## AGENDA

ASSEMBLY BUDGET SUBCOMMITTEE NO. 4
ON STATE ADMINISTRATION

Assemblymember Juan Arambula, Chair

TUESDAY, APRIL 10, 2007
STATE CAPITOL, ROOM 447
1:30 PM

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ITEMS TO BE HEARD

ITEM 1700  DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

The Mission of the Department of Fair Employment and Housing is to protect the people of California from unlawful discrimination in employment, housing and public accommodations, and from the perpetration of acts of hate violence.

The Governor proposes $24.3 million ($18.6 million General Fund) and 228.2 positions, an increase of $2.6 million and 16.2 positions.

ISSUE 1: ESTABLISHMENT OF A NEW HOUSING DISTRICT OFFICE

The Governor proposes $873,000 General Fund and seven positions to establish a new housing district office in Elk Grove. The housing district offices are primarily responsible for investigating various types of alleged housing discrimination. Additionally, the department receives federal funding, through Workshare Agreements, for FEHA cases that are dual-filed with the Equal Employment Opportunity Commission and the Department of Housing and Urban Development (HUD). According to the Workshare Agreements, the department receives a reimbursement dependant on the percentage of HUD referred cases completed within 100 days. In 2006/07, the department lost over $200,000 in federal reimbursement in cases that were not completed within the 100 day timeframe.

There are currently only two other housing district offices: Los Angeles and Oakland. The department has experienced an increase of housing cases from 828 in 2002/03 to 1,205 in 2005/06. The department believes the increase in caseload in correlated to increases in the statewide population, although the direct connection is unknown.

The department proposes to open the new housing district office in Elk Grove, because the department has room to expand in their current office space located there.
While the department has not lost jurisdiction over housing cases over the past four years by meeting the one-year deadline for completing housing investigations, the department has a separate 100 day benchmark imposed by the Workshare agreement on dual HUD-filed cases. If these investigations are not completed within the 100 day benchmark, the department receives less federal reimbursement. The amount of cases that must be completed by this 100 day benchmark is 50% of the dual-HUD filed cases; this amount will rise to 54% in FY 07/08.
ISSUE 2: ADDITIONAL LEGAL AND ADMINISTRATIVE STAFF

The Governor proposes $1.5 million General Fund and 10 positions to assist the legal and administrative duties of the department.

Due to the state’s fiscal crisis in the early 2000’s, the department suffered many reductions, including a 50% cut in legal counsel positions. Currently the department has ten counsel positions to represent the department in legal proceedings and provide legal support to the entire department. The Governor proposes to increase the legal division by six counsel positions. According to the department, the additional positions are needed to improve workload efficiencies to reduce staff turnover rates due to excessive workloads.

The Governor also requests four positions in the department's management and budget division. Currently, the department lacks the resources to reconcile bank accounts and credit card statements, and lacks a dedicated budget staff position. The department is currently hiring retired annuitants and mandating overtime to accomplish this workload. The increased positions will allow the department to ensure accountability over public funds and increase the department's responsiveness to legislative inquiries.

COMMENTS

The 2006/07 Budget Act increased the department's employment investigative positions, which is increasing the legal and administrative workload. The proposed positions would allow the department to maintain adequate staffing levels to consistently address the department's workload, providing more accountability and improved fiscal responsibility.
ISSUE 3: DECENTRALIZATION OF LOS ANGELES DISTRICT OFFICES

The Governor proposes one time General Fund augmentation $400,000 to decentralize the department’s Los Angeles district offices.

In 2002/03, the department maintained 13 district office and four outreach centers throughout the state. Since then, three district offices (San Bernardino, Ventura, 1 Los Angeles office) and three of the outreach offices (El Centro, Indio, Redding) have been closed due to budget reductions, impacting the ability of the department to provide outreach and services to those communities. For example, in 2001/02 the San Bernardino and Ventura district offices had a caseload of 2,273. The caseload from these areas after the closure was 152 cases in 2004/05, a decrease of 99%.

The department currently has three self contained employment offices, one housing district office, and Legal and Executive offices located in the same building in downtown Los Angeles. These district offices currently serve over 4,000 miles with jurisdiction over the entire Los Angeles County.

