

SUBCOMMITTEE NO. 4

Agenda

Senator Richard Roth, Chair
Senator Richard Pan
Senator Janet Nguyen



Thursday, April 23, 2015
9:30 a.m. or Upon Adjournment of Session
State Capitol - Rose Ann Vuich Hearing Room 2040

Consultant: Brady Van Engelen
Agenda Part B

Item Number and Title

0650	Office of Planning and Research
1110/11111	Department of Consumer Affairs
7760	Department of General Services
8620	Fair Political Practices Commission

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AGENDA – DISCUSSION / VOTE ITEMS

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Issues Proposed for Vote Only – Issue Descriptions**Office of Planning and Research****Issue 1 – Native Americans: California Environmental Quality Act (CEQA)**

Spring Finance Letter: The Office of Planning and Research has submitted a spring finance letter requesting \$138,000 (General Fund) and one limited-term position for fiscal year 2015-16, and \$66,000 (General Fund) in fiscal year 2016-17 to implement the provisions of AB 52 (Gatto), Chapter 532, Statutes of 2014, and SB 1241 (Kehoe), Chapter 311, Statutes of 2013.

Background: Over the last several years, the Legislature has adopted several new laws that will require the Office of Planning and Research (OPR) to either update or amend CEQA guidelines. OPR notes that the passage of SB 1241, which made several changes to land use law related to fire hazard planning, requires OPR to adopt or incorporate provisions for fire safety in its next update of the General Plan Guidelines. AB 52 requires that OPR prepare and develop revisions to the guidelines that will (a) separate the consideration of paleontological resources from tribal cultural resources, and (b) add consideration of tribal cultural resources to the relevant sample questions.

Staff Comment: Staff has no issues or concerns with this item. AB 52 and SB 1241 require that OPR make specific revisions to the CEQA guidelines by a specific date. OPR has created an implementation plan with one additional limited-term attorney that will allow the additional workload to be completed prior to the updates to the CEQA guidelines.

Staff Recommendation: Approve as budgeted.

Vote:

Department of General Services**Issue 1 – Statewide Disability Access and Education Program**

Governor's Budget Request: The Governor's budget includes a request to provide the Department of General Services (DGS), Division of the State Architect, with a three-year extension of one limited-term position and \$132,000 (Disability Access and Education Revolving Fund) to meet workload requirements associated with SB 1186 (Steinberg), Chapter 383, Statutes of 2012.

Background: SB 1186 made several changes to the state's accessibility laws, including several related to the CASp program. Recognizing that this measure would require additional workload of CASps, the measure also addressed the need for additional CASps. To fund the workload, the measure imposed a \$1 charge on all business licenses issued or renewed in the state from 2013 to 2018. Local government will retain 70 percent of collections and the remainder will go to

the Disability Access and Education Revolving Fund to address the additional workload requirements.

DGS was provided five positions and \$532,000 as part of the Budget Act of 2013 in order to address workload associated with this measure. Two of the limited-term positions that were provided as part of that budget package are set to expire on June 30, 2015. DGS has identified a need for one limited-term position to address workload requirements mandated as part of SB 1186.

Staff Comment: This subcommittee heard this request on March 19th. At that time, it became apparent that additional steps may be needed to limit non-compliance of collections at the local level. Additionally, the reporting requirements currently included in SB 1186 may need to be refined. Both changes should occur through the legislative process, not as a part of the budget. Staff concurs that the requested position is justified and would recommends approval.

Staff Recommendation: Approve as budgeted.

Vote:

Issues Proposed for Discussion / Vote**1110/1111 DEPARTMENT OF CONSUMER AFFAIRS****Issue 1 – BreEZe**

Spring Finance Letter: The Department of Consumer Affairs (DCA) has submitted a spring finance letter requesting \$23.248 million (Special Funds) in fiscal year 2015-16, and \$24.433 million (Special Funds) in fiscal year 2016-17, to support the continued implementation of the BreEZe information technology project. DCA has also requested an increase of 29.8 personnel year's (PY's) for fiscal year 2015-16, and 34 PY's for fiscal year 2016-17, and ongoing.

Background: DCA is comprised of 37 regulatory boards, bureaus, committees, commissions, and programs, all of which regulate more than 100 businesses and 200 industries and professions. While these entities are responsible for the day-to-day regulatory activities related to their specific professions and do have some autonomy, DCA is responsible for establishing general administrative policies and provides administrative support, when needed. The DCA-regulated use of computer systems to conduct their day-to-day regulatory functions has created a large network of legacy computer systems, under the DCA umbrella, that aren't compatible with one another, and lacked some basic case management functionality that could assist staff with licensing and enforcement efforts.

Historically, the regulatory entities housed under DCA have utilized either one, or both, of the Applicant Tracking System (ATS) and Consumer Affairs System (CAS) to perform many of the day-to-day duties that they are required to perform. The ATS was created to track and monitor cashiering-related activities and accept license applications. The ATS was originally developed in the early 1990's, and has not been upgraded for over a decade. The CAS was designed to track license-related activities, such as complaints, investigations, and enforcement. According to the November 2009 Feasibility Study Report (FSR) the legacy computer systems have led to excessive turnaround times for licensing and enforcement-related activities, which is one of the primary objectives of the regulatory entities housed within DCA.

