

# **SUBCOMMITTEE NO. 4**

# **Agenda**

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Senator Gloria Negrete McLeod, Chair  
Senator Noreen Evans  
Senator Doug La Malfa



**Thursday, April 19, 2012  
9:30 a.m. or Upon Adjournment of Session  
Room 112**

**Consultant: Brady Van Engelen**

## **Item Number and Title**

1110/11	California Department of Consumer Affairs
8620	Department of Alcohol and Beverage Control

*(See Table of Contents on page 2 for a More Specific Listing of Issues)*

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**AGENDA – VOTE ONLY ITEMS**

*(Please see summary chart on Page 2)*

<u>Item</u>	<u>Department</u>	<u>Page</u>
1110	<b>California Department of Consumer Affairs</b> .....	3
	Issue 1 – Board of Professional Engineers, Land Surveyors, and Geologists .....	3
	Issue 2 – Speech-Language Pathology and Audiology and Hearing Aid Dispensers Fund	

**AGENDA – DISCUSSION / VOTE ITEMS**

<u>Item</u>	<u>Department</u>	<u>Page</u>
1100/11	<b>California Department of Consumer Affairs</b> .....	4
	Issue 1 – BreZE System .....	4
	Issue 2 – Operation Safe Medicine .....	6
	Issue 3 – Enhanced Fleet Modernization Program .....	8
2100	<b>California Department of Alcoholic Beverage Control</b> .....	9
	Issue 1 – Radio System Upgrade .....	9

**Issues Proposed for Vote Only:**

	Issue	2012-13 Amount	Fund Source	Staff Recommendation
<b>Department of Consumer Affairs(1110)</b>				
1	Board of Professional Engineers, Land Surveyors and Geologists	\$219,000	Special Fund	APPROVE
2	Speech-Language Pathology and Audiology and Hearing Aid Dispensers Fund	\$460,000	Special Fund	APPROVE

**Vote:**

**Issues Proposed for Vote Only – Issue Descriptions****California Department of Consumer Affairs****Issue 1 – Board of Professional Engineers, Land Surveyors, and Geologists**

**Governor’s Budget Request:** The Governor’s 2012-13 budget is requesting the redirection of \$219,000 in Fiscal Year 2012-13 and ongoing from existing operating expense funds to establish 1.0 Licensing position and support the fingerprint requirements identified in SB 543 (Chapter 448, Statutes of 2011).

**Background:** This request will redirect the California state structural engineering exam resources and provide the funding necessary to address new workload requirements associated with reviewing fingerprint information and any subsequent enforcement workload related to applicant appeals and hearings that result when an applicant has any type of criminal history.

The Board currently licenses approximately 130,000 practitioners within professional engineering, land surveying and geology. Additionally, the Board processes 21,000 applications from respective professions annually. The vast majority of applicants are safe, competent individuals who have no criminal or disciplinary background. SB 543 will now require applicants for licensure to submit fingerprints for the purpose of conducting a state criminal history record check through the Department of Justice (DOJ). However, the Board has not required fingerprinting of their applicants prior to the passage of this legislation. As a result, the Board receives thousands of applications annually that will require the applicants fingerprints.

**Issue 2 – Speech-Language Pathology and Audiology and Hearing Aid Dispensers Fund**

**April 1 Finance Letter Request:** Removal of authority to transfer the remaining balance from the Hearing Aid Dispensers Account of the Speech Language Pathology and Audiology Fund to the Speech Language Pathology and Audiology and Hearing Aid Dispensers Fund on June 30, 2013.

**Background:** This transfer has already occurred in accordance with Government Code Sections 16304.8-16304.9. Therefore, the original request submitted in the Governor’s 2012-13 Budget under item number 1110-011-0208, which provided for the transfer is no longer necessary.

**1110/11 CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS**

**Department Overview:** The Department of Consumer Affairs (DCA) Boards and Bureaus provide exams and licensing, enforcement, compliant mediation, education for consumers, and information on privacy concerns. DCA Boards and Bureaus establish minimal competency standards for more than 240 professions involving 2.5 million professionals. There are currently 23 boards, a commission, three committees, and seven bureaus under the broad authority of the Department of Consumer Affairs.

