AGENDA
ASSEMBLY BUDGET SUBCOMMITTEE NO. 4
ON STATE ADMINISTRATION

Assemblymember Warren Furutani, Chair

TUESDAY, MAY 25, 1:30 PM
STATE CAPITOL, ROOM 437

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ITEMS TO BE HEARD

CONSENT ITEMS

ITEM 0820 DEPARTMENT OF JUSTICE

ISSUE 1: WESTERN STATES INFORMATION NETWORK

An April 1 Finance Letter proposes a reduction in Federal Trust Fund authority and an increase in Reimbursement authority of $5,994,000. The Department of Justice (DOJ) has acted as the recipient agency of federal funds for the Western States Information Network (WSIN), a regional program for the sharing of law enforcement databases for Alaska, California, Hawaii, Oregon, and Washington. The WSIN Policy Board approved the reorganization of WSIN to make it a nonprofit entity, similar to the organizational structure of other regional networks. This change necessitates the proposed technical adjustment to fund this program through reimbursement authority instead of federal funds.

In addition to the Finance Letter, trailer bill language is necessary to allow the DOJ to share crime law enforcement data with a WSIN.

ISSUE 2: GENRAL FUND REVERSION – FORENSIC LAB FUND SHIFT

The Governor's May Revise proposes a reversion item and trailer bill language to capture $13.7 million in General Fund (GF) savings in 2009-10. This shift is made possible by the fee authority contained in Chapter 3, Sts 2010 (AB 8X 3).

ITEM 0120 ASSEMBLY
ITEM 0110 SENATE

ISSUE 1: FUNDING FOR LEGISLATURE

In 2010-11 the percentage increase in the State Appropriate Limit (SAL) is calculated to be -1.77.

The Legislature may elect to reduce its budget to reflect the negative SAL. This reduction would be permanent and could not be restored. This would result in a GF savings of $4.6 million.

In 2010-11, the Assembly has pledged to again achieve savings of at least 15 percent of its budget to help with the State's budgetary situation. This SAL reduction would be part of this overall savings.

ITEM 1760 DEPARTMENT OF GENERAL SERVICES

ISSUE 1: MAY CAPITOL OUTLAY FINANCE LETTER - OFFICE BUILDINGS 8, 9, 10 RENOVATION PROJECTS EXTENSION OF LIQUIDITATION PERIODS

The Governor requests to extend the liquidation period for the unencumbered balances of appropriations for the construction phases of the Office Buildings 8, 9, and 10 (OB 8, 9, and 10) Renovation projects. For OB 8 and 9, located at 714 P Street, the amount requested is $17.274 million (lease revenue bonds). For OB 10, located at 721 Capitol Mall, the amount requested is $569,000 (lease revenue bonds).

COMMENTS

With regard to OB 10, the renovation project is substantially complete, however, some minor construction work related to the floors in the building remain outstanding. As a result, DGS requests a one-year extension, until June 30, 2011, of the liquidation period to complete the project.

With regard to OB 8 and 9, DGS suspended all activities as a result of the Pooled Money Investment Board decision to freeze disbursements on interim financing for bond funded projects. While the OB 8 and 9 project has resumed, the corresponding delays extended the construction completion date to July 23, 2010. In order to achieve LEED certification and complete the warranty phase of the project, availability of funds will be required until June 30, 2012. Therefore, DGS requests a one-year extension, until June 30, 2012, for the remaining funds.

ISSUE 2: MAY CAPITOL OUTLAY FINANCE LETTER – SACRAMENTO PUBLIC SAFETY COMMUNICATIONS DECENTRALIZATION PROJECT SAVINGS REVERSION

The Governor requests to revert $1.508 million (variety of bond and special funds) in savings in the acquisition ($1.225 million) and preliminary plan ($283,000) phases of the Sacramento Public Safety Communications Decentralization project (Project).

COMMENTS

When complete, the Project will relocate critical public safety communications from the top floor of the Resources Building in Sacramento to establish a “communications ring” at various outlying sites in the Northern California region, similar to one established in Southern California, thereby strengthening the viability of the state’s overall Public Safety Communications System in the event of outage at any one site. The savings result from a change in delivery method from acquisition and development of five sites on which to construct telecommunications towers around the Sacramento area, to a predominant plan to utilize existing state-owned facilities and to lease tower and vault space with limited development required. Acquisition and preliminary plan phase funding was provided as part of DGS’ budget in 2007-08 and 2008-09, respectively. Working drawing phase funding of $3.21 million was provided in 2009-10 as part of the Office of the State Chief Information Officer’s (OCIO) budget. The OCIO will also submit a corresponding request to reappropriate working drawing funds. Future anticipated construction costs are $9.8237 million (2011-12).

VOTE ONLY

7100 EMPLOYMENT DEVELOPMENT DEPARTMENT

ISSUE 1: MAY REVISE UPDATES: DISABILITY INSURANCE PROGRAM AND BENEFIT ADJUSTMENTS

Every May, the Administration provides a revised budget request to adjust funding for the new estimates of claims and payments for the Unemployment Insurance (UI) Program, the Disability Insurance (DI) Program, and the School Employees Fund. The following changes are currently being requested for 2010-11:

- **Unemployment Insurance Program and Benefit Adjustments.** No adjustments are requested as the EDD reports that it is still awaiting congressional action. If there are additional federal UI extensions, the EDD would update the UI Program in the October 2010 Revise.

- **Disability Insurance Program.** A reduction of $9,144,000 and 124.2 personnel years to reflect an adjustment due to revised workload estimates for Employment Development Department's Disability Insurance Fund. A reduction of $208,000 and 2.0 personnel years to reflect an adjustment due to revised workload estimates for the California Unemployment Insurance Appeals Board. For current year, this proposal requests a decrease of 1.2 Temporary Help personnel years and $126,000 in administrative funding. A reduction of $28,678,000 to reflect a projected decrease in Disability Insurance benefit payments.

- **School Employees Fund (SEF).** An increase in authority for the Unemployment Insurance benefits for current year for the School Employees Fund (SEF) by $13.7 million over the current appropriation due to Local Assistance costs expected to reach $323,641,000. No changes are proposed for budget year. The SEF is a joint, pooled risk fund administered by the EDD, which collects contributions based upon a percentage of total wages paid by public school and community college districts.

ISSUE 2: WORKFORCE INVESTMENT ACT ADJUSTMENTS

The Governor's May Revision requests several adjustments for the Workforce Investment Act (WIA) Program:

1. Decrease of $13.9 million local assistance due to changes in the WIA Federal Allotments; and,

2. Decrease of $9.9 million to reflect an adjustment in state operations for WIA. Of this net reduction in state operations for WIA:

    a. $5.1 million is for the 15 percent Discretionary Allotment;
    b. $4.9 million is for the 25 percent Rapid Response activities; and
    c. An increase of $170,000 is for the American Recovery and Reinvestment Act Grant – State Energy Sector Partnership Grant.

The goal of WIA is to strengthen coordination among various employment, education, and training programs. Under federal law, 85 percent of the state's total WIA funds ($391.8 million in 2010-11) are allocated to local Workforce Investment Boards (WIBs). The remaining 15 percent of WIA funds ($69.1 million in 2010-11) is available for state discretionary purposes such as administration, statewide initiatives, and competitive grants for employment and training programs. Federal law also states that all WIA funds "shall be subject to appropriation by the state Legislature."

Legislative Analyst's Office Recommendation

The 2010-11 WIA state discretionary expenditure plan shows that the federal WIA base allocation to California's workforce system decreased from $496 million in 2009-10, to $460 million in 2010-11. Once the 85 percent local set-aside is removed, the WIA 15 Percent State Discretionary Funds decreased from $74.5 million in 2009-10 to $69 million in 2010-11. Additionally, American Recovery and Reinvestment Act (ARRA) monies, which provided an additional $470 million for California's workforce system, have expired; in 2010-11, the ARRA funds are exhausted except for $4.2 million reserved for EDD's oversight-related administrative costs for ARRA projects.

In 2009-10, $14 million in WIA 15 percent discretionary funds were provided for parolee services employment programs operated by the California Department of Corrections and Rehabilitation (CDCR). The LAO notes that using federal WIA funds in lieu of General Fund (GF) for CDCR parolee services creates savings. However, the CDCR's Project New Start, which is a core WIA-funded program, did not spend most of the funds in 2009-10 because it faced some difficulties in implementing a new program and re-establishing a referral service structure. Given the slow expenditure pattern, the Administration proposes to reduce the CDCR's WIA base allocation to $6 million in 2010-11. Historically, the LAO has supported WIA funding for CDCR parolee programs because: (1) they reduce recidivism and (2) using WIA funds results in GF savings.

However, given CDCR's slow spending in 2009-10, the LAO indicates that it is comfortable with the Administration's proposal to reduce WIA funding for CDCR parolee services in 2010-11 down to $6 million.

