

AGENDA

ASSEMBLY BUDGET SUBCOMMITTEE NO. 4 ON STATE ADMINISTRATION

Assemblymember Rudy Bermudez, Chair

TUESDAY, APRIL 19, 2005
1:30 PM, ROOM 447

CONSENT CALENDAR

ITEM	DESCRIPTION
8260	California Arts Council
8530	Board of Pilot Commissioners – Finance Letter
8620	Fair Political Practices Commission
8640	Political Reform Act of 1974
8800	Membership in Interstate Organizations
8955	Department of Veterans' Affairs
9860	Capitol Outlay Planning and Studies Funding

ITEMS TO BE HEARD

ITEM	DESCRIPTION	PAGE
1110-1111	Department of Consumer Affairs	3
Issue 1	Bureau of Automotive Repair	3
Issue 2	Auto Repair Workforce	4
Issue 3	Bureau of Automotive Repair- Vehicle Retirement Program	5
Issue 4	Bureau of Security and Investigative Services	6
8940	Military Department	7
Issue 1	Oakland Military Institute	7
Issue 2	April 1 Finance Letter	8
8885	Commission on State Mandates	9
Issue 1	Mandate Identification Language	9

Issue 2	Staffing to Address Claims Backlog	9
9100	Tax Relief	10
Issue 1	Senior Citizens' Property Tax and Renters' Tax Assistance	11
Issue 2	County Auditor Redevelopment Report Mandates	15
9210	Local Government Financing	16
Issue 1	Property Tax Administration Grant Program	16
Issue 2	Juvenile Justice Grants	17
Issue 3	Mandates	18
Issue 4	Open Meetings Act Mandate	19
Issue 5	Photographic Records of Evidence Mandate	20
Issue 6	Mandate Reimbursement Process	22
Issue 7	So Long To Long-Suspended Mandates?	23
9840- 9850	Augmentation for Contingencies and Emergencies	23
Issue 1	Supplemental Appropriation Process	24

ITEMS TO BE HEARD

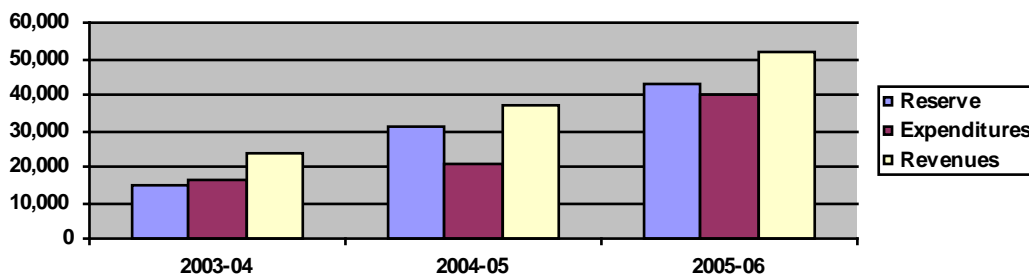
ITEM 1110-1111 DEPARTMENT OF CONSUMER AFFAIRS

The Department of Consumer Affairs is responsible for promoting and protecting the interests of millions of California consumers by serving as a guardian and advocate for their health, safety, privacy, and economic well-being and by promoting legal and ethical standards of professional conduct. The Department helps to promote good business practices and to ensure that California's consumers receive quality services by establishing minimal competency standards for more than 230 professions involving approximately 2.3 million professionals. The Department is also an important advocate on consumer and business issues.

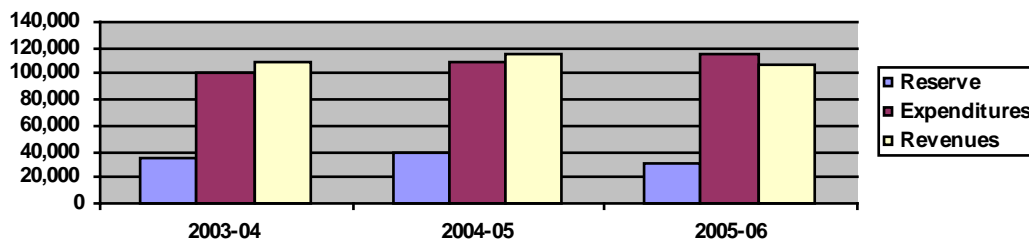
ISSUE 1: BUREAU OF AUTOMOTIVE REPAIR

Funding for the Bureau of Automotive Repair (BAR). BAR is funded primarily by two sources, The Vehicle Inspection and Repair Fund (\$102.6 million) and the High Polluter Repair or Removal Account (\$39.8 million), with minimal funding coming in from reimbursements. Over the last three years, as shown below, both funds have maintained stable or increasing reserves. The High Polluter Repair or Removal Account has experienced consistent growth in expenditures, revenues and reserves while the Vehicle Inspection and Repair Fund has maintained a healthy reserve hovering around \$30-40 million over the three year period.

High Polluter Repair or Removal Account



Vehicle Inspection and Repair Fund Condition



ISSUE 2: AUTO REPAIR WORKFORCE

Currently, a large percentage of the auto repair workforce is reaching retirement age, providing for an uncertain future workforce for the industry. Throughout the state various entities, such as high schools and community colleges, provide a myriad of training programs, such as direct training in auto repair for the industry's future workforce. While BAR itself neither participates in any auto repair training programs, nor has any specific legislative authority to conduct and/or expend funds for the recruitment and training of a replacement industry workforce, BAR does provide a variety of functions related to the replacement and recruitment including:

- Training courses to colleges and vocational schools for technician preparing to become licensed in the smog check program. Courses generally range from 20-80 hours in length.
- Testing and licensure for technicians in the fields of brake, lamp and smog check certification.
- BAR representatives routinely participate in high school and community job fairs promoting the industry.
- Through its advisory group, BAR has established a subcommittee to study and evaluate the issues of general automotive repair technician competency and supply.