**Budget Overview:** The Department's Boards are budgeted under organizational code 1110, and the total proposed budget for the Boards is \$276.36 million (no General Fund) and 1,495.3 Personnel Years for Fiscal Year 2012-13.

The Bureaus are budgeted under organizational code 1111, and the total proposed budget is \$223.46 million (no General Fund) and 1,373.3 Personnel Years for Fiscal Year 2012-13.

**The Business and Consumer Services Agency:** The Governor's Budget includes a proposal to incorporate all professional licensing functions within the Department of Consumer Affairs (DCA), which provides administrative and executive services for boards and commissions regulating licensed professionals. The proposed changes would be made through the Governor's proposed government reorganization plan (GRP).

***Issues Proposed for Discussion / Vote*****Issue 1 – BreEZe System**

**Governor's Budget Request:** The Governor's budget includes a request for \$8.37 million dollars in additional funding for continued support of the Department of Consumer Affairs, Consumer and Client Services Division's automated licensing and enforcement system.

**Background:** The Department of Consumer Affairs is the umbrella agency for 37 business and professional licensing entities (collectively referred to as boards and bureaus) that regulate over 2.7 million businesses and professionals in over 250 license categories.

The BreEZe project began with the approval of the Feasibility Study Report on November 30, 2009. In Fiscal Year 2010-11, the Department of Consumer Affairs gained approval of a Budget Change Proposal to redirect funding from the existing iLicensing Project, plus augment budgets for the BreEZe project to support the procurement and implementation of an integrated licensing and enforcement system, in support of the Department of Consumer Affairs Consumer Protection Enforcement Initiative. Additionally, in Fiscal Year 11-12 the department gained approval to appropriate \$1.2 million on a one-time basis, to the BreEZe project. BreEZe is

designed to bring all of the Department of Consumer Affairs' Boards and Bureaus into an integrated licensing and enforcement system.

More specifically, the BreEZe project includes the purchase and implementation of a commercially integrated enterprise enforcement case management and licensing system that can be fitted specifically for DCA's needs. DCA is funded entirely by business and professional licensing fees and receives no General Fund appropriations.

<b>BreEZe Costs</b>	<b>Budget Year 2012-13</b>
<b>DCA Boards</b>	\$5,115
<b>DCA Bureaus</b>	\$1,175
<b>Structural Pest Control Board</b>	\$5
<b>Board of Chiropractic Medicine</b>	\$79
<b>Total</b>	<b>\$6,374</b>

**Credit Card Convenience Fees:** This Budget Change Proposal also includes a request for additional funding for all boards and bureaus to fund credit card processing fees on behalf of users of credit card payments through the BreEZe system. The BreEZe system will interface with a third-party payment processor which will provide DCA with the ability to accept electronic payments, while meeting compliance with Payment Card Industry Security Standards, via the third-party payment processor. The department is requesting \$1.99 million dollars to support credit card processing fees on behalf of users of credit card payments through the BreEZe system. The \$1.99 million dollars for processing fees is included in the overall cost of the request.

<b>Credit Card Convenience Fee</b>	<b>Budget Year 2012-13</b>
<b>DCA Boards</b>	\$1,881
<b>DCA Bureaus</b>	\$84
<b>Structural Pest Control Board</b>	\$0
<b>Board of Chiropractic Medicine</b>	\$29
<b>Total</b>	<b>\$1,994</b>

**Budget Bill Language:** The Department of Consumer Affairs has submitted Budget Bill language that would allow the agency to make minor schedule changes to alter the vendor payment schedule:

*1110-401 and 1111-401--Notwithstanding any other provision of law, upon the request of the Department of Consumer Affairs, the Department of Finance may make technical revisions to the amount available for expenditure to pay BreEZe project costs based on the BreEZe deployment schedule for each Board and Bureau. The revision may increase or decrease any individual Budget Act item for the Department of Consumer Affairs, but the total net revisions shall be consistent with project costs as approved by the California Technology Agency in the most recent BreEZe Special Project Report. This provision shall apply to all Budget Act items for the Department of Consumer Affairs that have an appropriation for BreEZe.*

