

SUBCOMMITTEE NO. 4

Agenda

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



Thursday, May 24, 2012

10 a.m.

Room 3191

Consultants: Brady Van Engelen / Mark Ibele

Items Proposed for Discussion and Vote

Item Number and Department

0502	California Technology Agency
0840	State Controller's Office
0860	Board of Equalization
0890	Secretary of State
1110	State Consumer Services Agency
1700	Department of Fair Employment and Housing
2240	Department of Housing and Community Development
8880	FI\$CAL
8885	Commission on State Mandates
8940	California Military Department
9210	Local Government Financing

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AGENDA – DISCUSSION / VOTE ITEMS

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Issues Proposed for Discussion / Vote**8880 FINANCIAL INFORMATION SYSTEM FOR CALIFORNIA (FI\$CAL)**

Background: The Financial Information System for California (FI\$Cal), is an Enterprise Resource Planning (ERP) information technology (IT) project intended to replace, consolidate, and upgrade multiple legacy financial systems with a single system that would encompass the areas of: budgeting; accounting; procurement; cash management; and financial management. The development of FI\$Cal resides with four "Partner Agencies," the Department of Finance, the State Treasurer's Office, the State Controller's Office, and the Department of General Services. The FI\$Cal system has been in development for several years, but is now at a critical juncture because the Administration selected a contractor or "systems integrator" on March 1, 2012, to implement the system. To move forward with the contract and expenditures, legislative approval is required. Included in this budget item is funding for the contract staff and State staff that manage the project, and funding for the selected systems integrator, which is Accenture. Accenture would implement this ERP IT system using Oracle's PeopleSoft software.

May Revision: The Governor has submitted a May Revision letter on the FI\$Cal system that adopts a version of the staff alternative presented to the Subcommittee on March 8, 2012. This letter continues to request the same \$89 million requested in the March Finance Letter, but instead eliminates all General Fund for the project by shifting \$53.5 million to various special and nongovernmental cost funds. The May Revision also proposes to make two technical adjustments as follows:

VOTE: 3-0

0890 CALIFORNIA SECRETARY OF STATE**Issue 1 – CAL-ACCESS and CALVOTER Server Stability**

Governor's Budget Request: The Governor's May Revise includes a request to augment \$375,000 (\$206,000 General Fund) in Fiscal Year 2012-13 and \$95,000 (\$66,000 General Fund) in 2013-14 to purchase servers, software licenses, and to contract for services to address failing operating systems related to the Cal-Access and CalVoter databases. The Secretary of State's Office (SOS) states that this request is required to comply with the California Political Reform Act of 1974 and the Help America Vote Act of 2002.

Staff Recommendation: Approve May Revise request.

VOTE: 3-0

Issue 2 – Statement of Interests Backlog

Governor's Budget Request: The Governor's May Revise includes a request for a two-year limited augmentation of \$947,000 in Reimbursement authority to more quickly fill positions and allow for paid overtime to reduce the backlog regarding processing annual Statement of Information documents filed by businesses.

Staff Recommendation: Approve the May Revise request

VOTE: 3- 0

0890 STATE CONTROLLER'S OFFICE**Issue 1 – Fraudulent Claims Detection and Prevention Program**

Governor's Budget Request: The Governor's 2012-13 Budget includes a request for 17.9 permanent positions and \$2.28 million in 2012-13 and ongoing from the Unclaimed Property Fund to establish a unit within the Unclaimed Property Program designed to detect and prevent fraudulent unclaimed property from being paid.

Staff Recommendation: Approve as a two-year limited term pilot with Supplemental Reporting Language to report on progress.

VOTE: 2-1 Sen. LaMalfa voting No

Issue 2 – Integrated Data Management System Cost Increase

Governor's Budget Request: The Governor's May Revise included a request for \$201,000 (\$47,000 General Fund, \$97,000 reimbursements and \$57,000 Special Fund) for 2011-12 and \$902,000 (\$207,000 General Fund, \$437,000 reimbursement and \$258,000 Special Funds) in 2012-13 to fund increased Office of Technology Data Center costs to support Computer Associate Integrated Data Management System (IDMS) Technology services. This request reflects a minor reduction in costs to support the Integrated Data Management System.

Staff Recommendation: Approve May Revise request.

