Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Michael J. Rubio, Chair
Senator Noreen Evans
Senator Doug LaMalfa

Thursday, February 10, 2011
9:30 a.m. or Upon Adjournment of Session
Room 112

Consultant: Kris Kuzmich

OPEN ISSUES – ALL DEPARTMENTS

AGENDA PART B

OUTCOMES

Item Number and Title

0840	State Controller's Office
1700	Department of Fair Employment and Housing
1760	Department of General Services
8855	Bureau of State Audits
8860	Department of Finance; California Recovery Task Force
	State Operations Efficiencies

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

AGENDA – VOTE ONLY ITEMS

(Please see summary chart on Page 3)

AGENDA – DISCUSSION / VOTE ITEMS

Issue Proposed for Vote Only:

	Issue	2011-12 Amount	Fund Source	Staff Recommendation
	Bureau of State Audits (8855)			
1	Budget Augmentation	$8.2 million and 34 positions	$4.7 million GF $3.5 million Central Service Cost Recovery Fund	APPROVE

Vote: Budget request approved by a 3-0 vote.

Issues Proposed for Vote Only – Issue Descriptions

BUREAU OF STATE AUDITS (8855)

For overview and budget information regarding this department, please see the Subcommittee's February 7, 2011, agenda.

Issue 1 – Budget Augmentation

Prior Subcommittee Action. At its February 7, 2011, hearing, the Subcommittee held this item open pending receipt of additional information.

Governor's Budget Request. The State Auditor requests an increase of $8.2 million ($4.7 million GF) and 34 positions in 2011-12 to fund a two-year plan to better assist the Legislature in its oversight of government operations, including conducting additional audits, completing more high risk analyses, and better integrating the audit process with the work of legislative budget and policy committees.

Background. Currently, the Auditor has 147 employees on staff. In Year 1 of this plan, the Auditor proposes to increase staffing by 34 positions, to a total of 181 positions. In Year 2, an additional 37 staff would be added, bringing staffing to a total of 218 positions. In Year 1, the Auditor reports that it will utilize $3.5 million of the requested funding to contract with outside experts to conduct the federal compliance audit work, thereby allowing the Auditor to utilize the remaining $4.5 million to recruit, hire, and train the 34 new in-house staff to conduct the additional mandated, discretionary, and high-risk audit work as well as investigations. These 34 staff will also respond to increases in other activities, such as inquiries and requests from legislative staff, legal assistance, and public record requests, due to the additional audits being completed. In Year 2, the Auditor reports that it should have a sufficient number of trained audit and investigative staff to conduct the increase in audit work and provide the additional integration with legislative oversight. Consequently, in Year 2, the Auditor plans to substantially reduce or eliminate the contracted federal compliance work to hire the additional 37 staff.

At the end of the two-year plan, which will result in the addition of 54 new audit staff, the Auditor reports that audit production will increase from the 2010-11 average of 30 audits per year, to 50-55 per year, including discretionary and mandated audits, as well as more work under the high-risk authority. The additional audit staff will also reduce the time it currently takes to complete an audit, and will also reduce staff burnout and a high turnover rate. The Auditor reports that the addition of eight investigative staff over the two years will result in self-initiated statewide investigations increasing from the 2010-11 average of one per year to four to eight per year.

The Auditor indicates that the additional audit and investigative results from the two-year plan will produce more monetary benefits for the state, and offers the following recent examples of savings from audit and investigative work: (1) $194 million in unallowable costs, plus $53 million in cost avoidance over seven years (State Mandates Audits, 2003 and 2009); (2) $3.3 million revenue increase (Citation Penalty Accounts, 2010-108); (3) $4.8 million in cost avoidance (Medi-Cal TARS, 2009-112); and (4) $12 million cost recovery (CalWorks, 2009-101).

0840 STATE CONTROLLER'S OFFICE (SCO)

For overview and budget information regarding this department, please see the Subcommittee's January 25, 2011, agenda.

Issue Proposed for Discussion / Vote:

Issue 1 – Unclaimed Property Legal Costs

Prior Subcommittee Action. This issue was held open at the Subcommittee's January 25, 2011, hearing pending receipt of additional information from the SCO.

Governor's Budget Request. The Governor requests a two-year augmentation of $300,000 (Unclaimed Property Fund) beginning in 2011-12 to provide representation in legal matters associated with representing the Unclaimed Property Program in lawsuits filed against the SCO.