**Hearing Questions:** The Subcommittee may want to hear from the Department of Consumer Senate Budget and Fiscal Review

Affairs on the following issues:

1. *A previous Budget Act requires a \$500,000 reduction in DCA's budget related to this project in 2014-15 – is DCA on track to make that reduction?*
2. *Is the proposed \$2 million ongoing request to handle credit card processing fees similar to how other state agencies handle credit card processing?*

**Staff Comment:** Staff does not have any issue with the requested funds to implement BreEZe. However, there are concerns with the Budget Bill Language that will need to be addressed prior to being adopted. Staff agrees with LAO's recommendation to incorporate language that allows the legislature to maintain an appropriate level of oversight over the fund. Modifying the proposed Budget Bill language to ensure that the Legislature is notified in advance of any adjustments would address staff concerns.

**Staff Recommendation:** Approve as budgeted, with modifications to Budget Bill Language.

*1110-401 and 1111-401--Notwithstanding any other provision of law, upon the request of the Department of Consumer Affairs, the Department of Finance may make technical revisions to the amount available for expenditure to pay BreEZe project costs based on the BreEZe deployment schedule for each Board and Bureau. Any augmentations or technical revisions may be made no sooner than 30 days after notification in writing to the chairpersons of the committees in each house of the Legislature that consider appropriations and the Chairperson of the Joint Legislative Budget Committee, or no sooner than whatever lesser time the chairperson of the joint committee may in each instance determine. The revision may increase or decrease any individual Budget Act item for the Department of Consumer Affairs, but the total net revisions shall be consistent with project costs as approved by the California Technology Agency in the most recent BreEZe Special Project Report. This provision shall apply to all Budget Act items for the Department of Consumer Affairs that have an appropriation for BreEZe.*

**Vote:**

## Issue 2 – Medical Board of California – Operation Safe Medicine

**Governor's Budget Request:** The Governor's 2012-13 Budget requests 6.0 positions in Fiscal Year 2012-13 and ongoing, to be funded by internal redirection, to permanently establish the Operation Safe Medicine Unit which expired June 30, 2011, at the end of a two-year limited term basis.

**Background:** On July 1, 2000 the Medical Board of California (MBC) was authorized 4.0 Investigator positions that established the original Operation Safe Medicine Unit. The unit's primary purpose was to investigate complaints of unlicensed activity received from healthcare consumers. These investigators also worked with other regulatory and law enforcement agencies to identify and locate unlicensed facilities. According to the Medical Board total costs associated with Operation Safe Medicine are \$513,000 dollars.

On July 1, 2009 the Legislature approved the re-establishment of Operation Safe Medicine on a two-year limited term basis consisting of 1.0 Supervising Investigator, 4.0 Senior Investigators, and 1.0 Office Technician.

The Medical Board of California has continued Operation Safe Medicine activities by establishing positions in the blanket and absorbing the cost of the 6.0 Operation Safe Medicine positions since June 30, 2011 when those two-year limited-term positions expired. The Medical Board of California is seeking position authority to permanently establish the Operation Safe Medicine Unit. The 6.0 positions would be housed in the Medical Board's San Dimas Field office.

According to the Medical Board's most recent Fund Condition the Board is projecting to have approximately \$14.4 million dollars in reserves for Fiscal Year 2012-13. This would represent nearly 26 percent of the Board's \$55.2 million dollars in expenditures for Fiscal Year 2012-13.