The Governor proposes to separate and relocate the three employment offices. One office is proposed to remain in the downtown Los Angeles area, and the other two are proposed to be located in the surrounding areas determined by caseload statistics.

COMMENTS

The department is currently negotiating a new lease for the current building in downtown Los Angeles. At this point, the department is unable to confirm if they will be able to remain in the building, because a portion of the building is being converted to residential units. The current lease expires in April 2007, and the department will move to a month to month leasing option until a permanent solution is in place. More than likely, the department will have increased costs due to normal market adjustments.

For the three employment district offices, the department is contracting with the Department of General Services (DGS) to identify available office space. As stated above, one office will remain in the downtown Los Angeles area, and the other two will
move to the surrounding area, dependent on caseload statistics.

The proposal consists entirely of one-time funds, signifying the department expects to lease three new offices at the same price of their current lease of $1.76 a square foot. To remain in the building location, DGS anticipates a doubling of the current rent to renew the leases due to current market rates. The department does not have an estimate of anticipated leases for the new offices or areas they are expecting to move to, but the reality of remaining at $1.76 a square foot is highly unlikely.
ITEM 1705  FAIR EMPLOYMENT AND HOUSING COMMISSION

ISSUE 1: RE-ESTABLISHMENT OF COMMISSION MEETINGS – CONSENT ITEM

The Fair Employment and Housing Commission is a quasi-judicial administrative agency which enforces California civil rights laws regarding discrimination in employment, housing, and public accommodations; pregnancy disability leave; family and medical leave; and hate violence. The Commission engages in five primary activities: administrative adjudication; mediations, regulations; legislation; and public information and training.

The Governor proposes $1.3 million ($1.2 million General Fund) and 7.0 positions for the Commission, an increase of $29,000. The administration submitted a budget change proposal for $20,000 General Fund to support the Commission's travel expenses to allow the Commission to hold six meetings in venues throughout the state, as required by statute, to adjudicate Fair Employment and Housing Act claims.

COMMENTS

In FY 2003/04, the Commission reduced the total number of hearings and held all meetings in San Francisco to reduce costs. Also, the commissions did not claim their statutorily authorized $100 a day per diem. Staff savings in 2005/06 allowed the Commission to hold its statutorily required meetings in various areas throughout the state, but the Commission does not anticipate having this option in FY 2007/08.
ITEM 8260  CALIFORNIA ARTS COUNCIL

ISSUE 1: ARTS COUNCIL FUNDING—INFORMATIONAL ITEM

The California Arts Council supports the state's non-profit arts and cultural community by developing partnerships with public and private sectors.

The Governor proposes $5.3 million ($1.2 million General Fund) and 19.3 positions for the Arts Council, consistent with current year revised budget. Despite this historical low in state funding, the Council has supported hundreds of programs in 2005/06, providing a wide range of disciplines, including YEA! (Youth Education in the Arts).

COMMENTS

Arts funding in California has been in decline since a high of $32 million in 2000/01. The state currently spends roughly three cents per person on arts funding, the lowest percentage in the country. The administration is proposing the lowest amount of state resources in order to meet the minimum qualifications for federal funds.
ITEM 8770  ELECTRICITY OVERSIGHT BOARD

The Electricity Oversight Board (EOB) is part of the regulatory oversight structure that was established by the legislation restructuring California’s electricity industry in 1996. The board is charged with ensuring the reliability of the electricity transmission system and in the power market. The Budget proposes total expenditures of $4.1 million (from special funds that support the Public Utilities Commission and the Energy Commission) and 21.9 personnel-years of staff.

ISSUE 1: ELIMINATION OF ELECTRICITY OVERSIGHT BOARD

The administration is proposing that the EOB be eliminated and its activities be absorbed by other agencies. In the budget, however, it is not detailed where the specific responsibilities of the EOB will be transferred or whether there will be a need to transfer any expenditure authority.