VOTE: 3-0

Issue 3 – Increased Audit Workload

Governor's Budget Request: The Governor's 2012-13 Budget includes a request for \$2.09 million (\$1.42 permanent and \$673,000 one-year limited-term) in reimbursement authority to support 12.6 existing positions and 7.4 new positions (1.1 permanent positions and 6.3 one-year limited term) beginning in 2012-13.

April 1 Finance Letter: In addition to the original positions requested to support the audit workload, the State Controller's Office has requested an additional \$1.75 million (\$856,000 one-year limited-term and \$899,000 five year limited-term) in reimbursement authority to support 8.0 existing positions and 7.4 new positions (8.0 one-year limited-term and 7.4 five-year limited-term) beginning in 2012-13. Included within this request was the request for support of 8.0 positions and \$856,000 in reimbursements in 2012-13 to perform federally-mandated audits of the Disproportionate Share Hospital program, administered by the Department of Health Care Services.

Staff Recommendation: Approve request included in Governor's 2012-13 Budget, approve request submitted on April 1.

VOTE: 3-0

Issue 4 – Airport Facility Fee Audits

Governor's Budget Request: The Governor's Budget proposes trailer bill language (TBL) that would eliminate the requirement that the Controller's Office independently review and report to the Legislature regarding the results of audits required to be conducted by airports with respect to the collection of fees to fund consolidated rental car and other transportation facilities.

Staff Recommendation: Adopt proposed trailer bill language.

VOTE: 3-0

Issue 5 – 21st Century Project

Governor's Budget Request: The Governor's May Revise included a request for 152.0 one year limited-term positions and \$79.69 million (\$45.31 million General Fund, \$1.0 million in reimbursement authority, and \$33.38 in Special Fund) to fund the 21st Century Project in 2012-13. This reflects a reduction of 29.0 positions, \$1.67 million in funding (\$1.56 General Fund). The May Revise also includes a request to amend Control Section 25.25 (21st Century Project) by decreasing the amount by \$109,000 in 2012-13 for one year.

Staff Recommendation: Approve May Revise request.

VOTE: 3-0

Issue 6 – My CalPERS

Governor's Budget Request: The Governor's May Revision included a request of \$1.5 million in 2012-13 and 15 two-year limited-term positions for workload associated with the temporary data incompatibility between the SCO and PERS computer systems.

Staff Recommendation: Approve funding and position authority for 7 positions on a two-year limited-term basis.

VOTE: 3-0

0502 CALIFORNIA TECHNOLOGY AGENCY**Issue 1 – Elimination of the 9-1-1 Advisory Board**

Background: The Governor's 2012-13 Budget includes a request via trailer bill language to eliminate the 9-1-1 Advisory Board. The State 9-1-1 Advisory Board is responsible for providing the Telecommunications Office with the proper policies, practices; and procedures for the California 9-1-1 Emergency Communications Office. The Governor's 2012-13 Budget has stated that the policies and procedures considered by the Board will be performed by the State's administrative process.

Staff Recommendation: Reject proposed Trailer Bill Language.

VOTE: 3-0

Issue 2 – Contract Oversight

Governor's Budget Request: The Governor's May Revise includes a request for an increase in expenditure authority for 2012-13 of \$670,000 (\$218,000 General Fund) and 5.0 positions. The Administration has submitted Trailer Bill Language accompanying this request in order to ensure that there is a requirement that the Technology Agency approve oversight contracts by state agencies.

Staff Recommendation: Approve request and adopt placeholder Trailer Bill Language.

VOTE: 3-0

2310 OFFICE OF REAL ESTATE APPRAISERS**Issue 1 – Extension of Repayment Date**

Governor's Budget Request: The Governor's May Revision includes a request for a one-year extension to repay a loan from the Real Estate Appraisers Fund to the General Fund.