Finally, the LAO notes that the WIA state discretionary fund expenditures depend on gubernatorial and legislative priorities. Therefore, the LAO recommends that the Legislature review and potentially modify the Administration's WIA 15 Percent State Discretionary plan to meet legislative priorities.

In addition to the LAO's comment about the CDCR parolee services, staff notes that the Administration's proposed expenditure plan for the WIA 15 percent funds reduced the base funding for veterans programs by $6 million, augmented the base funding for Green Jobs by $2 million, and reduced several health care initiatives, including in the allied fields and for nursing education, back to their base level (it basically backed out of an ARRA augmentation). The Administration's WIA 15 percent plan made other smaller adjustments to several programs. These changes may or may not accurately reflect legislative priorities, particularly for the CDCR parolee services line item. This item will be directed to Conference Committee, since the Senate has made a reduction of $1,000 from the WIA 15 percent Administrative and Program Service to allow for adequate time for further analysis and review.

7350 DEPARTMENT OF INDUSTRIAL RELATIONS

ISSUE 1: FEDERAL GRANT AUGMENTATION TO THE CAL/OSHA PROGRAM

The Cal/OSHA Program comprises the Division of Occupational Safety and Health (DOSH), the Occupational Safety and Health Appeals Board, and the Occupational Safety and Health Standards Board. The U.S. Department of Labor has made available to California, and other states, a permanent increase in federal funding to improve state-level health and safety programs beginning with the 2010 federal fiscal year.

The April Finance Letter requests to redirect 32 positions and increase expenditure authority by $5.192 million federal funds in 2010-11, and $4.405 million in 2011-12 to improve the functionality of its Cal/OSHA Program, which comprises the Division of Occupational Safety and Health (DOSH), the Occupational Safety and Health Appeals Board, and the Occupational Safety and Health Standards Board. In a separate 2009-10 Section 28 request to the Joint Legislative Budget Committee, the Governor requests current year expenditure authority of $2.5 million in federal funds for the portion of the federal base grant increase expendable by September 30, 2010.

Overall, these funds represent a permanent increase in federal funds to the state’s base funding amount for the Cal/OSHA Program. This $4.405 million in federal funds constitutes an increase of 19 percent over the amount originally allocated to California, bringing the total baseline federal award for the Cal/OSHA program to $27.412 million. The new federal dollars can be spent on enhanced enforcement efforts, support personnel and/or operating expenses and equipment, training staff, standards development personnel, or anything else associated with the Cal/OSHA program except for employer consultation which is funded by a separate grant.

Fund Source: Federal Trust Fund

ISSUE 2: RESIDENTIAL PREVAILING WAGE SURVEY (CENTRAL VALLEY)

In last year's budget, the Department received $844,000 in 2009-10 and $798,000 ongoing to conduct an Initial Residential Prevailing Wage Survey in the Central Valley. The Subcommittee has been requested to adopt control language to discontinue GF support for this survey.

No funds have been appropriated to the Department by the Act to continue, carry out or implement employer wage surveys to determine residential prevailing wage rates for the Central Valley counties. No funds appropriated by this Act may be used for that purpose.

ITEM 0820 DEPARTMENT OF JUSTICE

ISSUE 1: LEGAL SERVICES FUND SWAP

The Governor's 2010-11 budget proposes to reduce the DOJ's GF authority by $53.9 million, with a corresponding amount to be available for allocation via a new budget control section, and an increase in the Legal Service Revolving Fund of $48.2 million in order to bill GF clients for future DOJ legal services.

BACKGROUND

Currently, the DOJ has a "fee for service" relationship with clients whose budgets are supported by special funds. For clients whose budgets are supported by the GF, the DOJ receives a direct General Fund appropriation to provide legal services. The DOJ believes that the ability to bill clients for services provides a method to ensure that the level of services is warranted since the client is ultimately paying for the service.

The DOJ's legal services budget has been reduced over the last two fiscal years due to the state budget pressures resulting in limits on casework that DOJ can accept for "non-billable" GF clients. This has led to an increase in the DOJ's authorization for GF clients to hire outside counsel, which is often more costly.

COMMENTS

DOJ legal resources have been stretched thin in recent years. To support workload driven by GF clients, DOJ attorneys have had to work an increased level of overtime and the department has expressed concern related to retention of staff. While this proposal would provide relief by allowing for a more efficient management of DOJ legal resources, the following should be considered:

Problem driver. While this proposal would result in over 50 GF supported state entities being switched to billable clients, the California Department of Corrections and Rehabilitation (CDCR) uses the majority of DOJ GF legal resources and the overwhelming majority of cases that the DOJ has had to return, and approve outside legal representation for, have been to the CDCR. Of the total number of "non-billable" hours that the DOJ reported for GF clients in 2008-09 (456,267), the CDCR used approximately 66 percent (294,905). By contrast, the department that accounted for the second most "non-billable" hours, The Department of Mental Health, used 21,595 hours. In fact, the CDCR used more than double the combined total hours used by the next nine biggest "non-billable" clients.

Will this proposal create immediate deficiencies? While the DOF proposes to include $53.9 million in Control Section 5.20 to allocate to DOJ GF legal clients, for 2008-09 the DOJ reported legal services provided to these clients that would equate to approximately $77.6 million if they were provided using the proposed "fee for service" model. This represents a gap of $23.7 million. Even though this proposal may provide a fiscal incentive for departments to keep a sharper eye on their use of DOJ legal services, given the amount of legal services used in the past, there is a strong possibility that the funding contained in Control Section 5.20 will be insufficient and will result in departments submitting deficiency requests.

Concerns expressed by clients. GF clients such as The State Lands, Coastal and SF Bay Conservation and Development Commissions have expressed great concern that by creating competition for limited DOJ legal resources and requiring DOF approval, this proposal will jeopardize their independence and hinder their ability to fulfill their missions.

Legislative Analyst Office. The Legislative Analyst Office (LAO) found that this proposal has merit and could eventually lead to savings by state agencies on the cost of legal representation. However, the LAO recommends that the Legislature amend the proposed budget control section to provide for stronger legislative oversight of the new process. In particular, it should specify that any request above $1 million may proceed no sooner than 30 days after the Director of DOF provides notification of the proposed expenditures to the JLBC. In addition, the LAO recommends that the budget control section process proposed by the Administration be approved by the Legislature only for 2010-11, in order to complete the move towards an effective billable-services system as early as possible. Finally, the LAO recommends that the Legislature appropriate the funding for legal services in an item in the budget.

ISSUE 2: GUN SHOW PROGRAM AUGMENTATION

The Governor's 2010-11 budget proposes $801,000 from the Dealers' Record of Sales (DROS) Account and 4 positions ($616,000 and 4 positions shifted from the GF) to provide the Bureau of Firearms (BOF) with resources dedicated to the prevention of illegal firearms and ammunition sales at gun shows.

BACKGROUND

In 2000-01, the DOJ received funding to establish an enforcement team for the purposes of preventing sales of illegal firearms and ammunition by monitoring and investigating buyers and sellers participating in gun shows throughout California. This request will support BOF's ongoing efforts to investigate gun show transactions throughout the state.

DOJ recognizes gun shows as a source of many illegal transactions involving firearms and ammunition and cite actual evidence from investigations as well as a recent UC Davis report that found that gun shows are a major source of firearms used to commit crimes. Other than DOJ, there is no law enforcement agency targeting statewide gun shows. Local law enforcement agencies lack statewide jurisdictional authority, mobility, training, resources, or data capabilities to coordinate a comprehensive approach to monitoring California's gun shows.

Existing law regulates gun shows and firearms sales and requires gun show promoters to obtain a Certificate of Eligibility from the DOJ, and comply with various procedures in connection with gun shows. According to BOF, approximately 97 gun shows take place in California annually, representing approximately 340 days of gun show events, which must be monitored and investigated. The DOJ reports that resources available to provide a presence at gun shows have decreased by approximately 40 percent in recent years.

COMMENTS

Given the DOJ's responsibility to monitor gun shows in California in order to prevent illegal transactions and the limited resources available to carry out this responsibility, this request has merit. Providing resources for this activity from the DROS Account, which has a projected balance in the budget year of $17.9 million, also takes pressure off of the GF.

The DOJ has reported that they are in the process of reducing the fee that pays into the DROS account, which may impact the fund balance going forward. In addition, concerns have been raised regarding appropriate use of the DROS Account.

8950 CALIFORNIA DEPARTMENT OF VETERANS AFFAIRS

ISSUE 1: GLAVC VETERANS HOME ACTIVATION PHASE IV

Governor's Budget Proposal. The Governors budget requests an augmentation of 102.3 positions and $8.3 million (GF) in 2010-11 and 103 positions and $13.2 positions in 2011-12 related to phase-in implementation of the Greater Los Angeles Ventura County (GLAVC) project to continue construction, activate business operations and begin admitting veterans.