Modernization of the licensing and enforcement process had been attempted on a number of occasions prior to the BreEZe project; most recently with iLicensing, which was abandoned in 2009. DCA's interest in revisiting the concept of automating its licensing process can be attributed to the Consumer Protection Enforcement Initiative (CPEI), which DCA noted would enhance the enforcement capacity of the DCA's healing arts boards. In 2008, a series of investigations conducted by the Los Angeles Times found that the Board of Registered Nursing had been allowing nurses to continue to practice even though there were pending enforcement related activities, and that the enforcement backlog had grown to over three years. DCA responded by proposing the CPEI, which would overhaul the enforcement process. This new enforcement initiative was largely dependent on the implementation of BreEZe into the healing arts boards, and DCA has noted that the targeted turnaround time for enforcement related activities would be reduced from over three years, as noted by the investigation, to eighteen months.

The November 2009 Feasibility Study Report (FSR) proposed not just to transition the healing arts boards, but all 37 boards and bureaus, to the BreEZe platform. According to the FSR, the 37 boards and bureaus were scheduled for transition to BreEZe over five phases, which would

be completed by fiscal year 2014-15. The FSR noted that DCA chose a modifiable commercial off-the-shelf (COTS) system that was to provide DCA organizations with applicant tracking, monitoring, licensing, enforcement, renewal, cashiering, and data management capabilities. DCA envisioned the BreEZe system to be web-enabled, which would allow the public to file complaints and review licensee information through the internet. The 2009 FSR projected that the BreEZe project would cost approximately \$27.5 million. The procurement model proposed in the FSR included a two-stage procurement process to award up to \$250,000 to multiple bid winners, which elongated the procurement timeline. Affording the vendors to familiarize themselves with the business processes of the DCA boards and bureaus by working alongside their state counterparts. The second stage would have involved the submission of final proposals that might more accurately reflect the business needs of DCA's boards and bureaus, followed by selection of a single vendor to complete the implementation of BreEZe.

After consulting with the (then) Technology Agency and the Department of General Services (DGS), DCA chose a slightly different procurement approach than what was proposed in the FSR. The modified approach eliminated the first stage of the bid process, and instead relied on "working sessions" to inform the selected vendor or vendor candidates on the business requirements of the DCA entities. Through this process, DCA selected Accenture as the vendor for BreEZe implementation, and submitted a Special Project Report (SPR) that reflected the costs associated with the selected bid. According to SPR 1, which was submitted June 22, 2011, costs for the BreEZe project had grown to \$45.8 million, an \$18 million increase. Additionally, according to SPR 1, DCA chose to accept the vendor's proposed timeline, which reduced the schedule to three releases, rather than the five that had been a part of the November 2009 FSR.

In July 2013, DCA submitted SPR 2, which increased the overall project cost to \$77.9 million. The need for an amended project report was due to the system testing taking much longer than originally anticipated. According to SPR 1, system testing was anticipated to take approximately 30 business days, but instead took 138 business days initially. SPR 2 realigned the schedule to allow for a greater level of testing, which in turn increased the project's timeline by approximately two years, and increased cost by \$50.4 million from the November 2009 FSR.

DCA was required to further adjust the cost and scope of the BreEZe project, first proposing SPR 3, which increased the cost by \$118 million, and further revised the approach under SPR 3.1, which increased the project cost by \$96.1 million. According to SPR 3.1, the project was not moving in the timeframe that had been originally forecast, nor was it achieving the results that had been originally assumed. In SPR 3.1, project staff proposed re-scoping the project due to significant cost increases and staffing needs. The revised SPR proposed Release Two, which consists of eight boards and bureaus, for March 2016. Nineteen regulatory entities, to be included in Release Three, will now be excluded from the current design contract. DCA has noted that after implementation of Release Two, it will reassess how best to approach the remaining nineteen entities no longer a part of the BreEZe system.

Staff Comment: Subsequent to CalTech approving SPR 3.1, the Department of Finance (DOF), pursuant to Budget Control Section 11.00, notified the Joint Legislative Budget Committee (JLBC) that the DCA had amended their current contract, increasing overall project costs by \$17.5 million in fiscal year 2014-15. The JLBC initially did not concur with action proposed under the Control Section 11.00 notification, pending legislative oversight hearings on the project. After both policy and fiscal committees held public hearings on BreEZe and given the limited options available and, the potential for significant additional costs if the existing contract remains in place the JLBC notified the DOF that the Administration could proceed with

the contract amendment proposed in the Control Section 11.00 notification. Additionally, the chair of the JLBC expressed his expectation that DCA will provide the Legislature with more comprehensive and timely information regarding the implementation of the BreEZe project on an on-going basis. Specifically, the chair request that this information include (1) any relevant project updates related to Release One and Release Two, including those related to software functionality, schedule, cost, and the associated impact on licensing fees; (2) a plan for Release Two, including DCA's best current estimate of anticipated project schedule and costs, as well as the expected costs to each board and bureau and their licensees; and (3) copies of DCA's mandated status reports to the State Auditor regarding the implementation of the Auditor's recommendations.