Staff Recommendation: Adopt the proposed Budget Bill Language.\

VOTE: 2-1, Sen. LaMalfa voting No

**0820/1700/2240 DEPARTMENT OF JUSTICE/DEPARTMENT OF FAIR
EMPLOYMENT AND HOUSING AND DEPARTMENT OF HOUSING AND
COMMUNITY DEVELOPMENT**

Issue 1 – National Mortgage Settlement Proceeds

Governor's Budget Request: The Governor's May Revise includes a request via trailer bill language that identifies where a portion of the \$410.6 million in discretionary funds will be spent in Budget Year 2012-13. According to the proposed trailer bill, for 2011-12 and 2012-13, \$94.2 million of the settlement will be utilized to offset General Fund contributions that support public protection, consumer fraud enforcement and litigation, and housing related programs. Specifically, the funds will be utilized for the following programs in 2012-13:

- \$41.1 million paid as a civil penalty into the Unfair Competition Law Fund to offset the costs of the various Department of Justice Programs.
- \$44.9 million to support the Department of Justice's Public Rights and Law Enforcement programs relating to public protection and consumer fraud enforcement and litigation.
- \$8.2 million for the Department of Fair Employment and Housing. This will offset a portion of the General Fund contribution made to the Department; the contribution from this settlement reflects the housing related portion of the Department's workload.
- \$198 million will be set aside to offset General Fund costs for housing bond debt service for those programs funded with Proposition 46 and Proposition 1C housing bonds that assist homeowners.

The remaining funds (\$118.4 million) will be set aside for use in the 2013-14 budget for similar purposes.

item open.

1110 DEPARTMENT OF CONSUMER AFFAIRS**Issue 1 – Implementation of Business and Professions Code Section 35 Supplemental Reporting Language**

Background: According to AB 2783, Statutes of 2010, Chapter 214, the Legislature determined that the California Military Department shall be consulted before the adopting of rules and regulations that provide for the licensure and regulation of certain businesses, occupations, and professions by specified boards within the Department of Consumer Affairs created under the Business and Professions Code. Specifically, the section states:

"It is the policy of this state that, consistent with the provision of high-quality services, persons with skills, knowledge, and experience obtained in the armed services of the United States should be permitted to apply this learning and contribute to the employment needs of the state at the maximum level of responsibility and skill for which they are qualified. To this end, rules and regulations of boards provided for in this code shall provide for methods of evaluating education, training, and experience obtained in the armed services, if applicable to the requirements of the business, occupation, or profession regulated. These rules and regulations shall also specify how this education, training, and experience may be used to meet the licensure requirements for the particular business, occupation, or profession regulated. Each board shall consult with the Department of Veterans Affairs and the Military Department before adopting these rules and regulations. Each board shall perform the duties required by this section within existing budgetary resources of the agency within which the board operates."

Staff Comment: To date, it seems that a limited amount of consultation has occurred. The Assembly has taken action to include Supplemental Reporting Language asking that:

"The Department of Consumer Affairs shall prepare a report describing its implementation of Business and Professions Code Section 35. No later than October 1, 2012, the department shall report to the Subcommittee the following:

- 1. A list of the boards that have statutes, rules, regulations or agreements allowing military experience to be used to meet professional licensure requirements and a description of the statutes, rules, regulations, or agreements.*
- 2. A list of the boards that do not have statutes, rules, regulations or agreements allowing military experience to be used to meet professional licensure requirements with an explanation from the boards on why they do not have statutes, rules, regulations or agreements.*
- 3. If the board has decided not to accept military experience, an explanation from the board about why they do not accept military experience.*
- 4. A description of the department's actions to direct the boards to implement this code section, including any memoranda to boards or other evidence of the department's actions.*

5. *A description of how the department has interacted with the Department of Veterans Affairs and the Military Department regarding this issue."*

Staff would recommend that the Senate Budget and Fiscal Review Subcommittee No. 4 adopt a similar recommendation to include the Supplemental Reporting Language mentioned above.

Staff Recommendation: Adopt Supplemental Reporting Language referenced above.

VOTE: 3-0

8940 CALIFORNIA MILITARY DEPARTMENT

Issue 1 – State Active Duty Compensation

Background: The Senate Budget and Fiscal Review Subcommittee heard the Governor's 2012-13 budget request to add \$1.147 million (\$495,000 GF) to support state active duty personnel cost increases that stem from increases approved by Congress on March 15th. The Assembly heard the item shortly thereafter, and, included Budget Bill Language asking the Military Department to review all existing State Active Duty positions to determine which could be converted to State Civil Service upon becoming vacant to the Legislature no later than December 31, 2012.