The Department should be prepared to discuss their role in the recruitment and training of California's Auto Repair Workforce and where, if any, they see additional opportunities for improving our state's effort to fill this need.

ISSUE 3: BUREAU OF AUTOMOTIVE REPAIR – VEHICLE RETIREMENT PROGRAM

BAR is mandated to provide financial assistance to qualified consumers toward the repair or retirement of a vehicle that fails its biennial Smog Check inspection through the Consumer Assistance Program (CAP). CAP was funded by the Smog Impact Fee and the Smog Abatement Fee. However, in 1999, an appellate court ruled the Smog Impact fee as unconstitutional. In FY 2001-02, BAR transferred \$44 million generated by the Smog Impact Fee to the General Fund, and submitted a negative FY 2002-03 Budget Change Proposal (BCP) to reduce position and expenditure authority.

Resulting from these reductions, BAR suspended the vehicle retirement option of CAP on January 1, 2002. For the 2005-06 budget, BAR is requesting a permanent augmentation of \$13,638,000 and 21 positions to fully operate the BAR Program, pending enactment related legislation.

ISSUE 4: BUREAU OF SECURITY AND INVESTIGATIVE SERVICES

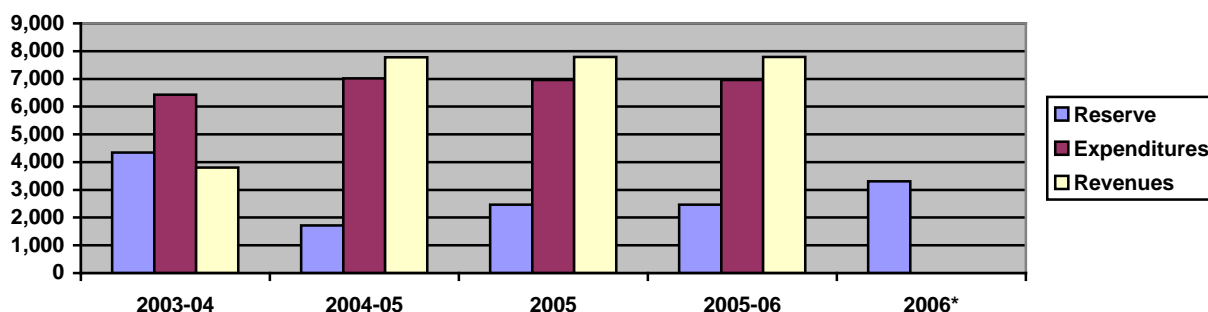
The Bureau of Security and Investigative Services ensures that only those who meet the prescribed qualifications to offer services as private investigators, repossessioners, uniformed security guards, private patrol operators, alarm company operators, alarm agents, locksmiths, and firearm and baton training facilities be licensed and enforces the regulations established by legislation for such licenses.

Private Security Services Fund Balance

The Private Security Services Fund is the primary fund to support operations of the Bureau of Security and Investigative Services. Since 2004, reserves in the fund have been growing at a disproportionate rate to expenditures, resulting in an increase in reserves of \$1.6 million. The graph on the next page shows the expected growth of the reserve from 2004-2006.

Private Security Services Fund

Dollars in thousands



*expected reserve for 2006.

COMMENTS

Currently there is a \$3.3 million reserve in the Private Security Services Fund and the subcommittee may wish to utilize the increasing reserve to address possible funding shortfalls currently present in the Bureau.

ITEM 8940 MILITARY DEPARTMENT

ISSUE 1: OAKLAND MILITARY INTITUTE

The Governor's budget is proposing an augmentation of \$1.3 million in General Fund to support the Oakland Military Institute (OMI). The request would reestablish 12 positions that were eliminated in the 2003-04 and 2004-05 budgets.

The OMI is a joint effort of the Military Department, the City of Oakland, and the Oakland Unified School District (OUSD) for a military charter school for Oakland students in grades 6 to 10. The purpose of the school is to promote the academic achievement of disadvantaged students through a strictly structured and disciplined environment. In addition to the standard state curriculum, students receive instruction in military subjects, such as military customs, physical training, drill, and map reading.

Military personnel are responsible for OMI administration, including budgeting, program management, policy development, and coordinating campus security. In addition to these duties, military staff escort students to and from the school, provide instruction in military subjects, and serve as classroom mentors. The OUSD provides instructional staffing, books, and educational supplies. The City of Oakland provides facilities, furniture, and computers. Currently, OMI has 425 students.

LAO COMMENTS

The LAO has expressed concern that because OMI has expanded its program since 2002 despite budget reductions it should be able to maintain current levels of operations without the proposed General Fund increase. In 2002-03, OMI had a General Fund budget of \$2.4 million. Budget reductions in 2003-04 and 2004-05 reduced OMI's budget—resulting in a General Fund appropriation of \$1.3 million in 2004-05. Due to these budget reductions, the Military Department reduced its OMI-assigned staff by 12 positions to its current level of 10 positions. Even with these budget reductions, OMI increased its enrollment this year by 100 additional students. In the budget year, OMI plans to include an 11th grade for the first time. The LAO thus recommends that if OMI chooses to expand in the budget year, it should do so with resources other than the General Fund. The LAO does note however that a denial of additional General Fund dollars for OMI does not preclude OUSD or the City of Oakland from using existing charter school funds or other sources (including local funds and private donations) to expand the school.