**Hearing Questions:** The Subcommittee may want to hear from the Medical Board of California on the following issues:

1. *Much of the investigative work associated with Operation Safe Medicine seems to involve underground economic issues, is the Medical Board currently coordinating with any other state entities that are involved with combating underground economic activity?*
2. *Does the Medical Board currently have a plan in place to address complaints throughout the state? If not, what happens to complaints that the investigative unit is unable to reach due to its location in Southern California?*

**Staff Comment.** Staff does not have any issue with this request. However, it is important to note that the investigative team supporting Operation Safe Medicine is housed in Southern California, which limits their ability to address any complaints generated in Northern California. Staff recognizes that Operation Safe Medicine provides a direct benefit to consumers within the state, and would like the Medical Board of California to provide more detail on how Operation Safe Medicine's investigative unit will address concerns that are generated in Northern California.

**Staff Recommendation:** Approve as Budgeted.

**Vote:**

**Issue 3 – Bureau of Automotive Repair/Enhanced Modernization Fleet Program**

**Governor's Budget Request:** The Governor's budget includes a request for 12.0 two year limited term positions and an associated special fund augmentation of \$720,000 to continue administration of the two emissions reduction programs authorized by AB 118 (Nunez, Chapter 750, Statutes of 2007). The Bureau of Automotive Repair proposes to allocate these positions to administer the off-cycle vehicle retirement program that will retire over 25,000 qualified vehicles, and the vehicle and transportation voucher program administered by the California Air Resources Board (ARB) designed to assist low-income consumers.

**April 1 Finance Letter:** The Bureau of Automotive Repair requests a technical adjustment to reduce the Enhanced Fleet Modernization Program (EFMP) by \$35.6 million in Fiscal Year 2012-13 and ongoing, and formally request an augmentation of \$35.6 in Fiscal Year 2012-13 and 2013-14 only. The requested appropriation is currently built into the Fiscal Year 2012-13 Governor's Budget as an ongoing appropriation.

**Background:** A key part of California's air quality emissions reduction strategy is to implement incentive based air quality programs to encourage the early retirement and replacement of older vehicles with newer, cleaner ones. Older vehicles account for approximately 25 percent of the miles driven but contribute up to 75 percent of the emissions released. Reducing emissions from the older vehicles is a critical part of California's State Implementation Plan (SIP), which outlines the state's clean air strategy. The SIP is used by the federal government to determine the amount of federal transportation funds California will receive.

The Consumer Assistance Program (CAP) was originally started in 1997 and contains two parts: vehicle retirement and vehicle repair. Under the vehicle repair program, qualified low-income consumers can receive financial assistance up to \$500 dollars to repair a vehicle that is unable to pass biennial Smog Check inspection when it exceeds specified emission standards. To receive the repair assistance, eligible consumers must pay the initial \$20 dollars in repairs.

AB 118 (Nunez, Chapter 750, Statutes of 2007) established the Enhanced Fleet Modernization Program (EFMP), which required the Air Resources Board (ARB), in consultation with the Bureau of Automotive Repair (BAR) to establish guidelines for administering a vehicle retirement program. As part of this legislation, BAR pursued a Budget Change Proposal to implement the Enhanced Fleet Modernization Program and received three year limited-term funding and position authority. The budget was further augmented on a limited term basis on the passage of AB 787 (Hill, Chapter 231, Statutes of 2010), which increased the vehicle retirement incentive for low-income consumers. This brought the total limited term funding to \$41.255 million dollars with 18.8 positions in Fiscal Year 2011-12. Funding for this program was approved on a limited term basis.

The original Budget Change Proposal requested only \$720,000 and position authority for 12.0 positions in Fiscal Year 2012-13 and 2013-14 to administer the Enhanced Fleet Modernization Program. The original request only included the administrative funding EFMP, as the Vehicle Retirement and Voucher Schedules were originally built into the Governor's 2012-13 budget as

an ongoing appropriation. However, it was not the intent of the original request for this funding to be an ongoing appropriation. The Bureau of Automotive Repair has submitted an April 1, Finance Letter that requests that the \$35.6 million dollar request be identified as limited term for Fiscal Years 2012-13 and 2013-14. This request will result in net zero change to the Enhanced Fleet Modernization Program's funding levels.