Staff Recommendation: Adopt Budget Bill Language asking the Military Department to review all existing State Active Duty positions to determine which could be converted to State Civil Service upon becoming vacant and report their findings to the Legislature no later than December 31, 2012.

VOTE: 3-0

1690 SEISMIC SAFETY COMMISSION

Governor's Budget Request: The Governor's May Revise includes a request via trailer bill language to establish the Seismic Safety Account within the Insurance Fund. The Seismic Safety Account would then be utilized, at the discretion of the Legislature, to fund Seismic Safety Commission related activities.

Staff Recommendation: Hold open, item included for discussion.

ITEM OPEN

0860 BOARD OF EQUALIZATION**Issue 1 – Dell Computer Settlement**

Background: The BOE was named as the cross defendant in the class action case of *Diane Mohan v. Dell*, currently pending in San Francisco County Superior Court. The case involves the collection of use tax by Dell Computers on the extended warranty service contracts during the years 2000 to 2008. The extended warranty service contract is an intangible and the court found that the use tax was collected erroneously. The class action attorneys have estimated as many as 10 million transactions over this time period. The BOE's experience is that about 20 percent actually completed refund claims and submitted them for payment, but this could still mean hundreds of thousands of claims that need to be processed. The BOE has indicated that it does not have the staff to process these additional transactions.

Governor's Budget: The Governor's budget included a "placeholder" request of \$3.2 million (\$2.1 million General Fund) in the budget year to support 14.5 positions to address the additional workload associated with processing the Dell refunds. The majority of these positions are proposed as limited-term, but the request does include two permanent positions. The positions are proposed to be allocated as follows:

- 2 tax auditors for 2-year limited-term to audit large and medium-sized refund claims.
- 1 business tax specialist for 2-year limited-term to audit largest and most complex claims.
- 1 business tax specialist for 1-year limited-term to coordinate, initiate, and review refund processing.
- 3 tax technician IIIs for 2-year limited-term to search for better addresses for returned warrants and respond to inquiries by class action administrator.
- 3.5 tax technician IIIs for 1-year limited-term to validate name/address changes and process correspondence related to claim exceptions.
- 1 supervising tax auditor II for 2-year limited-term to manage the overall refund project.
- 1 associate accounting analyst permanently established to review refunds and reconcile claims filed and claims paid.
- 1 associate administration analyst permanently established to maintain claim databases.
- 1 tax technician II for 2-year limited-term to manage 30,000 additional calls in the call center expected from the class action lawsuit.

Further Information: This item was heard by the Subcommittee at its May 3rd Hearing and held open. In the subcommittee hearing questions arose regarding the status of the Dell Settlement and the need for the positions noted. BOE now has a signed settlement agreement and expects expenditures in FY 2012-13 and FY 2013-14. The potential refunds range from \$50 to \$250 million. It is estimating the total number of refund claims to be approximately 2 million or 20 percent of the 10 million original transactions where sales tax was charged on the extended warranty contract.

Key dates outlined in the attached settlement agreement include:

- April 30, 2012 - Dell to provide the BOE a payables database, which contains the total potential number and amount of claims. (BOE received a disk from Dell on May 2, 2012 and is currently in the process of importing or uploading the data of the universe of claimants.)
- Before July 16, 2012 – Notices will be mailed to Dell customers. The website will also

go live.

- Customers will have until mid-September 2012 to opt out of the class action lawsuit.
- The customers may file claims through January 16, 2013.
- BOE will pay claims for refunds in batches as they come into BOE.
- BOE anticipates paying claims in FY 2012-13 and FY 2013-14. Approximately 751 audits of refund claims are expected. Materiality thresholds will be established and all claims over a certain dollar threshold will be audited. Remaining claims will be selected on a random sample basis.
- Staffing levels of 14.5 positions in FY 2012-13 dropping to 10.0 positions for FY 2013-14 to validate, audit and process claims for refund, look for refund offsets to other agencies, address returned warrants, perform account maintenance, reconcile claims filed and paid, provide proper documentation to the State Controller's office, and answer telephone inquiries related to the settlement and claim forms.

Staff Comments: The BOE has indicated that there is a signed settlement agreement in the Dell Computers case. Errors in the original BCP have been corrected to make all positions limited-term. The BOE has indicated that notices will be mailed to Dell customers by July 16, 2012 and that customers will have until mid-September 2012 to opt out of the class action lawsuit. The customers will be able to file claims through January 16, 2013. The BOE estimates that the majority of the claims will be paid in 2012-13. Assembly Budget Subcommittee 4 approved this request based on two-year, limited-term positions.