As noted in the Section 11.00 response, the Senate Budget and Fiscal Review Subcommittee No. 4 held an oversight hearing on March 19th, to better understand the escalating costs, extended timeline, and condensed scope of the BreEZe project. During that hearing, it became apparent that the current contract terms and conditions with the vendor did not adequately protect the state. The spring finance letter requests funding associated with the newly amended contract, as described in the Control Section 11.00 notification.

This request includes a significant increase in permanent positions, totaling 34.0 by fiscal year 2016-17. DCA has noted that the requested positions will support the ongoing maintenance and operations associated with the regulatory entities included in Release One and Release Two, work that is currently being performed by 10.0 vendor staff. Staff does not concur with DCA that the entire workload associated with this request, will be ongoing. Furthermore, costs associated with the requested 34.0 positions will be distributed to every entity housed under DCA, including the nineteen regulator entities that were intended to be included in Release Three and are now excluded from inclusion in the BreEZe project. The department should provide greater clarity as to the rational as to why these nineteen boards and commissions should participated in paying for a system from which they will derive no benefit.

Staff Recommendation: Hold this item open.

Vote:

8620 FAIR POLITICAL PRACTICES COMMISSION

Issue 1 – Statement of Economic Interest Enhance Filing System Project

Spring Finance Letter: The Fair Political Practices Commission (FPPC) has submitted a spring finance letter requesting \$651,000 (General Fund) in fiscal year 2015-16, and \$1.188 million (General Fund) in fiscal year 2016-17, to implement the Statement of Interest (SEI) enhanced filing system project. Additionally, the FPPC has requested 1.0 permanent position and 4.0 two-year limited-term positions to support the implementation of the SEI enhanced filing system.

Background: The Fair Political Practices Commission (FPPC) has primary responsibility for the impartial administration, implementation, and enforcement of the Political Reform Act of 1974 (Act), as amended by the voters and Legislature. The overriding purpose of the Act is to restore confidence in governmental processes. The major objectives of the commission are to:

- Provide education about the act and its requirements to the public and the regulated community including public officials, candidates, and lobbyists, and assist with compliance.
- Ensure that election campaign contribution and expenditure data is fully and accurately disclosed so that the voters may be fully informed.
- Enforce the provisions of the act and regulations fairly and with due process.
- Regulate the activities of lobbyists and disclose their finances to prevent any improper influencing of public officials.
- Provide for the disclosure of assets and income of public officials, which may affect their official actions, to avoid any conflicts of interest, or appearances of impropriety.
- Provide adequate mechanisms to public officials and to private citizens to ensure vigorous enforcement of the act.

The FPPC is responsible for the administration and enforcement of the SEI reporting requirements for all state and local agencies. Currently, filers and various levels of state and local government submit an estimated 500,000 to 800,000 forms annually. Some agencies have implemented an automated filing process to support the submission of SEI forms in their agency. In 2012, the Legislature authorized all state and local agencies to develop electronic filing systems so long as the agency complies with FPPC guidelines. Thus far, four state agencies (Economic Development Department, Cal-PERS, State Compensation and Insurance Fund, and the Department of Food and Agriculture) have exercised their right to procure their own electronic filing platform, and continue to pay ongoing costs associated with maintenance and software subscriptions, which is estimated to be \$142,500.

Recognizing that there was a potential for greater efficiency, AB 409 (Quirk-Silva), Chapter 643, Statutes of 2013 permitted the FPPC to develop its own electronic filing platform. Instead of each agency paying their own maintenance and software costs associated with an electronic filing system, FPPC has proposed to coordinate with CalTech and offer the software to other state entities through the newly created CalCloud, which could result in further efficiencies to the state.

The Feasibility Study Report, which was submitted to CalTech in December 2014, notes that the FPPC would utilize a modified-off-the-shelf (MOTS) software platform to create an automated filing mechanism for 25,000 filers located within state government. The FSR notes that upon full implementation, which is anticipated to occur in August 2017, the requested limited-term positions are set to expire. At that point, the FPPC has noted that they intend on assessing the capacity of the automated filing system in order to determine whether the system has the capacity to receive electronic submission's from the remaining filers, not included in the plan proposed by the FSR.

Staff Comment: According to early analysis conducted by the FPPC, there could be some operational efficiency achieved by migrating to an electronic filing process. For example, in 2008, the Legislature authorized a pilot project authorized certain local jurisdictions to develop an electronic filing program. To date, the participating local agencies have reported annual cost savings ranging from \$21,120 to \$86,420. Additionally, there has been a decline in errors.

Staff Recommendation: Approve the spring finance letter request of \$651,000 (General Fund) in fiscal year 2015-16, and \$1.188 million (General Fund) in fiscal year 2016-17, to implement the Statement of Interest (SEI) enhanced filing system project. Also, approve the requested 1.0 permanent position and 4.0 two-year limited-term positions to support the implementation of the SEI enhanced filing system.

Vote: