

AGENDA
ASSEMBLY BUDGET SUBCOMMITTEE NO. 4
ON STATE ADMINISTRATION

Assemblymember Rudy Bermudez, Chair

WEDNESDAY, APRIL 27, 2005, 1:30 PM
STATE CAPITOL, ROOM 437

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ITEMS TO BE HEARD

OPEN ITEMS

ITEM 0250 JUDICIARY

Article VI of the California Constitution created the Supreme Court and the Courts of Appeal in addition to the Judicial Council which acts as the administrative body of the judicial system including the superior courts.

Chapter 850, Statutes of 1997, shifted the fiscal responsibility of the trial (superior) courts from the counties to the state.

In the current year as well as previous years, the funding for the appellate courts and the Judicial Council was included in Item #0250, while funding for the trial courts were included in Item #0450. For 2005-06, the Governor's Budget merges the funding for all state courts into a single item (#0250 Judicial Branch).

ISSUE 1: ORANGE COUNTY APPELLATE COURTHOUSE

The Budget Act of 2000 (Chapter 52, Statutes of 2000) appropriated \$3.215 million From the General Fund for the acquisition and preliminary plan costs for the replacement appellate courthouse for the fourth appellate district currently located in Santa Ana. By the end of the 2000-01 fiscal year, the Judicial Council had not finalized the location for the new courthouse (Item #0250-301-0001).

As a result, for the following fiscal year, the Budget Act of 2002 (Chapter 379, Statutes of 2002) appropriated \$14.35 million in support of working drawings and construction costs associated for the new courthouse (Item 0250-310-0660). By the end of the 2002-03 year, the site for the replacement courthouse had still not been made by the Judicial Council. However, by that time a bid by the City of Santa Ana to locate a new courthouse near the existing facility had been rejected. The Budget Act of 2003 (Chapter 157, Statutes of 2003) re-appropriated the funds through June 30, 2005. Budget bill language to direct the courts to reconsider Santa Ana as site of the new courthouse was vetoed by the Governor.

By the end of March 2005, the Judicial Council has not made a determination on the location of the appellate courthouse.

At the April 15, 2005 meeting of the Council a decision was made to locate the replacement appellate courthouse in Santa Ana. The proposal will now go to the Public Works Board.

The subcommittee may want to ask questions of the Courts regarding the following:

- Since the City of Santa Ana had offered to sell the property for that location to the State for \$1, could the courts revert some savings in 2005-06 related to a lower land cost (original costs for the property estimated at \$2.3 - \$2.4 million)?

ISSUE 2: UNIFORM CIVIL FILING FEE

The 2002 Budget Act increased civil filing fees by ten percent and criminal penalties by twenty percent. The 2003 Budget Act increased fees for court security, probate and small claim cases. In 2005-06 the court security fees will expire as sources of court revenue. This is expected to reduce revenue by \$17 million annually. The Governor's Budget proposes to offset this reduction by the implementation of a Uniform Civil Filing Fee.

The Judicial Council has developed draft language to implement a uniform filing fee. Uniform filing fees are proposed for: first paper; probate; and small claims filings. It is designed to address a \$17 million shortfall in the court's revenue. According to the courts, the uniform filing fees would raise additional funds to the Trial Court Trust Fund of \$2.9 million while \$29.2 million would go to other funds.

ISSUE 3: UNDESIGNATED FEES

The 2003 Budget Act directed the counties to transfer \$31 million in undesignated fees to the courts. This decision was made because it was determined that the cost of services associated with those fees were borne by the courts. These fees were identified as "undesignated" because, after the implementation of the Trial Court Funding Act, it was not clear whether the fees were being deposited to the courts or the counties. Under current law, the transfer of undesignated fees to the courts is scheduled to sunset at the end of 2004-05. The Administration proposes to permanently extend the transfer. The Governor's Budget proposes \$29 million in revenues associate with this statutory change.

The subcommittee may want to ask the following questions:

- What is the status of any discussions between the courts and the counties regarding the transfer of the undesignated fees?
- How was the estimated revenue of \$29 million determined? Does the court, counties or the Administration have any revised estimate of this amount?
- Do the counties have any concerns about the appropriateness of the undesignated fees proposed to be transferred in the budget year?

ISSUE 4: RESTORATION OF ONE-TIME REDUCTION

The Governor's Budget also proposes an augmentation of \$60.5 million in support of the restoration of the one-time reduction taken in the current year. The courts met their savings goals in the current year through the reduction of \$13.638 million from trial court operating reserves; \$13 million from prior year funds from the Trial Court Improvement Fund; \$1 million from the Assigned Judges Program; and \$27.362 million from court operations. The courts indicated that most of the \$27.4 million in savings were of a one time nature. In addition, the courts intend to redirect an undisclosed amount of these funds to severely under-funded courts. This allocation is anticipated in June 2006.

ISSUE 5: UNALLOCATED COST OF LIVING AUGMENTATIONS – INFLATION GROWTH FACTOR/UNALLOCATED RESTORATION

The Administration proposes to increase the base budget for the courts by \$97.4 million for the budget year. This increase is based upon a statutory growth factor of 4.8 percent. This is in addition to a \$92.6 million adjustment for increased court employee salary and benefits, retirement, court security and county provided services that began in the current year. The Legislative Analyst's Office believes that this amount should be closer to 6 percent. This would result in additional funding of \$27 million. The automatic base funding adjustments are based upon inflation, population increases, and growth in personal income. The growth factor does not adjust the baseline for the costs of judicial officers, subordinate judges or assigned judges. The Equal Access program is also excluded from the adjustments. The courts anticipate the growth factor for Modernization Fund to begin in 2006-07.

Within the growth factor, the courts are expected to address funding for individual court needs (retirement, worker's compensation, employee salary, court security, workload increases, reallocation to under-funded courts, Judicial Counsel priorities and inflation), and statewide programs (interpreters, court appointed counsel, jury costs, extraordinary costs of homicide trials, prisoner hearings, drug courts, self-help programs, and family law information centers).

The subcommittee may want to ask the following questions:

- Does the Administration propose to review the growth factor percentage during the May Revision process?
- Since the restoration of the one-time reduction and the growth factor augmentation is not tied to specific funding needs, how will the increase in available funds from these two provisions be allocated?

ISSUE 6: FORENSIC EVALUATIONS

The Administration proposes an increase in the Court's budget by \$5.476 million to support increased costs associated with forensic evaluations as specified by a recent Attorney General opinion regarding the fiscal responsibility for these procedures. The increased funding would come from an increase in county maintenance of effort payments.

Pursuant to a request from the County Counsel for Butte County, the Attorney General opined that the court would be fiscally responsible for the cost of five types of forensic evaluations (in consideration of the suspension of a sentence where the defendant has been convicted of lewd or lascivious act on a minor under 14; examination of a defendant's mental competency; determination of whether a civil commitment should be made related to a narcotics addiction; examination related to an involuntary civil commitment of a person believed to be imminently dangerous to others) while the counties were responsible for two types of evaluations (examination related to a civil commitment of a sexually violent predator; or a plea of "not guilty by reason of insanity"). Currently, counties are paying for the costs of evaluations that have been determined to be the responsibility of the state. According to the courts, based on a survey of 29 counties and 53 trial courts, the additional costs associated with the 5 types forensic evaluations will be \$5.5 million for the budget year. The Administration proposes to collect further data from the courts and the counties and provide a revised estimate of the costs during the May Revision. There may be an additional one-time cost associated with this proposal as the courts report that counties have accrued prior year costs that have not been paid at the time of the Attorney General's opinion.

The California State Association of Counties (CSAC) is in opposition to the adjustment of the maintenance of effort payments established under the Trial Court Funding Act.

ISSUE 7: GRAND JURY MANDATES

The Administration proposes the suspension of the following grand jury mandate (Item #0250-295-0001):

- AB 1457 (Kopp), Chapter 1170, Statutes of 1996, which required grand juries to provide additional detail regarding the findings of a grand jury.