ISSUE 2: APRIL 1 FINANCE LETTER

In an April 1 Finance letter the administration is proposing the following two issues:

- 1) An increase in General Fund support for the Consolidated Headquarters Complex project by \$7.2 million to provide funding for the acquisition phase of the project. Under this proposal, approximately 30 acres of land will be acquired for use as the site for a new 300,000 square foot facility. The Complex is expected to allow more efficient coordination of the program since currently staff are located in multiple facilities across Northern and Central California. Currently, none of the existing facilities meet the various standards required by the federal government in order to properly protect military personnel.
- 2) An increase of \$1.5 million appropriation authority for the Armory Fund to correct building deficiencies and code violations at 99 armory sites and to maintain armories modernized through the infrastructure replacement program.

ITEM 8885 COMMISSION ON STATE MANDATES

The Commission on State Mandates (CSM) is a quasi-judicial body that makes the initial determination of state mandated costs. The Commission is tasked to fairly and impartially determine if local agencies and school districts are entitled to reimbursement for increased costs mandated by the state. The total proposed budget expenditures for the Commission on State Mandates are \$1.6 million, all of which is state General Fund.

Governor's Budget
Commission on State Mandates
(dollars in thousands)

Program	Actual 2003-04*	Estimated 2004-05*	Proposed 2005-06*
Administration	\$1,211	\$1,218	\$1,658
Unallocated Reduction	-	-	-29
Total Expenditures	\$1,211	\$1,218	\$1,629
Positions	9.7	9.7	13.6

ISSUE 1: MANDATE IDENTIFICATION LANGUAGE

The Administration proposes trailer bill language to add an option to identify a suspended mandate by CSM test claim number, in addition to executive order or statute. This technical fix will reduce ambiguity regarding the actual suspended mandate. The language also has been introduced as AB 1467 (Laird).

ISSUE 2: STAFFING TO ADDRESS CLAIMS BACKLOG

The Commission on State Mandates has a backlog of mandate test claims that must be processed to determine whether the mandate requires State reimbursement. The Budget requests \$427,000 General Fund and 4 positions (one permanent and three 3-year limited-term) to assist in processing this workload. The commission indicates that this augmentation will enable it to eliminate its backlog in three years.

No concerns have been raised regarding this request.

ITEM 9100 TAX RELIEF

The state provides tax relief—both as subventions to local governments and as direct payments to eligible taxpayers—through a number of programs contained within this budget item. These are distinct from "tax expenditures," such as tax deductions, exemptions, and credits, which reduce tax liability. Some of the tax relief expenditures in this item, however, are amounts paid to local governments to offset some or all of their revenue loss due to a tax expenditure. The budget proposes total 2005-06 tax relief expenditures of \$539.4 million, as shown in the table below:

Program	Actual 2003-04*	Estimated 2004-05	Proposed 2005-06
Senior Citizens' Property Tax Assistance	\$39,062	\$40,494	\$-----
Senior Citizens' Property Tax Deferral Program	11,714	11,900	16,600
Senior Citizen Renters' Tax Assistance	143,702	142,636	42,507
Homeowners' Property Tax Relief	424,786	433,200	440,000
Subventions for Open Space	38,425	39,388	39,661
Substandard Housing	44	-	-
Motor Vehicle License Fee Relief	3,124,764	-	-
State-Mandated Local Programs	-	-	658
Total Expenditures (All Programs)	\$3,782,497	\$667,618	\$539,426

Property Tax Swap Replaced Vehicle License Fee (VLF) Backfill. Prior to the current year, the state provided VLF "backfill" revenue to local governments. The backfill made local governments whole for their revenue loss due to the reduction in the VLF tax rate paid by vehicle owners. The Local Government Agreement adopted as part of the 2004-05 budget replaced the backfill with a shift of property tax revenues from K-14 education to cities and counties. The state, however, continues to bear the cost of the backfill (less \$700 million in 2004-05 and in 2005-06) by offsetting the reduced property tax revenue to K-14 education with increased General Fund support.

Homeowners' Exemption. The largest tax relief program currently in the budget is the homeowners' exemption (\$440 million proposed for 2005-06). This program, which was established by the State Constitution, grants a \$7,000 property tax exemption on the assessed value of owner-occupied dwellings, and requires the state to reimburse local governments for the resulting reduction in property tax revenues. The exemption reduces the typical homeowner's taxes by about \$75 annually. In order to accommodate the expected growth in the number of homeowners claiming the exemption, the Governor's budget proposes an increase of \$6.8 million, or 1.6 percent, over the amount estimated for 2004-05.

Senior Citizens' and Disabled Persons' Tax Assistance and Deferral. This program provides once-a-year financial assistance to offset a portion of the property tax burden of low-income seniors and disabled persons who either own a home or rent a dwelling in California. In the deferral program, the state pays a homeowner's property tax and is repaid out of eventual sale proceeds. These programs are discussed in more detail in Issue 1.

Open-Space Subventions. The budget proposes a General Fund appropriation of \$39.7 million for subventions that partially reimburse local governments (primarily counties) for property tax losses under Williamson Act Open Space contracts. The Williamson Act allows cities and counties to enter into contracts with landowners to restrict their property to open space and agricultural use. In return for the restriction, the property owner pays reduced property taxes because the land is assessed at lower than the maximum level. The amount of the state subvention to localities is based on the acreage and classification of land under contract, rather than the actual reduction in local property tax revenues.

