

# SUBCOMMITTEE NO. 2

# Agenda

S. Joseph Simitian, Chair  
Jean Fuller  
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## Agenda

Day: Tuesday, February 1, 2011

Time: 1:30 p.m.

Room: Rose Ann Vuich Hearing Room (2040)

Consultant: Brian Annis

## Transportation

### Proposed Vote-only Calendar:

2670	Board of Pilot Commissioners .....	1
2700	Office of Traffic Safety .....	1

### Proposed Discussion / Vote Calendar:

	Motor Vehicle Account – Crosscutting Issue .....	2
2720	Department of the California Highway Patrol .....	3
2740	Department of Motor Vehicles .....	7
2665	High-Speed Rail Authority .....	12

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## Issues Suggested for Vote Only

### **2670 Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun**

**Department Overview:** The Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun (Board) licenses and regulates maritime pilots who guide vessels entering or leaving those bays. The pilots, themselves, are not employees of the Board. However, the Board does pay stipends to pilot trainees.

**Budget Overview:** The January Governor's Budget proposed expenditures of \$2.2 million (no General Fund) and 4.0 funded positions – a year-over-year decrease of \$412,000 and no change in positions. The Board is wholly funded through fees on shippers. The year-over-year budget change is primarily explained by the expiration of one-time funding for legal defense and pilot training.

### **2700 Office of Traffic Safety**

**Department Overview:** The Office of Traffic Safety (OTS) is responsible for allocating federal grant funds to promote traffic safety. Grant recipients include State entities, such as the California Highway Patrol and the Department of Transportation, as well as local entities, such as police departments. Among other programs, the grants fund Driving Under the Influence (DUI) checkpoints, motorcycle and bicycle safety programs, and traffic-law education and enforcement.

**Budget Summary:** The Governor proposes total expenditures of \$96.9 million (no General Fund) and 33.0 funded positions. After accounting for technical adjustments, the funding level is very similar to last year's budget and the number of positions is unchanged. The Administration did not submit any Budget Change Proposals (BCPs) for OTS.

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**Staff Comment:** The Administration does not propose any budget changes for the two entities listed above. If the Subcommittee approves these budgets now, it does not prevent further review or action on these budgets at a later time during this year's budget process.

**Staff Recommendation:** Approve the budgets of the two departments listed above.

**Vote:**

## Issues Suggested for Discussion and Vote

### Crosscutting Issue – Motor Vehicle Account transfer to the General Fund

**Budget Issue:** Should the Legislature approve the transfer item of \$71.6 million from the Motor Vehicle Account (MVA) to the General Fund, and approve a loan repayment of \$40 million from the General Fund to the MVA?

**Issue Background:** The 2009 and 2010 budget acts both included a \$70 million transfer from the MVA to the General Fund. These were transfers instead of loans and were allowable because the revenue transferred was not attributable to fee revenue nor was it restricted in expenditure by Article XIX of the Constitution – it was instead revenues from “sales of documents” and “miscellaneous services to the public.” MVA revenue primarily comes from vehicle registration fees, and driver license fees, and supports the operations of the Department of Motor Vehicles (DMV), the California Highway Patrol (CHP), and the Air Resources Board (ARB). In addition to the transfer of non-Article XIX revenues, the 2010 Budget Act included a loan from the MVA to the General Fund of \$180 million.

**MVA Fund Condition:** A primary consideration in determining the prudence of the MVA transfer to the General Fund and loan repayment is the short-term and long-term fund condition of the MVA. The January budget estimates the MVA will end 2011-12 with a reserve balance of \$111 million. Total annual revenues for the fund are about \$2.5 billion, so a balance of about \$100 million might be considered a minimum reserve to allow for contingencies.

**Staff Comment:** Although the DMV and CHP are special-fund departments, through MVA transfers and loans, their budgets affect the General Fund. Staff asked the DMV and CHP to report on what expenditures savings could be generated to reduce or eliminate the early loan repayment. At this time, the Administration indicates they expect current-year savings of about \$7 million from the CHP radio project, and savings of about \$5.5 million from negotiated labor contracts – these savings are not included in the Governor’s Budget. The Administration indicates that generally they oppose budget actions to increase General Fund solutions from special-fund loans and transfers beyond the \$1.9 billion already proposed. However, if early MVA loan repayment is not required, the Legislature could alternatively explore early repayment of other loans that might promote economic activity or other goals.

**Staff Recommendation:** (1) Approve the MVA transfer to the GF of \$71.6 million; (2) make technical changes to score the \$12.5 million budget savings indicated by the Administration; and (3) reduce the loan repayment in conformance with this savings and in conformance with any other relevant budget action.

**Vote:**

## 2720 California Highway Patrol

**Department Overview:** The mission of the California Highway Patrol (CHP) is to ensure the safe and efficient flow of traffic on the state's highway system. The CHP also has responsibilities relating to vehicle theft prevention, commercial vehicle inspections, the safe transportation of hazardous materials, and protection and security for State employees and property.