Staff Recommendation: Staff recommends that the Subcommittee approve this request on a two-year, limited-term basis, thus conforming to the Assembly action.

**Vote: APPROVE AS TWO-YEAR, LIMITED-TERM POSITIONS.
CONFORMS TO ASSEMBLY: 3 - 0**

Issue 2 – State Responsibility Area Fire Prevention Fee Collection

Background: Last year, Chapter 8x, Statutes of 2011 (AB 29x, Budget) was enacted to implement a fire prevention fee on owners of habitable structures in state responsibility areas (SRAs). This legislation requires a fee of \$150 per structure to support the fire prevention activities of the California Department of Forestry and Fire Protection. The BOE is assigned the responsibility of collecting the fee. The fee is expected to generate \$50 million in the current fiscal year and \$85 million in the budget year. This issue was heard on May 3, and held open.

Governor's Budget: The Governor's budget includes \$6.4 million in reimbursements and 57 positions in the budget year to administer this program.

Staff Comments: Staff finds that the legislation enacted last year requires the California Department of Forestry and Fire Protection to submit to BOE a list of names and addresses of those that are required to pay the fee. Therefore, it is unclear why BOE requires the number of permanent staff being requested. It is expected that there would be startup costs associated with implementing a new fee collection program like the SRA fee. However, the BOE's proposal does not reflect much of a decline in ongoing resources needed to support this program. Staff notes that the Assembly Budget Subcommittee 4 has already taken action on this item and

approved the staffing package on a two-year limited-term basis and also approved reporting language to get more information on actual experience related to collecting the SRA fee.

Staff Recommendation: Staff recommends approving the request as two-year, limited-term positions and reporting language based on a full year of operation, thus conforming to the Assembly action.

Vote: Hold Open

Issue 3 – AB 155 Use Tax Enforcement

Background: The Legislature passed, and the Governor signed, as part of the 2011-12 budget, AB 28 X1 (Blumenfeld), Chapter 7, Statutes of 2011, which required that out-of-state businesses with certain connections to California—such as sales using affiliates or the presence in the state of related companies—be required to collect the use tax on behalf of the state. Subsequently, the operative date of this bill was delayed until fiscal year 2012-13 through the passage of AB 155 (Charles Calderon and Skinner), Chapter 313, Statutes of 2011, with the date of implementation dependent on the outcome of certain federal actions.

Budget Proposal: The budget proposes additional resources of \$3.2 million (\$2.1 million General Fund and \$1.1 million special funds) and 28 positions to implement the expanded collection of the use tax by out-of-state business pursuant to AB 155. These additional resources will be used to identify out-of-state business required to collect the use tax and institute compliance programs for the initiative. Two positions relate to coordination of legislation that may be adopted at the federal level that could affect the implementation of the measure. The committee heard this item at its May 3 hearing and approved the proposal as budgeted; the item is being heard again for reconsideration.

Assembly Action: Assembly Budget Subcommittee 4 heard this issue at its May 9 hearing and approved the proposal with some revisions. All positions were approved on a two-year, limited-term basis, with the two legislative positions referenced-above to begin January 1, 2013.

Staff Comment: The approach taken by the Assembly Budget Subcommittee 4 is a reasonable one and would allow the Legislature to revisit this issue in a timely fashion when the program has been established. The issue was heard by the Subcommittee at a prior hearing and approved. It is being reopened for the purpose of making the positions limited-term as opposed to permanent.

State Recommendation: Rescind prior action on this budget item. Approve as two-year, limited term positions, thus conforming to Assembly action.