In its analysis, the Legislative Analyst's Office proposes the suspension of two other similar mandates that affect grand juries:

- AB 829 (Thomson) Chapter 43, Statutes of 1997, which requires training of grand juries that includes the subject of report writing, interviewing techniques and the scope of its responsibility and authority.
- AB 1907 (Woods) Chapter 230, Statutes of 1998, which requires the county clerk to transmit a copy of the grand jury report to the State Archivist.

The Commission determined costs for these mandates from 1997-98 through 2004-05 to be \$12.6 million. The Administration proposes to suspend this mandate and provide no funding for the prior year claims.

The Legislative Analyst's Office proposes report language that reads as follows:

On or before December 1, 2005, the Administrative Office of the Courts shall report to the appropriate fiscal and policy committees of the Legislature on the Grand Jury Proceedings mandates. The report shall include, but not be limited to, the assessment of (1) the quality of grand jury reports, (2) the response of local government entities to the findings and recommendations of the grand jury reports, and (3) training provided to grand juries in a representative sample of counties to determine if the goals and objectives of the subject legislation have been achieved.

The Judicial Council opposes the adoption of the reporting language for two reasons:

- It would be a conflict of interest to perform such a review of the grand juries
- The reports would be costly and the budget does not provide the fiscal resources to support this effort.

The Senate budget subcommittee adopted the suspension of the three mandates but declined to adopt reporting language.

ITEM 0280 COMMISSION ON JUDICIAL PERFORMANCE

The Commission on Judicial Performance is the independent state agency in California responsible for investigating complaints of judicial misconduct and judicial incapacity and for disciplining judges, pursuant to article VI, section 18 of the California Constitution.

The commission's jurisdiction includes all active California state court judges. The commission also has authority to impose certain discipline on former judges and has shared authority with local courts over court commissioners and referees. The commission does not have authority over federal judges, judges pro tem or private judges.

The Commission is composed of eleven members: three judges appointed by the Supreme Court, two attorneys appointed by the Governor; and six public members, two appointed by the Senate Committee on Rules, two appointed by the Speaker of the Assembly, and two appointed by the Governor. Members are appointed to four year terms and may serve a maximum of two terms. Commission members do not receive a salary.

For calendar year 2004, the Commission received 1,114 new complaints, concluded review of 1,080 cases and ended the year with 80 cases.

ISSUE 1: COMMISSION BUDGET

The budget for the Commission for 2004-05 is \$4.1 million and 27 positions. The Governor's Budget proposes minor adjustments in the budget year for a net increase of \$13,000 with no increase in the number of positions.

ITEM 0552 OFFICE OF THE INSPECTOR GENERAL

The Office of the Inspector General (OIG) has the responsibility for the oversight of the state's correctional system. It provides independent investigations, reviews and audits of the various departments within the Youth and Adult Correctional Agency.

The Administration is developing workload standards for this Office that it proposes to present during the May Revision process.

ISSUE 1: SB 1342 WORKLOAD BUDGET

SB 1342 (Speier), Chapter 733, Statutes of 2004, directs the IG, in consultation with the Department of Finance, to develop a methodology for producing a workload budget to be used for annually adjusting the budget of the OIG, beginning with the budget for the 2005-06 fiscal year. The Administration has stated that this proposal was not included in the Governor's Budget but would be presented as part of the May Revision.

The subcommittee may want to ask the following:

- What is the status of the workload budget required by SB 1342?
- What criteria is being used to develop the workload?
- What data is being used to justify the positions and resources?
- What is the proposed workload beyond the budget year?
- What information does the Administration propose to report to the Legislature regarding the performance of the OIG, which would include but not be limited to backlog data?

April 13 Action: Issue not heard.

ITEM 0820 DEPARTMENT OF JUSTICE

The Attorney General has the responsibility to enforce the laws of the state in a fair and uniform manner. The Office represents the people in all matters before the Appellate and Supreme Courts of California and the United States. It also serves as counsel to State officials, boards, commissions and departments.

The Department of Justice assists local, state, and federal law enforcement agencies in the investigation and analysis of crimes as well as providing personal and property identification for these agencies.

The Governor's Budget proposes a budget of \$688 million in 2005-06. This is an increase of \$11 million over the estimated current year budget. The budget year increase in General Fund spending totaled \$3.6 million.

ISSUE 1: PROPOSITION 69 WORKLOAD

Prior to November 2004, state law required those convicted of a serious or violent felony offense as well as those required to register as a sex offender, to submit fingerprints and a blood sample for DNA analysis to be included in the state DNA Data Bank.

Proposition 69 was approved by the voters November 2, 2004. This would expand the responsibilities of law enforcement to include the collection of DNA samples, thumbprints and palm prints for persons convicted of any felony, registered sex offenders, and adults arrested for specified sexual offenses and violent crimes effective November 3, 2004. As of 2009, adults arrested and charged with any felony offense would be required to submit these samples.

Chapter 3, Statutes of 2005, SB 22 (Migden), an urgency measure, provides for a \$7 million four-year General Fund loan (with interest) and makes a \$4 million appropriation from the DNA Identification Fund to implement the DNA Fingerprint, Unsolved Crime and Innocence Protection Act to intended to ensure sufficient resources are available to collect DNA samples and palm prints from qualifying felons and specified arrestees as required by Proposition 69, approved by the voters on November 2, 2004. Funding to the DNA Identification Fund would be through a \$1 assessment to every \$10 collected in criminal and traffic penalties. (Assessments totaling \$25 per \$10 in penalties plus \$20 fee). Separate funding for 2005-06 would be pursued through the budget process.

The additional assessment is estimated to result in annual revenue of \$15 million to the DNA Identification Fund. Of this amount, 70 percent would be directed to the state in the first two years, 50 percent in year three, and 25 percent (\$3.75 million) thereafter. The balance of the revenues would be directed toward local governments in support of

local costs incurred in compliance with this initiative. Counties are directed to transfer revenues into the Fund on a quarterly basis.

The \$11 million appropriated in SB 22 would support the processing of 65,000 samples. This would include costs to support 40 criminalist positions (\$4 million) 233,000 buccal swab kits for state and local law enforcement agencies (\$1 million), equipment and software related to the analysis of the sample (\$1 million) and infrastructure improvements (\$5 million). The February 7, 2005 analysis by the Senate Appropriations Committee estimated the need for 237,000 new DNA samples would be generated each year for the first four years of the program.

The proposed funding support from the DNA Identification Fund is not expected to be sufficient to support the on-going operations of the DOJ. While revenues from the enhanced assessment of criminal and traffic penalties is estimated at \$3.75 million annually after the third year, the estimated costs to implement the additional workload associated with this initiative to the Department is at least \$17 million annually. The Legislative Analyst's Office analysis of Proposition 69 estimated state costs of \$20 million a year. As a result, it is questionable if the loan identified in SB 22 would ever be repaid to the General Fund other than through an additional augmentation to the Department from the same source. Proposed activities would also require on-going funding from the General Fund of an indeterminate amount.

ITEM 1870 CALIFORNIA VICTIM COMPENSATION AND GOVERNMENT CLAIMS BOARD

The California Victim Compensation and Government Claims Board (Board) consists of three members: the Secretary of State and Consumer Services; the State Controller; and a public member appointed by the Governor.

The primary objectives of the Board include:

- Compensation of victims of violent crime and eligible family members for certain crime-related financial losses;
- Civil claim against the State;
- Administering travel allowances for certain State governmental officials;
- Responding to bid protests against the State;
- Reimbursement of counties for the cost of special elections called by the Governor to fill vacant seat in the Legislature and Congress.

ISSUE 1: CITIZENS INDEMNIFICATION

Program 11 in the Board's budget indemnifies those citizens who are injured and suffer financial hardship as a direct result of a violent crime. The victim of a qualifying crime, and eligible family members, may file a claim with the Board for program benefits.

Eligible benefits include:

- Medical and medical-related expenses for the victim, including dental expenses.
- Outpatient mental health treatment or counseling.
- Funeral and burial expenses.
- Wage or income loss up to five years following the date of the crime. If the victim is permanently disabled, wage or income loss may be extended.
- Support loss for legal dependents of a deceased or injured victim.
- Up to 30 days wage loss for the parent or legal guardian of a minor victim who is hospitalized or dies as a direct result of a crime. Job retraining.