**Staff Comment:** Staff does not have any issues with this request.

**Staff Recommendation:** Approve January Proposal as modified by April Finance Letter.

## 2100 CALIFORNIA DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

**Department Overview:** The Department of Alcoholic Beverage Control is vested with the exclusive power to license and regulate persons and businesses engaged in the manufacture, importation, distribution and sale of alcoholic beverages in the State of California. The Department's mission is to administer the provisions of the Alcoholic Beverage Control Act in a manner that fosters and protects the health, safety, welfare, and economic well-being of the people of California.

The Governor's Budget proposes total spending of \$56.2 million (No General Fund) for the Department of Alcoholic Beverage Control in 2012-13. Proposed staffing totals 427.9 personnel years (PYs), the same number as the current year.

Expenditures	2010-11	2011-12	2012-13
Administration of the Alcohol Beverage Control Act	\$48.13	\$54.36	\$56.15
<b>Total Expenditures</b>	<b>\$48.13</b>	<b>\$54.36</b>	<b>\$56.15</b>
<b>Personnel Years</b>	<b>400.1</b>	<b>427.9</b>	<b>427.9</b>

### *Issues Proposed for Discussion / Vote:*

#### Issue 1 – Radio System Upgrade

**Governor's Budget Request:** The 2012-13 Budget requests to upgrade its radio communication equipment through the purchase, programming and installation of modern, industry-standard vehicle mounted and hand-held radios. Total cost for the Alcoholic Beverage Control Radio System Upgrade will be approximately \$1.91 million dollars.

**Background:** The Department of Alcoholic Beverage Control has position authority for 215 sworn peace officers, whose primary function is the policing of activities in and around the 82,000 businesses in the state that are licensed to sell alcohol. ABC officers often work in task-

force settings with multiple state and local law enforcement agencies, and also can be dispatched to any type of law enforcement activity if necessary.

ABC's current analog radio equipment allows it to communicate with the California Highway Patrol, but not other law enforcement agencies that have digital systems. ABC states that it typically has 150 contacts per day with the CHP, which has served as the department's dispatch operator since 1996.

In an effort to meet new federal standards, CHP is developing the California Highway Patrol Enhanced Radio System, which is expected to be implemented in 2012. ABC states that its system will not be compatible with CHP's new system, and once that system is operational, ABC will no longer be able to communicate with the CHP. ABC's current system is out of compliance with federal standards

To allow it to continue to use CHP as its dispatch operator, meet federal standards, and improve communications with other law enforcement agencies, ABC is seeking funding to purchase 215 hand-held radios and 215 vehicle-mounted radios to equip all officers and vehicles. ABC has worked with the Department of General Services to select a vendor for the equipment.

ABC proposes to use funds from the Alcohol Beverage Control Fund for this purchase. The fund is projected to have a balance of \$27.3 million in the current year, and therefore can cover this expense.

**LAO Recommendation:** Citing continuing high vacancy rates for ABC peace officers, the Legislative Analyst's Office recommends that the Legislature reduce the Governor's proposal by \$122,000 and allow the purchase of only 190 hand-held and 190 vehicle-mounted radio units. The LAO notes that as of June 30, 2011, ABC had 55 peace officer vacancies, and therefore purchasing radio units for all authorized positions is unnecessary.

ABC states that vacancy rates rose in Fiscal Year 2007-08, and three hiring freezes imposed during the last four years have hindered the department's ability to address the high vacancy rates. In 2011, ABC was granted approval by the Department of Finance to fill all vacancies. Since then, ABC has hired 21 new peace officers and has 14 other candidates that may be offered positions after background checks are completed. The department reports that it currently has 24 peace officer vacancies.

**Staff Recommendation:** Based on ABC's commitment that it is seeking to fill its vacancies, reducing the number of radios purchased might in effect cap the department's ability to fill all of its authorized positions. In addition, the department reports that it is getting a 26 percent discount on radio units purchased due to the size of the order. That discount might not apply in future purchases, should it fill all vacancies and need to purchase more radios but in a smaller amount.

Because the funds are available, the department is seeking to fill all of its peace officer positions, and the bulk purchase allows for a discount, purchasing the entire amount of radios needed appears justified. Approve as budgeted.

**Vote:**