Positions would be distributed as follows:

Location	2010-11 PY's	2011-12 PY's
West Los Angeles	92	92
Headquarters	10.3	11
Totals	102.3	103

Prior Appropriations. The 2009-10 budget suspended the opening of the Adult Day Health Care (ADHC) services and scored $1.8 million (GF) savings. Additionally, it reduced the Governor's request for $18.5 (GF) and 181.6 positions for GLAVC Activation Phase III by $5 million, in recognition of a three-month delay in construction.

STAFF COMMENT

This item was previously heard by the Subcommittee on May 4th and was left open for further consideration. While staff believes adequate and appropriate staffing is necessary to open the VHC-GLAVC, not all positions previously authorized in 2009-10 have been filled. The GLAVC phase III proposal included 356.7 positions which were to be phased in the current year as follows; 118.0 positions July 2009, 5.0 positions October 2009, 6.0 positions January 2010 and 227.7 positions April 1, 2010. However, as of April 30, 2010, 179.3 positions of the 356.7 previously appropriated are vacant.

This vacancy rate results in a bit more than 50 percent unfilled. Given this information, savings could be scored in the 2010-11 budget year.

The Governor's proposal calculates the salary savings rate at the standard five percent, and assumes that 95 percent of the 102.3 positions will be filled on July 1, 2010. Given the delayed rate of filling positions, the Legislative Analyst Office (LAO) recommends a salary savings rate of 20 percent –to better align funding for the new positions with the rate at which they are likely to be filled. (Additionally, should the Governor's proposal to increase salary savings standards from 5 to 10 percent in the budget year, this would result in a total salary savings of 25 percent.)

It is unlikely that the current years vacant (179.3) positions and the additional 102.3 for the budget year positions will be filled by July 1, 2010 –therefore it is recommended that the subcommittee adopt the LAO recommendation to score salary savings. Furthermore, savings can be achieved through the elimination of the Information Officer III.

As shown above, this proposal includes 10.3 positions for CDVA HQ, including an Information Officer III position. Housed in CVDA headquarters (HQ) as a part of the Legislative and Public Affairs Department, the positions annual salary would be $89,688. The Information Officer III would act primarily as a communications liaison for the home with specific workload as follows:

Information Officer III Duties	Annual Workload hours
Planning the complex process of keeping community leaders, legislators and their staff, and the media informed about the progress of the projects	880
Setting up/maintaining/updating policies and procedures for the PIOs at the new homes when they come online	276
Selecting and hiring appropriate staff	290
Coordination of activities and communication with departmental HQ's and with the administration activities at the West LA	484
Total	1930

An Information Officer I, with the same workload hours and almost identical duties is already included in each new home. Additionally, since 2006-07, CDVA HQ has increased by 87.9 positions, from 267.8 positions to 355.7 positions –with over 1/3 of positions going to HQ.

It should also be noted that the CDVA is still seeking an exemption from the Governor’s Executive Order to reduce the department’s fleet. Therefore, the purchase of GLAVC vehicles is still pending. However, the department has expressed that the vehicles are necessary for resident transportation, and given that the home is ready to go online, granting budget authority for the GLAVC vehicles is appropriate.

ISSUE 2: REDDING AND FRESNO VETERANS HOME CONSTRUCTION COMPLETION AND PRE-ACTIVATION PHASE II

Governor's Budget Proposal. The Governors budget requests the following:

	VHC-Redding	VHC-Fresno
2010-11 Budget: Completion and Pre-activation Phase II	9.3 positions $1.3 million (GF)	8.5 positions $1 million (GF)
2011-12 Budget: Construction Completion and Pre-Activation Phase II	19 positions $2.4 million (GF)	16 positions $2 million (GF)

Positions for VHC-Redding and VHC-Fresno would be distributed as follows:

Location	2010-11 positions
VHC-Redding	6.5
VHC-Fresno	4.5
Headquarters	6.8
Net Total	17.8

Background. The VHC sites Redding and Fresno were selected by the Governor's Commission on Veteran Homes in 2003. Approval for Phase I of each home occurred by the Legislature in 2008-09. Initial completion deadlines projected completion of Redding in October 2010 and Fresno in 2011. However, delays in these projects have occurred. The positions requested are dedicated to the construction phase and intended to ensure all aspects of the construction and business operations at both VHC-Redding and VHC-Fresno are compliant with federal, state, and local laws and regulations prior to opening. New deadlines project completion for VHC-Redding February 2012 and April 2012 for VHC-Fresno.

Included in this request are travel costs for both homes. Roughly 200 miles from headquarters, each home requires staff to travel to and from HQ and the different southern California homes. Purchase of 5 vehicles per home, for those holding administrative positions in HQ and in Redding or in Fresno, are also included and a net total cost of $184,000 (GF). Temporary space will be needed until construction of both VHC-Redding and VHC-Fresno are completed, and will cost $68,000 a year. In addition $380,000 in budget year cost is accounted for resident vehicle transportation in the Redding Home.

STAFF COMMENT

These proposals were previously heard by the Subcommittee on May 4th and were kept open for further consideration. After further consideration, it is recommended that the proposal be adjusted.

Concerns over this proposal included a request for 5 vehicles –per home, for a total of 10 –to allow staff to commute between temporary office space and to the perspective Veterans Home (Redding or Fresno) until construction is complete and for some executive level staff to commute by auto to the VHC-Yountville and to the Sacramento HQ. The cost in 2010-11 for 5 vehicles is $92,000 per home. However, the CDVA is under Executive Order to reduce their fleet by 15 percent and an exemption from the Governor has not been granted and will not be pursued by the Department. As such, staff finds that the vehicles would more appropriately be included as part of a 2011-12 Fiscal Year request.

Additionally, $380,000 in 2010-11 is requested for Redding resident transportation vehicles. Although the home does not have residents and is set to accept its first resident in 2012, the Department notes that having the vehicles ahead of time facilitates licensing in the future. Presently, CDVA indicates that they are awaiting legislative approval of these requests, including the passenger vehicles, before pursuing an exemption from the Governor's Executive Order, which is necessary for the vehicles to be purchased. However, CDVA should secure an exemption from the Executive Order and then request budget authority from the Legislature to purchase the vehicles.

0690 CALIFORNIA EMERGENCY MANAGEMENT AGENCY

The California Emergency Management Agency (Cal EMA) is tasked with reducing the vulnerability to hazards and crimes through emergency management and criminal justice. During an emergency, the Cal EMA functions as the Governor's immediate staff to coordinate the state's responsibilities under the Emergency Services Act and applicable federal statues. It also acts as the conduit for federal assistance through natural disaster grants and federal agency support. Additionally, the Cal EMA 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 Cal EMA administers grant finances and technical assistance to local governments, state agencies and the private sector for public safety and victim services.

Totals	Actual 2008-09	Estimated 2009-10	Proposed 2010-11
Total Personnel Years (All Programs)	538.7	620.3	620.1
Total Expenditures (All Funds)	$904 million	$1.6 billion	$1.5 billion
General Fund	$160 million	$138 million	$125 million

ISSUE 1: DOMESTIC VIOLENCE SHELTER FUNDING

Governor's Budget. The Governor's budget did not restore funding for domestic violence as administered by Cal EMA.

Previous Subcommittee Action. The Subcommittee unanimously approved 5-0 to restore $20.4 million (GF) for Domestic Violence Shelters (as administered by Cal EMA) and awarded Cal EMA 5 percent for use of State Operations.

STAFF COMMENT

Action taken by the Senate identifies federal funds for domestic violence shelters through the Family Violence Prevention Services Act (FVPSA), Violence Against Women Act (VAWA), and Victims of Crime Act (VOCA) which are administered by CalEMA. Of the total $54.9 million in grants provided from these programs in California in 2009-10, $13.3 million was awarded to domestic violence shelters. The CalEMA projects an increase of $6.9 million in federal funds for these three programs in the budget year. Senate action reflects $1.3 million from the projected $6.9 million increase in funding from the FVPSA, VAWA, and VOCA programs that normally is provided to domestic violence shelters and conforms to Assembly action to limit administration costs for this program to 5 Percent.

ITEMS TO BE HEARD

ITEM 0860 BOARD OF EQUALIZATION

ISSUE 1: COLLECTION COSTS RECOVERY FEE

The issue of charging for collection fee costs was discussed in conceptual form at the hearing on April 27. No action was taken by the Subcommittee at that time.

Under SBX4 16, adopted in 2009, state agencies are allowed to impose a reasonable fee, not to exceed actual costs, to recover the collection expenses associated with past due liabilities. Budget Letter 09-37 released in September 2009 indicated that departments are encouraged to limit the build-up of accounts receivable and adopt practices that would encourage the prompt collection of liabilities.

Pursuant to this legislation and administrative note, the BOE examined its collection costs for sales and use tax and special taxes. For 2008-09, BOE staff determined that its collection costs were approximately $27.6 million. The department's analysis indicates that a flat collection fee of $345 assessed after 90 days unpaid would result in revenues of $4.8 million in 2010-11 and $18-$20.6 million in 2011-12. The May Revision proposal represents a means to assess non-compliant taxpayers with administrative costs of non-compliance. The request is for $289,000 ($197,000 GF) and 1.8 positions to administer the fee program. BOE proposes that the fees collected in a separate, continuously appropriated account would annually offset (reduce) BOE's operating budget.