Background. Under current law, the SCO is responsible for safeguarding unclaimed property until it is returned to its rightful owner. Claims processed through the Unclaimed Property Program are paid, returned for insufficient information, or denied. When a claim is denied, claimants are notified of their right to commence an action against the SCO pursuant to law. When these actions are taken, the SCO has 60 days to respond. In addition to these actions by individual claimants, other actions, including class action type suits in both state and federal court have been brought against the SCO. These suits allege the program is unconstitutional, claiming the SCO has not properly administered the program and is not seeking restitution for plaintiffs.

The Attorney General normally represents the SCO, but the SCO reports that the Attorney General does not have the resources to respond to all of the actions brought against the SCO. The SCO is requesting the additional funds for a limited amount of time to clear the existing lawsuits for only the most complex cases; the SCO views this as more cost effective than hiring permanent staff and training them for what may eventually result in a lack of workload. The SCO reports that it will be in a better position in two years to gauge the volume and complexity of lawsuits and perhaps the need for permanent staff, whether at the SCO or the Attorney General's Office.

Staff Comment. The resources in this request are to continue the use of outside counsel for two pre-existing class action lawsuits. Over the life of these lawsuits, the Attorney General's Office has approved the use of outside counsel. Staff concurs with the SCO's assessment that to change counsel midstream in these cases would not be prudent. Staff also notes that this request is a two-year limited-term increase in expenditure authority.

Staff Recommendation: Approve the budget request.

Vote: Budget request approved by a 2-1 vote; Senator La Malfa voting no.

1700 DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING (DFEH)
1760 DEPARTMENT OF GENERAL SERVICES (DGS)

For overview and budget information regarding these departments, please see the Subcommittee's January 27, 2011, agenda.

Issue Proposed for Discussion / Vote:

Issue 1 – Information Technology Transfer to Department of General Services; Retain Two Positions for Enforcement

Prior Subcommittee Action. At its January 27, 2011, hearing, the Subcommittee: (1) approved the transfer of the DFEH IT function and workload to DGS; (2) swept the excess five positions at DGS as well as the $300,000 Service Revolving Fun; and (3) left open the DFEH requests to retain the two positions for enforcement and provide reimbursement to DGS for the transferred IT functions.

Governor's Budget Request. The Governor requests to permanently transfer DFEH's Information Technology (IT) function and five positions to the Department of General Services (DGS) and proposes budget provisional language that sets aside $507,000 GF from DFEH to pay for the transferred functions. In addition, the Governor proposes to redirect the two remaining IT positions to DFEH's enforcement division on a two-year limited-term basis to process claims resulting from the settlement of a class-action lawsuit.

Background. The DFEH entered into an agreement with the DGS effective July 2010 which transferred DFEH's entire IT function and five positions to DGS's IT unit and provided $465,000 to DGS for the cost of providing these services in 2010-11. One objective of this agreement was to achieve efficiency and cost savings.

In September 2010, DFEH reached its first multi-million dollar discrimination settlement, totaling more than $6.9 million. According to the DFEH, the settlement will result in a significant increase in workload. The DFEH, therefore, is proposing to retain the two remaining IT positions and convert them into two-year limited-term positions in its Special Investigations Unit to address expected new workload stemming from the settlement of 1,500 family leave claims. All claims are required to be submitted by February 15, 2011. Shortly thereafter, the designated third-party administrator will submit all timely and valid claim forms to DFEH and DFEH staff will then conduct an independent evaluation of each claim to determine whether, on a case-by-case basis, the claimant experienced a California Family Rights Act violation and, if so, the type of violation and the appropriate level of damages.

Staff Comment. When the Subcommittee initially considered this issue at its January 27, 2011, hearing, concerns were expressed that workload justifications had not been provided for: (1) DFEH to retain two positions for enforcement; and (2) DFEH to provide reimbursement to DGS for the cost of DGS providing IT functions to DFEH. These justifications are necessary; otherwise, the resources provided could be greater than is warranted.

Since that hearing, both DGS and DFEH have provided the requested workload justifications. With regard to the number of claims received under the class action lawsuit, DFEH is on track to receive the requisite number to justify the retention of the two positions on a two-year limited-term basis.

With regard to the transfer of DFEH's IT function to DGS, staff notes that this is the first time the DGS IT unit is taking on a transferred IT function under contract for another state department. Given that, staff recommends that this portion of the request also be made two-year limited-term to allow this transfer to be revisited and reexamined in two-year's time to determine if DFEH has seen a reduction in its costs by having DGS provide its IT function.

Staff Recommendation. Approve on a two-year limited-term basis the request for DFEH to: (1) retain two positions for enforcement activities and (2) provide reimbursement to DGS for the transferred IT function.

Vote: Staff recommendation approved by a 2-1 vote; Senator La Malfa voting no.

