004.

While the partial system modernization projects provided some relief in terms of new customer self-service capabilities, the resulting systems are now overly complex and not sustainable from both technology and staffing standpoints. The EDD possesses three independent, non-integrated benefit systems that all rely to varying degrees on an aging mainframe, Common Business Oriented Language (COBOL)-based system, as well as legacy external sub-systems and components. Maintaining viable system interfaces and data integrity between disparate benefit system databases that reside on different technological platforms is very complex, expensive, and difficult to maintain. In addition to the many technology challenges, recruitment and retention of staff with the COBOL skillset is increasing difficult.

The existing benefit systems are not fiscally sustainable. The EDD's customers experience a lack of consistency when utilizing the various benefit systems, certain customer groups cannot utilize online services and must submit information manually or through contacting an EDD representative.

**Major Project Opportunities.**

**One Benefits System:** EDD will replace three stand-alone systems with one benefits system that provides all functionality. This will mitigate the legacy system issues currently experienced including the ongoing support costs and sustainability.

Technology Support: Having one technology platform will reduce IT staff support costs as staff would only have one technology platform to support. Current benefit systems require different skill sets to maintain the systems COBOL, .Net, Structured Query Language, and Database. With one platform, technical support staff, including developers and testers, will need to know one system, framework, etc.

Better Service to Customers: Having one benefits system will provide claimants and employers a single portal to EDD services. This will result in fewer identity and account management issues by having a standardized process for establishing a customer's identity.

A team of program staff and IT staff need to be fully engaged performing Stage 2 activities during 2017-18. The requirements vendor contract is expected to be procured during 2016-17 with services set to begin April 2017. The CDT will provide external oversight of the BSM project's activities and management processes during Stage 2 of the Project Approved Lifecycle (PAL). The EDD will procure a vendor to perform IV&V services to oversee the requirements phase of Stage 2. IV&V services are expected to begin in January 2018. Utilizing vendors is consistent with industry standards and meets best practices.

The EDD anticipates the BSM project will result in the creation, change, and deletion of business processes. While the specific changes to existing business processes are not known at this time, the EDD will document and monitor all changes beginning in Stage 2 of PAL.

The EDD states that the estimated timeline for Stage 2 may be overly aggressive and that if it is not able to complete all planned activities in 2017-18, the EDD will reflect any changes or additional needs in future BCPs.

**Provisional Language.** Budget Act provisional language has been drafted to allow EDD's budget to be augmented by up to \$1 million, provided there is sufficient justification for an increase, in order to fully fund the requirements vendor contract.

<b>STAFF COMMENTS</b>
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The resources requested in this proposal are for a one-time budget augmentation. The subcommittee may wish to ask for clarification about the provisional language since the BCP states that both the Employment Development Contingent Fund and Unemployment Compensation Disability Fund may augment by an amount not to exceed \$1 million but the actual provisional language reads up to \$1.122 million.

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**Staff Recommendation: Hold Open.**

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**ISSUE 8: CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD**

The California Unemployment Insurance Appeals Board (CUIAB) requests an augmentation of \$791,000 (General Fund), \$791,000 (Disability Insurance/Paid Family Leave (DI/PFL) funds) and 12.5 positions (5.4 temporary positions and 7.1 permanent positions) in 2017-18 and 2018-19, and \$407,000 (General Fund), \$407,000 (DI/PFL funds), and 7.1 permanent position equivalents in 2019-20 and ongoing, for the Tax Appeal Program, to address the incoming workload level and high volume of pending payroll tax appeals waiting for hearings.

**BACKGROUND**

The CUIAB provides due process for California employers who disagree with their payroll tax determinations by the Employment Development Department (EDD). The EDD's tax program is a federal-state program that primarily collects and enforces payroll taxes from about one million California employers. When employers dispute EDD tax audits, tax liability statements, Unemployment Insurance (UI) reserve accounts and benefit charges, or other tax liabilities, they may file appeals with the CUIAB.