The contracts entered into between local governments and property owners are rolling ten-year contracts (20 years in a Farmland Security Zone) that are typically renewed each year for an additional year. In the event the contract is not renewed, the tax on the property gradually returns over a ten-year period to the level at which comparable, but unrestricted, land is taxed.

Williamson Act contracts exist in 52 counties and seven cities and cover more than 16.3 million acres of land. Subventions range from \$1 per acre for nonprime agricultural land outside of a Farmland Security Zone to \$8 per acre for land within three miles of a city's sphere of influence in a Farmland Security Zone. The counties receiving the largest amount of subventions are Fresno and Kern (more than \$5 million each). The state also spends an amount roughly equal to the subventions in order to backfill property tax losses to K-14 education due to the reduced assessments under open-space contracts.

Substandard Housing Subventions Ended. Existing state tax laws deny taxpayers deductions associated with rental income from substandard housing. Formerly, the revenue from the denied deductions was allocated to local governments for the enforcement of housing codes and rehabilitation. The amount allocated had been very small—only \$44,000 in 2002-03 and 2003-04. The program was ended in the 2004-05 Budget.

ISSUE 1: SENIOR CITIZENS' PROPERTY TAX AND RENTERS' TAX ASSISTANCE

Background. These programs provide cash payments to low-income homeowners and renters who are either senior citizens (age 62 and older), disabled, or blind. The payments are intended to partially offset property taxes paid directly by qualifying homeowners or paid indirectly (in rent) by qualifying renters. The assistance

provided is inversely related to the amount of total household income. The maximum assistance payments (for households with incomes less than \$9,626) are \$472.60 for homeowners and \$347.50 for renters and the minimum payment is \$20.40 for homeowners or \$15.00 for renters at the current household income limit of \$38,505. Households above the maximum income limit do not qualify for any assistance. The income limits are adjusted annually by the change in the California Consumer Price Index. The Franchise Tax Board (FTB) administers this program. Eligible seniors and disabled persons file claims annually with the board between July 1 and October 15.

According to the Legislative Analyst's Office, there were 156,000 claimants for property tax assistance and 494,000 claimants for renters' assistance in 2003-04. Data from the FTB indicate that about one-third of the renters' tax assistance is paid to disabled claimants. Senior claimants (who also may be disabled) comprise about 98 percent of the claimants for homeowners' tax assistance.

Annual General Fund budget appropriations finance this program. For 2005-06, the Governor's budget proposes to reduce funding by \$140.6 million for the Senior Citizens' Property Tax and Renters' Tax Assistance, as shown below:

(in thousands)	2003-04	2004-05	2005-06	Change in 2005-06
Senior Homeowners' Property Tax Assistance	\$39,062	\$40,494	—	-\$40,494
Senior Renters' Tax Assistance	143,702	142,636	42,507	-\$100,129
Totals	\$182,764	\$183,130	\$42,507	-\$140,623

Property Tax Deferral Program. Under the deferral program, qualifying seniors (age 62 or older) or disabled homeowners may opt to have the state pay the property tax bill (including debt levies and special assessments) for their home. The state places a lien on the property for the deferred amounts plus interest and is repaid when the home is sold (after the owner's death, for example). To qualify for the deferral program, seniors or disabled persons must have a household income of no more than \$24,000 (\$34,000 for those who already were participants in 1983-84). Also, the homeowner must have at least 20 percent equity in the home. The State Controller administers this program.

Governor's Budget Proposals

Elimination of Senior Homeowners' Assistance. The Governor's budget proposes legislation to terminate the Senior Homeowners' Property Tax Assistance Program for a savings of \$40.5 million in fiscal year 2005-06. This savings would be ongoing, but would be partly offset by an augmentation of \$4.7 million for the Senior Citizens' Property Tax Deferral Program.

Expansion of Senior Property Tax Deferral Program. The augmentation reflects the Administration's proposal to expand income eligibility under the deferral program to the income level used by the homeowners' assistance program, so that all individuals who currently qualify for the assistance program would qualify for the deferral program. The budget states that for most individuals, the deferral program will provide more financial assistance than the property tax assistance program. This proposal implements one of the recommendations of the California Performance Review. The budget proposal would increase the household income limit for the deferral program to the same amount currently applicable to the assistance program (\$38,505 in 2004, with annual adjustments for inflation).

Scale-Back of Senior Renters' Assistance Program. The Governor's budget proposes \$100.1 million of savings by reducing the benefit and eligibility levels to what they were in 1998, when the income limit was \$13,200 and the maximum amount of benefit was \$240 (versus \$347.50 in 2004). Unlike the homeowners' proposal, the budget does not include any other program expansion to offset any portion of this reduction. However, senior and disabled renters who have enough income to have a state income tax liability would continue to be eligible to claim the Renters' Credit on their income tax return. The Renters' Credit is \$60 (single) or \$120 (married) and is available to renters with incomes up to about \$30,000 (single) or \$60,000 (married). However, many low-income seniors and disabled persons have no state income tax liability or too little liability to obtain the full benefit of the Renters' Credit.

COMMENTS

Additional Hit to SSI/SSP Recipients. SSI/SSP beneficiaries generally qualify for the current senior renters' or homeowners' assistance payments. The budget proposes to eliminate both the state and federal cost-of-living adjustments (COLAs) to SSI/SSP grants. Consequently, the proposed reductions in homeowners and renters assistance will result in an overall reduction in total income to SSI/SSP beneficiaries who have no other sources of support.