An overwhelming majority of taxpayers are compliant with the state sales and use tax law. In the event that taxpayers are non-compliant, BOE staff engage in extensive efforts to work with taxpayers in order to achieve full or partial payment of the liability in manner that is both fair to the taxpayer in question and equitable to all California taxpayers who pay their tax liabilities in a responsible and timely fashion. In situations where BOE and the taxpayer are unable to reach an agreed-upon solution, BOE may initiate collection proceedings.

BOE expends considerable legal and collection resources in an effort to secure payment of the full or partial tax liability. Currently, BOE does not impose collection fees on the taxpayer for such efforts. As a result, collection costs are borne by compliant taxpayers who pay their tax liabilities in a timely fashion. FTB also engages in collection efforts to collect on tax debts. Based on its average collection costs, FTB imposes collection fees. For 2010-11, their fees are $170 for individuals and $291 for business entities. Many other states impose collection fees on businesses that do not comply with their state's tax laws.

Actual "cash in the door" resulting from the establishment of collection fees would depend on whether BOE is granted the authority to use collection tools to collect on the fees. Currently, BOE staff does not believe that the authority to use such tools exists. Trailer bill language to facilitate the collection of the fee will also be submitted in order to carry-out the proposed fee program.

STAFF COMMENTS

In general, cost recovery for collection activities makes sense. BOE staff should also address the issue as to whether there should be differential fees based either on the size of the business, magnitude of the tax at issue, or the complexity of the collection procedures. The proposal warrants one additional position. Additional resources for taxpayer education are unnecessary. This activity can be accomplished through written communication, Board Member outreach, and web-based information.

SUGGESTED QUESTIONS

1. The flat cost recovery fee contained in the proposal would fall short of covering the department's costs. Can you comment on increasing the fee to ensure more complete cost recovery?
2. The proposal does not include past due liabilities that have already been incurred. Why would the fee not apply to these accounts? What would be the revenue impact if these accounts receivable were assessed the fee?

ITEM 9650 HEALTH AND DENTAL BENEFITS FOR ANNUITANTS

ISSUE 1: CALPERS HEALTH REINSURANCE

The Governor's May Revise proposes a reduction of $200 million GF to reflect anticipated savings resulting from the Patient Protection and Affordability Care Act.

BACKGROUND

The Patient Protection and Affordability Care Act included a provision that establishes the temporary Early Retiree Reinsurance Program. As a result, the federal government will be reimbursing a portion of the costs for health reinsurance of early retirees who are not yet eligible for Medicare.

COMMENTS

The LAO gives the Administration and the California Public Employees' Retirement System (CalPERS) credit for trying to estimate state savings under this temporary program as soon as possible, despite the fact that detailed regulatory guidance on the program is just now emerging. However, they strongly expect that the executive branch's estimate of savings under this program will be refined in the coming days and weeks and expect the one-time savings eventually will prove to be less than $200 million in 2010-11.

The LAO recommends that the Legislature request that CalPERS provide documentation to justify any estimates of savings under the reinsurance program. Specifically, the LAO recommends that the Legislature consider how CalPERS assumes these savings will be divided among the state employer, local employers in CalPERS, and CalPERS' retired members.

CONTROL SECTION 3.60

ISSUE 1: JUDGES' RETIREMENT SYSTEM II

Control Section 3.60 should be revised to reflect the Judges' Retirement System (JRS) II rate that was adopted by the CalPERS Board on May, 19 2010. This new rate (24.041 percent) results in an increase of $7.9 million GF.

BACKGROUND

As described in CalPERS' recent actuarial valuation of this pension fund, the increased JRS II (the part of JRS that enrolls judges appointed or elected since November 1994) contribution rates for 2010-11 reflect updated life expectancy assumptions, adoption of a funding method more suited for JRS II's increasing membership and maturity, and an updated payroll growth assumption. Moreover, even as estimated JRS II liabilities expanded 23 percent (due in part to the new assumptions described above) since last year's actuarial valuation, the market value of JRS II assets dropped 3 percent. These changes resulted in JRS II having assets with a market value equal to 70 percent of accrued system liabilities as of June 30, 2009.

Due to timing issues, the Administration was unable to incorporate the 2010-11 employer contribution rates developed by CalPERS actuaries into its May Revision proposals.

COMMENTS

The LAO reports that based on the final adopted employer contribution rates for JRS II, CalPERS estimates that an additional $7.9 of GF contributions will be required in 2010-11. Accordingly, based on the action to modify Control Section 3.60, the Administration will need to score an additional $7.87 million of non-budget-act, GF spending related to JRS II employer contributions.

ITEM TBL PUBLIC WORKS BOARD TRAILER BILL LANGUAGE

ISSUE 1: PUBLIC WORKS BOARD TRAILER BILL LANGUAGE

The Governor's Jan. 10 proposal included Trailer Bill Language (TBL) amending the State Public Works Board's (PWB) oversight of capitol outlay projects. According to the Governor, the changes were necessary to "reconfirm" the PWB authority because of a lower court ruling stating that the last amendment violated the single subject rule. In addition, they proposed technical edits.

In the May Revise, the Governor added to this language. The new provisions are designed to provide a new "interim financing option" to replace the system formerly used when the Pooled Money Investment Board (PMIB) was able to provide interim financing loans to lease revenue projects.

Interim financing allows a project to move forward prior to the actual sale of bonds. Doing this allows the bonds to be sold closer to the end of the project construction. The revenue to pay the bonds does not materialize until construction is completed, and the tenants can move in and begin paying rent. So the later the bonds are sold, the less interest costs will accrue prior to revenue availability.

To address this issue, the Governor is proposing to authorize the PWB to utilize "asset transfers" to provide the interim financing previously provided through PMIB.

An asset transfer is the practice of capitalizing one asset, and using the proceeds to build another asset (typically a building).

This authority is currently granted to the Higher Education segments, but is used on a limited basis. Given the current situation, the Governor is requesting the authority to expand its use.

COMMENTS

Staff agrees that in the absence of the PMIB providing interim financing, there is a need to find an alternative means to keep the state's bond funded projects moving forward. This proposal, however, constitutes significant policy changes. The Committee may wish to consider asking policy staff to review the language and provide the Committee with recommendations prior to taking a formal action.

ITEM 0911 CALIFORNIA REDISTRICTING COMMISSION

Created by the "Voters FIRST Act" (Proposition 11), this independent 14-member Commission is tasked with drawing the new district boundaries for the State Legislature and the Board of Equalization beginning with the 2010 census.

ISSUE 1: $3 MILLION AUGMENTATION

This item was originally heard on April 20, 2010.

Prior to the passage of Proposition 11 (the Voters FIRST act) in November of 2008, responsibility for redrawing the legislative and Board of Equalization district lines was the task of state elected officials. Proposition 11 created the Citizens Redistricting Commission to take over that responsibility. The Commission consists of 14-members of the public selected through an intensive process with specified restrictions on eligibility. Their ability to redraw district lines is limited by strict rules specified in the proposition.

Proposition 11 Act required that the Commission and creation of the Commission be funded at a minimum of $3 million over three years (2009-10 through 2011-12). That $3 million was intended to cover the creation and operation of the Commission. Last years budget allocated the required $3 million, to be spent over three years. Of that $3 million, $500,000 has been transferred to the Bureau of State Audits (BSA) for costs incurred to begin the process of picking the Commissioners, as prescribed in the Proposition. The Governor's budget proposes to re-allocate $2 million of last years allocation and requests an additional $3 million for the budget year, for a total of $5 million in 2010-11. The remaining $500,000 from last year's allocation is proposed to be available for costs incurred in 2011-12.

COMMENTS

Estimates regarding the true cost of Proposition 11 do appear to have been off. The cost of redistricting prior to Proposition 11 consisted primarily of the actual process of drawing the lines and it was not necessary to create a Commission. In 2000, it cost approximately $3 million for that process to be completed, leading to the estimate of $3 million for the Proposition. While it was known that costs must be incurred to create such a Commission, it does not appear the proponents adequately accounted for such costs. <u>The Committee may wish to ask the LAO and Commission if they agree with this assessment of why the estimate is off.</u>

The Bureau of State Audits (BSA) has expended considerably more in their efforts to conduct outreach for the initial pool of candidates for the Commission than was allocated pursuant to last years budget action ($500,000). Through March 31, 2010, the Auditor incurred over $700,000 in costs, plus a $1.36 million contract with Ogilvy Worldwide for media and outreach. Through January of 2011, the Auditor estimates it will spend a total of $3.5 million on their redistricting activities. BSA, however, has indicated that due to extensive internal efforts, they will be able to absorb all their costs in excess of the $500,000 already appropriated by utilizing savings they have produced elsewhere in their budget.