8860 DEPARTMENT OF FINANCE (DOF), CALIFORNIA RECOVERY TASK FORCE

For overview information regarding the California Recovery Task Force, please see the Subcommittee's January 27, 2011, agenda.

Issue Proposed for Discussion / Vote:

Issue 1 – California Recovery Task Force – ARRA Funds Oversight

Prior Subcommittee Action. This issue was held open at the Subcommittee's January 27, 2011, hearing pending receipt of additional information.

Governor's Budget Request. The Governor requests one-time funds totaling $1.6 million ($928,000 GF and $700,000 Central Service Cost Recovery Fund) to support oversight and reporting for remaining ARRA funds in 2011-12. In addition to supporting the California Recovery Task Force (CRTF), the resources in this request will also provide funding for the California Technology Agency (CaTA) and support staff at Department of Finance [Office of State Audits and Evaluations (OSAE) and Fiscal Systems Consulting Unit (FSCU)], providing information technology activities related to federally-required quarterly reports and continued audit support, respectively. Figure 1 below illustrates funding levels for the three entities comprising the CRTF generally:

Figure 1

	2010-11	**2011-12 Funding**
California Recovery Task Force	$1,700,000	$578,000
California Technology Agency	$1,400,000	$600,000
Department of Finance: (1) Office of State Audits and Evaluations; and, (2) Fiscal Systems Consulting Unit	$905,000	$450,000
TOTAL	**$4,005,000**	**$1,628,000**

**Note, the fund split is 57 percent GF and 43 percent Central Service Cost Recovery Fund.*

Background. The primary functions that remain in 2011-12 will be quarterly reporting, compliance monitoring, and ensuring that all deadlines related to retaining ARRA funds are met to avoid losing any money awarded due to failure to spend funds within the required timeframes or for other non-compliance issues. CRTF responsibilities diminish as funds are expended; therefore, this proposal significantly reduces the staffing of the CRTF to oversee the remaining ARRA funds and to provide continued quarterly reports. In September 2010, 1,121 ARRA grants remained; in 2011-12, that number will drop to 568 grants.

The CaTA is responsible for ongoing maintenance of the California ARRA and Accountability Tool (CAAT), the state's centralized reporting database. The CAAT tool provides a vehicle for departments to submit and report the data, but is only one component of the information technology (IT) required to report the information to the federal government and citizens of the state. In 2011-12, the CaTA will transition from contract/consultant staff on the CAAT system to utilization of state staff. The State IT staff will fully support and maintain the IT infrastructure (hardware, software, and connectivity), the multitude of user accounts, and provide end-user support for the ongoing reporting. Currently, there are over 300 registered users uploading over 1,100 reports consisting of thousands of records to the system in multiple formats. There will be savings realized in 2011-12 as the maintenance and support is transitioned from contractor resources to state staff; however, CAAT requires continuous support and maintenance due to the complexity of the system and the continued reporting to the federal government. The funding for position support will be absorbed within the CaTA.

Staff Comment. The proposed resources for the CRTF in 2011-12 have been reduced from the level provided in 2010-11 reflective of the declining workload. However, staff notes that this request proposes five positions for the CRTF itself and 4.9 borrowed staff from the Department of Finance. Staff finds that this level of staffing is still greater than needed to meet the reduced workload which now consists primarily of recipient reporting to the CAAT which is administered by the CaTA. Therefore, the Subcommittee may wish to further reduce the proposed staffing levels for the CRTF in 2011-12 by instead providing three positions for the CRTF itself to complete required ARRA workload and three borrowed positions from DOF to continue to provide a reduced audit/oversight role. Should the Subcommittee adopt this recommendation, the request would be decreased by $393,000 ($224,000 GF and $169,000 Central Service Cost Recovery Fund).

Staff Recommendation: Approve the request but reduce the 2011-12 resources for the California Recovery Task Force by $393,000 ($224,000 GF and $169,000 Central Service Cost Recovery Fund), including a reduction of two CRTF positions and $150,000 to reflect reduced OSAE support.

Vote: Staff recommendation approved by a 3-0 vote.

STATE OPERATIONS EFFICIENCIES

Governor's Budget Request. The January Governor's Budget includes $363 million ($200 million GF) in savings associated with identification of efficiencies in state operations; review of state peace officer and safety classifications; and reductions in other areas such as contracting, fleet operations, and cell phone use. The mechanism to achieve these savings is Control Section 3.91, which requires the Director of Finance to allocate the reductions necessary to each item of appropriation in the budget to accomplish the required savings.

