

AGENDA

ASSEMBLY BUDGET SUBCOMMITTEE NO. 4
ON STATE ADMINISTRATION

Assemblymember Juan Arambula, Chair

WEDNESDAY, MARCH 18, 2009, 1:30 PM
STATE CAPITOL, ROOM 437

| ITEMS TO BE HEARD | | |
|-------------------|--|-----------|
| ITEM | DESCRIPTION | |
| 8855 | BUREAU OF STATE AUDITS | 2 |
| ISSUE 1 | INFORMATIONAL – POTENTIAL WORKLOAD RELATED TO FEDERAL STIMULUS | 3 |
| ISSUE 2 | INFORMATIONAL – WORKLOAD RELATED TO PROPOSITION 11 | 4 |
| ISSUE 3 | EMPLOYEE COMPENSATION | 6 |
| | | |
| 8550 | CALIFORNIA HORSE RACING BOARD | 8 |
| ISSUE 1 | RACETRACK SAFETY SURFACE STANDARDS | 9 |
| ISSUE 2 | EQUINE MEDICAL DIRECTOR | 10 |
| | | |
| 0690 | CALIFORNIA EMERGENCY MANAGEMENT AGENCY | 11 |
| ISSUE 1 | INFORMATIONAL MERGER OF OES AND OHS | 13 |
| ISSUE 2 | RECOVERY PROGRAM BACKLOG | 15 |

ITEM 8855 BUREAU OF STATE AUDITS

The California State Auditor promotes the effective and efficient administration and management of public funds and programs. As the State's independent external auditor, the State Auditor provides the citizens and the government nonpartisan, accurate, and timely assessments of state and local government entities' financial and operational activities in compliance with generally accepted government auditing standards.

Specifically, the State Auditor reports annually on California's general purpose financial statements and fulfills the audit requirements of the federal Single Audit Act of 1984. California's statewide single audit is the largest governmental audit in the United States. Additionally, the State Auditor performs dozens of other audits mandated by various statutes and conducts audits requested by the Legislature. Legislative requests are first approved by the Joint Legislative Audit Committee and then prioritized based on the availability of funds. The State Auditor also administers the "California Whistleblower Protection Act," and may investigate alleged violations of state or federal law or regulation by state agencies or employees. Moreover, the State Auditor identifies statewide issues or specific government entities as high risk and has the authority to conduct evaluations of those issues or entities identified as high risk.

The Governor's Budget proposed expenditures of \$16.9 million (\$10.3 million General Fund) and 147 positions for the Bureau of State Audits (BSA), which is a decrease of \$1.7 million compared with 2008-09. Following is a three-year summary of expenditures by funding source (dollars in thousands):

| FUNDING | 2007-08 | 2008-09 | 2009-10 |
|--|-----------------|-----------------|-----------------|
| General Fund | \$16,229 | \$8,828 | \$10,282 |
| State Audit Fund | 1,594 | 2,222 | 329 |
| Board of Pilot Commissioners' Special Fund | | 100 | 250 |
| Reimbursements | 35 | | |
| Central Service Cost Recovery Fund | | 7,461 | 6,022 |
| TOTALS | \$14,670 | \$18,611 | \$16,883 |

**ISSUE 1: INFORMATIONAL - POTENTIAL WORKLOAD RELATED TO
FEDERAL STIMULUS**

On February 17, 2009, President Obama signed into law the American Recovery and Reinvestment Act (ARRA) of 2009. The spending and tax-cut plan is intended to help stabilize state budgets and spur economic growth. The stimulus package commits a total of \$787 billion nationwide, and it will have a significant fiscal impact on California. The stimulus package provides about \$330 billion in federal funds in aid to states. Of this amount, 1) almost \$100 billion is available to supplant or offset states' general fund spending, 2) as much as \$130 billion will be available to states to supplement or increase state spending on a wide variety of programs, and 3) states and other entities (such as local governments) will also be able to apply for up to \$100 billion in competitive or discretionary grants.

According to the Legislative Analyst's Office, of the \$330 billion available under ARRA nationwide for state aid, California will receive approximately \$31 billion in additional federal funds during the current and the next two federal fiscal years. The state's health programs will receive the largest share of these federal funds, about \$9 billion, and education-related programs will receive nearly \$8 billion in additional federal funds. These programs are followed by labor and workforce development and social services programs, which will receive about \$6 billion and \$3.5 billion, respectively. In addition, these figures do not capture the unknown, but potentially significant additional federal funds that the state is likely to receive when it applies for competitive grant funding included in ARRA.