Renters' Tax Credit Not Much Help to Recipients of Renters' Assistance. Senior and disabled renters who have enough income to have a state income tax liability would continue to be eligible to claim the Renters' Tax Credit on their income tax return. The Renters' Tax Credit is \$60 (single) or \$120 (married) and is available to renters with incomes up to about \$30,000 (single) or \$60,000 (married). However, the majority of low-income seniors and disabled persons who qualify for the assistance program have no state income tax liability or too little liability to obtain the full benefit of the Renters' Credit. An elderly married couple, for example, is not even required to file a California tax return until their adjusted gross income is at least \$28,865. In any case, the budget proposes no offsetting expansion of the tax credit program.

Expansion of the Deferral Program is a Poor Trade-Off. Essentially, the budget proposes to trade off ending the homeowners' assistance program for an expansion of the property tax deferral program. This raises the following issues:

- **No help for the poorest.** Senior and disabled homeowners with incomes under \$24,000 (or \$34,000 in some cases) currently qualify for both the assistance and deferral programs (the assistance payments reduce the amount of the lien). For these homeowners, the budget proposal represents only a loss.
- **Larger immediate benefit for some.** The expanded deferral program may offer a larger amount of immediate financial assistance than the assistance program currently provides to recipients with incomes over \$24,000. At that income level the assistance program provides only about \$122 (equivalent to the 1-percent property tax on \$12,200 of assessed value), and this amount declines further as income increases. For homes assessed at \$19,200 (\$12,200 plus the \$7,000 homeowners' exemption) or more, the deferral program offers a larger immediate benefit (plus it covers debt levies and special assessments).
- **Loan versus grant.** The downside to the deferral program to the participants, of course, is that it is a loan rather than a grant. Deferrals reduce the amount that the homeowner can borrow with a mortgage and they reduce the value of the property to heirs. Furthermore, individuals who have less than 20 percent equity in their home do not qualify for the deferral program.

Homeowners' Assistance Savings Could Turn into A Cost. The LAO questions whether the \$4.7 million budgeted for expansion of the deferral program includes the cost of greater participation in the deferral program if the assistance program is eliminated. According to LAO, costs would increase by \$10 million if just 5 percent of the current recipients of homeowners' assistance decided to participate in the deferral program. In fact, since the up-front benefit of the deferral program often is significantly greater than the current amount of the assistance payment, any state savings over the immediate future depend on a low participation rate in the deferral program. If participation is high, the budgeted savings could turn into an additional cost.

ISSUE 2: COUNTY AUDITOR REDEVELOPMENT REPORT MANDATE

Background. State law requires redevelopment agencies to deposit 20 percent of their tax increment revenues into Low and Moderate Income Housing Funds and use these monies to develop affordable housing. In 1997, the Legislature's Task Force on Redevelopment Agencies' Affordable Housing Reports concluded that it was difficult for private and public agencies to monitor redevelopment agency compliance with this state law because data regarding tax increment revenues were not readily available. To address this problem, the Legislature enacted Chapter 39, Statutes of 1998 (SB 258, Kopp), requiring county auditors to prepare annual tax disbursement statements for each redevelopment agency project area.

In November 2002, the Commission on State Mandates determined that county auditor work to prepare these tax statements is a state-reimbursable mandate and estimated the statewide cost of this mandate to be \$65,300 (for costs through 2004-05).

Budget Proposes Suspension. The Governor's Budget proposes to suspend this mandate in 2005-06 and to defer any funding for costs incurred through 2004-05.

LAO Recommends Repeal. The LAO points out that the State Controller's Office (SCO) annually publishes detailed reports on the financial transactions of redevelopment agencies, including all information that Chapter 39 requires county auditors to report. In addition, state laws require redevelopment agencies to obtain independent annual audits that (1) detail all financial transactions and (2) include an auditor's opinion of the agency's compliance with applicable state laws and regulations. While this audit requirement existed in 1997, guidelines for preparing these audits have been clarified and expanded in recent years.

Because of the availability of these alternative sources of data, LAO finds that this mandate has become redundant. LAO notes, for example, that the state agency responsible for monitoring redevelopment agency housing law compliance (the Department of Housing and Community Development) does not use these county auditor reports. Accordingly, LAO recommends repeal of this mandate.

COMMENTS

Both the Department of Finance and LAO agree that this mandate need not be in effect in 2005-06. The difference is repeal versus a one-year suspension (that might be extended annually). In the event that the mandate is not suspended in a future year, county auditors would have to reinstate the production of these reports as well as cost-tracking for eventual reimbursement. Also, suspension leaves the report requirement in statute causing potential confusion. Repeal may be preferable.

The state's obligation to pay costs incurred through 2004-05 will remain in either case.

ITEM 9210 LOCAL GOVERNMENT FINANCING

This item includes a number of subvention and grant programs for local governments. The state also provides other funding to local governments, primarily counties, through other items in the budget. For example, many Health and Human Services programs provide substantial funding to counties. State funding is also included in Public Safety for such issues as local crime labs and suppression of high intensity drug trafficking areas. The Local Government Financing item presented here proposes \$157.4 million of spending in 2005-06, all of which is from the General Fund.

Governor's Budget
Proposed Expenditures by Program
Local Government Financing
(in thousands)

Program	Actual 2003-04*	Estimated 2004-05*	Proposed 2005-06*
Property Tax Administration Grant Program	\$60,000	\$60,000	\$54,334
Booking Fee Subventions ^a	38,220	38,220	--
Small and Rural Sheriffs Grants	--	18,500	--
Disaster Property Tax Replacement ^b	--	1,451	--
Santa Barbara County Formation Loan ^b	--	400	--
Citizens' Option for Public Safety and Juvenile Justice Grants (excluding 2005-06)	199,725	199,725	100,000
Special Supplemental Subventions	477	650	650
State-Mandated Local Programs	3	5	2,408
Total Expenditures (All Programs)	\$297,596	\$318,946	\$157,392

^a 2004-05 budget trailer legislation ends this subvention program after 2004-05.