**Budget Summary:** The Governor proposes total expenditures of \$1.9 billion (no General Fund) and 11,380.7 funded positions, a decrease of \$87 million and a decrease of 28 positions. The year-over-year budget change is primarily explained by the reduction in funding for the almost-complete public-safety radio project and by the workforce cap.

**Activity:** (funding in millions):

<b>Activity</b>	<b>2010-11</b>	<b>2011-12</b>
Traffic Management	\$1,731	\$1,660
Regulation and Inspection	206	193
Vehicle Safety	46	43
Administration (distributed)	(305)	(231)
<b>TOTAL</b>	<b>\$1,984</b>	<b>\$1,897</b>

**Major Funding Sources** (funding in millions):

<b>Fund Source or Account</b>	<b>2010-11</b>	<b>2011-12</b>
Motor Vehicle Account (MVA)	\$1,779	\$1,699
State Highway Account (SHA)	60	60
Reimbursements	120	113
Federal funds	18	18
Other special funds (no General Funds)	7	7
<b>TOTAL</b>	<b>\$1,984</b>	<b>\$1,897</b>

**CHP Issues Proposed for Vote Only**

- 1. Computer Aided Dispatch (CAD) Replacement - Extension of Funding (BCP #3).** The Administration requests a time extension for funding to complete the CAD project. The CHP reports the overall project costs remain the same, but delays in signing the vendor contract will push some project expenditures into 2011-12.

**Background:** As part of the 2009-10 budget, the Administration requested, and the Legislature approved, two-year funding of \$27.8 million (no General Fund) for the information technology (IT) project to replace the 20-year old CAD system. The CAD is a system containing servers and workstations used to dispatch emergency services (police, fire, ambulance) to calls from the public needing assistance. The new CAD would also allow persons in a dispatch center to easily view and understand the status of all units in the field.

- 2. CHP Enhanced Radio System (CHPERS) (two Capital Outlay Budget Change Proposals [COBCPs]).** The Administration requests \$12.8 million in capital outlay funding for the sixth year of the public safety radio project, which is mostly complete. The capital outlay request involves the replacement of radio towers where the existing towers were not strong enough to accommodate new equipment.

**Background:** In 2006-07, the Legislature approved this five-year project that had an estimated total cost of \$491 million. As the project evolved, the CHP and its partner, the Office of the Chief Information Officer – Public Safety Communications Division (OCIO-PSCD) down-scoped the project to reduce costs, and the CHP revised total cost to \$353 million for a savings to the state of \$138 million. The project will enhance radio interoperability with other public safety agencies and provide additional radio channels for tactical and emergency operations. The project involves new radio transmission equipment at CHP facilities, on remote towers, and in CHP vehicles. As part of project approval, the Legislature required annual project reporting for the life of the project - due annually each March 1.

**Staff Comment:** This year's budget request is consistent with what the Administration stated last year during budget hearings. A report on this project is due to the Legislature on March 1, 2011. Should the report indicate any significant changes in the project, the Subcommittee can hear the issue again.

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**Staff Recommendation:** Approve the two budget requests listed above.

**Vote:**

**3. Capital Outlay Finance Letters:** The Administration submitted two requests related to capital outlay projects. The Legislature has previously approved funding for early phases of these projects, such as design and land acquisition.

- **Santa Fe Springs Area Office – (Construction Phase):** \$19.6 million (Motor Vehicle Account) is requested for the construction phase of the Santa Fe Springs Area Office replacement project. The Legislature previously approved about \$7.6 million for earlier phases of this project.
- **Oceanside Area Office – (Construction Phase):** \$18.3 million is requested for the construction phase of the Oceanside Area Office replacement project. The Legislature previously approved about \$4.6 million for earlier phases of this project.

**Staff Comment:** The CHP owns the land for the Oceanside facility and expects to purchase land soon for the Santa Fe Springs facility. A significant amount of funds have been approved by the Legislature and spent on the early phases of these projects. Due to the slow economy, competition for construction work is strong and the state may achieve bid savings. However, the state budget is very constrained and this project reduces MVA fund reserves. Another option to consider is lease-to-purchase financing, where the construction would be builder financed with the state paying rent over a period of years and ultimately have the option to purchase the facility at a specified price.

**Staff Recommendation:** Reject without prejudice to defer consideration until spring budget hearings. This will provide additional time to consider the longer-term condition of the MVA and to consider alternative procurement financing options.

**Vote:**

**4. Policy for License Plate Reader – Budget Trailer Bill:** Last year the Subcommittee approved trailer-bill language that would place the CHP's internal policies for license plate readers (LPRs) in statute. LPRs are mounted on freeway signs or mobile units and capture the license plate number of passing vehicles. The language was additionally approved by the Budget Conference Committee and placed in the omnibus transportation budget trailer bill (AB 1614). The transportation budget trailer bill, which included many other provisions, failed passage in the Senate and the provisions were not enacted. Staff's understanding is that the LPR language was not a factor in the failure of the legislation.