Once the Commission is created, the BSA's responsibilities end, and the Secretary of State's office (SOS) becomes responsible for staffing the Commission until they are able to hire their own staff. The SOS has estimated $300,000 in costs for their role in supporting the

Commission, but it is unclear if they are truly prepared to help the Commission get off the ground in the urgent manner necessary to meet the deadlines prescribed in the Proposition. The Committee may wish to request additional information from them.

Thanks to the exemplary efforts of the BSA, it appears that the only costs still needed to be funded with the remaining allocation of $2.5 million are the Commission itself and the SOS. Because the Commission is a brand new entity, it is hard to estimate what their actual costs will be. No cost estimates have been submitted by the Department of Finance. The Administration proposes that the additional $3 million requested in the budget be appropriated and the DOF will allocate funds based on when the Commission and SOS need them. However, based on the BSA's savings estimates, it appears that the additional proposed appropriation may no longer be necessary.

The language of the Proposition specifies that the Commission shall be funded at a minimum of $3 million, or the amount appropriated for the previous redistricting conducted by the Commission, plus CPI, whichever is greater. As such, this allocation will create a permanent baseline of funding for the Commission, so it is important to avoid over-appropriation, while still ensuring the Commissions efforts are adequately funded.

ITEM 0950 STATE TREASURER'S OFFICE

ISSUE 1: CALIFORNIA ALTERNATIVE ENERGY AND ADVANCED TRANSPORTATION FINANCING AUTHORITY (CAEATFA)

The mission of the California Alternative Energy and Advanced Transportation Financing Authority (Authority) is to promote the prompt and efficient development of energy sources which are renewable or which more efficiently utilize and conserve scarce energy resources.

The January Governor's Budget proposed total funding of $204,000 (California Alternative Energy Authority Fund) and 1.0 position. In the May Revise the Treasurer requested $1.4 million (General Fund loan to be repaid no later than June 30, 2012), and 6 new positions to implement the sales and use tax exemption for green energy manufacturing that was approved early this year (SB 71, Chapter 10, Statutes of 2010). The proposed loan would be repaid through program fees.

Pursuant to SB 71, CAEATFA may authorize a state and local sales tax exclusion for tangible personal property used for the design, manufacture, production, or assembly of advanced transportation technologies or alternative source products components or systems (including solar, biomass, wind, etc.). This expands the responsibility of the authority considerably. They must evaluate new types of projects, not formerly under their purview, and look at a variety of factors specified in law.

COMMENTS

With new programs, it is difficult to predict the actual workload that will materialize, because it is unknown how many applications will be received for the tax exemption; the Authority predicts about 13 successful applicants per year. It is also difficult to evaluate the appropriate staff time per approved application. The Authority indicates that each award of the tax credit could result in up to 15 additional transactions submitted for approval as actual equipment is purchased.

The Treasurer's Office proposes to fund the program through application fees and a surcharge on the approved tax exemptions to cover their costs. Because the program is starting from scratch, however, they require a loan to get up and running. The Governor's request proposed to make that loan from the General Fund. <u>The Committee may wish to ask the Treasurer's Office what happens if they receive and approve far fewer applications than they anticipate?</u>

LAO Recommendation: Due to the current fiscal stress on the General Fund, the LAO recommends that the loan be made by an alternative funding source - the Renewable Resource Trust Fund (RRTF). The RRTF has a healthy balance and can sustain a loan of this magnitude without adverse programmatic impacts on programs supported by the RRTF. Additionally, the LAO recommends that the repayment terms in the BCP be maintained.

ITEM 1110/1111 DEPARTMENT OF CONSUMER AFFAIRS

ISSUE 1: BUREAU FOR PRIVATE POSTSECONDARY EDUCATION

This issue was originally heard May 4th, 2010.

The Governor requests $8,739,000 (Private Postsecondary Education Administration Fund) and 67.4 permanent positions to establish the Bureau for Private Postsecondary Education.

The Bureau for Private Postsecondary Education was established by AB 48 (Portantino, 2009) within the Department of Consumer Affairs. The Act became operative on January 1, 2010. The Bureau is supposed to ensure minimum standards of instructional quality and institutional stability in private postsecondary educational institutions.

AB 48 was a sweeping piece of legislation that provided a very detailed set of requirements and underlying authority for the new Bureau. This request provides the staffing needs necessary to fulfill those requirements. The Bureau is self-funded through fees charged to those institutions monitored and regulated by the bureau.

COMMENTS

In 2013, both the LAO and the Bureau of State Audits (BSA) are required to report to the Legislature on the new Bureau. Additionally, The Bureau and its authorizations are repealed on January 1, 2016 unless a future act extends that date. As such, the Legislature will be provided with ample opportunities to review the operations of the bureau once they have the opportunity to establish themselves.

Concerns have been raised that the staffing plan set forth by the Department and the Governor's office does not adequately staff the Bureau. Specifically, it has been questioned whether the Administrations decision to shift the majority of staff from Education Specialist Positions to Associate Governmental Program Analysts (AGPA) is appropriate. The Committee may wish to ask the Department to justify this change in staffing positions.

Additionally, the bill requires that the Bureaus annual budget request include 5 education specialist positions. While this request does include those positions, it does so on a limited term basis. The bill, however, is clear that these positions should be ongoing. Any action by the Subcommittee should, at a minimum, establish those 5 required specialists on a permanent basis. Additionally, the author of AB 48 intended for those 5 positions to be located within the Sacramento office for the Bureau, but this proposal has them spread through-out the state.

ISSUE 2: BREEZE

This issue was approved on May 5, 2010.

This proposal will implement an integrated licensing and enforcement system to support the efforts of the Consumer Protection Enforcement Initiative (CPEI).

COMMENTS

The Senate acted on this item last week and approved Trailer Bill Language requiring the Department to receive Joint Legislative Budget Committee approval for the final contract before payments to the vendor can commence. The language also requires DCA to examine and report to the legislature on the need for the boards' licensing positions (approved as part of the CPEI proposal), to exist once BreEZe has been completed.

Staff raises no concerns with this language, and would recommend adopting the same language to avoid sending this issue to Conference Committee.

ITEM CS 4.75 STATEWIDE SURCHARGE

ISSUE 1: STATEWIDE SURCHARGE

The Governor's May Revision requests that Control Section 4.75 be added to provide authority to the Department of Finance to make adjustments to the Statewide Surcharge amounts in departmental appropriations for 2010-11.

The Statewide Surcharge was established in 2005 to provide a method for the Department of General Services to recover costs for central services, such as maintenance and operation of Capitol Park and legislative printing. The Surcharge is based on the total number of positions authorized for an affected department. The Statewide Surcharge has not been reallocated since initial implementation. Given that many departments have had significant changes in the numbers of authorized personnel, there is a need to adjust departments' share of the Statewide Surcharge.

COMMENTS

The Administration indicates that its intent in implementing this Control Section would be to not result in any General Fund increases. Because the Statewide Surcharge has not been reallocated since implementation, the Administration projects a shortage in 2009-10 of $2.44 million. If this request is not approved, the disparity will continue, with several state entities continuing to generate savings due to an incorrect budget as others will be disproportionately assessed the surcharge.

ITEM 1760 DEPARTMENT OF GENERAL SERVICES

ISSUE 1: OFFICE OF PUBLIC SCHOOL CONSTRUCTION – CHARTER SCHOOLS FACILITIES PROGRAM

The Governor's Budget requests increased expenditure authority of $242,000 (2006 State School Facilities Funds) and two redirected departmental vacancies to establish best practices within the charter schools and to maintain the current level of service provided to charter schools and other parties associated with the Charter Schools Facilities Program (CSFP), as well as for program improvement.

The CSFP provides charter schools with access to state bond funds. Finalizing a CSFP project is a four- or five-year process during which time the charter schools contact the Office of Public School Construction with questions and to seek further direction. The resources in this request are proposed to be dedicated solely to the workload of the CSFP. Currently the program is only achieving a 47 percent success rate (based on the number of projects that have gone on to complete construction of a new school). The Administration indicates that the positions in this request, funded from the bonds that are designated for construction of charter schools, are intended to increase that success rate, thereby leading to more schools being constructed.

COMMENTS

The most recent voter-approved education bond was Proposition 1D (November 2006), which provided $10.416 billion for K-12 and higher education facilities. Prop 1D funds are anticipated to be depleted by early summer 2010. As of the March 2010 State Allocation Board meeting, only $18 million remains for allocation; $217 million remains for new construction. Given this dwindling balance of school construction bond funds, and the current lack of any plan for a new general obligation bond for school construction to be placed before the voters, the logic of authorizing new positions and increased expenditure authority as presented in this request is unclear to staff. A more prudent course of action would be for this request to be resubmitted when new revenue for school construction has been approved.