COMMENTS

According to the BSA, the Government Accountability Office (GAO) has selected 16 states, including California, to review and report on the use of stimulus funds, which may result in an increase workload for the BSA in the current and budget years. The GAO has been coordinating with states in an effort to determine the appropriate process for state reporting requirements. The BSA has indicated that a determination has not yet been made as to how any increased state responsibility driven by ARRA audit/reporting requirements would be financed.

ISSUE 2: INFORMATIONAL – WORKLOAD RELATED TO PROPOSITION 11

California Proposition 11, the Voters First Act, was approved during the November 4, 2008 General Election. This measure amended the California Constitution to change the redistricting process for the state Legislature, Board of Equalization (BOE), and California members of the U.S. House of Representatives, beginning with the 2010 census.

The measure maintains the Legislature's role in drawing districts for the U.S. House of Representatives, however, imposes additional requirements that the Legislature must consider when drawing these districts. Among the new requirements is that the Legislature maintain neighborhoods and "communities of interest" within one district to the extent possible.

The measure shifts the responsibility for developing redistricting plans for legislative and BOE districts from the Legislature to a new Citizens Redistricting Commission. The measure imposes a number of requirements for the selection of commissioners and their drawing of district boundaries.

The Legislature would continue to incur expenses to perform redistricting for U.S. House of Representatives districts. In addition, this measure authorizes funding (outside of the Legislature's budget) for redistricting efforts related to legislative and BOE districts to be performed by the citizens commission. The LAO estimated that the minimum amount required for 2010 would be about \$4 million (the 2001 amount spent on redistricting adjusted for estimated inflation through 2010).

BACKGROUND

On February 10th, 2009 the Department of Finance sent to the Joint Legislative Budget Committee (JLBC) a notification of deficiency funding request from the BSA seeking a current year augmentation of \$477,000.

According to the BSA, Proposition 11 places significant new responsibility on its office. Specifically, the BSA plays a primary role in creating the Redistricting Commission and is charged with reaching out to eligible voters to make them aware of the opportunity to serve on the commission. Current year activities that the BSA has planned related Proposition 11 implementation include; 1) holding interested persons meetings throughout the state, 2) development of regulations, 3) completing the application form and process, 4) establishing the applicant review panel, and 5) developing selection process for applicants to the Redistricting Commission.

The BSA indicates that, because Proposition 11 places new statutory responsibilities on the bureau, they must give funding priority to implementation of the act. As a result, to the extent that the BSA has to redirect current funding to implementation of the act, it would reduce the resources available for the bureau to perform JLAC approved audits. Lastly, the BSA anticipates that their costs for 2009-10 related to Proposition 11 implementation activities will be significantly greater than the identified current year need.

COMMENTS

Staff notes that Proposition 11 provides that in 2009 the Governor shall include in the Governor's Budget, and sufficient funding for the State Auditor, the Citizen's Redistricting Commission, and the Secretary of State to meet estimated expenses for implementation of the redistricting process required by the act. Further, the Legislature is required to make the necessary appropriation in the Budget Act. However, the act does not address the funding of any associated cost that may occur in the current budget year.

ISSUE 3: EMPLOYEE COMPENSATION

Section 3.90 of the Budget Acts of 2008 and 2009 calls for a reduction in employee compensation. Specifically, Section 3.90 states that each item of appropriation, with specific exceptions, shall be reduced, as appropriate, to reflect a reduction in employee compensation achieved through the collective bargaining process. The Department of Finance (DOF) is to allocate the necessary reductions to each item of appropriation to accomplish the employee compensation reduction required by Section 3.90.

BACKGROUND

In correspondence with the Legislature, the BSA has noted that state law expressly provides that the bureau is independent of the executive branch in order to be free of organizational impairments to independence. The BSA notes that the bureau's exemption from executive branch control includes the Department of Personnel Administration, which is charged with carrying out the salary reductions.