California provides two levels of appeal. The first level is an appeal of the EDD determination to a CUIAB Field Operations judge. The second level is an appeal of the first level judge's decision to the Board. Tax appeals make up about one percent of the total appeal caseload at the CUIAB, but take about three to four times the staff time to process as compared to benefit appeals.

The liabilities associated with CUIAB's current open balance of pending tax appeals total approximately \$339.5 million, as of July 31, 2016. This represents the tax liabilities at the time of the appeal, as reported by the EDD at that time, and then captured in CUIAB's appeal tracking system. Adjustments made after the appeals are filed are not captured in CUIAB's data.

The CUIAB's Tax Appeal Program is insufficiently funded. Each year, the CUIAB receives more tax appeals than it can process with the staff levels supported by available funding. This results in a growing number of pending tax appeals, delayed due process for employers, and delays in the State's collection of upheld tax liabilities.

The CUIAB currently has a high number of pending tax appeal and tax ruling appeal cases. For cases closed in 2015-16, employers had waited 26 months on average, from the date the appeal was filed to the date the CUIAB decision was mailed, for resolution to their tax appeals. This also delays EDD's collection of the tax liabilities upheld by CUIAB decisions.

At the end of 2015-16, the CUIAB had 4,800 pending first-level tax appeal cases and 3,400 pending first-level tax ruling appeal cases, for a total of 8,200 pending cases. During the fiscal year, the CUIAB received 2,500 new tax appeal cases and 1,200 new tax ruling appeals, for a total of 3,700 incoming cases.



The total staffing needed to address the incoming workload and also reduce the pending caseload is 21.9 positions, including one Presiding ALJ positions, 9.2 ALJ positions, and 11.7 positions in support staff. However, the CUIAB only receives enough funding to support 9.4 positions. The UI funding is allocated by the EDD from the federal UI grant funds, based on an agreement with US Department of Labor, to fund CUIAB Tax Appeal Program activities.

FYs 2017-18 & 2018-19	Projected Workload	First Level Avg. Workload per ALJ	Second Level Avg. Workload per ALJ	Presiding ALJ PEs	ALJ PEs	Support Staff PEs	Total PEs Needed	Current Staff Funded	Additional Staff Needed
Tax Appeals	3,770	474	379	1.0	8.1	10.7	19.8	8.4	11.4
Tax Ruling Appeals	1,830	1,622	1,298	-	1.1	1.0	2.1	1.0	1.1
Total	5,600			1.0	9.2	11.7	21.9	9.4	12.5

FY 2019-20 & Ongoing	Projected Workload	First Level Avg. Workload per ALJ	Second Level Avg. Workload per ALJ	Presiding ALJ PEs	ALJ PEs	Support Staff PEs	Total PEs Needed	Current Staff Funded	Additional Staff Needed
Tax Appeals	2,620	474	379	1.0	5.6	8.2	14.8	8.4	6.4
Tax Ruling Appeals	1,220	1,622	1,298	-	0.7	1.0	1.7	1.0	0.7
Total	3,840			1.0	6.3	9.2	16.5	9.4	7.1

<b>STAFF COMMENTS</b>
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The subcommittee may wish to ask the following:

- In 2015-16, employers had to wait about 26 months from the date of the appeal to resolution. With the additional resources, what should the new timeframe be?

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**Staff Recommendation: Hold Open.**

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**7300 AGRICULTURAL LABOR RELATIONS BOARD****ISSUE 9: FUNDING FOR THE AGRICULTURAL LABOR RELATIONS BOARD**

The Office of the Board (Board) requests permanent funding of \$573,000 (General Fund) for existing limited-term positions: 1.5 Hearing Officer II positions and 1.0 Attorney IV position. The workload for these positions has not decreased and is projected to increase as new satellite offices are fully opened and education and outreach efforts are increased.