ISSUE 2: OFFICE OF PUBLIC SCHOOL CONSTRUCTION – INFORMATION TECHNOLOGY

The Governor's Budget requests increased expenditure authority of $120,000 (2006 State School Facilities Funds) and one two-year limited-term position redirected from departmental vacancies to develop, implement, and maintain automated systems necessary for the Office of Public School Construction to administer the School Facility Program and to ensure proper bond accountability.

COMMENTS

Identical to the staff comment on the prior OPSC issue, staff questions the timing of this request in light of the dwindling availability of school construction bond funds. As noted above, the logic of authorizing increased expenditure authority and a new position, even if it is limited-term, is unclear given that current school construction bond funds are anticipated to be depleted this summer and there is a lack of any plan for a new general obligation bond for school facilities to be placed before the voters. Rather, working within existing authorized positions and expenditure authority, OPSC should be able to identify resources to provide for proper bond accountability.

Staff Recommendation: Reject

ISSUE 3: DIVISION OF THE STATE ARCHITECT – PROVISIONAL LANGUAGE

The Governor's Budget requests provisional language in the 2010-11 budget act to provide the Director of DGS with the authority to make changes to the Division of the State Architect's (DSA) budget to address workload issues.

The DSA provides design and construction oversight for K–12 schools and community colleges, and develops and maintains accessibility standards and codes utilized in public and private buildings throughout the State of California. Heretofore, the DSA has been "off budget" and continuously appropriated from fee revenues collected from DSA customers. The Governor's budget proposes total funding for the DSA in 2010-11 of $60.5 million (Disability Access Account - $7 million; Public School Planning, Design, and Construction Review Revolving Fund - $53.3 million; and, Certified Access Specialist Fund - $270,000) and adds the provisional language, effectively putting DSA "on budget." The provisional language is comprised of five sections. When the Subcommittee heard this request on March 24, concerns were raised about whether the proposed provisional language strikes the right balance between providing budget flexibility and providing strong oversight and monitoring. In addition, there were concerns about complaints from the field, particularly from K-12 schools, about delays in its plan review process. At that time, DSA testified it would provide regular monthly reporting about its "bin time," which they indicated was now below six weeks. In addition, DSA indicated it was creating a Performance Metrics Unit, which would in turn create a scorecard posted to its website that would provide regular updates about the plan review process, including bin time. Since that hearing, DSA has failed to deliver on the draft performance metrics and scorecard; DSA now indicates that the draft metrics will not be available until July 2010.

COMMENTS

The performance issues with DSA are longstanding and complaints from the field are not new. The Subcommittee wants to see timely review and approval of construction ready school plans, but it has no real way to ascertain if DSA's current process and practice is efficient or effective because this is an entity that has heretofore been off budget. For example, how can the Legislature know that getting the "bin time" under six weeks is a sound practice and approach to workload? Yet, DSA is proposing to build its performance metrics on its current foundation. This calls into question the legitimacy of those performance metrics. Because of these issues, staff notes that the Subcommittee may wish to consider a different and potentially more appropriate next step – to request an independent entity to undertake a performance audit of DSA's school plan review process. Then, with that baseline performance review information, the Subcommittee can determine with greater certainty the points where interventions make sense, as well as make necessary work process improvements and determine appropriate staffing levels for DSA.

With regard to the performance audit, staff notes that there is an obvious interest in accelerating the audit to begin in the current year. This is doable because DSA is currently off-budget and continuously appropriated and can therefore use current year funding to begin the audit immediately. Based on the initial discussions with DSA, DSA informed staff that it had already set aside funding for a performance audit but that contract was subsequently suspended by DSA. In addition, the Office of State Audits and Evaluation (OSAE), within the Department of Finance, recently concluded a fiscal audit of DSA's Public School Planning, Design, and Construction Review Revolving Fund (the primary funding source for school plan reviews) which required a basic understanding of the program's operation and resources. Therefore, staff notes that using OSAE would be the most efficient approach for obtaining a performance audit in the near term.

ISSUE 4: CAPITOL REPAIRS FUNDING

This issue was originally heard on April 20, 2010. At that time, the Committee rejected the Governor's proposal to shift the cost of capitol repairs to the legislature's budget, but held open the overall funding issue for capitol repairs. This item only discusses the later topic.

The Governor's budget assumed $5.4 million in expenditures in the budget year on capitol repairs. The Legislature suspended $6.6 million in funding for capitol repairs in last years budget. Those projects that were completed last year were funded out of reserve funds held in the Architectural Revolving Fund for this purpose. That reserve currently contains $9.3 million for capitol repairs.

In 2006, a comprehensive assessment was undertaken to determine the infrastructure needs of the State Capitol Building. At the conclusion of that assessment, the Capitol Infrastructure Report (Report) was published detailing a list of needed repairs to the building including fire/life/safety and other critical repair and maintenance. A very rough estimate of outstanding needed repairs is $100 million.

Capitol repair expenses relate to building repairs and improvement, not day-to-day operations and utility costs of the building. Capitol repair and maintenance items generally are programmed after consultation between the Legislature's Joint Rules Committee and DGS.

COMMENTS

Due to the fact that $9.3 million remains from prior years' appropriations for Capitol repairs, staff notes that there is no need to appropriate new funding in 2010-11 for Capitol repairs. Therefore, the $5.4 million reduction to DGS' budget can stand, maintaining the GF savings in the Governor's January Budget. With regard to project expenditures in 2010-11, the Joint Rules Committee, cognizant of the fiscal challenges facing the state, has determined that $2 million of the remaining $9.3 million can be transferred to the General Fund for additional savings in 2010-11. Finally, to avoid any further confusion as to what is available for expenditure for which projects, staff recommends the Subcommittee also approve budget provisional language that makes expenditure of the $7.3 million on Capitol Repairs contingent on the approval of the Joint Rules Committee.

ITEM CS 24.30 CONTROL SECTION 24.30

ISSUE 1: STATE SCHOOL BUILDING AID FUND

Control Section 24.30 authorizes the transfer of sale and lease revenues received from the sale of specified school assets from the State School Building Aid Fund (0739) to the GF. Pursuant to this section, the Governor's January budget assumed just over $1 million in transfers. In the May Revise, this amount was adjusted upwards to $10 million, which is more in line with historical revenues available for transfer.

After this $10 million transfer, the fund will still have approximately $20 million available, despite annual expenditures of only a few million dollars.

COMMENTS

At the time of this drafting, staff had asked the Department of General Services Office of Public School Construction (OPSC), who manages this fund, to report back on the legality and ability of sweeping the other $20 million remaining in this fund. It is staff's understanding that some of these funds may in fact be swept to the GF, while others may belong to old bonds and have limitations placed on them.

It is staff's hope that OPSC is able to evaluate these funds prior to this hearing, allowing the Committee to determine how much funding may be swept to the GF. Staff would like to point out, however, that DGS was only informed of this issue on Friday the 21st, which was a furlough day. In preliminary discussions, it appears there are considerable obligations on these remaining funds.

ITEM 2240 DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

ISSUE 1: INFILL INCENTIVE GRANT FUNDING AVAILABILITY

This issue was originally heard May 4 and May 19, 2010.

As part of all affordable housing programs, the Department is required to do long-term monitoring to ensure the facilities remain affordable. They are required to review, document and approve tenant occupancies, conduct monitoring visits, provide ongoing technical assistance to project sponsors to resolve issues of non-compliance, and much more. These costs continue for the life of the affordability requirements, often 55 years.

For Bond projects, bond funds must be set aside for the purpose of funding these activities, or else the cost will be born by the General Fund. Because of this, a portion of housing bond funds are often left unspent, but are in reality being held in reserve for this purpose. Because requests are often received for the use of these set-aside funds, we asked HCD to do a thorough analysis of their ongoing needs, and report back to the legislature as to whether any funds may be available for appropriation. In their review of the Infill Incentive Grant Program under Proposition 1C, HCD informed this Committee that approximately $9.7 million could be utilized. After accounting for administrative costs that will be incurred, $9.2 million could be allocated to new projects.

COMMENTS

There are many potential ways to expend these available funds. The primary proposals that have been proposed are to 1) allocate these funds to projects already qualified for these funds, but who did not receive their full funding request because funds weren't available; or, 2) allocate the funds to CALReUSE, a program that assists with the redevelopment of underutilized properties with hazardous material contamination issues (brownfields).

The Committee may wish to discuss these options and what results they wish to achieve by putting these funds out to projects (ie: jobs, affordable units, etc.).

The Committee may wish to ask the Department:

1) Why have they not proposed spending these dollars? Dollars that could be creating jobs and affordable housing units.
2) Were there more requests for funds from this program than funding available? If so, could these funds simply be allocated to the next projects on the list, or would a new request for projects have to be processed?
3) Does the Department have a suggestion on the best use for these funds?

ITEM 8885 COMMISSION ON STATE MANDATES

ISSUE 1: APRIL FINANCE LETTER – IN-HOME SUPPORTIVE SERVICES II MANDATE

This issue was originally heard May 4, 2010.