Additionally, a 1994 memorandum of understanding between the BSA and the DOF provides the following:

"The exemptions from executive branch control are essential in fulfilling the independence requirements of Government Auditing Standards [issued by the Comptroller General of the United States] and to assure acceptance of the Bureau's audits by the federal government, bond rating companies, and others"

The BSA has noted that if the Legislature deemed it necessary to reduce the salaries of bureau employees through furlough, in order to preserve the independence of the bureau, any such reductions must be accomplished through an express act of the Legislature.

COMMENTS

The Administration believes that all civil service status employees, including those of the BSA, are subject to the furloughs. Applying the furloughs equitably is important as failure to do so could lead to state departments competing against each other for pay. However, given the important role the BSA's independent audit function plays in providing the Legislature, the Governor, and the public with objective information about the state's financial condition and the performance of state agencies and programs, the Legislature must ensure that the independence of the auditor is not jeopardized.

ITEM 8550 CALIFORNIA HORSE RACING BOARD

The purpose of the California Horse Racing Board (CHRB) is to regulate pari-mutuel wagering for the protection of the betting public, to promote the horse racing and breeding industries, and to maximize State of California revenues. The Board, which is a seven-member commission appointed by the Governor, 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 and participants in the racing industry.
- Sanctioning licensees who violate the rules, regulations, and laws of racing.
- Allocating the racing days and charity days conducted by racing associations.
- Enforcing laws, rules, and regulations pertaining to horse racing in California.
- 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.

The Governor's Budget proposed expenditures of \$11.8 million and 26.9 positions for the Horse Racing Board, which is an increase of \$660,000 compared with 2008-09. Following is a three-year summary of expenditures by funding source (dollars in thousands):

| FUNDING | 2007-08 | 2008-09 | 2009-10 |
|--------------------------|-----------------|-----------------|-----------------|
| Fair and Exposition Fund | \$9,487 | \$9,755 | \$10,418 |
| Special Deposit Fund | 1,483 | 1,415 | 1,415 |
| TOTALS | \$10,970 | \$11,170 | \$11,833 |

Senate Bill 16 (Chapter 12, Statutes of 2009) – Changes the CHRB's budget by establishing 2008-09 as its baseline budget and establishing that all racing associations and fairs including all breeds of racing must participate in the funding of the CHRB in accordance with a formula devised by the board in consultation with industry.

SB 16 effectively removes all workload adjustments that were built in to the 2009-10 Governor's Budget for the CHRB (such as Employee Comp and Retirement). In addition SB 16 removes the following two policy adjustments as outlined in Issues 1 and 2.

ISSUE 1: RACE TRACK SAFETY SURFACE STANDARDS

The 2009-10 Governor's Budget included \$300,000 from the Fair and Expositions Fund for a consultant contract to fund a pilot study of racetrack surfaces for the development of safety standards.

BACKGROUND

The CHRB mandated racing associations that operate more than four weeks of racing in a year to install, operate, and maintain synthetic surfaces. California's four racetracks (Golden Gate Fields, Santa Anita, Del Mar, and Hollywood Park) that now operate more than four weeks of racing have each installed a different manufacturer's synthetic surface. The CHRB wants to develop standards to ensure that these surfaces provide safety and continue to function as intended.

The pilot study would be limited to three of the four manufactured synthetic racetracks in California. Each track would be studied separately and then monitored daily for a variety of variables.

The following areas of concern have emerged in the use of these surfaces:

- Permeability of the track material;
- Variability of the ability of the track to absorb impact at a range of operating temperatures;
- Variation in the shear strength of synthetic tracks as a function of temperature and moisture; and,
- Changes over time in the track surface when exposed to UV rays, organic contamination and heat cycling.

Surface issues have arisen already in California. At Santa Anita, 11 days of racing was lost in early 2008 when the installed surface would not grain properly. At Del Mar, the initial season of racing on the synthetic surface suffered from slow times and inconsistency from morning workouts to afternoon racing.

ISSUE 2: EQUINE MEDICAL DIRECTOR

The 2009-10 Governor's Budget included \$150,000 from the Fair and Expositions Fund to provide additional funding necessary to fully fund the Equine Medical Director (EMD) position.

BACKGROUND

Business and Professions Code mandates that the CHRB contract with the University of California Davis (UC Davis) for an EMD. In advising on all phases of medication and veterinary practices, the EMD serves the entire racing industry and, in particular, ultimately the wagering public.