^b One-time expenditure.

ISSUE 1: PROPERTY TAX ADMINISTRATION GRANT PROGRAM

The Governor's Budget proposes a reduction of \$5.7 million in grants to counties for the Property Tax Administration Program (PTAP). This program had previously been funded at \$60 million. These grants provide additional funding to assist county assessors to process reassessments of property due to sales or new construction, resulting in additional property tax revenue for local governments and K-14 Education (offsetting the state's Proposition 98 funding requirement). A key component of the program is a maintenance of effort requirement for counties to keep assessors funding and staffing at least at the 1994-95 level to be eligible to receive PTAP funds.

COMMENTS

The Governor's Budget assumes that there will be no reduction in property tax revenues (resulting in an increase in state school funding) due to the reduction in the grant program. Material submitted by local agencies suggests that the funding reduction is exceeded by the revenues generated for education funding. The Los Angeles County assessor, for example indicates the program yields \$6.50 for schools for every \$1 in PTAP funding. Last year's Local Government Agreement shifted some property tax revenue from education back to local governments, which may increase the financial incentives for counties to fund assessment activities. However, schools still receive a substantial portion of property tax revenues.

Anecdotal accounts indicate that the recent rapid increase in home prices and sales, as well as construction and remodeling activity, have left assessors with a backlog of reassessments.

- The Department of Finance and the LAO should comment on the impact of the proposed funding reduction on property tax revenues for K-14 Education.

ISSUE 2: JUVENILE JUSTICE GRANTS

The COPS/Juvenile Justice Grant program provides funding to local police, sheriff, district attorney and probation offices. Programs operated by the police, sheriff and district attorney are combined into what is known as the Citizens' Option for Public Safety or COPS program. The programs operated by probation offices comprise the juvenile justice programs. Pursuant to the Section 30061 et. seq. of the Government Code, funding for the COPS and Juvenile Justice Programs are equally divided.

In the current year, funding for the COPS/Juvenile Justice programs totals \$200 million, equally divided among the two programs. For 2005-06, the Administration proposes \$100 million in funding for the COPS program, but no funding for Juvenile Justice Programs in this item. Instead, the budget proposes \$25 million (\$24.75 million in local assistance and \$250,000 for state administration) for "juvenile justice activities." The Administration has indicated that this reduction is a placeholder for a \$75 million reduction in the total expenditures for Juvenile Justice Programs by the state. This would create a number of options for funding which could include the extension of the current program by 3 months, continuation of the program at a reduced (\$25 million a year) level, or creating a new program to supersede the existing Juvenile Justice Programs. The Administration's proposal to change the level of funding to the Juvenile Justice Programs as compared to the COPS program would require a statutory change.

COMMENTS

Is the Plan Too Late? The Administration indicates that it is negotiating with local government representatives in an effort to negotiate a reorganization of the juvenile justice relationship between state and county governments. It is hoped that the reorganization will be completed and available for consideration by the Legislature at the May Revision. It is not clear that there will be sufficient time for the Legislature to complete a thorough review of the proposal during the May Revision process that is generally used to consider adjustments to population, caseload and enrollment during this abbreviated timeframe. For example, a plan to transfer all juvenile justice responsibilities to local governments would require a number of operational processes associated with the closure of a state department. Statutory and regulatory integrity would need to be maintained to ensure continuous and consistent oversight of the participants (wards) on a statewide basis. The lack of involvement of all of the legislative stakeholders during the negotiation process would complicate the approval process over this shortened time frame. It is also not clear to the subcommittee at this time that all of the local interests are being addressed.

At its April 6th hearing, the subcommittee deleted the \$25 million set-aside for juvenile justice activities in the Board of Corrections' budget (Item 5430). In the absence of a comprehensive Juvenile Justice Program proposal from the administration, the subcommittee may want to continue the existing COPS/juvenile justice program formula and restore \$100 million in this item to maintain the program at current funding levels (a net restoration of \$75 million including the action in the Board of Corrections). Should the Administration develop and submit a reorganization plan to the Legislature at a later date, the issue could be revisited if adequate time remains for legislative review.

ISSUE 3: MANDATES

The table on the next page, prepared by the LAO summarizes the budget's proposal for the nine mandates under this item. For 2005-06, the administration proposes to (1) fund three of the mandates (\$2.4 million) and (2) "suspend" the six other mandates. (When the state suspends a mandate for a fiscal year, it incurs no reimbursement liability for that year, and local governments are not required to provide the mandated services.)

