

AGENDA
ASSEMBLY BUDGET SUBCOMMITTEE NO. 4
ON GENERAL GOVERNMENT

Assemblymember John Dutra, Chair

WEDNESDAY, APRIL 28, 2004
STATE CAPITOL, ROOM 437
1:30 P.M.

ITEMS PROPOSED FOR CONSENT

ITEM	DESCRIPTION
1900	PUBLIC EMPLOYEES' RETIREMENT SYSTEM
1920	STATE TEACHERS' RETIREMENT SYSTEM

ITEMS TO BE HEARD

ITEM	DESCRIPTION	PAGE
0550	SECRETARY FOR YOUTH AND ADULT CORRECTIONAL AGENCY	3
ISSUE 1	FINANCE LETTER	3
0552	OFFICE OF INSPECTOR GENERAL	3
ISSUE 1	FINANCE LETTER-RESTORATION OF OIG	3
1880	STATE PERSONNEL BOARD	4
ISSUE 1	GENERAL FUND REDUCTIONS	4
5430	BOARD OF CORRECTIONS	6
ISSUE 1	OVERVIEW	6
ISSUE 2	FEE-BASED SERVICES	7
5440	BOARD OF PRISON TERMS	8
ISSUE 1	VALDIVIA	8
5460	DEPARTMENT OF YOUTH AUTHORITY	10
ISSUE 1	MT. BULLION YOUTH CONSERVATION FACILITY	10
8320	PUBLIC EMPLOYMENT RELATIONS BOARD	12
ISSUE 1	FINANCE LETTER - REVISITED	14
9800	AUGMENTATION FOR EMPLOYEE COMPENSATION	15
ISSUE 1	FUNDING FOR MOU	15

ISSUE 2	INCREASE IN EMPLOYEE RETIREMENT CONTRIBUTION	15
ISSUE 3	REPEAL OF SB 400	16
ISSUE 4	FINANCE LETTER – ALLOCATION OF FUNDS BY COLLECTIVE BARGAINING UNIT	17

ITEM 0550 SECRETARY FOR YOUTH AND ADULT CORRECTIONAL AGENCY

OVERVIEW

The Youth and Adult Correctional Agency (YACA) includes the Department of Corrections, Department of Youth Authority, Board of Prison Terms, Board of Corrections, Prison Industry Authority and Narcotic Addict Evaluation Authority and the Commission on Correctional Peace Officers' Standards and Training.

The Governor's Budget proposes funding of \$1.8 million and 14.9 positions in 2004-05 This represents an increase of \$630,000 and 6 positions over the expected expenditures in the current year. This increase is due to the proposed transfer of the Office of Inspector General to the Agency.

ISSUE 1 FINANCE LETTER

The Administration proposes a Finance Letter that would decrease the budget of YACA by \$630,000 and 6 positions. This is part of a proposal to provide \$3.3 million and 28.0 positions to the Office of the Inspector General (OIG) that will report directly to the Governor's Office.

ITEM 0552 OFFICE OF INSPECTOR GENERAL

OVERVIEW

OIG had the responsibility for oversight of the State's correctional system through audits and investigations of the boards and departments within YACA. The Governor's Budget proposes the elimination of the Office effective July 1, 2004 with a transfer of a limited oversight authority, \$630,000 and 6 positions to YACA.

ISSUE # 1 FINANCE LETTER - RESTORATION OF OIG

The Administration proposes a Finance Letter that would continue to fund the OIG with \$3.3 million from the General Fund and 28.0 positions. This is less than the 42.9 positions and \$4.7 million budgeted in the current year.

COMMENTS:

The Administration proposes a reduction in the resources to the OIG in the budget year as compared to the current year. The subcommittee may want to ask the Administration:

- How the needs of the Office were determined
- How the resources required to meet those needs was determined.
- What changes to the current processes are planned in the budget year.