- Medically necessary renovation or retrofitting of a home or vehicle for a person permanently disabled as a result of the crime.
- Home security installation or improvements up to \$1,000 if the crime occurred in the victim's home.
- In-patient psychiatric hospitalization costs under dire or exceptional circumstances.
- Relocation expenses up to \$2,000 per household.
- Crime scene cleanup up to \$1,000 if a victim dies as a result of a crime in a residence

Funding for this program is from both the Restitution Fund and Federal Trust Funds. The level of federal funding is generally based upon prior year state expenditures. The Governor's Budget proposes to increase expenditures from the Restitution Fund by \$12.4 million in the Budget Year. This is offset by a reduction in available federal funds of \$8.4 million for a net increase of \$4 million.

April 13 Action: Issue not heard

ITEM 1920 STATE TEACHERS' RETIREMENT SYSTEM

The State Teachers' Retirement System (STRS) provides retirement related benefits and services to 735,000 active and retired educators in public schools from kindergarten through the community college level. The System provides three types of benefits; services retirement benefits, determined on the basis of member's age, years of service and final compensation; survivor benefits; and disability benefits.

The STRS board has twelve members; four ex-officio members including the Superintendent of Public Instruction, State Treasurer, State Controller, and the Director of Finance; three public members; one retiree of STRS; one member that is either a school board member or community college trustee; and three representatives elected by STRS members.

The main objectives of STRS include: the maintenance of a financially sound retirement system; the maintenance of efficient administrative operations; continuous improvement of the delivery of benefits, products and services to STRS members; and the development and improvement of the benefits and products to STRS members.

ISSUE 1: STATE SHARE OF RETIREMENT COSTS – CONFORMING ISSUE - FOR VOTE ONLY

The Governor's Budget proposes to shift part of the state's current payment into the State Teachers' Retirement System to school districts and community college districts. It also appears (details are unavailable) that he proposes to eliminate an existing requirement that the state pay a surcharge to STRS (equal to approximately 0.5% of teacher payroll) when there is an unfunded obligation or a normal cost deficit associated with benefits in effect on July 1, 1990. (This surcharge would be expected to be triggered for the 2004-05 fiscal year.) The Governor's proposals would not affect an existing state contribution for purchasing power benefits, equal to 2.5% of compensation. This state payment will contribute \$581 million in 2004-05.

The Governor's proposal would result in approximately \$469 million in General Fund savings (non-Proposition 98 savings), plus an additional \$92 million in savings from the elimination of the surcharge for unfunded obligation. However, these savings assume that the state would not be required to re-bench Proposition 98 upwards by the same amount, in which case the proposal would not result in any savings

In the February 2005 meeting, the STRS board voted to oppose the Administration's proposal.

As part of its discussion regarding Item #6300, State Contributions to the State Teachers' Retirement System, the budget subcommittee No. 2 heard this issue at its March 29 hearing, and took action to refer the issue to Subcommittee No. 4 with a "no"

recommendation. Subcommittee No. 4 has indicated that only the STRS (Item #1920) operating budget is part of its jurisdiction and that the state contribution portion is under Subcommittee No. 2's jurisdiction. On April 12, 2005, subcommittee No. 2 took action to deny the Administration's proposal to transfer retirement costs to the school districts and to reject the accompanying trailer bill language. The Senate Budget Committee took the similar action associated with their discussion of Item #1920, State Teachers' Retirement System.

As both the Assembly and Senate took similar actions regarding the transfer of the teacher's retirement liability, this subcommittee may want to vote to concur with the actions of Assembly Budget Subcommittee No. 2 with the intent to take action similar to the Senate Budget Committee. The purpose of this concurrence would be an attempt to avoid the issue from becoming a conference item.

April 20 action: Item heard, No vote taken

ISSUE 2: INVESTMENT OF FUNDS

STRS has created a Business Diversity and Inclusion Committee to formulate and recommend inclusion practices for underrepresented businesses. At its first meeting on August 24, 2004, the Committee outlined a plan to meet three goals: outreach and mentoring; information gathering; and policy review. Plans for the second year include structure, focus and activities.

The activities of STRS include:

- The committee proposes to direct \$5 to \$15 million of private capital investments as part of the CalSTRS/Banc of America Capital Access Fund partnership, to provide goods and services to underserved markets. The Committee hopes to obligate the funds by June 2005.
- In June 2005, a conference in San Francisco will be held as an educational forum to discuss investments in underserved markets.
- CalSTRS New and Next Generation Manager Program proposes to invest \$100 million to private equity managers raising their first or second fund.
- Developing Manager Program manages \$600 million through 28 emerging firms owned by minorities and women. STRS also has identified 3 core managers controlling \$2 billion.
- Contracting to develop a database of financial services providers that include basic information of emerging firms and the services they provide. This database would include the identification of businesses owned by minorities, women, and disabled veterans.
- Development of a pamphlet on partnerships between CalSTRS and new capital investment firms.
- Development of a college intern program.

ITEM 5430 BOARD OF CORRECTIONS

ISSUE 1: STANDARDS AND TRAINING FOR CORRECTIONS

The Board of Corrections is proposing an augmentation of \$2.7 million and 18 positions to provide technical assistance to cities and counties regarding standards and training to local correctional and probation employees in order to be in compliance with minimum statewide standards.

The LAO recommends withholding of this augmentation request pending the receipt of additional information.

The subcommittee may want to ask the LAO whether it has received the additional information and if a revised recommendation has been made.

April 13 Action: Issue not heard.

March 30 Action: Issue not heard.

ITEM 5440 BOARD OF PRISON TERMS

The Board of Prison Terms (BPT) is the state's adult parole authority that sets the terms and conditions of parole. The BPT conducts hearings for those who have life sentences and those who have been charged with violating their parole. At the request of the Governor, the BPT investigates applications and forwards recommendations for pardons and commutations of sentences. It also has the discretion to recommend to the court that a prisoner be re-sentenced when circumstances warrant compassionate release.

ISSUE 1: FOREIGN PRISONER TRANSFER TREATY PROGRAM

The Board of Prison Terms and the Department of Corrections jointly operate the Foreign Prisoner Transfer Treaty Program. This allows the transfer of a foreign national to serve the remainder of inmate's term in his or her home country.

The Legislative Analyst's Office (LAO) has proposed additional funding of \$110,000 and two analyst positions in support of outreach activities and to enhance the processing efficiencies of the program. The Board staff has been asked to review the LAO's recommendation and determine whether additional efficiencies could be obtained through an alternate staffing package. Any changes to the LAO recommendation would require commensurate savings to the Department of Corrections associated with a reduction in the inmate population. The information from the Board was not available.

The subcommittee may want to adopt enhancements to the Foreign Prisoner Transfer Treaty Program proposed by the LAO to provide adequate notice to the inmates of their right to seek advice from the consulate and the efficient processing of the inmate's request to transfer to his or her home country in accordance with international law.

As part of the LAO's recommendation, it proposes additional supplemental report language related to the Foreign Prisoner Transfer Treaty Program.

Item 5440-001-0001. No later than October 1, 2005, the Board of Prison Terms shall report on the status of its efforts to produce information brochures for the Foreign Prisoner Transfer Treaty Program in sufficient number to distribute to all incoming state prison inmates. These brochures shall be printed in English and Spanish, as well as any other languages the department believes appropriate.

Item 5240-001-0001. No later than October 1, 2005, the California Department of Corrections shall report on its efforts to update its Operations Manual to include current state policies and procedures regarding the Foreign Prisoner Transfer Treaty Program.

Since the program is operated jointly with the Department of Corrections, the subcommittee may chose to place reporting requirements on the Youth and Adult Correctional Agency (YACA) (Item 0550).

April 13 Action: Issue not heard

March 30 Action: Issue not heard: awaiting additional information from the Board of Prison Terms on a revised plan for Enhanced Program.

ITEM 5480 COMMISSION ON CORRECTIONAL PEACE OFFICER STANDARDS AND TRAINING

The mission of the Commission on Correctional Peace Officers' Standards and Training (CPOST) is to enhance the training and professionalism of the state's correctional peace officers. The Commission's authority includes the approval of new or the modification of existing correctional training programs.