BACKGROUND

The original purpose of the EOB was to oversee the now-defunct Power Exchange and the Independent System Operator (ISO). Those functions, as currently laid out in statute, have essentially disappeared. The EOB’s de facto role now is as an advocate on behalf of the state before the Federal Energy Regulatory Commission (FERC) and the courts in concert with several other state agencies, and in advising the administration regarding electricity market issues. Some of the activities the EOB is involved in include:

- Pursued refunds before FERC for energy market overcharges in 2000/01.
- Litigation and negotiation to reform the state’s long-term energy contracts.
- Defending the state’s authority in the governance of the ISO.
- Redesign of the California Electricity market, including changes in ISO standards.
- Regional market monitoring.
COMMENTS

Staff has concerns with taking any action to eliminate the EOB until there is a clearly defined need to eliminate the board and a plan presented to transfer all existing activities of the board to other entities. Additionally, staff has concerns that this action would signify a direct change to current policy that, without proper vetting through legislative policy committees, may not be appropriate for the budget process.
The Public Utilities Commission (PUC) regulates privately owned "public utilities," such as gas, electric, telephone, and railroad corporations, as well as certain passenger and household goods carriers. The commission's primary objective is to ensure adequate facilities and services for the public at equitable and reasonable rates. The commission also promotes energy conservation through its various regulatory decisions.

The Governor's budget is proposing expenditures of $1.3 billion dollars which is roughly the same as funding in the current year. The Governor's budget is also proposing an increase of 50 PYs over current staffing levels for various new budget change proposals.

 ISSUE 1: LAO ISSUE: ELECTRICITY MARKET DESIGN

The budget requests one-time funding of $307,000, mostly for consulting services to design a “wholesale capacity market” for electricity, and $101,000 (ongoing funds) for one new position to evaluate and plan for the electricity market, both at the wholesale and retail levels. A capacity market is a type of market framework where wholesale generators sell their excess capacity to other generators who have unmet supply requirements. In 2005, the CPUC commissioned a white paper investigating capacity market design, which largely favored the establishment of this type of market.

BACKGROUND

AB 1890, passed in 1996, deregulated the electricity industry in California. Both wholesale and retail competition were introduced in California, beginning in 1998. During the introduction of wholesale and retail competition, the CPUC was involved in developing suggested policy for legislative consideration.

In 2000-2001, the California energy crisis occurred and several aspects of deregulation were suspended through AB 1X, including the ability of customers to sign up for competitive retail providers (known as direct access). To supplant direct access, the
Department of Water Resources (DWR) entered into long term energy contracts that will expire sometime between 2011 and 2014, depending on the final outcome of some contract renegotiations with DWR.

The Governor's proposed budget would allocate ongoing and one-time funds, staff and consulting services to evaluate and plan for the electricity market, both at the wholesale and retail level that will evolve once the long term energy contracts entered into by DWR expire.

**LAO COMMENTS**

In their analysis of the budget, the LAO has expressed concern that the Legislature should provide policy direction on electricity market design. While the electricity market has seen increased stability recently, the Legislature continues to evaluate issues, such as whether consumers should have “direct access” to the energy provider of their choice, the resolution of which could result in changes to the market structure in future years.

The LAO believes that market design is a policy issue that should be evaluated by the Legislature. In evaluating market mechanisms, the Legislature would be in a position to consider the role of all state energy agencies and all types of energy providers, not just those under the regulatory jurisdiction of CPUC.

The LAO thinks it is premature and beyond the jurisdiction of CPUC to begin investigation and evaluation of a market design without further statutory direction from the Legislature and therefore recommends that the Legislature deny the budget request.

**COMMENTS**

Through discussions with the CPUC, staff understands that the Commission intends to open a proceeding to examine the direct access electricity market design independent of the approval of this BCP. This proposal presented by the administration would provide added expertise to that proceeding.

Staff concurs with the LAO that this is an issue that should be initiated through the
legislative policy committee process and although the CPUC intends to move forward with these proceeding regardless of the approval of this BCP, the Legislature should not lend affirmative approval to this policy decision until proper deliberations are conducted.
The budget proposes $500,000 (federal funds) and four positions for a new Critical Utility Infrastructure Security branch at CPUC. The proposed branch would coordinate state activities for disaster preparedness, response, and recovery for utilities under a federal Department of Homeland Security program. Other state agencies eligible to participate in this federal effort include all state and local law enforcement authorities, the Office of Homeland Security, the Office of Emergency Services, and the Governor's Emergency Operations Executive Council. There are no other state regulatory agencies included in the proposal.