**Detail:** The language was developed in consultation with the CHP and mirrors that department's existing policies. Staff understands the intent of the Subcommittee was to place these privacy-protection elements in statute so that legislative concurrence would be necessary in the future for any change to this policy that might weaken privacy protection. The language in AB 1614 is copied below (amending Vehicle Code Section 2413):

*(b) The Department of the California Highway Patrol may retain license plate data captured by a license plate reader (LPR) for no more than 72 hours, except in circumstances when the data is being used as evidence or for legitimate law enforcement purposes.*

*(c) The Department of the California Highway Patrol shall not sell LPR data for any purpose and shall not make the data available to an agency that is not a law enforcement agency or an individual who is not a law enforcement officer. The data may only be used by a law enforcement agency for purposes of locating vehicles or persons when either are reasonably suspected of being involved in the commission of a public offense.*

*(d) The Department of the California Highway Patrol shall monitor internal use of the LPR data to prevent unauthorized use.*

*(e) The Department of the California Highway Patrol shall, as a part of the annual automobile theft report submitted to the Legislature pursuant to subdivision (b) of Section 10901, report the LPR practices and usage, including the number of LPR data disclosures, a record of the agencies to which data was disclosed and for what purpose, and any changes in policy that affect privacy concerns.*

**Staff Comment:** The Subcommittee may want to again consider adopting trailer bill language for LPRs.

**Vote:**

## 2740 Department of Motor Vehicles

**Department Overview:** The Department of Motor Vehicles (DMV) regulates the issuance and retention of driver licenses and provides various revenue collection services. The DMV also issues licenses and regulates occupations and businesses related to the instruction of drivers, as well as the manufacture, transport, sale, and disposal of vehicles.

**Budget Summary:** The Governor proposes total expenditures of \$922 million (no General Fund) and 8,251 positions, an increase of \$9.6 million over the revised 2010-11 level and a decrease of 15.6 funded positions. The year-over-year budget change is primarily explained by employee compensation adjustments.

**Activity:** (in millions):

<b>Activity</b>	<b>2010-11</b>	<b>2011-12</b>
Vehicle/vessel identification and compliance	\$503	\$509
Driver licensing and personal identification	246	244
Driver Safety	115	117
Occupational Lic. And Investigative Services	47	50
New Motor Vehicle Board	2	2
Administration (distributed)	(102)	(103)
<b>TOTAL</b>	<b>\$912</b>	<b>\$922</b>

**Major Funding Sources** (in millions):

<b>Fund Source or Account</b>	<b>2010-11</b>	<b>2011-12</b>
Motor Vehicle Account (MVA)	\$526	\$525
Motor Vehicle License Fee Account (MVLFA)*	308	325
Reimbursements	14	14
State Highway Account (SHA)	53	47
Federal funds	8	4
Other special funds (no General Funds)	3	7
<b>TOTAL</b>	<b>\$912</b>	<b>\$922</b>

**Informational Note on Driver License Cards:** The DMV implemented a new driver license / identification (DL/ID) card on September 30, 2010. The cards are manufactured by L-1 Identity Solutions. When the new cards were initiated, L-1 had difficulty producing the quantity and quality of cards required, and some drivers have faced delays in getting their new cards. The DMV has initiated staff overtime to provide quality assurance and has rejected some cards. Both DMV and a representative of the vendor indicate the production issues have been largely resolve, but another month will be required before the backlog is fully cleared.

**Issues Proposed for Vote-Only**

- 1. Ignition Interlock Device (IID) Program – Continue Positions (BCP #7):** The Administration requests a continuation of funding (\$511,000 Motor Vehicle Account) and the conversion of 9 limited-term positions to permanent. The positions are associated with the IID workload, which is a program that DMV took over from the courts in 2009-10 pursuant to SB 1388 (Chapter 404, Statutes of 2008, Torlakson). The program provides for the installation of IIDs in specified circumstances when the car owner has a conviction for Driving Under the Influence (DUI). The 2009-10 budget provided a total of 26 new positions, with 9 of these two-year limited-term. DMV has monitored the workload, and reports their initial workload estimates were accurate and that the 9 limited-term positions should be converted to permanent. The cost of the positions and program is fully support by fees on program participants.
- 2. Temporary Operating Permit (TOP) Program – Continue Positions (BCP #8):** The Administration requests a continuation of funding (\$369,000 Motor Vehicle Account) and the conversion of 7 expiring limited-term positions to 2 permanent positions and 5 limited-term positions. The positions are associated with the TOP Program, which was established in 2009-10 pursuant to AB 2241 (Chapter 451, Statutes of 2008, Saldana). The program provides for a temporary operating permit when a certificate of smog compliance is required. The 2009-10 budget provided a total of 7 new positions, with all of these two-year limited-term. DMV has monitored the workload, and reports their initial workload estimates were accurate and that the 7 limited term positions should be retained as specified. The cost of the positions and program is fully supported by fees on program participants.
- 3. Traffic Violator School (TVS) Program - New Statutory Requirements (BCP #11):** The Administration requests \$2.3 million (Motor Vehicle Account) to fund third-party contractors to monitor the TVS industry. The DMV is assuming this role for home-study TVSs from the courts pursuant to AB 2499 (Chapter 599, Statutes of 2010, Portantino). Statute requires elimination of the court-approved program of traffic safety instruction and gives DMV exclusive oversight and monitoring responsibility. The Administration anticipates the third party contractors will be used to conduct an annual review of business practices of 600 businesses and bi-annual monitoring of TVS training conducted at 2,500 classrooms and through approximately 200 home study/Internet courses. The cost of the program is fully supported by fees on program participants.