**BACKGROUND**

In 1975, then Governor Jerry Brown signed into law the Agricultural Labor Relations Act (Act) to “encourage and protect the rights of agricultural employees to full freedom of association, self-organization ... and to be free from interference, restraint, or coercion” (Labor Code § 1140.2). The ALRB’s role is to ensure peace and justice in the fields by providing stability in agricultural labor relations by implementing, protecting, and enforcing the rights and responsibilities of employers, employees and unions in their relations with each other. The ALRB exercises jurisdiction over approximately 800,000 farmworkers and employers, which were specifically exempted from the coverage of the National Labor Relations Act (NLRA) in 1935.

In 2015-16, the Board received a temporary budget augmentation for three positions: Two full-time Hearing Officer positions to address the backlog and ongoing caseload and one full-time Attorney IV position to address the increased state and federal court litigation. These positions were authorized as limited-term for two years.

**Hearing Officer.** The Board is requesting permanent augmentation for 1.5 Hearing Officer II positions, which would bring the Board’s total permanent Hearing Officer staffing to three Hearing Officer positions. Having three permanent full-time Hearing Officer positions, will allow the Board to timely schedule, preside over, and provide a final decision all in support of the protection of rights of California farmworkers.

These positions will allow the Board to provide timely hearings and decisions. The Hearing Officer is the presiding administrative law judge and every case that comes before a Hearing Officer is fact-specific and unique in the complexity of the law involved. Hearing Officer decisions are multifaceted and complex as cases can involve thousands of employees, resulting in numerous legal questions within a single case.

**Attorney IV position.** The Board is requesting permanent augmentation for the Attorney IV position. In January 2014, to address the Board’s increased state and federal court litigation workload, the Labor and Workforce Development Agency (LWDA) temporarily redirected resources to provide a limited-term Attorney IV position to the Board to oversee, coordinate, and assist Board Counsel and attorneys assigned from the Office of the Attorney General to handle litigation. Effective July 1, 2015, the Legislature approved the Governor’s Budget proposal for a two-year limited-term

Attorney IV position, which expires June 30, 2017. The primary responsibility of the Attorney IV is appellate work where the position works with the three Board Counsel positions to represent the Board in the most sensitive and complex matters.

<b>STAFF COMMENTS</b>
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Originally, these positions were provided to address a backlog of cases at the Board. The subcommittee may wish to ask the Board to discuss the current status of the backlog.

Staff has no concerns with this proposal.

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**Staff Recommendation: Hold Open.**

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**0559 LABOR AND WORKFORCE DEVELOPMENT AGENCY****ISSUE 10: ASSOCIATE SECRETARY FOR FARMWORKER AND IMMIGRANT SERVICES**

The Labor and Workforce Development Agency (Agency) requests an increase of \$205,000 (reimbursement authority) and one position to identify and prevent abuses in the recruitment of H-2A temporary workers and to coordinate the programs within the Agency that are responsible for serving farmworkers and immigrants.

**BACKGROUND**

The 2015-16 Budget provided two-year limited term funding to hire the Associate Secretary for Farmworker and Immigrant Services. The position and funding are set to expire.

**Farmworker Services and H-2A.** The U.S. Department of Labor's H-2A temporary agricultural worker program allows agricultural employers who anticipate a shortage of domestic workers to bring nonimmigrant foreign workers, typically from Mexico, to the U.S. to perform agricultural labor of a temporary or seasonal nature that lasts no longer than one year. Employers must pay all travel costs and provide these workers with a copy of their contract, free housing, and three low-cost meals per day. To secure H-2A workers, employers typically rely on recruitment agencies to find and contract the workers on their behalf. Under the federal program it is unlawful for recruiters or recruitment agencies to charge recruitment fees to H-2A workers.

It remains a common practice for recruiters to charge Mexican workers high fees in exchange for connecting them with employment. Recruiters often make false promises to workers about employment conditions as a means of attracting more workers and charging higher recruitment fees. In July 2014, Governor Brown signed a letter of intent to cooperate with Mexico's Secretary of Labor and Social Welfare to protect the rights of Mexican H-2A temporary workers in California.