In addition, the subcommittee may want to ask the Administration:

- Whether the Inspector General should be appointed for a fixed terms.
- How will the work of the Office become available to oversight entities such as the Legislature.

ITEM 1880 STATE PERSONNEL BOARD

OVERVIEW

Constitutionally established in 1934, the State Personnel Board (SPB) is responsible for California's Civil Service System. SPB ensures that the State's civil service system is free from political patronage and that employment decisions are based on merit. The SPB provides a variety of recruitment, selection, classification, appellate, goal setting, training and consultation services to state departments. The SPB also promotes efficiency and economy in state government and is a leader in efforts to improve and reform civil service practices.

The Governor's Budget proposes a budget of \$17 million and 120 positions which is a reduction from the budget in 2001-02 of \$21 million and 190 authorized positions.

ISSUE #1 GENERAL FUND REDUCTIONS**Article VII of the California Constitution provides:**

Section 1. (a) The civil service includes every officer and employee of the State except as otherwise provided in this Constitution.

(b) In the civil service permanent appointment and promotion shall be made under a general system based upon merit ascertained by competitive examination.

Section 2. (a) There is a Personnel Board of 5 members appointed by the Governor and approved by the Senate, a majority of the membership concurring, for 10-year terms and until their successors are appointed and qualified. Appointment to fill a vacancy is for the unexpired portion of the term. A member may be removed by concurrent resolution adopted by each house with two-thirds of the membership of each house concurring.

1. The board annually shall elect one of its members as presiding officer.

2. The board shall appoint and prescribe compensation for an executive officer who shall be a member of the civil service but not a board member.

Section 3. (a) The board shall enforce the civil service statutes and, by majority vote of all of its members, shall prescribe probationary periods and classifications, adopt other rules authorized by statute, and review disciplinary actions.

(b) The executive officer shall administer the civil service statutes under the rules of the board.

Executive Order S-6-04 signed by Governor Schwarzenegger on March 31, 2004: 1) directed all state officials and managers to vigorously enforce the policy of equal employment opportunity; 2) directed all state agencies to have clear written directives to guarantee equal employment opportunities; directed all state agencies to regularly review their employment practices to ensure equal employment opportunities; and 3) directed the State Personnel Board to provide leadership, coordination, technical guidance and enforcement efforts so that the State can achieve equal employment opportunity and non-discriminatory employment.

The Governor's Budget proposes a reduction of \$600,000 and 5.2 positions. These reductions would affect the board's administration of the Dymally-Alatorre Bilingual Services Act that seeks to allow the state to provide quality services to its non-English clients (\$76,000). It would also affect the board's ability address dismissals or disqualification for performance, psychological, medical or drug related reasons, demotions, discrimination complaints and whistleblower complaints. The buildup of a backlog in these areas would affect the efficiency and safety of services provided by the state (\$213,000).

COMMENTS:

The Board's has indicated that it cannot offer enough examinations to meet the demand of state departments which results in a delay of hiring, or transfer of employees that would allow agencies to increase their efficiencies by properly allocating its resources. It is also unable to adequately review job classifications to ensure that they are current and reflect actual job duties.

The subcommittee may want to ask the Administration:

- What its plan is to maximize the efficiency and effectiveness in managing the civil service process including the hiring and examination process to keep the quality of state employees at a high level.
- What its plan is to comply with the directives in Executive Order S-6-04 which gives the State Personnel Board responsibility for oversight and enforcement of the State's goal of equal employment opportunity.

ITEM 5430 BOARD OF CORRECTIONS

ISSUE 4: OVERVIEW

The Board of Corrections (BOC) was established in 1944 as part of the reorganization of the state prison system. Statutes relating to the authority, programs and mandates of the BOC are contained in the California Penal Code, and Welfare and Institutions Codes. Operating regulations are found in Title 15 of the California Code of Regulations, and physical plant regulations are contained in Title 24.