Vote: RESCIND PRIOR ACTION AND APPROVE AS TWO-YEAR, LIMITED-TERM POSITIONS. CONFORMS TO ASSEMBLY: 2 – 1 (LA MALFA)

Issue 4 – Centralized Revenue Opportunity System (CROS)

May Revision Proposal: As part of the May Revision, the Administration is requesting \$23.8 million (\$14.6 million General Fund) and 156.7 positions in 2012-13 and \$29.1 million (\$18.1 million General Fund) and 242.1 positions in 2013-14 for the beginning stages of a new centralized data and tax collection system. The initial stage of the project would largely address the beginning implementation stage of the project, maintain the existing legacy systems, address data conversion issues, address external interface issues and engage in certain tax compliance and enforcement activities. While the initial phase of the project relates to preparatory work, the final product will result in combining several of the department's existing systems and provide a centralized and unified tax collection and data system. The project is designed to generate revenue during its implementation and will be structured based on "alternative procurement" in that it will be benefits-funded. During the initial two years, the project would result in additional revenue of \$38.8 million in 2012-13 and \$66.5 million in 2013-14.

Background: BOE's current automation systems were developed in the 1990s. The hardware and software which supports these systems is dated and more costly to maintain than newer technologies. Additionally, because BOE's systems have required continuous modifications over the last ten years, there has also been a significant, and steady, increase to the costs, staffing resources and time involved to make changes, enhancements, or maintain these systems. The programming language is outdated and it is becoming increasingly difficult to find staff, or contractors, to maintain the systems. The current systems are antiquated, do not have the capability to easily adapt to new or expanding requirements, and cannot adapt or take advantage of emerging technologies.

As the systems have become more dated, workload has increased. Over the recent past, BOE has been directed to implement several new tax and fee programs or other proposed statutory changes. Each of these statutory changes or new programs requires significant programming hours to modify the existing automation systems. Any new implemented tax program uses the same computer components as the existing tax programs while in use by BOE's multiple tax programs. Multiple programming changes are difficult to accomplish since programming components are tightly integrated and changes to the components disrupt existing tax program activities. Implementing a new tax and fee programs can take as long as ten months to complete with existing systems. In addition, the department is increasingly experiencing frequent and recurring requests for statistical data or quantitative information.

BOE has developed a number of ad hoc methods and ancillary systems to respond to these information requests. Extracts from the department's principal systems--Integrated Revenue Information System (IRIS) and Automated Compliance Management System (ACMS) are stored with data received from external agencies in data marts and reports are created utilizing desktop applications. The difficulty in accessing BOE internal data and the ability to only perform one-source data matching is cumbersome and often detrimental in responding timely to requests and performing program analysis. Requests still require programming expertise and are expensive and time consuming to perform. BOE does not have the business intelligence tools required to provide the requestor or client access to the information that is required to complete necessary business processes in a timely and cost effective manner.

To address this, BOE proposes a significant automation project which will ultimately replace

IRIS and ACMS, its two current automation systems. In addition, the project will expand online taxpayer services and provide an enterprise data warehouse. This project will impact virtually all processing areas within the organization. The new technologies and tools will provide increased efficiency and will augment revenue production while incorporating "best practices" to reengineer how work is performed. Replacement of the legacy systems should improve the BOE's performance. Additionally, the integration of a data warehouse would provide a single enterprise repository of BOE internal data and external data.

Proposal Detail: For the budget year 2012-13, roughly \$12.3 million will constitute personnel services with the balance (\$11.5 million) used for operating expenses and equipment (OE&E). A large portion of the OE&E—slightly less than \$5 million—is for consulting services and data center services. About a third of the personnel will be directly involved in the CROS project, which in this phase is concentrated on project direction and generally relate to data cleansing and preparing for conversion to the new system. The positions, in addition to administrative project-direction positions--include software specialists, programmers, and system analysts. Performing much of this work in-house, as opposed to by the vendor--is expected to reduce overall project costs.

At the same time the activities related to the implementation of the CROS are occurring, other personnel will be addressing the accumulated backlog of activities that need to be addressed in preparation for the new integrated system. Significant backlogs have been identified in the areas of audits, collections, State wide Compliance and Outreach Program (a BOE tax gap program), offers in compromise, and settlements. Addressing the backlogs in these areas generates the revenues identified in the proposal. In addition, addressing the backlogs also makes the project itself more feasible by improving the quality of the data prior to system implementation.