**Immigrant Integration / Immigrant Services.** In March 2016, the Governor's Office appointed a Director of Immigrant Integration, who is spearheading efforts to inventory, assess, and improve access to programs statewide that can or should serve California's immigrant population. The Associate Secretary is responsible for implementing and overseeing the directives of the Director of Immigrant Integration within the Agency and coordinating Agency programs and resources that can be used to assist California's immigrant population in obtaining employment, labor rights protections, and accessing employment training resources. The Associate Secretary has worked to identify gaps in services to farmworkers and limited access to services for immigrants, particularly around workforce services.

**STAFF COMMENTS**

The resources will continue to protect and support farmworkers and immigrant integration.

**Staff Recommendation: Hold Open**

**0890 SECRETARY OF STATE****ISSUE 11: CALIFORNIA BUSINESS CONNECT PROJECT**

The Governor's budget requests \$2.4 million from the Business Programs and Modernization Fund (BPMF), to continue implementation of the California Business Connect. The total 2017-18 cost of the project is \$4.11 million; of which \$2.04 million will be funded through the use of existing resources, resulting in a project funding need of \$2.07 million. An additional \$320,000 is needed for temporary help (and corresponding Department of General Services service fees) to backfill staff redirected to the project.

**BACKGROUND**

The SOS is constitutionally mandated to provide services to businesses in the state, including processing and filing commerce and trade documents such as business formations, changes, and terminations. Most business entity documents and information requests are submitted to the SOS via mail or in-person in Sacramento and Los Angeles. The office currently relies on several antiquated electronic and "paper" database systems in order to process more than two million business filings and requests for information submitted annually.

The paper system have resulted in unacceptable turnaround times, which led to significant budget augmentations to reduce the turnaround times and backlogs. An augmentation of roughly 50 positions has continued since 2013-14 in order to maintain the legislatively recommended average five-business day turnaround time. The most recent request was approved for 2016-17, which provided funding for 52.0 limited-term positions, temporary help, and overtime.

California Business Connect is a comprehensive technology solution intended to increase online services for business filings and requests for information and is intended to reduce the reliance on additional staff. The existing paper-based system will be automated for the following lines of business:

- Business Entities including Limited Liability Companies, Limited Partnerships and Corporations.
- Uniform Commercial Code including Financing Statements, Federal and State Tax Lien Notices and other lien notices such as Judgment and Attachment liens.
- Trademarks and Service Marks.

A contract for the project was awarded in January 2014, however, this contract was mutually terminated in August 2015. SOS was approved to proceed with a new procurement in April 2016. A request for proposals (RFP) is expected to be released in August 2017. The contract would be awarded by September 2018 with phased implementation beginning in 2019 and complete deployment by 2021.

The budget request is for funds to continue contracting for project management services, independent project oversight, independent verification and validation, temporary help to backfill behind redirected staff, and other operating expenses related to the project. Additionally, the spending authority request will allow consultants and SOS to complete the re-planning and developing of the RFP and work on procuring the new systems integration vendor. The consultants and SOS staff will work together on reengineering business processes and associated functional, non-functional, and project specific requirements changes for the future RFP. The consultants will also work with SOS staff on organizational change management planning and training.

As of December 31, 2016 the total project costs are \$8.7. The anticipated total project funding is \$53.4 million.

#### STAFF QUESTIONS

1. SOS: Is this project on track to have a RFP released by August 2017?
2. SOS: What are the most significant risks to the project being completed by 2021?
3. LAO: Is this project going through the California Department of Technology's new project approval process? What benefits could that process provide to this project to help better ensure it is successfully completed?
4. SOS: Can it be expected that staffing levels will be reduced over time as the project is fully implemented?

#### STAFF COMMENTS

This project has struggled in the past for a variety of reasons. It is important for the Legislature to provide the recourses necessary to keep this critical project moving forward and to continue oversight of the project. The new IT review approach should allow for more opportunities for legislative review and oversight of the project. Once the project is fully implemented in 2021, resulting in more automated processes, it is likely that some of the limited-term positions would no longer be necessary. Staff recommends adopting the Governor's proposal to continue implementation of California Business Connect.