The BOC is composed of 15 members, 12 of which are appointed by the Governor and confirmed by the Senate and three of whom are designated in statute. The appointed members represent specific elements of local juvenile and adult criminal justice systems and the general public. The statutory members are the Secretary of YACA, who serves as Chair of the BOC, and the directors of the Departments of Corrections and Youth Authority. The BOC meets bi-monthly and all meetings are open to the public.

BOC works in partnership with city and county officials to develop and maintain standards for the construction and operation of local jails and juvenile detention facilities, and for the employment and training of local corrections and probation personnel. The BOC also inspects local adult and juvenile detention facilities; disburses training funds; administers grant programs that respond to facility construction needs, juvenile crime and delinquency, and mentally ill offenders; and conducts special studies relative to the public safety of California's communities.

The purpose of the Board of Corrections includes:

- Ensuring the establishment and continual re-evaluation of minimum standards for local juvenile and adult detention facilities, conducting "problem solving" inspections of all local detention facilities biennially, and reporting to the Legislature on the results of those inspections.
- Reviewing the architectural plans for construction and remodeling of all local detention facilities.
- Establishing recruitment, selection, and training standards for all local corrections personnel working in jails, juvenile detention facilities, or probation departments.
- Administering federal and state detention facility capital construction monies for the construction or renovation of local detention facilities.
- Administering state-funded local corrections at-risk and offender pilot, demonstration and continuum of care programs.
- Conducting studies in crime and penology and creating, upon its own initiative or upon the request of the Governor, special commissions to assist the Board in the study of crime.

The Governor's Budget proposes a budget of \$75.6 million and 68 positions. This compares to estimated expenditures of \$128 million in the current year with 63 positions. Proposed funding to local governments is reduced by \$52.3 million.

ISSUE 2: FEE-BASED SERVICES

According to the Board, in carrying out its major responsibilities, it works with county sheriffs, directors of corrections and chief probation officers, as well as other local officials and community-based service providers, to achieve continued improvement in the conditions of local detention facilities and the delivery of effective local corrections programs.

The Governor's Budget proposes appropriating \$1.886 million from Board of Corrections Administration Fund (#3073). This would replace \$1.71 million of current General Fund expenditures and would provide \$176,000 in supplemental funding for the inspections of local juvenile detention facilities. Under this proposal, revenue to the Administration Fund would come from inspection fees for local detention facilities and work furlough programs that were previously mandatory and were funded by the State. The Administration also would no longer require the Board to review and update minimum standards for local detention facilities to be kept current. It would also no longer require the Board to inspect local detention facilities. However, the proposal is unclear as it also allows the Board to impose a fee upon local governments to support the costs of inspection and maintenance of standards at its discretion. Further, it gives the Board the ability to perform a complete or partial inspection of the detention or work furlough program. Since inspections are no longer mandatory the proposed language is not clear if the local governments now would have the authority to now refuse the Board's intention to perform an inspection. While the language proposed provides sanctions when a local government facility is not in compliance with state standards, the failure to require the standards to be current may raise questions regarding its enforceability.

The Administration also proposes that the Board discontinue the collection of information related to the number, place and duration of confinement of minors in jail. The Board is currently required to report this information on a biennial basis. It is not clear what alternate means the Administration proposes to replace the availability of that information related to the needs of juveniles at the local level.

COMMENTS:

The proposed legislation to remove mandatory inspections and standard reviews related to local correctional facilities could act to relax the levels of health and safety in those facilities unless local governments voluntarily request full inspections and the Board voluntarily continues to maintain current levels of oversight of those facilities.

The transfer of the fiscal responsibility for the inspections and standards from the General Fund to local governments resulted from outstanding fiscal pressures at the State level. As a result the removal of the mandatory requirements raise concerns that there will be increasing pressure to lower these standards in view of the fiscal constraints at the local level.