Subsequent Proposal Revision: Staff requested the department reformulate its proposal to postpone certain CROS components while maintaining the revenue generated in the budget year as well as the overall implementation of the project. BOE staff responded with a recalibrated BCP that lowers costs in 2012-13. BOE identified 43.7 positions that may be delayed starting until 2013-14. A majority of these positions are under the CROS proper component. The department indicates that it can delay the starting date for certain specialized staff until the second year and still achieve the desired revenue of \$38.8 million in 2012-13 and \$66.5 million in 2013-14. This proposed reduction represents a 28 percent reduction from the original position request. With this reduction, BOE would be requesting 113.0 positions and \$18.1 million (\$11.2 General Fund) in 2012/13 and 242.1 positions and \$30.1 million (\$18.7 General Fund) in FY 2013-14.

Questions:

BOE: Can you outline the timing for the implementation of the project?

BOE: How will you proceed on the benefits-funded approach for the project?

BOE: Could you address the impact of simply going forward with the revenue related positions without the CROS-related positions?

LAO: Does the approach of the department resemble the approach taken in other benefits-funded projects?

CTA: Could you comment on the outline of the proposal and the procurement approach?

Staff Comments: The department's current proposal is much improved from earlier draft versions. Technology and data system improvements at BOE are overdue. Its technology systems are clearly dated and expensive, and the current proposal is a reasonable start in the process of modernization. The department has pursued a benefits-funded approach that has been recommended in the past and has also reviewed the plan with other agencies in order to benefit from lessons learned. In particular, the department has consulted with the Franchise Tax Board, which has been generally successful with its various technology modernization projects. The short-term benefit/cost ratio does not meet historical standards, but the project is based not on short-term returns, but rather longer-term benefits. In addition, the benefit/cost ratio is generally in keeping with FTB's similar technology upgrades. An interim report for this project that would allow the Legislature to evaluate progress in conjunction with subsequent budget requests the department indicates will be forthcoming. The proposal may also benefit from additional vetting of the estimated revenue generated by the project. This could be incorporated as part of the reporting language. Finally, the proposal as adjusted would maintain revenues while reducing costs for the project.

Staff Recommendation: Approve project funding based on the revised BCP from the department with SRL requiring a status report to the Legislature after the initial full year of implementation.

Vote: APPROVE REVISED BCP AND ANNUAL SRL: 3 - 0

8885 COMMISSION ON STATE MANDATES (COSM)

Background: The Governor's Budget proposes the continued funding of property tax and public safety mandates, discussed in Issue 1 below. In addition, the Governor's Budget achieves substantial savings by the continued suspension (and in some cases, repeal) of various mandates that are not associated with law enforcement or property taxes as discussed in Issue 2 below. Of the \$4.2 billion in expenditure reductions identified as budget balancing solutions, cost reductions related to mandates account for \$828 million. This \$828 million is comprised of the following:

- **Suspended Mandates.** 56 mandates are slated for suspension, resulting in a savings in the budget year of \$375.7 million.
- **Expired Mandates.** 10 expired mandates will not be funded in the budget plan, resulting in a savings of \$295.1 million.
- **Deferred Payment Mandates.** 2 mandates noted above are still in place but the payment has been deferred, resulting in a savings of \$57.9 million.
- **Pre-2004 Mandates.** Payment for mandate costs incurred prior to 2004 is deferred resulting in a budget year savings of \$99.5 million. These costs must eventually be paid by 2021.

Once a required activity or expanded activity imposed on local governments has been determined to be a mandate, the State still has some options regarding the actual funding of this mandate.

- **Fund the Mandate.** If the State chooses to fund the mandate, it is required to pay for all unpaid bills submitted since 2003 up through the most current year of cost approval.
- **Suspend the Mandate.** Suspension of a mandate through the budget process keeps the mandate on the books, but absolves the local government of responsibility of providing the service and relieves the State of paying the cost of the service during the suspension.

Proposition 1A, adopted by the voters in 2004, requires the Legislature to either fund mandates and appropriate funds for payment, or suspend or repeal the mandate. Two mandates were exempt from this requirement, allowing them to remain in place even without funding. These two mandates are Peace Officer Procedural Bill of Rights (POBAR) and Local Government Employee Relations mandate. These mandates have continued and reimbursable costs due local governments are continuing to accrue. Proposition 1A also requires the Legislature to pay all pre-2004 mandate claims over a period of time. The State owes local agencies in excess of \$1 billion in unpaid mandate costs. A portion of these costs is scheduled to be paid by 2021, while other costs have no payment schedule in place.