The Governor has requested, in an April Finance Letter, an augmentation of $475,000 General Fund to pay the accumulated claims for the newly-determined mandate of In-Home Support Services II (IHSS II) Mandate. The IHSS II mandate has ongoing requirements for counties to operate advisory committees. The mandate also included one-time costs to establish an employer for IHSS workers, but that one-time activity has been completed in all counties. In the IHSS budget, about $1.7 million (General Fund) is provided for these advisory committees plus about $1.4 million in federal reimbursements. The ongoing mandate claim would only be a county's amount that exceeds base funding. Only one county filed a claim for 2007-08 to receive a reimbursement for costs in excess of base funding.

LAO Recommendation: The LAO recommends that the Legislature approve trailer bill language to make the IHSS advisory committees optional and also that the Legislature adopts the Administration's proposal to fund the prior mandate claims, rather than suspending or repealing. Another option raised by the LAO is to reduce the base IHSS advisory committee funding of $1.7 million and direct that savings to payment of the mandate and/or other costs.

COMMENTS

The DOF request to fund this mandate is counter to the general Administration direction to suspend most mandates. DOF indicates one consideration is the large program reductions for IHSS proposed in the Governor's Budget, and the idea that the advisory commissions could be helpful in implementing these program cuts. In additional to the DOF request and the LAO variation, the Subcommittee could also suspend the mandate – this would defer the payment of $475,000 General Fund in prior mandate claims. The baseline $1.7 million in the IHSS budget could be used to incentivize locals to continue the activity on a voluntary basis, but it would no longer be mandated.

The Committee directed staff to work with Subcommittee #1, who has jurisdiction over this subject area. In doing so, it was determined that Subcommittee #1 would like to see the advisory committee's to continue to be mandatory, and is acting to reject the Governor's request to make them option.

ISSUE 2: MANDATE REDETERMINATION PROCESS

This issue was originally heard May 4, 2010.

In 2009, the Third Appellate District Court ruled in *California School Boards Association v. State of California* that the Legislature's practice of referring mandates back to the Commission on State Mandates for redetermination was unconstitutional. The court's concern related to the separation of powers doctrine. Recognizing that the state needs a quasi-adjudicatory process to review dated mandate decisions in light of changing facts, circumstances, and legal thinking, the Legislature directed staff to work with the Administration on options for developing a new mandate redetermination process, responsive to the court's concerns.

Under current law, the state is not obligated to reimburse local governments for the costs of complying with federal mandates or with mandates imposed by voters through ballot initiatives. However, there is no redetermination process in statute that allows the Commission to review a prior mandate determination in the light of new federal mandates, ballot initiatives, or other relevant changes in law or legal thought. In AB 138 (Chapter 72, Statutes of 2005, Committee on Budget), the Legislature required the Commission to set aside its Open Meeting Act and Brown Act Reform determination and its Mandate Reimbursement Process I determination, due to an expectation that redetermination would find no state reimbursement obligation due to subsequent voter initiatives and other factors. The Commission redetermined these two mandates and found the activities no longer required state reimbursement. These redeterminations would have saved the State General Fund about $22 million annually; however, the *California School Boards Association v. State of California* decision invalidated the redeterminations. In the decision, the court explicitly recognized that the Legislature could establish a general process for the Commission to revise prior decisions in light of changes in law or circumstance, but concluded that legislation requiring the Commission to revisit specific individual decisions violates the separation of powers doctrine because the commission functions in a quasi-judicial capacity.

COMMENTS

The Commission has held several hearings on this issue, and has worked with the LAO and legislative staff to develop draft language on a new mandate redetermination process (see Attachment I). Given the separation-of-powers issue, the Legislature does not have a formal role in the draft language. Instead, the Legislature may be able to indicate legislative intent in the future, by requesting that the Department of Finance submit a request to the Commission to adopt a new test claim on a certain mandate. Adoption of the statutory language could save the state money by reducing mandate reimbursements, however, it is possible a redetermination could also result in a cost increase for the state.

A wide variety of parties have been consulted in the drafting process of this language, and it is provided here in this agenda to ensure all interested parties have an opportunity to review and provide input.

The Committee may wish to ask the Commission and LAO the following questions:

1. What are some examples of situations where mandates should be redetermined?
2. What are the budgetary implications of adopting the mandate redetermination language?
3. Who, or what parties, could request the Commission adopt a new mandate test claim decision?

Staff has continued, since the last hearing, to meet with stakeholder groups and interested parties to receive their input on this important language.

ISSUE 3: MANDATE REIMBURSEMENT PROCESS I AND II

In the May Revision, the Administration requests to suspend both the Mandate Reimbursement Process (MRP) and the Mandate Reimbursement Process II (MRP II). The Administration estimates the savings of $20 million from the suspension of MRP in 2012-13. The suspension of these mandates would not result in a 2010-11 budget cost savings, but by suspending the mandates, it would make the activity optional in 2010-11 for local governments, and relieve the state of the obligation to reimburse locals for the 2010-11 costs of the activity in the 2012-13 budget. The cost of MRP II is not currently known.

These mandates establish the process by which local agencies receive reimbursement for state-mandated programs. The statutes prescribe the procedures that must be followed by the claimants to file a claim with the State Mandates Commission. The first mandate, MRP, dates back to a 1986 determination, and the second mandate, MRP II, dates back to 2005 legislation. Both mandates have been litigated recently and due to that litigation and other factors the Commission's adoption of parameters and guidelines for MRP II is still pending and the actual cost of the reimbursement is unknown. The MRP mandate has been suspended in the past, most recently in 2008-09. However, the mandate was not suspended in 2009-10 or requested for suspension in the January Governor's Budget.

COMMENTS

The Department of Finance recommends the Legislature suspend the MRP and MRPII mandates for one year to allow the Administration to do a thorough review of the reimbursement claims submitted to the Controller in May 2010 for the purpose of gathering cost data from the claims. The Committee may wish to require the Department of Finance to provide a report to the legislature on the updated recommendation for the MRP I and II mandates upon review of the additional data.

The Committee may wish to ask the LAO to provide an overview of these issues and describe the GF savings options.

ISSUE 4: OPEN MEETING/BROWN ACT

In the May Revision, the Administration requests to suspend the Open Meeting/Brown Act mandate, which requires posting of agendas and other public access for local government meetings. The Administration estimates savings of $400,000 from prior year reimbursement costs due in 2010-11, $16.5 million in 2012-13.

The suspension of these mandates would make the activity optional in 2010-11 for local governments, and relieve the state of the obligation to reimburse locals for the 2010-11 costs of the activity in the 2012-13 budget.

Proposition 59 of 2004 enacted certain open meeting requirements on local governments. In AB 138 (Chapter 72, Statutes of 2005), the Legislature asked the Commission to reevaluation the Open Meeting/Brown Act reimbursement requirements in light of Proposition 59. The Commission complied and found the state no longer had a reimbursement obligation. However, litigation resulted in the Court ordering reinstatement of the reimbursements on process issues. (Note, Issue #2 in this agenda is a suggested remedy to address the courts process issues raised in this case).

COMMENTS

LAO Recommendation: The Analyst recommends another approach to remove the state's reimbursement obligation by using the provisions of Proposition 59. Specifically, the LAO recommends the Legislature modify current law to make provisions "best practices" for compliance with Proposition 59 (2004).

The Committee may wish to ask the LAO to provide an overview of this issue and describe the General Fund savings options.

This action has the potential to allow local governments to avoid open meeting requirements that exist under current law. Before moving forward with a proposal such as the LAO recommendation, language should be drafted and vetted with interested parties to ensure there are still appropriate methods in place to challenge a local government who does not follow the best practices, or comparable practices. Additionally, if the predetermination process in issue 2 (above) is implemented, this mandate could be run through that process to determine if there is indeed a mandate.

ISSUE 5: HANDICAPPED AND DISABLED STUDENT I & II, AND SERIOUSLY EMOTIONAL DISABLED PUPILS MANDATE (AB 3632)

In the May Revision, the Administration requests to suspend the Handicapped and Disabled Student I & II, and Seriously Emotional Disabled Pupils mandate (AB 3632), which requires counties to provide specified services to students as identified in the Federal Individuals with Disabilities Education Act (IDEA). The LAO estimates savings of $133 million from prior year reimbursement costs due in 2010-11, and of $140 million in 2012-13 and each year there-after, growing to as much as $200 million a year.

The Federal IDEA act requires services be provided to children with disabilities and governs how states and public agencies provide early intervention, special education and related services to children. The state level mandate stems from California law that "imposes the cost upon counties as a means of implementing the Federal IDEA program."

COMMENTS

If this mandate were to be suspended, these costs and responsibilities would be shifted back to schools, and the Federal IDEA act would continue to require these services to be offered. It is not clear how such a transition of responsibilities would occur at this point in time, raising the question of whether schools could indeed provide these services next year, and at what cost.