ITEM 5440 BOARD OF PRISON TERMS

OVERVIEW

The Board of Prison Terms (BPT) is California's adult parole board. It conducts parole consideration hearings for all inmates sentenced to life terms with the possibility of parole. The BPT also:

- establishes terms and conditions for all persons released on parole in California
- conducts parole revocation hearings for persons who violate the terms and conditions of parole
- conducts certification, placement, and parole revocation hearings for mentally disordered offenders
- conducts probable cause hearings for prisoners or parolees in revoked status who meet the criteria to be identified as sexually violent predators
- considers requests from foreign born inmates who wish to be transferred to their country of citizenship to serve the remainder of their sentences

At the request of the Governor, the BPT investigates and makes recommendations on all applications for reprieves, pardons and commutations of sentence, including death penalty commutations. It may also report to the Governor the names of any prisoners who, in its judgment, ought to be considered for reprieve, pardon or commutation. The BPT also has the discretion to recommend to the court that a prisoner's sentence and commitment be recalled and that the prisoner be re-sentenced, such as in situations calling for compassionate release.

The BPT also has the authority to review prisoners' requests for reconsideration of denial of good-time credit, to set parole length or conditions, and to modify the previously made decisions of the Department of Corrections on such matters. The Board may also waive parole for any prisoner.

The BPT is comprised of nine Commissioners appointed by the Governor and approved by the Senate to staggered four-year terms. Commissioners work full-time and travel throughout California to conduct parole suitability hearings at correctional institutions. The Chairman is selected by the Governor. The Executive Officer, under the general direction of the Chairman, manages the daily operations of the BPT's various divisions.

The Governor's Budget proposes a budget for BPT of \$25.2 million in 2004-05. This is \$238,000 less than the expected expenditures in the current year.

ISSUE 1: VALDIVIA

In 1994, a class action lawsuit was brought against the state, on behalf of parolees, alleging that the parole revocation process violates their rights to due process under the Fourteenth Amendment of the United States Constitution. Specifically, the plaintiffs argued that parolees had no opportunity to challenge the contents of the case against them, present their own evidence, or question witnesses prior to the revocation hearing. Plaintiffs also claimed that the length of time it takes to conduct the revocation process - over a month and sometimes longer than three months - was excessive. In June 2002, a federal district court ruled in favor of the plaintiffs and ordered the state to work with plaintiff's counsel to develop a remedial plan to rectify the identified problems.

In December 2003, the parties in the case jointly submitted to the court their plan which includes several significant reforms to the revocation system. These reforms are designed to ensure a timely and fair revocation process for parolees. The proposal included:

- A probable cause hearing to take place prior to the revocation hearing. The probable cause hearing must take place within ten business days of when California Department of Corrections (CDC) notifies the parolee that he is being charged with a violation. At the probable cause hearing parolees will be allowed to present evidence on their own behalf, and they will have an opportunity to accept or reject BPT's screening offer.
- Requirement that every revocation hearing be held within 35 days of the parolee's arrest rather than the three months or longer it can take currently.
- Requirement that CDC provide attorneys to all parolees who are charged with a violation. These attorneys will prepare the parolee's case for both the probable cause hearing and the revocation hearing. Under current practice, only parolees with disabilities, such as a learning disability that would impair their ability to understand the proceedings, are provided an attorney for their revocation hearing.
- Intermediate sanctions for nonviolent and non-serious parole violators, such as electronic monitoring, in lieu of prison time. This provision builds on the reforms instituted by CDC in the current year that allows parole agents to utilize intermediate sanctions, thereby reducing the number of nonviolent parole violators returned to prison. The agreement assumes that the use of intermediate sanctions by parole agents and BPT will reduce the total caseload of parolees in the revocation process, thereby allowing BPT to conduct the remaining hearings within the shortened time limits established in the agreement.
- Deadlines for BPT and CDC to begin the implementation of all provisions except the probable cause hearing (by July 2004) and for all provisions of the remedial plan to be fully implemented (by July 2005).