The Governor's Budget proposes \$1.1 million in the budget year. This is substantially the same level of funding as in the current year.

ISSUE 1: APPOINTMENTS TO THE COMMISSION

CPOST consists of six members; three members representing management, two appointed by the director of the Department of Corrections and one from the director of the Department of Youth Authority; three of the members represent labor, two of the members are represent members, and one represents supervisors. All of the labor representatives are nominated by the California Correctional Peace Officers Association and appointed by the Governor. All members have designated alternates that may vote in place of the primary member.

Currently there are three management and two labor representatives on the commission. The proposed reorganization of the Youth and Adult Correctional Agency proposes to consolidate the Board of Corrections (15 members) and CPOST (six members) into a 19 member Correctional Standards Authority. Under this proposal, the Authority will include four labor representatives: two local employees, one from probation and one from detention; and two state employees, one from parole and one from the institution. This represents a net reduction of one representative from the existing membership composition. In addition, the membership of the authority would be at the pleasure of the Governor as opposed to a 3 year (for the Board of Corrections) or 4 year (for CPOST) appointment.

April 20 Hearing: Subcommittee heard testimony regarding the April 2004, request by the Correctional Peace Officers' Association to fill the vacant position at CPOST and the Youth and Adult Correctional Agency's response of May 2004 not to fill the position.

ITEM 8320 PUBLIC EMPLOYMENT RELATIONS BOARD

The Public Employment Relations Board (PERB) is a quasi-judicial agency which oversees public sector collective bargaining in California. PERB administers seven collective bargaining statutes, ensures their consistent implementation and application, and adjudicates disputes between the parties subject to them. The statutes administered by PERB include the Educational Employment Relations Act (EERA) of 1976 establishing collective bargaining in California's public schools (K-12) and community colleges; the State Employer-Employee Relations Act of 1978, known as the Ralph C. Dills Act (Dills Act), establishing collective bargaining for state government employees; and the Higher Education Employer-Employee Relations Act (HEERA) of 1979 extending the same coverage to the California State University System, the University of California System and Hastings College of Law. The Meyers-Milias-Brown Act (MMBA) of 1968 establishing collective bargaining for California's municipal, county, and local special district employers and employees was brought under PERB's jurisdiction pursuant to Senate Bill 739 (Chapter 901, Statutes of 2000), effective July 1, 2001. PERB's jurisdiction over the MMBA excludes peace officers, management employees and the City and County of Los Angeles. In addition, PERB is responsible for the administration of the Los Angeles County Metropolitan Transportation Authority Transit Employer-Employee Relations Act (TEERA), covering supervisory employees of the transit agency. In addition, effective August 16, 2004, pursuant to Senate Bill 1102 (Chapter 227, Statutes of 2004), the Trial Court Employment Protection and Governance Act (Trial Court Act) and the Trial Court Interpreter Employment and Labor Relations Act (Court Interpreter Act) were brought under PERB's jurisdiction. PERB has established regulations to implement the provisions of the EERA, Dills Act, HEERA, MMBA, TEERA, Trial Court Act and Court Interpreter Act.

ISSUE 1: INCREASED WORKLOAD FOR TRANSIT AND COURT EMPLOYEES

Chapter 833, Statutes of 2003 and Chapter 227, Statutes of 2004 expanded the jurisdiction of the PERB to include transit employees, trial court employees, and court interpreters. These two statutes expand the jurisdiction of the Board to include 63 additional employers and 25,000 employees. The Administration proposes an augmentation of \$438,000 and 3 attorneys in support of this increased workload.

April 13 Action: Issue not heard

ITEM 9650 HEALTH AND DENTAL BENEFITS FOR ANNUITANTS

This item funds the payment of health and dental insurance premiums for annuitants. While the appropriation from this item is made from the General Fund, approximately one third of the total costs are recovered from special funds through pro rata (allocation of administrative costs) charges.

ISSUE 1: FEDERAL PRESCRIPTION DRUG PROGRAM – FOR VOTE ONLY

The Administration's estimates for this item includes offsetting savings of \$34.5 million for one-half year associated with the implementation of the Medicare Part D prescription drug program that becomes effective January 1, 2006. For retiree programs that provide coverage that exceed the coverage in Part D, the federal government should subsidize a portion of the prescription costs. The estimated value of this subsidy is \$611 per Medicare enrollee for 2006.

The Public Employees' Retirement System (CalPERS) has expressed concern that it may be premature to adopt this reduction to premiums.

The subcommittee may want to seek updated information from the Administration and CalPERS regarding the level of estimated savings resulting from the implementation of the Medicare Part D program.

April 20 Action: No updated information on this issue. Held over. No vote taken.

April 6 Action: Held over to get additional information from the Administration regarding more accurate information on the savings from this federal program.

ITEM 9800 AUGMENTATION FOR EMPLOYEE COMPENSATION

This budget includes funding for state civil service and related employee compensation. Employee compensation funding is based upon approved Memoranda of Understanding for represented employees that are ratified by the Legislature. Compensation for excluded employees are determined by the Department of Personnel Administration or other authorized entities.

ISSUE 1: EMPLOYER CONTRIBUTION FOR MEDICAL PREMIUMS

The Administration proposes funding of bargaining unit contracts for units 5, 6 and 8 as well as employer contributions for dental and vision premium increases. The Administration proposes to eliminate employer funding for medical insurance premium increases. This would require a statutory change. Currently, the amount of the employer contribution is generally dependent upon the provisions of a collective bargaining agreement and represents a percentage of the average HMO premium.

April 13 Action: Issue not heard

ISSUE 2: DEFERRAL OF MEDICAL COVERAGE FOR NEW EMPLOYEES

The Governor's Budget proposes to eliminate all employer contributions for medical insurance for new employees until they have passed their probationary period. The Administration estimates this proposal will result in General Fund savings in 2005-06 of \$30 million.

The probationary period for state employees is not the same for all employees. In addition, some employee categories such as exempt employees do not have a probationary period. Further, an employee could remain on probation for an extended period of time as a result of moving from one job classification to another before completing the probationary period for any particular position category. Therefore it is not clear how much time a new employee would go without employer subsidized health care insurance.

The subcommittee may want to ask the Administration the following:

- Does the Administration propose a uniform period of time for new employees to go without employer subsidized health care insurance?
- What about for exempt or other employees who have no probationary period?
- What about new employees that move from one position to another and do not complete the original probationary period?

The Administration's proposal has not proposed how the new employee would obtain health insurance coverage.

The subcommittee may want to ask the following questions:

- Would the new employee be eligible to participate in the same health plans as non-probationary employees?
- Would the options for new employees be limited?
- Would new employees be required to obtain health insurance coverage independently?

Under the Consolidated Omnibus Budget Reconciliation Act (COBRA) employees are allowed to continue medical coverage (health, dental & vision) if they become ineligible for continuation of their current State coverage. The employee must submit a request for COBRA within 60 days following notification of ineligibility and is responsible for paying 102% of the group monthly premium rate. This allows for the continuous medical coverage of employees while on temporary separations, such as a non-paid leave of absences. If the Administration proposes to allow new employees to participate in the same health insurance plans as non-probationary employees, it is not clear if it intends to charge that employee a premium over the group monthly premium rate or would it charge the same amount as for established employees.

The subcommittee may want to ask the Administration:

- If the Administration allows a new employee to participate in a state health insurance plan, would it charge an amount over the group monthly premium rate.
- Would the Administration propose to limit any surcharge by statute to a percentage of the total premium or fixed dollar amount?

April 13 Action: Issue not heard.