The CHRB has contracted for an EMD with UC Davis for over 20 years. With the expiring EMD contract (July 1, 2006 through July 1, 2009) the CHRB funding has not kept pace with the University's costs (the CHRB's contract provides \$147,000 per year; the EMD salary plus benefits is \$273,000).

For 2006-07, UC Davis was able to obtain additional funding from racing associations and research entities to supplement the EMD program funding. However, that funding has expired and, while it existed, it was subject to criticism and potential conflict of interest. In 2007-08 and 2008-09, the CHRB was able to absorb the additional EMD program costs through salary savings and other one-time adjustments.

COMMENTS

Notwithstanding the merits of the proposals, staff notes that SB 16 appears to significantly change how the CHRB is funded. As revenues continue to decline, horse racing in California has suffered loss of venues, bankruptcies and reduced racing dates. Before approval of increased expenditures by the CHRB, there must be clarity regarding ability to adequately fund existing budgeted expenditures.

ITEM 0690 CALIFORNIA EMERGENCY MANAGEMENT AGENCY

The principal objective of the California Emergency Management Agency (CalEMA) is to reduce vulnerability to hazards and crimes through emergency management and criminal justice to ensure a safe and resilient California. Assembly Bill 38 (Chapter 372, Statutes of 2008) created the CalEMA as an independent entity reporting directly to the Governor and vested the CalEMA with the duties, powers, purposes, responsibilities, and jurisdiction previously held within the Office of Emergency Services (OES) and the Office of Homeland Security (OHS).

CalEMA coordinates emergency activities to save lives and reduce property losses during disasters and to expedite recovery from effects of disasters. On a day-to-day basis, the CalEMA provides leadership, assistance, and support to state and local agencies in planning and preparing for the most effective use of federal, state, local, and private sector resources in emergencies. This emergency planning is based upon a system of mutual aid in which a jurisdiction relies first on its own resources, and then requests assistance from its neighbors. The CalEMA's plans and programs are coordinated with those of the federal government, other states, and state and local agencies within California.

During an emergency, the CalEMA functions as the Governor's immediate staff to coordinate the state's responsibilities under the Emergency Services Act and applicable federal statutes. It also acts as the conduit for federal assistance through natural disaster grants and federal agency support. Additionally, the CalEMA is responsible for the development and coordination of a comprehensive state strategy related to all hazards that includes prevention, preparedness, and response and recovery.

Further, the CalEMA improves the criminal justice system in California by providing financial and technical assistance to local governments, state agencies and the private sector for public safety and victim services.

The Governor's Budget proposed expenditures of \$1.4 billion (\$124.7 million General Fund) and 606.5 positions for the CalEMA, which is a decrease of \$31 million compared with 2008-09. Following is a three-year summary of expenditures (General Fund, Federal Trust Fund, and Total all funds) as proposed in the Governor's Budget (dollars in thousands):

| FUNDING | 2007-08* | 2008-09* | 2009-10* |
|--------------------------|--------------------|--------------------|--------------------|
| General Fund | \$258,999 | \$161,939 | \$ 124,670 |
| Federal Trust Fund | 831,646 | 1,075,576 | 1,077,041 |
| TOTALS, ALL FUNDS | \$1,262,259 | \$1,437,070 | \$1,406,075 |

2009-10 Budget Act. The budget adopted in February for the CalEMA differed from the Governor's Budget in that funding was reduced to eliminate Emergency Response Initiative Funds totaling \$16.2 million from the Emergency Response Fund and \$1.6 million in Federal Funds. Additionally, \$1.8 million General Fund related to preliminary plans for a capital outlay project was removed. Finally, items related to Prop 1B were removed as this funding is no longer available.

Staff notes that proposals related to the proposed Emergency Response Initiative will be heard at a later date.

ISSUE 1: INFORMATIONAL MERGER OF OES AND OHS

The 2009-10 Budget Act includes restructuring of the CalEMA budget to comply with the merger of OES and OHS required by Assembly bill 38 (Chapter 372, Statutes of 2008). The new agency took effect January 1, 2009 and the 2009-10 budget includes \$5.8 million in additional Distributed Administration from current appropriations.

BACKGROUND

The OES was established by the Emergency Services Act as part of the Governor's Office in 1950 as the State Office of Civil Defense to address the state's readiness for a major disaster. The OES coordinates the disaster activities of all state agencies and assists local units of government relating to the preparation and implementation of the Emergency Services Act.