Funding for this mandate comes from a wide variety of sources, including federal funds through a variety of programs. The amount due from the GF in 2010-11, however, would amount to $133 million if not suspended.

Unless an alternative proposal can be determined, with a clear means of providing these important services, the prudent course of action would be to determine a means of funding these costs and maintaining the mandate.

The Legislative Analysts Office is currently working on an alternative proposal. <u>The Committee may wish to direct staff to further evaluate alternative proposals when they become available, to determine if the full Committee or Conference Committee should re-review this action. Further, it may be prudent to require the Department of Finance to review this mandate and provide a recommendation on any alternative means to providing these services.</u>

8950 CALIFORNIA DEPARTMENT OF VETERANS AFFAIRS

ISSUE 1: OPERATION WELCOME HOME –FUNDING FOR CVSOS AND SAIS

Governors May Revision Proposal. The Governor's May Revision proposes funding to implement and sustain Operation Welcome Home through; (1) an ongoing augmentation of $8.4 million General Fund for local assistance –going to the County Veteran Service Offices (CVSOs) and (2) a Veteran Service Office Fund local assistance augmentation of $768,000 in fiscal year 2010-11 to deploy a common veteran case management application in CVSOs.

Operation Welcome Home Overview. In January 2010, Governor Schwarzenegger launched Operation Welcome Home (OWH), a statewide effort to connect veterans with benefits and services and specifically target California's most recently discharged veterans, including Operation Enduring Freedom and Operation Iraqi Freedom (OEF/OIF).

California's OWH will be overseen by CDVA, who will orchestrate the collaborative outreach effort with several strategic partners. The mission of OWH is to connect California's veterans with jobs, unemployment benefits, housing, healthcare (physical and mental) and other federal, state and local veteran benefits and services; including education and compensation and pension for service connected disabilities.

California's OWH will be a phased program commencing with the formation of a California Veterans Corps (CalVet Corps) comprised of 325 limited-term EDD employees (CalVet Corp-EDD Team), and 84 AmeriCorps members (CalVet Corp-Volunteer Team). While the EDD employees will focus on initial contact efforts, the AmeriCorps members will recruit and coordinate 1,000 community volunteers that will work in tandem with this team and provide additional assistance to veteran county offices.

Funding. Previous allocation by the Governor include $20 million Unemployment Insurance funds through the United States Department of Labor –to hire 325 limited-term combat veterans through the EDD. Additionally, funding for the Cal Vet Corps Volunteer Team (AmeriCorps Vista and CV volunteer staffs) comes from the $700,000 AmeriCorps grant.

This May Revision proposal would appropriate $8.4 general funds for the increased Veteran Service Office workload that would result from Operation Welcome Home. Additionally, to aid Veteran Service Officers and Counties, funding for the Subvention Administration Information System (SAIS) is appropriated and totals $768,000 in one-time funds to help implement the system in counties. This new funding would bring the Operation Welcome Home budget to $29.9 million –accounted for as follows:

Fund Source	Funding	Agency/Purpose	Ongoing/One-time
USDOL	$20,000,000	EDD/Cal Vet	One-time
AmeriCorps Grant	$700,000	CDVA/CalVet Corps-EDD	3-Years
Veteran Service Officer Fund (VSOF)	$768,000	CVSO/SAIS	One-time –available for 3 years
General Fund	$8,400,000	CDVA/ local assistance	ongoing
Total	$29,868,000		

Subvention Administration Information System (SAIS). The SAIS funding is a one-time local assistance three-year appropriation (as specified in Budget Act provisional language) of $768,000 from the Veteran Service Officer Fund (VSOF) –generated from the fees collected from the Veterans License Plate Program. SAIS is a hosted web-based service application system that will help each of the 56 County Veteran Service Offices with benefit case management.

Each veteran claim file has between one and two forms and additional documents which are scanned. The initial USDVA form alone is 27 pages, some counties do this manually and others have a system that is similar to SAIS. However, there is no statewide standardized system. This has slowed county workload and limited auditing of CVSOs. SAIS will alleviate OWH workload and allow the CDVA to provide oversight for quality and quantity of applications –including college fee waiver applications, which primarily go unchecked.

Although the role of the State with CVSOs is coordinating and monitoring only, the proposal proposes funding for the initial transition and licensing for the new system and $20,400 for scanners. Given the general role of the State, the Department has submitted a Reporting Exemption Request, which was approved by the Office of the State Chief Information Officer (OCIO).

Additional Funding for CVSOs. The $8.4 million (GF) to CVSOs would increase the current amount spent ($2.6 million GF since 2004) on CVSOs to $11 million GF. Distribution of the funding would be reviewed and amended by the CDVA. Preliminary plans to distribute are as follows:

- $5 million allocated to eligible counties using current allocation rules
- $5 million allocated as competitive grants to CVSOs; and,
- $1 million allocated as competitive grants to other organizations that have the capability of connecting veterans with needed services

Although still under construction, the competitve grant criteria includes; veteran population, unemployment rate, compensation and pension shortfalls, demographics in general population that imply a high rate of return and the grant proposal itself.

LAO Recommendation. Without prejudice to the merits of the policy that would be implemented by Operation Welcome Home, the LAO recommends the Legislature deny the request for $8.4 million General Fund due to the states poor fiscal condition. However, they do not take issue with the proposal to use Veteran Service Office Fund monies to implement a common case management application in CVSOs.

STAFF COMMENT

The subcommittee held and oversight hearing on May 4^{th} on California's OWH. The Department disclosed that the current CDVA cost have been absorbed by the Department, however significant increases in workload will be incurred by County Veteran Service Offices, who will inherently completely the brunt of the work associated with Operation Welcome Home. This proposal attempts to alleviate increased workload by meeting the Legislatures findings and declarations that a level of $11 million in state funding for CVSOs is an effective and reasonable use of state funds.

Success by the EDD team has already been seen in the first month –according to the Department –within the first month almost 2,000 have been reached and over 6,000 veterans are lined up for interviews. The additional local assistance funding and funding for SAIS has the potential to make each county more effective by increasing application success and thus drawing down additional federal funds.

However, the lack of additional information on the plan to allocate the competitive grants is of concern. Staff recommends adopting placeholder Budget Bill Language that would direct the CDVA to report to the Joint Legislative Budget Committee (JLBC) prior to expending the funds. The BBL should address performance measures, grant criteria, reporting mechanisms and coordination of CVSO personnel. Additionally, the Subcommittee may wish to adopt placeholder Supplemental Reporting Language that would instruct CDVA to report to the Legislature as to the extent which the CVSOs and private and non-profit veteran service competitive grant recipients have complied with the quantifiable goals and objectives.

ISSUE 2: PATHWAYS HOME PROGRAM GRANT

Governor's May Revision Proposal. The Governor's May Revision includes provisional language that would make available up to $1.3 million General Fund in a non-competitive grant for support of the Pathways Home Program in the event that alternative funding for the program cannot be identified.

Pathways Program. The California Transition Center for Care of Combat Veterans –Pathways Home Program (Pathways Home) is located in the campus of the VHC-Yountville through a public-private partnership initiated in the 2008-09 Governor's Budget and funded by the Iraq-Afghanistan Deployment Impact Fund.

The Pathways Home is a residential recovery program created and dedicated to serve veterans of any age who have served in Afghanistan and Iraq. The Pathways Home operates a highly successful comprehensive physical and/or psychological rehabilitative program. Since opening (January 2008), the program has served over 240 veterans and has helped them become fully functioning veterans in the civilian community. Program stay is between 90 to 120 days.

The Pathways Home is currently funded through a private grant that will expire October 2010. Staffing for specialized services for these veterans is paid for by non-state funds.

Provisional Language. The language dictates that upon request of the CDVA, on behalf of the Pathways Home, the Director of the Department of Finance may authorize expenditures of up to $1.3 million GF. Additionally, the Pathways Home must meet reporting measures demonstrating measures taken to achieve other funding, past historical expenditures and projected expenditure needs. The general fund appropriation would be a last resort in the event that alternative funding for the program cannot be identified.

Current funding endeavors. The Director of the Home is currently pursuing funds through: Napa County Mental Health Services Prop 63 Funds, private donors and community fundraisers. However, the current economic climate has impacted private stewardship and the fundraisers do not generate the necessary funds needed before the Home runs out of money. The Napa County Mental Health Office is working with the Director, but progress has been slow. The home will soon begin to reduce salaries to stretch funds.

STAFF COMMENT

As of early May, the Pathways Home has been operating below capacity with 29 residents (out of the 35 licensed capacity), this is a direct result of measures taken to reduce staff and extend the funds available. The homes yearly budget is $1.6 million.

The Finance Letter states that should the Pathways Home receive no other funds the program will close its doors October 2010. However, the Program Director has assured staff that should no additional funds be available, the home will be closed at the end of July or at best first week of August. Expenditure reports provided to staff reveal that the homes projected remaining months of available cash (as of May 20, 2010) total 3.04 months.