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**Staff Recommendation:** Approve the three budget requests listed above.

**Vote:**

## Issues Proposed for Discussion and Vote

- 4. Federal Grant for Privacy and Security Enhancement – (BCP #9).** The Administration requests \$918,000 (one-time federal funds) for consulting services related to information technology (IT) security and privacy protection.

**Detail:** The DMV indicates the consulting service will be the first step in improving employee Role-Based Access Control (RBAC) to various stove-pipe IT systems and establishing an enterprise-wide privacy-protection and security system. This would improve the ability of DMV to limit employee's access to various IT systems to just match what a particular employee needs to perform their job.

**Staff Comment:** The DMV should explain the deficiencies in privacy and security they are trying to address with this proposal. Additionally, the department should discuss training and other measures taken to ensure DMV employees maintain the highest standards of customer privacy.

**Staff Recommendation:** Approve the request.

**Vote:**

**5. Facility-Related Finance Letters:** The Administration submitted two requests related to office facilities. DMV operates a mix of State-owned and leased facilities.

- **Grass Valley Field Office Replacement Project – State-owned Facility (Preliminary Plan Phase):** The Administration requests \$648,000 (various special funds) for the preliminary-plan phase of the Grass Valley Field Office replacement project. The budget request indicates that future costs will include working drawings at a cost of \$531,000, and construction at a cost of \$6.7 million. Total project cost is estimated at \$7.8 million. The new facility would be approximately four times the size of the existing facility.
- **Southern Los Angeles Commercial Driver License Test Center – Leased Facility (BCP #5):** The Administration requests a one-time augmentation of \$20,000 (Motor Vehicle Account) to begin the process of establishing a consolidated Commercial Driver License (CDL) Test Center at a leased facility in the southern Los Angeles area. The DMV believes separate CDL locations promote efficiency and public safety by not bringing larger commercial vehicles to the standard field office locations. If this request is approved, the southern Los Angeles CDL Test Center would be the fifth consolidated location, following San Bernardino, West Sacramento, Escondido, and a soon-to-open center in Fresno. The \$20,000 requested would cover Department of General Services planning fees. The estimated costs in 2012-13 would be \$85,000, and move-in would occur in 2013-14 with half-year operations costs of \$1.1 million.

**Staff Recommendation:** Reject without prejudice to defer consideration until spring budget hearings. This will provide additional time to consider the longer-term condition of the MVA and to consider alternative procurement financing options.

**Vote:**

**6. Veterans Optional Check-off – Trailer Bill Language:** Last year, the Budget Conference Committee adopted a package of measures to aid veterans in obtaining federal benefits. One component of that package was statutory change that required the DMV to add a voluntary veteran's check-off box on driver license applications that would allow a veteran's name and address to be shared with the California Department of Veterans Affairs (CDVA). The CDVA would reimburse the DMV for the cost of the program and use the information to alert veterans about federal benefits. The language was placed in the omnibus transportation budget trailer bill (AB 1614). The transportation budget trailer bill, which included many other provisions, failed passage in the Senate and the provisions were not enacted. Staff's understanding is that the veterans language was not a factor in the failure of the legislation.

**Detail:** The language was developed in consultation with the DMV and CDVA. The language in AB 1614 is copied below (amending Vehicle Code Section 12811):

*(d) (1) The front of an application for an original or renewal of a driver's license or identification card shall contain a space for an applicant to indicate whether he or she has served in the Armed Forces of the United States and to give his or her consent to be contacted regarding eligibility to receive state or federal veteran benefits.*

*(2) The department shall collect the information obtained pursuant to paragraph (1).*

*(3) Periodically, as mutually agreed between the department and the Department of Veterans Affairs, the department shall electronically transmit to the Department of Veterans Affairs the following information on each applicant who has identified that he or she has served in the Armed Forces of the United States since the last data transfer and has consented to be contacted about Veteran benefits.*

*(A) His or her true full name.*

*(B) His or her residence or mailing address.*

*(4) Information obtained by the Department of Veterans Affairs for the purposes of this subdivision shall be used for the purpose of assisting individuals to access veteran benefits and shall not be disseminated except as needed for this purpose.*

**Staff Comment:** The Subcommittee may want to consider adoption of this trailer bill language intended to aid veterans.