The Legislative Analyst's Office (LAO) had stated that at the time this analysis was prepared, the agencies were unable to identify the fiscal impact of the *Valdivia* settlement, and no expenditures are proposed in the Governor's budget for the implementation of the remedial plan. Administration officials state that an implementation proposal will be part of the May Revision. However, the LAO raised concerns that submission of the proposal at that time will provide limited opportunity for review by the Legislature. For this reason, LAO recommends that BPT and CDC report to the Legislature at budget hearings on the fiscal impact of the *Valdivia* remedial plan. In particular, the LAO recommends that departments should provide their estimates of the number of probable cause and revocation hearings that will occur, the staffing required to implement the plan, the amount of any offsetting savings, the projected impact on local governments, and any other expected costs.

COMMENTS:

The subcommittee may want to ask the Administration:

- What the estimated costs of the *Valdivia* settlement would be to BPT?
- Would there be any offsetting savings to BPT from a reduced number of revocation hearings?

ITEM 5460 DEPARTMENT OF YOUTH AUTHORITY

OVERVIEW

The California Youth Authority (CYA) was created in 1941. By 1943 the agency began to operate "reform schools," providing institutional training and parole supervision for juvenile and young adult offenders. It is the largest youthful offender agency in the nation, with some 4,055 young men and women in institutions and camps at the end of the current fiscal year and further declining to 3,820 by the end of 2004-05. The parole population is also decreasing with an estimated 4,025 parolees at the end of the fiscal year and 3,810 by the end of the budget year.

As part of the state's juvenile justice system, the CYA works closely with law enforcement, the courts, prosecutors, probation, and a broad spectrum of public and private agencies concerned with and involved in the problems of youth.

CYA's 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 to:

- 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 CDC prisons at age 18.

In practice, the period of incarceration is determined by the severity of the committed offense and the offender's progress toward parole readiness. The incarceration time may not exceed the limits of determinate sentences for adults committing the same crime.

ISSUE 1: MT. BULLION YOUTH CONSERVATION CAMP

The Governor's Budget proposes the closure of the Mt. Bullion Youth Conservation Camp. This is part of the department's strategy to reduce excess capacity consistent with the intent of Chapter 1124, Statutes of 2002 (AB 3000, Oropeza). This closure would follow that of Karl Holton, Ventura (partial) and Northern California Reception Center facilities, and would be in addition to the Administration's proposal to close the Fred C. Nelles Youth Correctional Facility by July 2004.

The Mt. Bullion camp is located in Mariposa County, is one of four camps statewide and is jointly operated with the California Department of Forestry (CDF). According to departmental regulations CYA staff is responsible for the custody and supervision and treatment of assigned offenders while the CDF staff plans and supervises the work projects performed by the wards. However, according to the Department, the custody of the wards actually is transferred to CDF staff during the day and returned to CYA after the end of the work shift. It is not clear what police powers the CDF staff has to address any problems that may occur involving the wards. An important function of this camp is to employ the wards in a variety of tasks including fire prevention and conservation projects. In order to qualify for this assignment, the ward must: 1) be determined to be sufficiently physically fit to perform fire fighting activities; 2) have no history of possession or manufacturing of an explosive device; 3) not in need of psychotropic medication; be within 36 months of the current parole consideration date; not have escaped or attempted to escape from a state or local juvenile detention facility; 4) have outstanding felony holds or face court actions that could result in additional time in confinement (including a hold by the US Immigration and Naturalization Service); 5) have had his or her parole revoked more than once; 6) does not have a history of sexual offenses and 7) have not been convicted of arson. While the regulations indicate that wards 16 and 17 years of age may qualify for camp assignments with parental consent, the department has indicated that due to liability issues, no ward under 18 years of age are eligible for camp.