The LAO has expressed concern that the proposal as presented in the Governor's budget did not outline clear duties of the new branch and federal funding sources identified in the BCP is uncertain. The LAO had additional concern that the commission has stated that municipal utilities, currently not regulated by CPUC, would be included in this program. The inclusion of municipal utilities is an expansion of authority for the commission.

Through conversations with CPUC, staff understands that the commission has been working with the Department of Homeland Security on refining the scope and details of this proposal. At the hearing, the commission should be prepared to provide the subcommittee with a detailed plan for the funding and positions requested in this proposal. Staff recommends that the subcommittee hold this item open until sufficient detail is provided by the Commission.
Established in 1996, the California High-Cost Fund-B Administrative Committee Fund (CHCF-B) Program was established to provide subsidies to larger telephone companies serving high cost areas such as mountainous or unpopulated regions. The purpose of the program was to reduce the disparity in rates charged by these telephone companies. The program is referred to as the California High-Cost Fund-B Administrative Committee Fund (CHCF-B) Program.

The CHCF-B is funded by a surcharge on telephone bills collected by telecommunications carriers. Customers who have services (such as “call waiting” or “caller ID”) on their phones pay this charge on their bill. The budgeted surcharge rate—which is set administratively by the commission by resolution—has varied significantly from a high of 3.8 percent on the cost of services in 1999 to a low of 1.4 percent in 2002. Currently, the rate is 2 percent but staff at the commission has recommended that the rate will be reduced in upcoming CPUC proceedings.

The LAO has raised concerns that though intended to assist phone companies with providing services to high cost areas, the Commission’s designation of high cost regions that qualify under the program has not been updated since 1996 and is no longer applicable due to changes in population and residential density. The authorizing legislation that established CHCF-B sunsets January 1, 2009, at which time the subsidies would be discontinued.

When looking at this program, the LAO found that the budget projects a $335.5 million fund balance, not including a $250 million loan to the general fund that was made in 2002. Considering the high fund balance in the CHCF fund and that regional information that is essential to the accuracy of the program has not been updated for over ten years, the LAO has recommended that the legislature eliminate the surcharge, use the remaining fund balance to fund the program until 2009, at which point it is scheduled to sunset.
Staff concurs with the LAO that the inability of the CPUC to maintain regional information updates necessary for this program has forced the question of relevancy and actual need for the program. When established, and in subsequent legislation, the Legislature has repeatedly made it a priority that the state is willing to charge a fee of rate payers and provide a subsidy to phone companies so that affordable phone services are made available to truly "high cost" areas. Because the CPUC has not been able to maintain and adopt up-to-date maps of where high cost regions exist, there is no way for the legislature to assess actual need for this program in the current day.

At the hearing, the CPUC should be prepared to comment on what it is doing to update this information, how it plans on addressing growing fund balances, and whether this is still a relevant program for the state to maintain.
ISSUE 4: BUDGET BILL PROVISIONAL LANGUAGE – TELECONNECT FUND

The Governor's budget is proposing to add budget bill language that will allow the Department of Finance to, upon notification to the legislature, augment the amount available for expenditure from the teleconnect fund to pay claims made to this program.

The Teleconnect Program provides discounts on telephone service, and other advanced telecommunication services that provide access to the Internet (such as DSL services) to schools, libraries, and qualifying hospitals, health clinics, and community-based organizations. Currently, the program provides a 50 percent discount regardless of the particular qualifying service or recipient. The service carrier applies this discount to the qualifying entity's telecommunications bill. The service carrier then submits claims to PUC to be reimbursed for the discounts provided.

STAFF COMMENTS

Staff does not think that there is a sufficient urgency in need by the phone companies to warrant a special ongoing allowance for expenditure of teleconnect funds above what is appropriated in the budget. Claims paid by the commission for this program are to telephone service providers that in most cases can absorb outstanding balances of claims to be paid until the following budget year. If there are special case circumstances that require urgent attention, the administration can pursue special appropriations through a policy bill or through April or May Finance letters.
ISSUE 5: CLIMATE CHANGE RELATED ACTIVITIES

The Governor's budget is proposing $1.3 million to establish one Administrative Law Judge II position and two legal analyst positions, as well as provide $1 million in funding for consulting on climate change-related issues.