**Vote:**

**2665 High-Speed Rail Authority**

**Department Overview:** The California High-Speed Rail Authority (HSRA or Authority) was created by Chapter 796, Statutes of 1996, to direct development and implementation of inter-city high-speed rail service that is fully coordinated with other public transportation services. The cost to build “Phase I” (from San Francisco to Anaheim) is currently estimated by the HSRA to cost \$43 billion (in year-of-expenditure dollars). Of the \$43 billion cost, about \$12.1 billion is currently “in hand” – \$9 billion from Proposition 1A of 2008 (Prop 1A) and \$3.1 billion in federal funds. The HSRA 2009 Business Plan indicates the remainder of project funding will come from the federal government (about \$14.9 billion), local governments (about \$4.5 billion) and private investment through selling the concession (about \$11 billion). The majority of work on the project is performed by contractors – there are approximately 604 contractors (full-time equivalents) and 37 State staff. Most of these positions were authorized last year, and due to the prior Governor’s hiring freeze, only about 17 positions are currently filled.

**Budget Overview:** The January Governor’s Budget proposes funding of \$192 million for the HSRA (\$102.4 million Prop 1A and \$89.7 million federal funds). This compares to 2010-11 funding of \$221 million. The 2011-12 budget included 37.1 funded positions for HSRA, which is unchanged from the adjusted 2010-11 level.

**Summary Table of the Governor's HSRA budget:** The enacted budget for 2010-11 is compared to the proposed budget for 2011-12 in the table below (dollars in millions).

Agenda Issue Number	Activity	BCPs	2010-11 Budget	2011-12 Budget Proposal
<b>State Operations</b>				
	Baseline funding for state staff and operations		\$5.3	\$5.6
3	Contracts with other governmental units – CalTrain & Caltrans		\$7.7	\$0
3	Contracts for Ridership/Revenue and Visual Simulation		\$1.4	\$0
4	Contract for Program Management* and **	COBCPs 1-7	\$37.0	\$41.5
5	Contract for Program Management Oversight	BCP 1	\$2.0	\$3.0
6	Contract for Public Information and Communications Services	BCP 3	\$1.8	\$1.8
7	Contracts for Financial Plan and Public Private Participation Program	BCP 4	\$1.0	\$0.8
8	Interagency Contracts with DOJ and DGS	BCP 7	\$0.4	\$1.5
<b>Capital Outlay</b>				
9	Contracts for design and engineering*	COBCPs 1-7	(\$154.3)	(\$137.9)
9	San Francisco to San Jose*	COBCP 4	\$25.2	\$9.9
9	San Jose to Merced*	COBCP 5	\$25.1	\$24.7
9	Merced to Fresno*	COBCP 2	\$15.1	\$10.7
9	Fresno to Bakersfield*	COBCP 1	\$37.5	\$11.1
9	Bakersfield to Palmdale*	COBCP 7	\$0.8	\$39.5
9	Palmdale to Los Angeles*	COBCP 6	\$34.2	\$35.5
9	Los Angeles to Anaheim*	COBCP 3	\$10.1	\$6.4
9	Los Angeles to San Diego		\$2.7	\$0.0
9	Merced to Sacramento		\$1.8	\$0.0
9	Altamont Pass		\$1.8	\$0.0
9	Contracts with Enviro Agencies**		\$1.8	(\$3.1)
9	Pre-Acquisition and Acquisition*		\$10.0	\$0
	<b>TOTAL Budget</b>		<b>\$221</b>	<b>\$192</b>

\* Funding is half Prop 1A of 2008 Bonds, and half federal funds. No “\*” indicates all Prop 1A funding.

\*\* Was budgeted in State Operations in 2010-11, proposed as Capital Outlay for 2011-12.

The remainder of this agenda is generally organized consistent with the grouping and sequence of issues in this table.

**Issues for Discussion and Vote:**

1. **Budget Reporting Language Vetoed by Governor Schwarzenegger:** Last year, the Subcommittee adopted budget bill language that required the HSRA to report to the Legislature with updates and additional analysis on how the Authority plans to implement the high-speed rail system – this language was vetoed by the Governor. The language required a report by February 1, 2011, which would include:
  - (a) a complete legal analysis of the revenue guarantee and alternative options;
  - (b) a report on community outreach;
  - (c) an updated financing plan with alternative funding scenarios;
  - (d) a copy of the strategic plan required by the State Administrative Manual;
  - (e) a report on the performance of the Program Manager Contractor; and
  - (f) a report on how the HSRA was addressing the recommendations of the Bureau of State Audits.

The language withheld \$55.3 million in 2010-11 spending authority pending receipt of the report and 60-day review by the Joint Legislative Budget Committee (JLBC). A copy of the language and veto message is Attachment I at the end of this agenda.

**Background:** Most of the reporting requirements in the vetoed language involve deficiencies in the HSRA plan as identified in reports of the Legislative Analyst's Office, the Bureau of State Audits, and more recently, the peer review group. It was because the Subcommittee believed resolution of these issues was so critical to the success of this project, that it took the step of making budget funding contingent on the reporting. At the May 24, 2010, Subcommittee hearing, the HSRA (represented by Interim Executive Director Carrie Pourvahidi and Board Member Richard Katz) agreed to provide the information by February 1, 2011. Since the Governor's veto of the reporting language, staff understands the HSRA has indicated it will still submit the report, but the delivery will be delayed until May 2011.