ISSUE 3: BUDGET ACT PRESENTATION

The Budget Act identifies individual appropriations that are generally separated by department or agency and by funding source within that entity. These appropriations represent the Legislature's statutory limits on the expenditure of funds pursuant to the Budget Act. Changes to the appropriation generally require approval by (or notice to based upon specific authority) the Legislature. Often within an appropriation is a schedule of sub-appropriations. The purpose of the schedule is twofold. First it is to avoid the need for separate appropriations for each schedule item. Second, it acts to limit the unrestricted transfers between schedule items within an appropriation. Control Section 26.00 provides some flexibility for intra-schedule transfers however. it is limited to 10 percent for appropriations over \$4 million. The Administration proposes the Budget Act to provide separate augmentations for salaries and benefits for Item #9800 by collective bargaining unit. However, it also proposes to exempt itself from any limits on intra-schedule transfers. Thus proposed Budget Act presentation would provide the illusion of separation of the schedule items by bargaining unit. If the purpose of the presentation is informational, this would be more appropriately displayed in the Governor's Budget or a separate reporting document that does not restrict expenditures. A single schedule item per appropriation for Item #9800 would be more appropriate.

April 13 Action: Issue not heard.

NEW ITEMS

ITEM 0690 OFFICE OF EMERGENCY SERVICES

The Office of Emergency Services (OES) coordinates the emergency activities of the state in an effort to save lives and reduce property damage during a disaster. The Office also coordinates recovery efforts after local and state declared emergencies.

OES is also the Administration's lead agency with regards to the distribution of the state's public safety grants.

Within the OES is the Office of Homeland Security (OHS) that is responsible for the development and coordination of a statewide strategy to address threats from terrorism. As part of this effort, OES provides funding for the California Anti-Terrorism Information Center.

ISSUE 1: OFFICE OF HOMELAND SECURITY

In 1999, the State created the State Strategic Committee on Terrorism (SSCOT), which was responsible for coordinating the State's response to terrorism. In 2001-02, the Budget three positions were authorized in support of the committee.

In October 2001, an executive order directed SSCOT to evaluate potential terrorist threats, review the state's readiness to prevent and respond to terrorist threats, and develop recommendations for prevention and response to terrorist attacks.

In its analysis, the Legislative Analyst's Office SSCOT was disbanded as was unable to provide a comprehensive approach to homeland security pursuant to the October executive order. As a result, it recommends the reversion of the residual \$284,000 in on-going funding.

On February 28, 2005, the Sub Committee #1 had a hearing related to the State's response to bioterrorism threats. Including the federal bioterrorism grants. Concerns were raised regarding the lack of spending of these funds and the Legislative Analyst had concerns that these funds would go unspent and would revert. The DHS in partnership with the counties (61 public health districts). DHS is a member of the state's anti-terrorism task force. Local's difficulties in hiring adequate staff Among the concerns of the committee include: 1) the adequacy of the state's ability to respond to a major event; 2) the ability to respond on a 24/7 basis. Monthly expenditure reports are generated by county to identify expenditures.

Sub Committee #1 proposed budget bill language for the Office of Emergency Services related to strategic plans and expenditure reports:

Item 0690-001-0001

Section XXX. The Office of Homeland Security (or Office of Emergency Services, if the OHS is not provided statutory authority), in collaboration with the Department of Health Services, shall report to the Chairperson of the Joint Legislative Budget Committee, and the chairperson of the budget and policy committees of each house of the Legislature on or before January 10, 2006 a statewide strategic plan for the use of federal homeland security and bioterrorism funds by all departments and local jurisdictions. The plan shall include the state's goals and objectives for improving the state's level of preparedness for a terrorism event, which 1) is based on an assessment of the state's level of preparedness and 2) reflects a coordination of preparedness activities at the state and local level.

Section YYY. The Office of Homeland Security (within the Office of Emergency Services), in collaboration with the Department of Health Services, shall annually report to the Chairperson of the Joint Legislative Budget Committee, and the chairperson of the budget committees of each house of the Legislature on or before January 10 its expenditures of federal homeland security and bioterrorism funds. This report shall include 1) descriptions of the grant expenditures and coordination activities at the state and local level that have occurred over the past year; 2) how those activities met the state's strategic goals and objectives; 3) the funding amounts awarded to local jurisdictions and specific departments; 4) the funding levels by grant and grant year that have been expended, encumbered, and unencumbered; 5) any challenges that the departments or local jurisdictions encountered that hindered the expenditure of these funds; and 7) the areas of focus for the upcoming year.

It also proposed trailer bill language to amend Health and Safety Code regarding the auditing of federal bioterrorism expenditures:

101317. (a) For purposes of this article, allocations shall be made to the administrative bodies of qualifying local health jurisdictions described as public health administrative organizations in Section 101185, and pursuant to Section 101315, in the following manner:

(1) (A) For the 2003-04 fiscal year and subsequent fiscal years, to the administrative bodies of each local health jurisdiction, a basic allotment of one hundred thousand dollars (\$100,000), subject to the availability of funds appropriated in the annual Budget Act or some other act.

(B) For the 2002-03 fiscal year, the basic allotment of one hundred thousand dollars (\$100,000) shall be reduced by the amount of

federal funding allocated as part of a basic allotment for the purposes of this article to local health jurisdictions in the 2001-02 fiscal year.

(2) (A) Except as provided in subdivision (c), after determining the amount allowed for the basic allotment as provided in paragraph (1), the balance of the annual appropriation for purposes of this article, if any, shall be allotted on a per capita basis to the administrative bodies of each local health jurisdiction in the proportion that the population of that local health jurisdiction bears to the population of all eligible local health jurisdictions of the state.

(B) The population estimates used for the calculation of the per capita allotment pursuant to subparagraph (A) shall be based on the Department of Finance's E-1 Report, "City/County Populations Estimates with Annual Percentage Changes" as of January 1 of the previous year. However, if within a local health jurisdiction there are one or more city health jurisdictions, the local health jurisdiction shall subtract the population of the city or cities from the local health jurisdiction total population for purposes of calculating the per capita total.

(b) If the amounts appropriated are insufficient to fully fund the allocations specified in subdivision (a), the department shall prorate and adjust each local health jurisdiction's allocation so that the total amount allocated equals the amount appropriated.

(c) For the 2002-03 fiscal year and subsequent fiscal years, where the federally approved collaborative state-local plan identifies an allocation method, other than the basic allotment and per capita method described in subdivision (a), for specific funding to a local public health jurisdiction, including, but not limited to, funding laboratory training, chemical and nuclear terrorism preparedness, smallpox preparedness, and information technology approaches, that funding shall be paid to the administrative bodies of those local health jurisdictions in accordance with the federally approved collaborative state-local plan for bioterrorism preparedness and other public health threats in the state.

(d) Funds appropriated pursuant to the annual Budget Act or some other act for allocation to local health jurisdictions pursuant to this article shall be disbursed quarterly to local health jurisdictions beginning July 1, 2002, using the following process:

(1) Each fiscal year, upon the submission of an application for funding by the administrative body of a local health jurisdiction, the department shall make the first quarterly payment to each eligible local health jurisdiction. Initially, that application shall include a plan and budget for the local program that is in accordance with the department's plans and priorities for bioterrorism preparedness and response, and other public health

threats and emergencies, and a certification by the chairperson of the board of supervisors or the mayor of a city with a local health department that the funds received pursuant to this article will not be used to supplant other funding sources in violation of subdivision (d) of Section 101315. In subsequent years, the department shall develop a streamlined process for continuation of funding that will address new federal requirements and will assure the continuity of local plan activities.

(2) The department shall establish procedures and a format for the submission of the local health jurisdiction's plan and budget. The local health jurisdiction's plan shall be consistent with the department's plans and priorities for bioterrorism preparedness and response and other public health threats and emergencies in accordance with requirements specified in the department's federal grant award. Payments to local health jurisdictions beyond the first quarter shall be contingent upon the approval of the department of the local health jurisdiction's plan and the local health jurisdiction's progress in implementing the provisions of the local health jurisdiction's plan, as determined by the department.

(3) If a local health jurisdiction does not apply or submits a noncompliant application for its allocation, those funds provided under this article may be redistributed according to subdivision (a) to the remaining local health jurisdictions.

(e) Funds shall be used for activities to improve and enhance local health jurisdictions' preparedness for and response to bioterrorism and other public health threats and emergencies, and for any other purposes, as determined by the department, that are consistent with the purposes for which the funds were appropriated.