The Mt. Bullion camp is one of four camps has the capacity to house 80 wards and according to the CYA may be expanded to house 100 wards. The closure of the camp is expected to save \$2.4 million or approximately \$30,000 per-year-per-ward at capacity. The average cost if filled to the 100 level would approach \$24,000 per-year-per-ward. This is significantly lower than the average cost for the department of nearly \$74,000 per-year-per-ward. The cost may also favorably compare with the cost of juveniles placed in county camps. According to information from Los Angeles County, the annualized cost for that county for a juvenile in camp is \$38,343.

The wards at the camp have provided an average of 54,000 hours of emergency services per year over the past 8 years. In addition they have provided an average of 120,000 hours of community service per year. As an example of the community services provided, wards and the staff have raised over \$200,000 by fund raising and providing in-kind services to Mt. Crisis Services, a local domestic violence agency. This has allowed the agency to purchase one domestic violence shelter and has contributed to the purchase of a second facility. These activities have been made possible with the support of the community including the County Board of Supervisors who supports the continuing operations of the camp.

While the camps appear to be provide an option for CYA to reduce its average costs per ward, the Department indicates that there are only sufficient number of wards that meet the minimum requirements to staff three of the four camps.

COMMENTS:

The subcommittee may want to ask the department to address the following:

- What it has done to enhance the number of wards at the camps?
- Could it expand the number of wards in the camp by offering programs other than fire suppression?
- Has it sought additional commitments from counties for wards that would be eligible for the camp environment? On a reimbursable basis, the state may be able to charge an amount lower than the county's cost for incarceration.

ITEM 8320 PUBLIC EMPLOYMENT RELATIONS BOARD

OVERVIEW

The Public Employment Relations Board (PERB) is a quasi-judicial agency that oversees public sector collective bargaining in California. The Board administers four collective bargaining statutes that include: ensuring that they are consistently implemented; and adjudicating disputes between parties. The statutes administered by the Board include: Educational Employment Relations Act (EERA) (Gov. Code Section 3540 et seq.) that established collective bargaining for public K-12 schools and community colleges; State Employer-Employee Relations Act (SEERA or Dills Act) established collective bargaining for state government employees; Higher Education Employer-Employee Relations Act (HEERA) (Gov. Code Section 3560 et seq.) extended benefits to the California State University and University of California systems; the Meyers-Milias-Brown (MMBA) Act established collective bargaining for municipal, county and local special district employers and employees. Peace officers, management employees and employees of the City and County of Los Angeles are exempt from MMBA.

Approximately 1.5 million public sector employees are included under the jurisdiction of the Board. Of that amount 675,000 employees belong to the K-12 school and community college system, 125,000 are state employees, 100,000 are employed by the CSU and UC system, and the remaining 600,000 are employees of cities, counties and special districts.

The PERB is made up of five members appointed by the Governor and confirmed by the Senate. Board members are appointed to five-year terms with the terms of one member expiring each year. The board acts as an appellate body to hear challenges to decisions proposed by the staff of the Board. Decisions of the Board may be appealed to the state appellate courts.

The staff of the board is empowered to: conduct secret ballot elections to determine whether or not employees wish to have an employee organization exclusively represent them in their labor relations with their employer; prevent and remedy unfair labor practices, whether committed by the employer or employee organizations; deal with impasses that may arise between employer and employee organizations in their labor relations in accordance with statutorily established procedures; ensure that the public receives accurate information, and has the opportunity to register its opinions regarding the subjects of negotiations between public sector employers and employee organizations; interpret and protect the rights and responsibilities of employers, employees and employee organizations under the acts; interpret; bring action in a court of

competent jurisdiction to enforce PERB's decisions and rulings; conduct research and training programs related to the public sector employer-employee relations; and task other actions the Board deems necessary to ensure the acts have been complied with.

The major responsibilities of the Board involve: the administration of the statutory process through which public employees freely select employee organizations to represent them in their labor relations with their employer; the evaluation and adjudication of unfair practice charges; and the legal functions performed by the office of the Counsel General.