One Administrative Law Judge II Position. The CPUC has indicated that in the ALJ division, all full time PYs are already assigned to various energy proceedings, including the solar initiative, demand response, and the greenhouse has initiatives. The CPUC is expecting workload to increase as climate change activities also increase and is proposing to augment their staffing by one Administrative Law Judge II – a senior position that will be responsible for overseeing climate initiatives and integrate that work with ongoing work of the commission.

Two Legal Analyst Positions. Two legal analyst positions are also being requested to support the new ALJ II requested above.

Consulting Assistance. The Governor’s budget is requesting $1 million for consulting services to develop protocols for measuring and verifying greenhouse gas emission reductions in the power sector.

LAO COMMENTS

During a commission hearing in November on climate change, the commission publicly stated its intent to establish a cap-and-trade market mechanism on emissions for investor-owned utilities (currently regulated by the commission) and publicly owned utilities (currently not regulated by the commission). The commission also stated its intent to conduct a proceeding to determine the base year for the cap-and-trade program. (In cap-and-trade programs that have been established elsewhere, the government sets a limit on, or “caps”, emissions, issues a limited number of emissions allowances, and allows regulated sources to buy and sell, or “trade”, those emissions allowances.)

Additionally, in the Governor's budget initially included funding to model Green Gas
Emission (GHG) caps and trade scenarios in support of the CPUC's prior actions to move forward on the implementation of very specific market mechanisms contrary to the intent of AB 32 (Núñez).

LAO staff is recommending that the following budget bill language be approved that prevents the CPUC from using funding provided in this request for implementation of GHG reducing market mechanisms for the energy sector:

Item 8660-001-0462. Of the funding appropriated in this or any other item, no funds may be expended by the commission in connection with the implementation of market mechanisms as a greenhouse gas (GHG) emission reduction strategy until the Air Resources Board has completed its statutorily required statewide GHG emissions reduction plan, has included these mechanisms in the plan, and has directed the commission to begin to implement them.

STAFF COMMENTS

It appears from discussions with the CPUC that the Commission is no longer moving forward with specific market mechanisms to reduce GHG gases, rather through the adoption of a scoping memo they will be studying various market mechanisms to reduce GHG's in the energy sector which will then be used to make policy recommendations to the Air Resources Board. At the hearing, the CPUC should be prepared to make these clarifications for the subcommittee.
The Governor's budget includes two BCP's to support Data Center and Capital infrastructure improvements.

Data Center Restructuring. The CPUC is proposing to restructure their current data center through a multiple phase approach. The proposals below were formulated through a report conducted through a private consulting firm on the vulnerabilities of the CPUC's system. The first phase proposed in the 2007/08 budget will cost a total of $765,000 and will include the following:

- Data Center redesign and expansion study $70,000
- Heating/Ventilation Air Conditioning Review $25,000
- Emergency power backup system for the data center $150,000
- Dedicated Development and Testing Lab $180,000
- Upgrade server/desktop network at San Francisco headquarters office $150,000
- Establish two new positions in the network administration unit $190,000

Infrastructure Improvement and Repairs. The CPUC is proposing a one time augmentation of $3.1 million for specific maintenance repairs and special projects related to the Commission's headquarters building in San Francisco.

- Paint Building Exterior $220,000
- Re-Caulking of Building Exterior Walls $550,000
- Plans and Specifications to renovate seven elevator cars $28,000
- Redesign/Replace Two Roll Up Gates $220,000
- Space Plan to Restack CPUC and Drawings $127,000
- Structural Study to Evaluate Cracks in Women's Restroom $33,000
- DGS/RESD Recommended Electrical Upgrades $1.9 million

STAFF COMMENTS

In the Data Center restructuring proposal, the CPUC is proposing to go forward on a multi-phase project to improve performance of their overall data center by replacing...
hardware, adding new testing systems, preventing disruptions due to power outages and overheating, and conduct a redesign and expansion study of their IT infrastructure. The need for these proposals has been generated from a study conducted by a private contractor hired to assess the vulnerabilities of the CPUC's Data Center.