(f) Any local health jurisdiction that receives funds pursuant to this article shall deposit them in a special local public health preparedness trust fund established solely for this purpose before transferring or expending the funds for any of the uses allowed pursuant to this article. The interest earned on moneys in the fund shall accrue to the benefit of the fund and shall be expended for the same purposes as other moneys in the fund.

(g) (1) A local health jurisdiction that receives funding pursuant to this article shall submit reports that display cost data and the activities funded by moneys deposited in its local public health preparedness trust fund to the department on a regular basis in a form and according to procedures prescribed by the department.

(2) The department, in consultation with local health jurisdictions, shall develop required content for the reports required under paragraph (1), which shall include, but shall not be limited to, data and information needed to implement this article and to satisfy federal reporting requirements. The chairperson of the board of supervisors or the mayor of a city with a local health

department shall certify the accuracy of the reports and that the moneys appropriated for the purposes of this article have not been used to supplant other funding sources.

(3) The department shall audit the cost reports each year to determine compliance with federal requirements and consistency with local health jurisdiction budgets.

(h) The administrative body of a local health jurisdiction may enter into a contract with the department and the department may enter into a contract with that local health jurisdiction for the department to administer all or a portion of the moneys allocated to the local health jurisdiction pursuant to this article. The department may use funds retained on behalf of a local jurisdiction pursuant to this subdivision solely for the purposes of administering the jurisdiction's bioterrorism preparedness activities. The funds appropriated pursuant to this article and retained by the department pursuant to this subdivision are available for expenditure and encumbrance for the purposes of support or local assistance.

(i) The department may recoup from a local health jurisdiction any moneys allocated pursuant to this article that are unspent or that are not expended for purposes specified in subdivision (d). The department may also recoup funds expended by a local health jurisdiction in violation of subdivision (d) of Section 101315. The department may withhold quarterly payments of moneys to a local health jurisdiction if the local health jurisdiction is not in compliance with this article or the terms of that local health jurisdiction's plan as approved by the department. Before any funds are recouped or withheld from a local health jurisdiction, the department shall meet with local health officials to discuss the status of the unspent moneys or the disputed use of the funds, or both.

(j) Notwithstanding any other provision of law, moneys made available for bioterrorism preparedness pursuant to this article in the 2001-02 fiscal year shall be available for expenditure and encumbrance until June 30, 2003. Moneys made available for bioterrorism preparedness pursuant to this article from July 1, 2002, to August 30, 2003, inclusive, shall be available for expenditure and encumbrance until August 30, 2004. Moneys made available in the 2003-04 Budget Act for bioterrorism preparedness shall be available for expenditure and encumbrance until August 30, 2005.

The subcommittee may want to ask the Office:

- Information on the tracking of federal homeland security grants
- Information on estimated expenditures by grant and outstanding unspent balances
- Possible challenges to timely expenditures of grant funds
- Information on pending federal grants

ITEM 0850 STATE LOTTERY COMMISSION

The California State Lottery Act of 1984 created the California State Lottery Commission and gave it broad powers to oversee the operations of a statewide lottery. The primary purpose of the Act is to provide supplemental monies to benefit public education without the imposition of additional or increased taxes. The Lottery is administered by a five-person Commission appointed by the Governor with the concurrence of the State Senate.

The statute requires that not less than 84 percent of the total annual revenues from the sale of state lottery tickets shall be returned to the public in the form of prizes and net revenues to benefit public education. Fifty (50) percent of the total annual revenues shall be returned to the public in the form of prizes. At least 34 percent of those revenues shall be allocated to the benefit of public education, and no more than 16 percent of the revenues are to be used for administrative costs. The Commission may also use a portion of its administrative funds to pay for prizes in order to increase sales and revenues to education. Those revenues allocated to the benefit of public education are to be placed in a special fund, known as the California State Lottery Education Fund, which is appropriated for the benefit of public education and which holds revenues until they are allocated on a per capita basis, using prior year certified Average Daily Attendance data, to the following four categories: K-12 education, Community Colleges, the California State University and the University of California. These funds, which augment, rather than replace, funds already allocated for public education, are to be spent exclusively for instructional purposes, and may not be spent for acquisition of real property, construction of facilities, financing of research, or other non-instructional purposes.

By a legislative initiative in March 2000, the Lottery Act was amended to provide that one-half of the amount of the share allocated to public education in excess of the amount allocated to education in fiscal year 1997-98 shall be allocated to school and community college districts for the purchase of instructional materials.

In the 19 years from the start of sales in October 1985 through June 30, 2004, the California State Lottery has raised nearly \$16 billion for public education.

ISSUE 1: COMMISSION BUDGET

The Governor's Budget estimates lottery sales of \$2.85 billion in 2005-06. This is the same level of sale as in the current year and \$124 million less than in 2003-04. Similarly, the Administration estimates \$1.019 billion of the lottery receipts going to education programs. This is the same amount as in the current year and represents \$75.3 million less than in 2003-04. Operating expenses are expected to be level in the budget year.

The subcommittee may want to ask the Commission:

- About the competitive environment for gambling dollars in California
- What the commission is doing to increase the lottery revenues in the current and future fiscal years.

ITEM 1880 STATE PERSONNEL BOARD

The State Personnel Board (SPB) is responsible for the oversight of the state's civil service system. SPB ensures that the civil service system is free from political patronage and the employment decision, are based upon merit. The Board provides services to state departments in the areas of recruitment, selection, and classification.

The Board has five members that are appointed for a ten-year period.

ISSUE 1: BUDGET YEAR FUNDING

The Governor's Budget proposes funding of \$18.523 million and 128.7 positions. This amount would support for the same number of positions as in the current year. The Administration has proposed an unallocated reduction of \$60,000.

ITEM 5460 DEPARTMENT OF YOUTH AUTHORITY

The Department of Youth Authority

The California Department of the Youth Authority's (CYA) mission, as described in Section 1700 of the Welfare and Institutions Code, is to protect the public from criminal activity. The law mandates the department too:

- Provide a range of education, treatment, and training services for youthful offenders committed by courts;
- Direct these offenders to participate in community and victim restoration;
- Assist local justice agencies with efforts to control crime and delinquency; and
- Encourage the development of state and local programs to prevent crime and delinquency.

The CYA receives its youthful offender population from both juvenile and criminal court referrals, and offenders committed directly to the CYA do not receive determinate sentences. The Youthful Offender Parole Board, a separate administrative body, determines their parole release. Those committed by the criminal courts that cannot complete their sentence by age 21 are transferred to the Department of Corrections (CDC) prisons at age 18.

The CYA's jurisdiction for the most serious felony offenders, both juvenile and young adults, ends on the offender's 25th birthday.

ISSUE 1: INSTITUTION AND PAROLE POPULATION ADJUSTMENT

The Governor's Budget projects an institution population of 3,330 on June 30, 2006, a reduction of 100 wards from the estimated population as of June 30, 2005. The parole population on June 30, 2006 is estimated at 3,450. This represents a reduction of 340 parolees from the estimated population as of June 30, 2005. The May Revision will provide an updated estimate of the institution and parole population.

ISSUE 2: *FERRELL V ALLEN*

On January 31, 2005, parties in the case *Ferrell v Allen* agreed to changes in the Department of Youth Authority. This resulted from a complaint related to the terms of confinement and treatment of the department's wards. The Department has agreed to provide the court with plans to change its: medical care plan; education plan, mental health plan, disabilities plan, sex offender treatment plan, and ward safety plan.

ITEM 8140 STATE PUBLIC DEFENDER

The Office of the State Public Defender was created by the California Legislature in 1976 to represent indigent criminal defendants on appeal. The office was formed in response to the need of the state appellate courts, for consistent, high-quality representation for defendants. For the first 13 years of its existence OSPD's workload was predominantly complex non-capital felonies on appeal to the Courts of Appeal, with a handful of capital murder cases in the mix

Throughout this decade the number of condemned inmates sitting on Death Row awaiting appointment of counsel, often for years, has steadily increased. Due to this fact, since 1990, OSPD's mandate has been redirected toward an exclusive focus upon death penalty cases. The office litigates these cases both on appeal and habeas corpus in the California Supreme Court, and in the United States Supreme Court on certiorari petitions.