State Mandates Under Item 9210				
<i>(Dollars in Thousands)</i>				
Mandate	LAO Estimates^a		Budgeted	LAO Recommendation
	2004-05^b	2005-06	2005-06	
Open Meetings Act/ Brown Act Reform	\$15,447	\$15,910	\$2,000	Withhold, pending proposal from administration.
Health Benefits for Survivors of Peace Officers and Firefighters	347	357	221	Fully fund at \$703. Make future benefits subject to collective bargaining.
Rape Victim Counseling Center Notices	281	289	187	Delete funding. Modify to make requirement statement of legislative intent.
Photographic Record of Evidence	505	523	Suspend	Repeal mandate. If necessary, expand court authority.
Mandate Reimbursement Process	— ^c	— ^c	Suspend	Withhold, pending proposal.
CPR Pocket Masks	— ^c	— ^c	Suspend	Modify to make requirement statement of legislative intent.
Domestic Violence Information	— ^c	— ^c	Suspend	Modify to make requirement statement of legislative intent.
Filipino Employee Surveys	— ^c	— ^c	Suspend	Modify to make requirement statement of legislative intent.
Lis Pendens ^d	— ^c	— ^c	Suspend	Modify to make requirement statement of legislative intent.
<p>^a Based on existing law and claiming practices.</p> <p>^b Proposition 1A specifies that funding for a mandate's 2004-05 costs must be appropriated to continue a mandate in 2005-06.</p> <p>^c Costs unknown because mandate has been suspended for more than a decade.</p> <p>^d The administration indicates it will propose adding this mandate to the budget bill.</p>				

ISSUE 4: OPEN MEETINGS ACT MANDATE

The Governor's Budget proposes to restructure the Open Meetings mandate and provide \$2 million in 2005-06 funding, a funding level significantly below the \$15 million expense expected in the current year. The Department of Finance indicates that it will propose a statutory change to narrow the scope of the mandate to printing costs and postage (approximately \$2 million).

LAO Suggests Making Mandate Optional: In 1953, the Legislature enacted the Brown Act, declaring, "all meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the

legislative body." Because the Brown Act preceded the 1975 operative date of mandate law, its requirements are *not* a state-reimbursable mandate. Instead, the Open Meeting Act "mandate" pertains to certain post-1975 procedural amendments to the Brown Act, most notably the requirement that local agencies prepare and post agendas 72 hours before a hearing (Chapter 641, Statutes of 1986 [AB 2674, Connelly]).

California residents have shown longstanding interest in open hearings, and the state's voters recently enacted Proposition 59, amending the State Constitution to specify that meetings of public bodies and writings of public officials must be open to public scrutiny. Accordingly, legislative action to eliminate (or make optional) the *procedural elements* of the Open Meeting Act mandate would not likely reduce people's ability to monitor local agency actions.

Accordingly, when considering the Administration's Open Meeting Act mandate proposal, LAO recommends that the Legislature consider, as an alternative, making the Open Meeting Act mandate optional (the Brown Act would still be in force). This alternative would eliminate all future state reimbursable costs for this mandate, as well as the requirement that the Legislature include funding for the mandate's 2004-05 costs in the 2005-06 Budget.

COMMENTS

Proposition 1A Funding Requirement. Under Proposition 1A, the state must provide funding for processed 2004-05 reimbursement claims if the mandate is not suspended or repealed (or made optional). To keep the mandate in force, therefore would require increasing the appropriation to around \$15 million. Proposition 1A does not require funding of budget-year costs in order to avoid suspension or repeal.

ISSUE 5: PHOTOGRAPHIC RECORDS OF EVIDENCE MANDATE

This mandate requires local law enforcement agencies to provide photographs, chemical analyses, and other substitutes for evidence that a court determines poses a health, safety, security, or storage problem. In their mandate claims, local agencies typically request reimbursement for purchases of high-tech digital imaging and printing equipment. The Administration proposes to suspend this mandate in the budget year.

LAO Concerns: The responsibility for managing evidence used in the courts should rest with law enforcement agencies. The Administration's proposal to suspend this mandate in the budget bill, however, raises two concerns. It could:

- **Suspension Adds Ambiguity to the Laws of Evidence.** As was discussed in *An Assessment: Governor's Local Government Proposal* (May 2004), when a mandate is suspended, the suspension applies only to the sections of law (or laws) found to be a mandate by the Commission on State Mandates (CSM). All other provisions in the statute continue to have the force of law, but interpreting these remaining provisions (which may refer to the suspended provisions) can become very difficult. Because the Photographic Record of Evidence mandate pertains to an area of law where ambiguity could have serious consequences, LAO recommends that the Legislature carefully craft permanent changes to the mandate's underlying statute, rather than using the suspension process.
- **Suspension May Increase Court Costs.** In 1985, court concerns regarding evidence storage and handling costs prompted passage of the subject legislation. At the time this analysis was prepared, we were not able to determine whether courts currently have sufficient authority—independent of this mandate legislation—to require local agencies to submit substitute evidence. If this mandate's suspension were to result in local agencies submitting some evidence for which they currently provide substitutes, courts could experience increased storage and handling costs.

COMMENTS

It is unclear, at this point, that the Administration has evaluated the offsetting expenses to the savings posed by suspending the Photographic Records of Evidence mandate.

Given the uncertainties concerning the effect of this proposal, the subcommittee may wish to hold this issue open and provide the following direction:

A. Direct the Department of Finance and LAO to report back at the next hearing on the potential cost savings relative to additional burdens on the court system from suspending or repealing this mandate.

B. Direct LAO to work with Legislative Counsel and the CSM to prepare trailer bill language to repeal the Photographic Records of Evidence mandate and, if necessary, enact provisions clarifying or expanding courts' authority to require substitute evidence.

ISSUE 6: MANDATE REIMBURSEMENT PROCESS

This mandate reimburses local agencies for their administrative costs to file mandate test claims and reimbursement claims.

LAO Comments: Typically, local agencies request reimbursement for their costs to (1) contract with mandate consulting firms and (2) oversee their consultants' contracts. The administration proposes to suspend this mandate in 2005-06. As a result, local agency actions to file test claims or reimbursement claims would be "optional." That is, local agencies would not be required to follow the mandate reimbursement process. However, by not following the process, local agencies would not receive state reimbursements of mandated local costs (as promised under the State Constitution).