**Staff Comment:** Given the importance of the issues involved, the Subcommittee may want to consider restoration of the reporting language. However, timing is key as the Subcommittee anticipated the report would be available for review and public discussion during spring 2011 budget hearings. Staff understands that the procurement of a new financial consultant is still in process, so a complete financing plan is unlikely to be completed this spring. The Subcommittee may want to receive testimony from the HSRA on what individual reporting elements will be available and when.

**Staff Recommendation:** Hold open.

- 2. Budget Language sustained by Governor Schwarzenegger, but omitted from the 2011-12 Budget:** Last year, the Subcommittee adopted budget bill language that would prohibit the signing of a binding construction-related memorandum of understanding (MOU) prior to peer review reporting on the applicable segment and completion of a project-level environmental impact report (EIR).

**Background:** The language resulted from a draft MOU proposed by the Orange County Transportation Authority related to an intermodal transit hub in Anaheim. The intent of the budget language is to prohibit the state from entering construction-related contractual obligations prior to completion of the EIR and peer review recommendations, which may result in project changes. The language was included in the final 2010 Budget Act, but is not included in the proposed budget for 2011-12. The language reads as follows:

*A memorandum of understanding (MOU) that identifies state capital outlay construction expenditures in excess of \$2,500,000 shall be subject to appropriation for the elements covered by the MOU and contingent on (1) review and reporting by a peer review group of the segment financing plan for the applicable segment and (2) completion of a project-level environmental impact report for the applicable segment.*

**Staff Comment:** Unless the Subcommittee has changed its view on this issue, it may want to consider continuing this language by adding it to the 2011 Budget Act. The Department of Finance indicates this language is unnecessary because current law would already prohibit a construction MOU prior to completion of environmental review. However, the HSRA had put such an MOU on a Board agenda and their attorneys had not raised legal concerns.

**Staff Recommendation:** Hold open.

- 3. Activities Funded in 2010-11, with no Funding Requested for 2011-12:** The Administration received funding for contracts with other governmental units and private entities in 2010-11 for which no funding is requested for 2011-12. The HSRA should update the Subcommittee on these activities and indicate if they are complete, ongoing with carry-over funds, or ceased due to a change in strategy.

**Detail – activities to be completed in 2010-11:** Last year, funding was approved for the following one-time activity:

- 2010 BCP #4 – Ridership/Revenue Forecasts: The 2010-11 budget included \$1 million to continue to refine the ridership/revenue model and testing various operational and fee scenarios to develop the range of options available. According to HSRA, the ridership and revenue data the HSRA currently has was geared more towards the worst case scenario (largest number of riders, based on lower ticket costs, resulting in greater impacts to the physical environment). The HSRA indicates new forecasts are needed to provide investment grade information to private investment interests.
- 2010 BCP #3 – Visual Simulation Plan Development: The 2010-11 budget included \$375,000 to continue funding for the development of visual simulation programs. The HSRA indicated these simulations would be used to educate the public on the potential impacts high-speed trains may have on their communities. The Administration indicates now that a library of visual simulations is available, and they will use these images going forward to explain the project and will not develop further site-specific simulations.

**Detail – Activities with ongoing need, but not funded:** The approved 2010-11 budget included funding for the following ongoing activities, but funding for these activities is not proposed in the 2011-12 budget:

- 2010 April FL #2 in – Peninsula Corridor Joint Powers Board (Caltrain) Coordination: The 2010-11 budget included \$1.6 million to fund the provisions of a Memorandum of Understanding (MOU) with Caltrain, whereby the HSRA will fund the Caltrain cost of cooperative planning activities on the HSRA/Caltrans corridor.
- 2010 April FL #3 and May FL #7– California Department of Transportation (Caltrans) Coordination: The 2010-11 budget included \$4.3 million to fund the provisions of a Memorandum of Understanding (MOU) with Caltrans, whereby Caltrans will perform new workload related to project coordination and oversight where the high-speed rail project interfaces with state highway.

**Staff Comment:** The HSRA should comment on the status for the one-time workload and comment on why the ongoing workload is not funded.

**Staff Recommendation:** Hold open.

4. **Program Management Contract (BCP #1):** The Administration requests a total of \$41.5 million from Prop 1A bond funds and federal funds for the 2011-12 cost of the program-management contract. The funding request is \$4.5 million higher than the amount provided for 2010-11.

**Background / Detail:** The HSRA signed a multi-year contract with Parsons Brinkerhoff to manage the program through the completion of the environmental review and preliminary design work. The contract expires in June 2013. Parsons Brinkerhoff has seven subcontractors that are also funded within the requested \$41.5 million. The contract provides for payment of up to \$199 million, but the HSRA anticipates only spending \$129 million over the life of the contract.

**Staff Recommendation:** Hold open.

5. **Program Management Oversight Contract (BCP #3):** The Administration requests a total of \$3.0 million from Prop 1A bond funds for the 2011-12 cost of the program-management oversight contract. The funding request is \$1.0 million higher than the amount provided for 2010-11.