The agency has two regional law offices, located in Sacramento and San Francisco. The State Public Defender and the administrative staff are headquartered in San Francisco.

ISSUE 1: BUDGET YEAR FUNDING

The Governor's Budget proposes funding of \$11.33 million and 82 positions in the budget year. This \$96,000 less than the current year budget. The budget includes an unallocated reduction of \$176,000 in the budget year.

The subcommittee may want to ask the Administration:

- How many persons sentenced to the death penalty are represented by the State Public Defender (SPD)?
- How many are unrepresented?
- What is the average time that elapses between the imposition of the death penalty and the assignment of representation? How does that compare with the status last year? Five years ago? In 1990 when the focus of the SPD shifted to clients sentenced to death?
- How many clients whose conviction is on appeal are unrepresented.?

ITEM 8180 PAYMENT TO COUNTIES FOR COSTS OF HOMICIDE TRIALS

The Government Code provides for reimbursement to counties for the extraordinary costs associated with homicide trials. Costs that exceed .0125 percent of the county's property tax revenues are eligible for reimbursement from the State Controller. Costs under this provision do not include costs incurred by the trial courts.

ISSUE 1: 2005-06 BUDGET

The Administration proposes a funding of \$4.3 million for this program. This represents an increase from \$1.5 million expended in 2003-04 but is a decrease of \$400,000 from estimated expenditures of \$4.7 million in 2004-05.

ITEM 8550 CALIFORNIA HORSE RACING BOARD

The California Horse Racing Board regulates pari-mutuel wagering with the goals of: promoting horse racing and breeding industries; and protecting bettors.

The California Horse Racing Board was created in 1933 pursuant to a constitutional amendment. The measure gave complete jurisdiction and supervision over all racing activities to the board. Pursuant to these powers, the board passed rules establishing the authority of the stewards, but made the stewards strictly and completely responsible to the board for all their actions.

The board is a seven-member commission appointed by the Governor. It supervises all race meetings in the state where pari-mutuel wagering is conducted. Principal activities of the board include: protecting the betting public; licensing of racing associations; sanctioning of every person who participates in any phase of horse racing; designating racing days and charity days; acting as a quasi-judicial body in matters pertaining to horse racing meets; collecting the state's lawful share of revenue derived from horse racing meets; and enforcing laws, rules, and regulations pertaining to horse racing in California.

The state's revenue from horse racing is principally derived from fees based upon a percentage of the pari-mutuel wagering pools, breakage (the odds cents not paid to winning ticket holders), and unclaimed tickets. Additional revenue is derived from licenses issued to horse owners, trainers, jockeys, grooms and others, and from fines.

The Governor's Budget proposes expenditures of \$8.7 million in the budget year. This is similar to estimated expenditures in the current year.

ISSUE 1: EQUINE LAB TESTING

The California Horse Racing Board (CHRB) approved a contract with the Kenneth L. Maddy Laboratory (located on the University of California, Davis campus, as part of the California Animal Health and Food Safety Laboratory) to perform equine testing of all post race test samples collected from the state's race tracks. Under the current contract, the Maddy Laboratory performs laboratory tests on one third of the samples, and two thirds of samples being tested by Truesdail Laboratories.

Business and Professions (B&P) Code Section 19577 (g) directs the Board to "contract with the Regents of the University of California to have one-third of the routine equine drug testing required by this section performed by the California Animal Health and Food Safety Laboratory.

B&P Section 19578 (a) states that it is the intent of the Legislature that the board contract with the Regents of the University of California to provide equine drug testing. It is further the intent of the Legislature that to the extent that resources are available, the California Animal Health and Food Safety Laboratory perform studies that may lead to the development of alternative or improved drug testing techniques.

The subcommittee may want to ask the Board:

- The circumstances surrounding the decision to change the terms of the contract for equine drug testing.
- Will the services provided by the Maddy Laboratory, result in alternate or improved drug testing techniques?

ITEM 8830 CALIFORNIA LAW REVISION COMMISSION

The California Law Revision Commission was created in 1953 (Government Code) as the permanent successor to the Code Commission and given responsibility for the continuing substantive review of California statutory and decisional law. The Commission studies the law in order to discover defects and anachronisms and recommends legislation to make needed reforms. The Commission may study only topics that the Legislature has authorized.

The Commission assists the Legislature in keeping the law up to date by:

- Intensively studying complex and sometimes controversial subjects
- Identifying major policy questions for legislative attention
- Gathering the views of interested persons and organizations
- Drafting recommended legislation for legislative consideration

The Commission's efforts enable the Legislature to focus on significant policy questions in a recommendation rather than on the technical issues, which can be resolved in the process of preparing background studies, working out intricate legal problems, and drafting implementing legislation. The Commission thus helps the Legislature to accomplish needed reforms that otherwise might not be made because of the heavy demands on legislative time. In some cases, the Commission's report demonstrates that no new legislation on a particular topic is needed, thus relieving the Legislature of the need to study the topic.

The Commission consists of:

- A member of the Senate appointed by the Rules Committee
- A member of the Assembly appointed by the Speaker
- Seven members appointed by the Governor with the advice and consent of the Senate
- The Legislative Counsel, who is an ex officio member

The Commission's work on a study often begins with the preparation of a background study. The background study may be prepared by a member of the Commission's staff or by a specialist in the field who is retained as a consultant. From time to time, expert consultants are also retained to advise the Commission at meetings.

As a study progresses, the Commission's staff will prepare various memoranda for the Commission's consideration. These memoranda may include: discussion of issues, results of staff research, analysis of public comments, and draft legislation. Staff memoranda typically serve as a starting point for Commission deliberations.

After making its preliminary decisions on a subject, the Commission ordinarily distributes a tentative recommendation to interested persons and organizations, including the State Bar, local and specialized bar associations, public interest organizations, and business and professional associations. Notice of the availability of the tentative recommendation is mailed to interested persons on the Commission's mailing list and publicized in legal newspapers and other relevant publications.

After considering any comments on its tentative recommendation, the Commission will determine what recommendation, if any, it will make to the Legislature. When the Commission has reached a conclusion on the matter, its recommendation to the Legislature (including a draft of any legislation necessary to effectuate its recommendation) is published and distributed in printed form and electronically on the Commission's website.

The Commission's recent reports include:

Administrative Law	<ul style="list-style-type: none"> • Obsolete Reporting Requirements • Rulemaking Under Penal Code Section 5058 • Administrative Rulemaking Cleanup • Administrative Rulemaking Refinements
Business Law	<ul style="list-style-type: none"> • Unfair Competition
Criminal Law	<ul style="list-style-type: none"> • Criminal Sentencing • Review of Criminal Procedures Under Trial Court Unification
Debtor-Creditor Relations	<ul style="list-style-type: none"> • Decennial Review of Exemptions from Enforcement of Money Judgments • Debtor-Creditor Technical Revisions • Municipal Bankruptcy (Ch. 9)

Eminent Domain	<ul style="list-style-type: none"> • Evidence of Prejudgment Deposit Appraisal in Eminent Domain
Estate Planning, Probate, and Trusts	<ul style="list-style-type: none"> • Trust Rules of Construction • Inheritance Involving Nonmarital Child • Estate Planning During Marital Dissolution • Probate Code Technical Corrections • Health Care Decisions for Adults Without Decisionmaking Capacity • Health Care Decisions Law: Miscellaneous Revisions
Evidence	<ul style="list-style-type: none"> • Evidence Code Changes Required by Electronic Communications
Judiciary and Civil Procedure	<ul style="list-style-type: none"> • Authority of Court Commissioners • Authority to Appoint Receivers • Cases in Which Court Reporter Is Required • Law Library Board of Trustees • Expired Pilot Projects • Appellate and Writ Review Under Trial Court Unification • Civil Procedure: Technical Corrections • Unnecessary Procedural Differences Between Limited and Unlimited Civil Cases • Jurisdictional Limits for Small Claims and Limited Civil Cases • Civil Procedure Technical Corrections: Part 2 • Statutes Made Obsolete by Trial Court Restructuring: Part 1 • Statutes Made Obsolete by Trial Court Restructuring:

	Part 2
Mechanic's Liens	<ul style="list-style-type: none"> • Stay of Mechanic's Lien Enforcement Pending Arbitration

(source: California Law Revision Commission)

ISSUE 1: WORKLOAD BACKLOG

The Law Revision Commission (LRC) studies legal topics directed by the Legislature. These requests generally represent complex legal issues that require significant amounts of legal research. Currently, the Commission is studying 21 topics. The LRC has divided these topics into two categories; scheduled; and unscheduled assignments. There are 14 scheduled topics that are estimated to take 4.3 years to complete. The 7 unscheduled assignments are estimated to take 5.5 years to complete. As a result, the entire backlog of legislative requests will take the Commission 9.8 years to complete, assuming that the staff is fully dedicated to existing projects and are not given any other priority assignments to work on. Under these circumstances, a legislative request in 2005-06 initiated by a first year Assemblymember may not be addressed in the normal course of business until the member reaches the Senate. Similarly, a request by a first year Senator may never be completed by the Commission until after he or she is termed out.