Prior Subcommittee Action. This issue was heard as an informational item at the Subcommittee's January 25, 2011, hearing with testimony focused on a January 11, 2011, Executive Order (EO) that requires cell phone usage to be reduced by 50 percent for savings of at least $20 million (all funds). Since that time, the Administration has: (1) issued an additional EO related to Fleet Management; and (2) identified savings in both 2010-11 and 2011-11 due to a reduction in Department of General Services' (DGS) building rental rates.

Issue Proposed for Discussion

Issue 1 - Fleet Management

Background. On January 28, 2011, Governor Brown issued an EO requiring that: (1) the state passenger car and truck fleet, comprised of approximately 11,000 non-public safety vehicles, be reduced by 50 percent; and (2) home storage permits, which currently total 4,500 (excluding public health and safety) and allow state employees to use passenger cars for their daily commute, be reduced by 50 percent. The EO requires that underutilized vehicles be moved to new locations, so that the state fleet will be more efficient overall, and requires all vehicles deemed "non-essential" be sold or transferred within 120 days of an approved analysis and plan for vehicle allocation/retention. The EO prohibits agencies and departments from buying new vehicles for non-emergency use. Finally, this EO supersedes the prior Administration's July 2009 EO on fleet management which required a reduction of the overall size of the fleet by at least 15 percent and a reduction of home vehicle storage permits by at least 20 percent.

Staff Comment. Presently, the Administration does not have a savings estimate attached to the EO. That information will likely become available after March 1, 2011, which is the date that departments and agencies are required to report into DOF the results of their internal review of their current fleet and home storage permits.

Committee Questions. Based on the above information, the Committee may wish the Administration to provide responses to the following questions:

1. How does this EO interact with the prior Administration's EO? Was that prior EO not fully implemented, so new reductions of 50 percent are achievable?
2. The state vehicle fleet is actually much larger than the 11,000 figure noted in the EO because public safety vehicles are excluded. Is the Administration certain that all of the vehicles used by public safety are in use and there no efficiencies to be gained?

Staff Recommendation. None; informational item only.

Issue Proposed for Discussion / Vote:

Issue 2 – Reduction in Department of General Services' Building Rental Rates

Governor's Request. The Governor requests uncodified trailer bill language to authorize the Director of Finance to reduce 2010-11 appropriations to reflect a reduction in the building rental rates charged to departments by the Department of General Services (DGS).

Background. DGS charges building rental rates for state owned buildings that fall into one of two categories: (1) Building Rental Account Buildings – no debt service; and (2) Individual Rate Buildings – with debt service. In both categories, the DGS charged rate is for costs to support and maintain the building, such as janitorial services and building maintenance. For buildings in the Individual Rate Building category, debt service costs are added to the cost to support and maintain the building.

The DGS has determined that its rental rates will decrease substantially in 2010-11 and 2011-12. More specifically, DGS has determined that the cost for Building Rental Account Buildings is decreasing from $1.80/square foot to $1.40/square foot in 2010-11 and to $1.12/square foot in 2011-12. The Individual Rate Buildings are also decreasing with varying costs depending on the building. Overall, the 2010-11 savings total an estimated $31.3 million and the 2011-12 savings total an estimated $27.5 million. DOF is continuing to work on an estimate of the fund splits (GF versus other funds); departmental input is necessary for a more precise estimate as DGS does not have that level of funding information.

Staff Comment. Generally speaking, the 40 cent decrease in the rate DGS is charging agencies and departments in 2010-11 is translating to reduced current year costs for those entities (and reduced levels of reimbursements for DGS). The decrease in 2010-11 is related to employee compensation savings, primarily from nine furlough days and the workforce cap which reduced personnel costs across all departments by five percent ongoing. The DOF reports that it can reduce most departmental budgets using the existing 2010 budget act authority contained in Control Section 3.90(b). However, there are a number of entities that are exempt from these provisions, many of which would have GF savings, including the courts, Franchise Tax Board, and Board of Equalization, as well as the constitutional officers. To capture the savings associated with these rate reductions, the Administration requests uncodified trailer bill language that authorizes the Director of Finance to reduce appropriations to reflect a reduction in the building rental rates charged to departments by DGS.

For 2011-12, the DOF has determined that Control Section 3.91, which relates to State Operations Efficiencies, provides the authority needed to capture these savings.

Staff concurs that additional authority is needed in the current year to ensure that all of these savings are captured.

Staff Recommendation. Approve trailer bill language to authorize the Administration to reduce appropriations in 2010-11 to reflect a reduction in building rental rates charged to departments by DGS.

Vote: Budget request approved by a 3-0 vote.