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**Staff Recommendation: Approved as Budgeted**

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**ISSUE 12: HELP AMERICA VOTE ACT—VOTE CAL**

The Governor's Budget requests \$7.1 million in federal funds for the second year of the Maintenance and Operations cost of California's statewide voter registration database known as VoteCal. This amount includes \$1.6 million of local assistance support.

**BACKGROUND**

The SOS entered into an agreement with the U.S. Department of Justice to develop and implement a statewide uniform, centralized, interactive, and computerized voter registration database (VoteCal) in accordance with Section 303 (a) of the Help America Vote Act (HAVA) passed by Congress in 2002. The VoteCal system supports the registration of voters and is administered jointly by the SOS elections division and county elections officials. The VoteCal system was declared the new system of record for the state in September 2016.

SB 450 (Allen, Chapter 832, Statutes of 2016) permits certain counties beginning in 2018, and all counties after 2020, to conduct elections where all voters are mailed a ballot and where vote centers and ballot drop-off locations are available prior to and on election day, in lieu of operating polling places. As a result, vote centers will need a mechanism and ability to communicate with voter registration databases in real-time.

AB 1461 (Gonzalez, Chapter 729, Statutes of 2015) requires the Department of Motor Vehicles to provide SOS electronically the records of each person who is issued an original or renewal of a driver's license or state identification card or who provides the department with a change of address. The person's motor vehicle records would then constitute a completed affidavit of registration and the person would be registered to vote, unless the person affirmatively declined to be registered to vote.

**STAFF QUESTIONS**

1. HAVA federal funds have been funding VoteCal's maintenance and operations costs, however these funds are declining. When will they run out and will that result in the need for a General Fund backfill in the future?
2. How will VoteCal need to be modified to comply with SB 450 and AB 1461? Have the costs of any changes that need to be made been included in this proposal?
3. Many counties have outdated voting systems. Are there any federal funds available that can be used to update these systems? If not, what other options is SOS considering?

**STAFF COMMENTS**

Staff has no concerns with this proposal. However, the outdated voting systems counties are operating is a critical issue. The Committee may wish to consider having SOS report back at the time of the May Revision hearings on the estimated costs of updating county systems, which systems have already been updated, and options for funding the costs of those systems that need updating.

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**Staff Recommendation: Approved as Budgeted**

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**ISSUE 13: SAFE AT HOME PROGRAM ADDRESS CONFIDENTIALITY ON REAL PROPERTY  
TRANSACTIONS TRAILER BILL LANGUAGE**

The Governor's budget proposes trailer bill language that would make implementation of the changes made by AB 2263 (Baker, Chapter 881, Statutes of 2016) to the Safe At Home (SAH) program subject to an appropriation.

**BACKGROUND**

With the passage of SB 489 (Alpert, Chapter 1005, Statutes of 1998), the Legislature established the Safe At Home (SAH) program within the SOS to allow victims of domestic violence to apply for a substitute address to be used in public records in order to prevent their assailants, or potential assailants, from finding their work or home address. Through subsequent legislation, the program has been expanded to include victims of sexual assault, stalking, elder abuse, and reproductive health care service providers, employees, volunteers, and patients.

AB 2263 standardized the confidentiality protections for SAH program participants, regardless of whether their participation is based on their status as victims of domestic violence, stalking, or sexual assault, or on their status as a patient, employee, or volunteer at a reproductive health care clinic; and requires the SOS to provide SAH enrollees with information about how to protect their privacy on real property records.

When AB 2263 went through the legislative process it was determined to have no cost.

**STAFF COMMENTS**

It is unclear why the Administration seeks to amend the wording of the changes in statute made by AB 2263 to shall "*upon appropriation provide...*" when the bill was determined to have no fiscal impact. The changes potentially have the effect of making the actions required by the SOS for the SAH program permissive. This could potentially result in harm to vulnerable people that would otherwise benefit from this program. Staff recommends rejection of the Governor's proposal and notes that any possible fiscal impact would be minor and absorbable.

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**Staff Recommendation: Reject the Proposed Trailer Bill Language**

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