**Background / Detail:** The HSRA signed a three-and-one-half year, \$8 million, contract with TY Lin to provide this service. The Authority indicates the costs are up year-over-year because of the accelerated timeline on the Merced to Bakersfield segment to meet federal deadlines and due to “increasing interests of various stakeholders (such as the Legislature, cities, counties, councils of governments, railroads, etc.) and legal actions.” The contract expires in June 2013 and the Authority expects to fully expend the \$8 million contract amount.

**Staff Recommendation:** Hold open.

6. **Public Information and Communication Services Contract.** The Administration requests a total of \$1.8 million from Prop 1A bond funds for the 2011-12 cost of specialty contracts with a private vendor in the areas of communications. The amount of the funding request is the same as the funding provided for 2010-11.

**Background / Detail:** The HSRA signed a five-year, \$9 million, contract with Ogilvy Public Relations Worldwide (Ogilvy) to provide this service. The contract requires Ogilvy to coordinate the various regional outreach activities related to the environmental review process and supplements those efforts with statewide communications including but not limited to stakeholder outreach, Web site and social media activities, legislative tracking, event planning, and the production of written materials such as fact sheets.

**Staff Recommendation:** Hold open.

- 7. Financial Plan and Public Private Participation Contracts (BCP #4).** The Administration requests a total of \$750,000 from Prop 1A bond funds for the 2011-12 cost of financial consulting services, including development of a Public Private Partnership Program (P3) plan.

**Background:** A total of \$1.0 million was provided in the 2010-11 budget for this same purpose. The HSRA reports that PricewaterhouseCoopers was selected in the request-for-proposal (RFP) process, and should be under contract soon.

**Staff Recommendation:** Hold open.

- 8. Interagency Contracts for DOJ and DGS (BCP #7).** The Administration requests an augmentation of \$1.1 million in Prop 1A bonds to add to base funding of \$359,000 for inter-departmental legal and general services performed by the Department of Justice (DOJ) and the Department of General Services (DGS).

**Background:** The HSRA indicates that workload performed by DOJ is increasing substantially due to the preparation of the draft and final project-level documents on multiple corridors. DGS provides records service, automobile rental, purchasing and real estate services, and human resource services.

**Staff Recommendation:** Hold open.

- 9. Engineering contracts for preliminary design and environmental impact reports:** Excluding the amount for the Program Management Contract (which is discussed separately as issue #4 in this agenda), the Administration requests a total of \$137.9 million for the 2011-12 cost of multiple contracts to continue work on the project-level environmental impact reports and preliminary design. The cost would be funded 50-percent Prop 1A funds and 50-percent federal stimulus funds. No new funding is requested for pre-acquisition or acquisition activity, but the Administration notes that the \$10 million provided in the 2010 Budget Act has three-year budget availability.

**Background:** The funding requested this year is similar to last year after various accounting changes and adjustments for onetime funding. The total multi-year cost for the Phase I preliminary design work and EIR is estimated to be \$260 million and the work is expected to be completed in 2012-13. Note, these dollars and timeline are from 2010 data – at the time this agenda was finalized, updated information was still pending from the HSRA.

**Detail – Change to project timeline:** The HSRA indicates that due to the federal direction to initiate construction in the San Joaquin Valley, the Authority is accelerating work on the Merced to Fresno, and Fresno to Bakersfield, segments. Conversely, timelines are being extended for work on the other Phase I corridors. Another policy change is to cease work on the Phase II corridors (Sacramento to Merced, Los Angeles to San Diego, and Altamont Pass). Work on those segments would resume in the future when Phase I funding is fully secured and separate funding is identified to resume Phase II work.

**Detail – Changes in budgetary accounting:** As indicated above, the Program Management Contract was previously budgeted as state operations, but is now proposed as a capital outlay expense. Similarly, funding to pay resource agencies for expedited environmental review was previously in state operations, but is not included in capital outlay. These resource agencies include the U.S. Army Corps of Engineers; the U.S. Fish and Wildlife Service; the U.S. Environmental Protection Agency; the California Department of Fish and Game; the California Department of Parks and Recreation; and the State Historic Preservation Office. The environmental review funding was \$1.8 million in the 2010-11 budget and is requested at \$3.1 million for 2011-12.

**Staff Comment:** The HSRA should explain the changes in the timeline and cost for project segments, and explain their proposed budgetary-accounting changes.

**Staff Recommendation:** Hold Open.

**10. Trailer Bill Language (TBL) that failed passage in 2010:** The 2010-11 Budget, as adopted by the Budget Conference Committee, included TBL in three areas related to HSRA. The omnibus transportation budget trailer bill failed passage in the Senate so the statutory changes did not take effect. The Subcommittee may want to re-examine each issue to see if the TBL is still warranted.