Problems with the current reimbursement process mandate:

It's expensive. Many local agencies' claims for their administrative filing costs equal or exceed 15 percent of their total claims. In large part, local agencies face little incentive to minimize mandate claim preparation or test claim filing costs. Instead, local agencies hire firms that specialize in the arcane mandate process and advertise that they can "maximize" local revenues from state reimbursements.

No Incentive to Find Efficiencies. The existence of this reimbursable mandate reduces local agencies' (and their consultants') incentive to work with the state to develop an alternative, simpler mandate claiming system.

Is Suspension Fair or Constitutional? Despite these shortcomings, LAO does not concur with the administration's proposal to suspend this mandate. Simply put, the mandate process is a product of state laws and regulations. If the administration finds the existing process objectionable, it is incumbent on it to suggest an alternative method of addressing these costs. The Legislature could assist in this by directing the administration, local agencies, and legislative staff to work together this spring to develop a new and simpler system for reviewing test claims and providing mandate reimbursements.

COMMENTS

The Department of Finance should explain how local agencies will be able to submit claims under this suspension and how statute requiring filings within one year will be affected by the proposed suspension. The Department of Finance also should comment on potential infringement upon local governments' constitutional right to reimbursement.

ISSUE 7: SO LONG TO LONG-SUSPENDED MANDATES?

LAO Recommends Changing Mandate to Statement of Intent. The budget proposes to suspend the last four mandates shown in the mandate summary table above. These four mandates impose minor local government requirements, such as a duty to report on the number of Filipino employees. Over the last decade, no funding has been proposed for these mandates by an administration or a legislative budget committee. Instead, these mandates have been routinely suspended. To clarify the requirements of state law, we recommend the Legislature enact trailer bill language recasting these provisions as statements of legislative intent.

COMMENTS

The LAO recommendation would clarify existing law and it would be consistent with the ongoing practice of the Legislature and the current and past administrations.

ITEM 9840/9850 AUGMENTATION FOR CONTINGENCIES OR EMERGENCIES

In prior budgets, the administration was authorized to “spend at a rate that would result in a deficiency” by the authority provided under the former Budget Act language and Government Code Section 11006. Beginning with the 2004 Budget Act, the Administration no longer has this authority. Instead, a new process governing augmentations for contingencies and emergencies is in place to address departments' unanticipated expenses. The primary intent in making this change was to provide the Legislature the opportunity to exercise its control over appropriations by being notified of any unanticipated expenses *prior* to them being incurred. This framework is intended to rely on “pay as you go” budgeting.

How Unanticipated Expenses Are Funded. Under this process, the Administration is required to notify the Legislature of any departmental requests to fund unanticipated expenses. Approved unanticipated expenses are funded with either a transfer of funds from Item 9840 or a supplemental appropriation sought through legislation.

- **Transfer of Funds.** The Administration's use of the funds appropriated in Item 9840 (\$50 million General Fund and \$15 million for special funds) are governed by the provisions of the item. The provisions prohibit the use of these funds in certain circumstances, including (1) any prior-year expenditure, (2) startup costs not yet authorized by the Legislature, (3) costs that the administration had knowledge of in time to include in the May Revision, and (4) costs that the administration has the discretion to incur or not to incur.

- **Supplemental Appropriations Bills.** Instead of a transfer of funds from Item 9840, the Administration may pursue an increase in an appropriation through a supplemental appropriation bill approved by the Legislature. The budget bill, however, does not specifically provide for such a process. Consequently, supplemental appropriations bills are not subject to restrictions that apply to 9840 fund transfers.

ISSUE 1: SUPPLEMENTAL APPROPRIATION PROCESS

Should There Be A Formalized Supplemental Appropriation Process? The lack of a formalized process for supplemental appropriations has allowed the Administration to pursue supplemental appropriations for activities ultimately determined inappropriate by the Legislature. For example, the Administration informed the Legislature of its intent to pursue a supplemental appropriations bill for the Gambling Control Commission to fund workload resulting from the passage of legislation ratifying several new gaming compacts. This legislation, however, was adopted without an appropriation. Such a funding proposal is not allowed under the restrictions governing 9840 funding transfers.

The Administration, of course, may propose any legislation it deems necessary or desirable. However, in those cases when proposed contingency or emergency appropriations meet the requirements specified in Item 9840, the Legislature could provide a supplemental appropriation bill process to identify those requests in order to simplify and expedite their passage (and inversely, to clarify when proposed augmentations do not meet those requirements). By requiring that these augmentation proposals be reported to the Legislature like those funded through Item 9840 fund transfers, the Legislature would be provided advance notice of these funding proposals. Advance notice would provide the Legislature an opportunity to review and have any of their concerns addressed prior to the introduction of the legislation. Given the advance review of these funding proposals, bills submitted under the supplemental appropriation process should move through the legislative process with less difficulty than other forms of legislation.

Under a “pay as you go” budgeting model, timely approval of funding proposals is necessary to effectively tie departmental spending to the Legislature’s appropriation authority. Also, establishing the supplemental appropriations bill process could strengthen the Legislature’s position when enforcing Control Section 32.00, which holds departmental staff who create an unauthorized excess expenditure personally liable.

COMMENTS

A supplemental appropriation process could be established by the adoption of suitable trailer bill language to require that the submittal of supplemental appropriation bills be governed by the restrictions similar to those that apply to Item 9840 funding transfers. This would make it more likely that the Administration would

submit supplemental appropriations bills for unanticipated expenses consistent with Legislative intent.

The subcommittee may wish to request that the LAO work with staff to draft language that addresses these concerns.