The OHS was established within the Governor's Office by Executive Order to work in concert with the Federal Office of Homeland Security, which was created as a result of the September 11, 2001 attacks. While the federal government holds the primary responsibility for security and safety of the nation, it is recognized that the state is responsible to ensure California's readiness to prevent and respond to threats within the state. The mission of the OHS is to develop and coordinate the implementation of a comprehensive state strategy to combat terrorism.

The CalEMA has the duties, powers, purposes, responsibilities, and jurisdiction previously held within OES and OHS. The CalEMA will be comprised of the following programs effective July 1, 2009:

Emergency Management Services

Will provide for the effective use of federal, state, and local resources through the mutual aid system to jurisdictions whose resources and services are overextended in a disaster. In addition, this program develops and coordinates a comprehensive state strategy related to an all-hazards approach that includes prevention, preparedness, response, and recovery consistent with the National Strategy on Homeland Security.

Special Programs and Grant Management

The CalEMA serves as the State Administering Agent for federal homeland security, emergency management, and criminal justice grants and is the primary liaison with the Federal Emergency Management Agency and the United States Department of Homeland Security and other federal agencies. In addition, the CalEMA serves as an advocate for local public safety, emergency management, and public private agencies operating public safety and victim service programs. As part of its grant management role, CalEMA administers the California Disaster

Assistance Act and provides eligible local agencies with financial assistance to recover from disaster.

Administration and Executive

Will provide the overall policy direction of the CalEMA and support services such as accounting, fiscal, personnel, and business services.

COMMENTS

Staff notes that the OES previously performed many administrative functions for the OHS, which may limit the ability for efficiencies as a result of this merger. However, it is unclear whether opportunities for staffing or resource efficiencies were explored. The Legislature may wish to have the CalEMA report on the extent of the work done to find efficiencies during the merger.

ISSUE 2: RECOVERY PROGRAM BACKLOG

The 2009-10 Budget Act includes \$1.2 million (\$599,000 General Fund and \$598,000 Federal Trust Fund) to convert 8 limited-term positions to permanent. These positions are to address workload related to disaster recovery activities.

BACKGROUND

The CalEMA serves as the administrator for disaster recovery funds provided to the state on behalf of eligible applicants after a Presidential Declaration of a Major Disaster or Emergency or the approval of a Fire Management Assistance Grant (FMAG). The CalEMA also manages California Disaster Assistance Act (CDAA) funding, which provides state funding to eligible applicants after a qualifying emergency.

In the 2006-07 budget, 8 limited-term positions were provided to address a backlog in disaster recovery activities within the Recovery Branch. The CalEMA has been able to reduce the backlog during this time (by 62 large projects and 371 Final Inspection Reports). However, the agency reports that new workload has increased related to new disasters and the backlog has yet to be completely eliminated.

The key aspect of recovery that these positions support is providing services to facilitate an expedited the process by ensuring federal and state disaster grants are made available in a timely manner. Subsequent to a declared event, state and federal funds may be available to assist eligible applicants with response and recovery efforts. The Public Assistance Program (PA) provides funding to applicants that can include state agencies, local governments, special districts, and certain private non-profit organizations.

State PA funding is provided primarily through the General Fund, in accordance with the CDAA, and assistance is provided through grants to eligible applicants on a reimbursement basis. Federal PA funding is primarily provided through the Federal Emergency Management Agency (FEMA) and the CalEMA, as the grantee, provides assistance to applicants through sub-grants, also on a reimbursement basis.

Eligible applicants work with the CalEMA and FEMA to prepare Project Worksheets (PW) for projects after a federally-declared disaster or a FMAG declaration. The CDAA funding, the CalEMA works with applicants to prepare Damage Survey Reports (DSR). The PW and/or the DSR are the funding vehicles for federal and state programs and these documents spell out the scope of work and the costs for completing eligible projects.

COMMENTS

Staff finds that these positions have contributed to reducing the backlog related to disaster recovery applications.

Staff would note that the CalEMA has not reported an instance, before or after the addition of the 8 limited-term positions discussed in this proposal, in which federal disaster recovery funding was revoked due to a missed application timeline. Further, state disaster recovery reimbursements would not be subject to federal timelines.