An augmentation of \$150,000 to the LRC would provide funding for one attorney and one half-time administrative assistant. This would significantly increase the amount legal resources committed toward its workload, first by the addition of an attorney, and by redirecting administrative work, currently performed by the executive director to an administrative assistant. The addition of these resources would reduce the backlog from 9.8 years to approximately 2.5 years. Even with the minor increase in resources, the Legislature will have to wait up to two and one half years to obtain a response to a legal question that may have an impact on the State.

ITEM 8840 COMMISSION ON UNIFORM STATE LAWS

The Government Code authorizes the Commission on Uniform State Laws. The Commission's membership includes a member from the Senate, a member from the Assembly, six appointees of the Governor, the Legislative Counsel, a life member of the National Conference of Commissioners on Uniform State Laws (NCCUSL), and a former member of the commission. Commissioners can receive \$100 for each day on official business in addition to reimbursement for actual costs incurred in the discharge of their duties, specifically including actual and necessary travel expenses. The California Commission is a member of a national organization of uniform state laws. Membership allows the state to participate in discussions related to the development of uniform state laws that may be ultimately adopted by that state.

The National Conference of Commissioners on Uniform State Laws (NCCUSL) provides states with non-partisan, well-conceived, and well-drafted legislation that brings clarity and stability to critical areas of state statutory law.

Conference members must be lawyers, qualified to practice law. They are practicing lawyers, judges, legislators, legislative staff, and law professors, who have been appointed by state governments as well as the District of Columbia, Puerto Rico and the U.S. Virgin Islands to research, draft and promote enactment of uniform state laws in areas of state law where uniformity is desirable and practical.

- NCCUSL strengthens the federal system by providing rules and procedures that are consistent from state to state but that also reflect the diverse experience of the states.
- NCCUSL statutes are representative of state experience, because the organization is made up of representatives from each state, appointed by state government.
- NCCUSL keeps state law up-to-date by addressing important and timely legal issues.
- NCCUSL's efforts reduce the need for individuals and businesses to deal with different laws as they move and do business in different states.
- NCCUSL's work facilitates economic development and provides a legal platform for foreign entities to deal with U.S. citizens and businesses.
- NCCUSL is a state-supported organization that represents true value for the states, providing services that most states could not otherwise afford or duplicate.

NCCUSL defines its process for the development of uniform state laws as follows:

The process starts with the Scope and Program Committee, which initiates the agenda of the Conference. It investigates each proposed act, and then reports to the Executive Committee whether a subject is one in which it is desirable and feasible to draft a uniform law. If the Executive Committee approves a recommendation, a drafting committee of commissioners is appointed. Drafting committees meet throughout the year. Tentative drafts are not submitted to the entire Conference until they have received extensive committee consideration.

Draft acts are then submitted for initial debate of the entire Conference at an annual meeting. Each act must be considered section by section, at no less than two annual meetings by all commissioners sitting as a Committee of the Whole. With hundreds of trained eyes probing every concept and word, it is a rare draft that leaves an annual meeting in the same form it was initially presented.

Once the Committee of the Whole approves an act, its final test is a vote by states—one vote per state. A majority of the states present, and no less than 20 states, must approve an act before it can be officially adopted as a Uniform or Model Act.

At that point, a Uniform or Model Act is officially promulgated for consideration by the states. Legislatures are urged to adopt Uniform Acts exactly as written, to “promote uniformity in the law among the states.” Model Acts are designed to serve as guideline legislation, which states can borrow from or adapt to suit their individual needs and conditions.

When drafting is completed on an act, a commissioner’s work has only begun. They advocate the adoption of uniform and model acts in their home jurisdictions. Normal resistance to anything “new” makes this the hardest part of a commissioner’s job. However, the result can be workable modern state law that helps keep the federal system alive.

The work of the Conference simplifies the legal life of businesses and individuals by providing rules and procedures that are consistent from state to state. Representing both state government and the legal profession, it has sought to bring uniformity to the divergent legal traditions of more than 50 sovereign jurisdictions, and has done so with significant success.

ISSUE 1: BASELINE BUDGET

The Governor's Budget proposes a budget of \$100,000 for 2005-06. The State, through the Commission on Uniform State Laws is a member of the National Conference of Commissioners on Uniform State Laws (NCCUSL). For 2006, the membership dues for California will be \$129,700. In accordance with the provisions of the Government Code, Commissioners are reimbursed for actual costs associated with the discharge of their duties. These costs specifically include travel expenditures. For 2003-04, the Commission's travel expenditures totaled \$19,175.

The subcommittee may want to approve an appropriation of \$149,000 for the Commission in the Budget Year. This level of funding would cover the state's membership in UCCUSL and related travel costs.

ITEM 8910 OFFICE OF ADMINISTRATIVE LAW

The Office of Administrative Law (OAL) is responsible for the review of administrative regulations proposed by state agencies for compliance with the Administrative Procedures Act (APA), and subsequent transmittal to the Secretary of State for publishing in the California Code of Regulations. APA requires OAL to consider the following factors when determining the appropriateness of a proposed regulation, necessity; authority; clarity; Consistency; reference; and non-duplication. OAL provides guidance to state agencies through a formal training program on the issuance of regulations as well as providing technical assistance. OAL is authorized to issue advisory opinions as to whether a state agency rule meets the statutory definition of a regulation.

Proposed emergency regulations needed to preserve the public peace, health and safety or general welfare of the state may be issued and are required to be reviewed by OAL within 10 calendar days after its submittal.

ISSUE 1: PROPOSED BUDGET

The Governor's Budget proposes funding for the Office of Administrative Law of \$2.5 million and 18.3 positions. Included in this budget is the addition of 2 positions and \$127,000 to address additional workload of the office.

ITEM 9210 LOCAL GOVERNMENT FINANCING

This item provides payments to local governments where funds may, depending on the program, either be used for general or designated purposes.

ISSUE 1: COPS / JUVENILE JUSTICE

The COPS/Juvenile Justice grant program provides funding to local police departments, county sheriffs, district attorney's and county probation officers in support of law enforcement, custody prosecution and juvenile justice initiatives. Funding appropriated for this grant is proportioned by statute. Law enforcement, custody and prosecution (COPS) efforts cumulatively share half of the grant with the juvenile justice programs.

In the current year, the budget provides a total of \$200 million for the grant (\$100 million for COPS and \$100 million for juvenile justice). The Administration proposes to continue \$100 million in funding for the COPS while eliminating funding for the Juvenile Justice programs. Concurrently, the Governor's Budget proposes funding of \$25 million within the Board of Corrections' budget in support of "juvenile justice activities." It is not clear whether these funds would: extend the current year program support for an additional 3 months; propose a 75 percent reduction in the size of the ongoing juvenile justice programs; or would require development of a new program. The Administration proposes a statutory change to eliminate the current funding ratio between the COPS programs and the juvenile justice programs.

In the March 30, 2005 hearing, the subcommittee reduced funding by \$25 million from the Board of Corrections budget.