**Detail – TBL included in SB 854 and AB 1614 (2009-10 Legislative Session):**

The following HSRA issues were included in last year's omnibus transportation budget trailer bill:

- **Peer Review Group:** Requires that the members of the High-Speed Rail Independent Peer Review Group be designated by October 1, 2010, and requires that group to designate a chairperson. Authorizes the members of the peer review group to collect a \$100 per-day per diem that cannot exceed \$500 per month. This language originated in the Senate.

Issue Update - The peer review group has been formed and did meet and elect a chairperson in the fall of 2010. A report dated November 18, 2010, was provided to the Legislature. The HSRA indicates no reimbursement was requested or provided to members of the peer review group.

- **Exempt Positions:** Authorizes the Governor to appoint six management-level exempt positions to the High-Speed Rail Authority (HSRA) upon the recommendation of the executive director. Compensation for these positions shall not exceed the highest comparable compensation for a position of that type, as established through a salary survey, and shall require approval of the Department of Personnel Administration. This language originated in the Assembly.

Issue Update – Assembly Member Galgiani's AB 58, as introduced, would authorized five new exempt positions at HSRA. Alternatively, the Governor could shift existing exempt-position authority from other departments to the HSRA.

- **Biannual Reporting:** Requires the HSRA to report biannually to the Legislature, beginning March 1, 2011, on the status of development and implementation of intercity high-speed rail service. This report was intended to be modeled off the quarterly Toll Bridge Seismic Retrofit reports. This language originated in the Assembly.

Issue Update – Assembly Member Galgiani's AB 145, as introduced, would establish a new annual reporting requirement.

**Staff Comment:** The Senate Subcommittee's calls for the peer review group to meet and report appear to have produced the desired result, even if the requirement was not placed in statute. The exempt positions and reporting requirements may be addressed via a policy bill or could again be place in budget trailer bill.

**Staff Recommendation:** Hold open.

## Attachment I

### 2010 Budget Bill Language Vetoed by the Governor and Veto Message

2. Of the amounts appropriated in this item, and Items 2665-304-0890, 2665-304-6043, 2665-305-0890, and 2665-305-6043, a total of \$55,320,000 shall be available for expenditure only after the submittal of a report to the Joint Legislative Budget Committee and a 60-day review period, or not sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee, or his or her designee, may determine. The High-Speed Rail Authority shall have discretion concerning how the \$55,320,000 in restricted expenditures is allocated among the five items of appropriation listed above. The authority shall submit the report no later than February 1, 2011. The report shall include, but not necessarily be limited to, all of the following:

- (a) A complete legal analysis of the revenue guarantee and/or mechanisms to reduce the operator's risk, which the authority indicates it would provide to its operator. To mitigate risk, the authority shall provide an analysis of the revenue contribution to the project from the private operator with and without a revenue guarantee and/or mechanisms to reduce the operator's risk. The authority shall discuss alternative financing approaches to make up for any lost revenue in the case of no revenue guarantee and/or mechanisms to reduce the operator's risk.
- (b) A report on contract expenditures for community outreach, including detail by type of expenditure and activity. Detail on meetings by segment and community and a summary of correspondence, e-mail, media, Internet Web site, and other outreach efforts shall be included in the report.
- (c) A financial plan update with alternative funding scenarios. To mitigate risk, the authority shall report on alternative funding options if no significant federal funds are received beyond the American Recovery and Reinvestment Act and no revenue

- guarantee and/or mechanisms to reduce the operator's risk are allowable. The plan shall also include construction alternatives for a constrained funding environment—what investments would be made and construction completed if the nonbond resources only equal bond funding.
- (d) A copy of the strategic plan that the authority is developing pursuant to the requirements of the State Administrative Manual.
  - (e) A report on the performance of the Program Manager Contractor. The authority shall indicate all the measures it has taken to address the findings and recommendations of the Bureau of State Audits April 2010 report, how the authority evaluates the performance of the contractor, and what those evaluations suggest in terms of resolution to the deficiencies noted by the auditor.
  - (f) A report on how the authority has addressed other recommendations of the Bureau of State Audits not otherwise covered by this provision.

### **Governor's Veto Message**

Item 2665-004-6043—For support of High-Speed Rail Authority, payable in accordance with and from the proceeds of the Safe, Reliable High-Speed Train Bond Act for the 21st Century, payable from the High-Speed Passenger Train Bond Fund. I delete Provision 2. Provision 2 provides that \$55,320,000 appropriated in this item and Items 2665-304-0890, 2665-304-6043, 2665-305-0890, and 2665-305-6043 is available only upon submittal of a report to the Joint Legislative Budget Committee and a 60-day review period. The report is to include a legal analysis of any revenue guarantee, a summary of contract expenditures for community outreach, a financial plan with alternative funding scenarios, a copy of the strategic plan, a report on the performance of the Program Management Contractor, and a report on how the Authority has addressed other recommendations of the Bureau of State Audits not otherwise covered by this provision. While the Administration supports these reporting requirements, making the appropriation contingent upon receipt and approval of this report by the Legislature could result in project delays, jeopardize the Authority's ability to meet already tight federal deadlines and result in increased state costs.