An unfair practice charge may be filed with PERB by an employer, employee organization or employee alleging that an employer or employee organization has committed an act which is unlawful under one of the acts administered by PERB. The filing is evaluated by staff to determine whether a prima facie case of unlawful action has been established. A prima facie case is established by alleging sufficient facts to permit a reasonable inference that a violation of the law has occurred. If the staff determines that a prima facie case has not been established, it will issue a letter to the charging party identifying the deficiencies of the charge. The charging party then has time to amend the charge and remedy its deficiencies. If the charging party fails to amend or withdraw the charge, the staff will dismiss it. This action may be appealed to the Board.

If the staff determines that the charge states a prima facie case of a violation, a formal complaint is issued. At this time, the respondent is given an opportunity to file an answer to the complaint. Once a complaint has been issued, and Administrative Law Judge (ALJ) or other agent is assigned to the case and calls the parties together for an informal settlement conference, generally within 30 days. If settlement is not forthcoming, a formal hearing is held, generally within 90 days of the informal settlement conference. Following the hearing, the presiding official issues a proposed decision. Any party to the case may appeal the proposed decision to the Board. The Board can then affirm, modify, reverse or remand the proposed decision.

Proposed decisions that are not appealed are binding upon the parties to the case but may not be cited as precedent. Decisions of the Board itself (appealed cases) are binding on the parties to that particular case and are precedential.

The Board has an advisory committee of approximately 100 people representing stakeholders and expert parties, that is assisting the Board in finding ways to improve effectiveness and efficiencies in working with public sector employers and employee organizations to promote the resolution of disputes and contribute to the greater stability of employer - employee relations.

COMMENTS:

PERB requires employers to file, within 60 days from the date of execution, a copy of all collective bargaining agreements reached pursuant to the four acts that PERB administers. These agreements are maintained at the Board's regional offices available to the public. Due to budget constraints the Board is considering eliminating the filing of these contracts.

PERB requires recognized or certified employee organizations to file annual financial reports of income and expenditures. Organizations that have negotiated a fair share fee arrangement for bargaining unit members have additional filing requirements. Complaints for noncompliance with the requirements may be filed with the Board which can then take action to bring the organization into compliance. Due to budget constraints, the Board is considering the elimination of the filing requirements.

During 2002-03, 802 unfair labor practice charges were filed with the Board. This is an 8 percent increase over the 740 filings in 2001-02.

The Governor's Budget proposes \$4.6 million in funding and 41 positions in the budget year. This is similar to the funding and staffing in the current year.

ISSUE 1: FINANCE LETTER - REVISITED

The Administration proposed a Finance Letter to fund two board member positions that have been held vacant. The Board previously redirected funding for those positions to address previous budget reductions. The Finance Letter did not identify workload that would be addressed by the proposed additional funding. On April 14th the subcommittee denied the Finance Letter.

The PERB has subsequently analyzed cases to be reviewed by one of its three divisions: 1) the general counsel's office; 2) division of administrative law; and 3) the board. It concluded that the number of cases pending at the general counsel's office will increase by 150 cases resulting in a backlog of 8.8 months. The number of cases pending at the administrative law division is expected to increase by 16 cases that would result in a backlog 7.1 months. The number of cases pending before the board is expected to increase by 53 cases to nearly a 26-month backlog. PERB believes that the addition of funding for two additional board members would allow for the processing of 50 additional cases a year. This would allow the board to maintain its backlog at its current level.

ITEM 9800 AUGMENTATION FOR EMPLOYEE COMPENSATION

OVERVIEW

This item provides funding for increases in salaries and health, dental and vision premiums for employees. The amounts in this item is based upon approved memoranda of understanding (MOU) for represented employees and announcements of salary and benefit levels by the Department of Personnel Administration for non-represented employees.