Staff has concerns that while the CPUC is planning on conducting a redesign and expansion study, they are continuing to move forward on multiple projects that may be influenced by that study. Additionally, in the Data Center Proposal and the Building Infrastructure proposals, it appears that the CPUC is requesting two emergency generators, one specifically for the Data Center and one for the entire building. Finally, the Data Center Proposal is requesting to develop a dedicated testing lab where IT managers would run hardware upgrades, operating system or production software releases and patches, or infrastructure upgrades or changes. Staff concern with this final proposal is not with the need for the proposal but rather that IT testing systems are not a standard component of statewide data centers. Because state lacks formal protocols for appropriate Data Center configuration the legislature has no way of determining whether special circumstances of the CPUC warrant this special equipment or if this is a standard IT necessity that should be implemented statewide.

**ISSUE 7: DEMAND RESPONSE AND ADVANCED METERING -- CONSENT**

The CPUC is requesting authority for two positions to develop and implement new demand response programs including full-scale deployment of an advanced meter infrastructure and time-based rates or California's three major electric utilities to improve electric system reliability.
ISSUE 8: COMMUNITY CHOICE AGREEGATION PROGRAMS -- CONSENT

The CPUC is requesting authority for one Public Utilities Regulatory Analyst IV position to implement a new Community Choice Aggregation Program to allow cities and/or counties to aggregate the electric load of customers in their respective geographical service areas and purchase electricity on theses customers' behalf.

ISSUE 9: INCREASE NUMBERS OF RAIL CROSSING STAFF -- CONSENT

The CPUC is requesting one position to achieve staffing levels that better ensure the commission's ability to carry out its safety oversight responsibilities as required by state and federal laws.

ISSUE 10: AIRPORT CARRIER ENFORCEMENT AT AIRPORTS -- CONSENT

Increase for five positions to properly staff passenger carrier enforcement activities at major California airports.
ISSUE 11: CONSULTING ON WATER-ENERGY LINKAGES -- CONSENT

The CPUC is requesting $100,000 (Special Funds) for consulting services to address a methodological issue associated with how to measure and evaluate the energy use associated with water use.

ISSUE 12: CALIFORNIA SOLAR INITIATIVE -- CONSENT

The CPUC is requesting 3 positions and $2.2 million (reimbursements) for consulting services to monitor and evaluate the effectiveness of the implementation of the California Solar Initiative.

ISSUE 13: IMPLEMENTATION OF SB 107 (SIMITIAN AND PERATA) -- CONSENT

The CPUC is requesting one position and $108,000 (Utilities Reimbursements) to for workload associated with the implementation of SB 107 that expedites the California Renewables Portfolio Standard program compliance date from 2017 to 2010.

ISSUE 14: IMPLEMENTATION OF AB 1935 (BERMUDEZ) -- CONSENT

The CPUC is requesting an increase of seven positions and $705,000 from the transportation Reimbursement Account to implement AB 1935 (Bermudez) that requires the CPUC to: conduct safety inspections of railroad equipment and facilities every four months; increase safety inspections to more than once a year of track segments that
pose the greatest safety risk; manage a used grade crossing equipment recycling program; and collect and analyze data relative to near miss accidents and root causes of accidents investigated by the CPUC.

**ISSUE 15: IMPLEMENTATION OF AB 2104 (LIEBER) -- CONSENT**

The CPUC is requesting two additional limited term positions and $189,000 from the Utilities Reimbursement Account to develop and adopt the new rules required by AB 2104 that will expand the California Alternative Rates for Energy (CARE) program to include tenants of mobile homes and apartment buildings.

**ISSUE 16: IMPLEMENTATION OF AB 2393 (LEVINE) -- CONSENT**

The CPUC is requesting an augmentation of five one-year limited term positions and $596,719 from the Utilities Reimbursement account in order to implement AB 2393 that requires the CPUC to: conduct an order instituting investigation and issue a report on standards for use of auto-dialers, the reliability of service provider installed backup power and the need for backup telecommunications power to ensure emergency functionality.

**ISSUE 17: IMPLEMENTATION OF AB 2987 (NUÑEZ) -- CONSENT**

The CPUC is requesting 10.5 positions and $950,000 ($850,000 from the Public Utilities Commission Utilities Reimbursement Account and $100,000 from the Public Utilities Commission Ratepayer Advocate Account) to implement AB 2987 (Núñez) that creates
a new program for issuing state video franchises, and directs the CPUC to lead administration and enforcement of this program and other duties related to deployment of broadband and video services.