ISSUE 1: FUNDING FOR MOU

The Governor's Budget proposes \$875 million from various funds to fund the provisions of approved MOUs. Of this amount, \$464 million would be funded from the General Fund, \$280 million from special funds and \$130 million from non-governmental cost funds. Of this amount \$138 million is to cover the costs for increases in health, dental and vision premiums.

COMMENTS:

The amounts presented in this item appear to be reasonable to fund existing obligations under the approved MOUs.

ISSUE 2: INCREASE IN EMPLOYEE RETIREMENT CONTRIBUTION

Under current law, the State provides a defined benefit retirement system. It is funded through a fixed contribution by the employee, generally five percent of salary, with the employer contribution and investment earnings making up the balance of the funding requirements. As a result, when investment earnings are below average, employer contributions will be higher than average. Other factors that would affect employer contributions would include a suspension of payments in prior years, assumption of employee contribution obligations or enhancement of employee benefits.

The Governor's Budget proposes a one-percent increase in the employee contributions toward retirement. This would be for all current state employees. For most employees this would result in an increase from five to six percent of salary. New employees would be subject to a new retirement program that would provide reduced benefits upon retirement. This proposal is estimated to result in a General Fund savings of \$13.9 million in 2004-05 increasing to \$44 million in 2007-08 before declining in future years. These savings are proposed to be combined with other savings due to a reduced retirement benefit package to fund the debt service on a pension obligation bond that would provide \$929 million of the proceeds in the budget year.

COMMENTS

The employer's contribution for miscellaneous employees is 14.843 percent of salary for 2003-04. This is substantially higher than the employer's contribution of 4.166 percent of salary in 2001-02. This rate is expected to decrease as investment earnings improve. The Administration's proposal would not reduce the employee's contribution as the investment return increases.

The subcommittee may want to deny this proposal at this time as it may be premature to consider the proposal to increase employee contributions for retirement until it has been agreed to by the affected employee bargaining units. Should such an agreement occur, the subcommittee may reconsider this issue.

ISSUE 3: REPEAL OF SB 400 /1999 (ORTIZ)

SB 400, Chapter 555 Statutes of 1999 enhanced retirement benefits for state, university, and school employees. It was the first general enhancement to retirement benefits in 30 years. The Administration proposes the repeal of these enhancements though it is not clear whether it would apply to school employees. Generally this would return the formula for peace officers back to 2 percent at age 55 and California Highway Patrol to 2 percent at age 50. This change is expected to result in General Fund savings of \$6.4 million in 2004-05 increasing to \$459 million by 2023-24. These savings combined with savings from the increased employee contribution is proposed to be used to fund the debt service on a pension obligation bond that would bring \$929 million in the budget year.

COMMENTS

The Administration states that the below average rate of return on the pension fund's investments is the reason the State can no longer afford the enhancements to retirement included in SB 400, however there is no proposal to restore the benefits upon improvement of investment earnings.

The subcommittee may decide that it is premature to adopt these changes to employee retirement programs until its provisions have been agreed to by affected collective bargaining units.

ISSUE 4: FINANCE LETTER - ALLOCATION OF FUNDS BY COLLECTIVE BARGAINING UNITS

The Administration proposes a Finance Letter that would schedule the appropriations for item 9800 between collective bargaining units and for non-represented employees.

COMMENTS:

The Administration declares that this Finance Letter provides information to the Legislature on the costs of implementing existing obligations to represented and non-represented employees. While this information is useful, it is not clear why it should take the form of a finance letter. Existing budget control language for this item states that the amount appropriated shall not be construed to control or influence collective bargaining between the state and employee representatives. This finance letter would appear to be intended to highlight the differences between the costs to various bargaining units. In addition, this finance letter would not eliminate existing control language that would allow the Department of Finance to allocate funds through an executive order by department any way it deems appropriate, thus potentially nullifying any perceived controls of the finance letter.

The subcommittee may want to deny this finance letter as it is informational and would not restrict the allocation of funds from this item.