In the recent decades, the Legislature has suspended numerous mandates as a form of budget relief. In the current year, some 60 mandates have been suspended. A large number of the suspensions occurred during the current period of budget difficulties, although some suspensions go back to 1990. Some have been suspended immediately after COSM reported their costs to the Legislature.

Issue 1 – Funded Mandates

Governor’s Budget Request: The Governor's proposal includes the continued funding of certain mandates related to public safety and property taxes. The policy reason behind the decision to fund the public safety mandates is apparent given the focus of these requirements. For property tax-related mandates, the policy motivation for funding these is based on the statewide interest in property tax compliance, given the interrelationship of education funding from local property taxes and General Fund obligation to backfill education costs for purposes of the Prop 98 guarantee. In addition to the General Fund cost presented in the table below, the request includes an additional \$2.5 million from special funds.

Proposed Funded Mandates

Mandate	<u>2012-13 GF Cost</u> <u>(\$000s)</u>
Threats Against Peace Officers	26
Custody of Minors: Child Abduction and Recovery	12,999
Medi-Cal Beneficiary Death Notices	10
Sexually Violent Predators	20,963
Domestic Violence Treatment Services	1,944
Domestic Violence Arrest Policies	7,608
Unitary Countywide Tax Rates	267
Allocation of Property Tax Revenues	727
Rape Victim Counseling	349
Health Benefits for Survivors of Peace Officers and Firefighters	1,695
Crime Victims' Domestic Violence Incident Reports	167
Peace Officer Personnel Records: Unfounded Complaints & Discovery	657
Domestic Violence Arrests and Victims Assistance	1,374
Total Funded Costs	48,786

Staff Comment: At the time this agenda was finalized, no concerns had been raised with these budget requests. The mandates selected for funding continue the policy adopted in previous years by the Legislature.

Staff Recommendations: Approve the budget request for continued funding of selected local government mandates.

Vote: APPROVE AS BUDGETED: 3 - 0

Issue 2 – Suspended Mandates

Governor’s Budget Request: The mandates slated for suspension under the Governor's proposal are listed in the table below. Many of these have been suspended for several years, usually as part of the budget process. In general, the suspension of many of the mandates has not been subject to a thorough policy review that would result in an evaluation of the costs and benefits of the mandate, but rather have been suspended solely for the purpose of budgetary savings. The policy decision to establish the mandate in the first place has not generally been a substantial component of the discussion.

In addition to the suspension, the Administration has proposed trailer bill language (TBL) that certain mandates be repealed. These are denoted by an asterisk in the list below. The budget year savings associated with suspension and repeal are identical. With suspension, the mandate remains in statute but is simply not funded. As a result, in order to determine whether a mandate is actually in effect, confirmation of both the statutory reference and the budget bill is required. With repeal, the statute requirement is repealed by Legislative action.

Suspended Mandates

<u>Mandate</u>	<u>2012-13 GF Savings (\$000s)</u>
Adult Felony Restitution*	0
AIDS/Search Warrant*	1,596
Airport Land Use Commission/Plans*	1,595
Animal Adoption*	46,296
Conservatorship: Developmentally Disabled Adults*	349
Coroners' Costs	222
Crime Victims' Domestic Violence Incident Reports II*	1,959
Deaf Teletype Equipment*	0
Developmentally Disabled Attorneys' Services	1,198
DNA Database & Amendments to Postmortem Examinations: Unidentified Bodies	310
Domestic Violence Information*	0
Elder Abuse, Law Enforcement Training*	0
Extended Commitment, Youth Authority*	0
False Reports of Police Misconduct*	10
Filipino Employee Surveys*	0
Firearm Hearings for Discharged Inpatients*	157
Grand Jury Proceedings*	0
Handicapped Voter Access Information	0
Inmate AIDS Testing*	0
Judiciary Proceedings*	274
Law Enforcement Sexual Harassment Training*	0
Local Coastal Plans*	0

Mandate	2012-13 GF Savings (\$000s)
Mandate Reimbursement Process	6,419
Mandate Reimbursement Process II (includes suspension of consolidation of the two)	0
Mentally Disordered Offenders: Treatment as a Condition of Parole	4,910
Mentally Disordered Offenders: Extended Commitments Proceedings	7,232
Mentally Disordered Sex Offenders: Recommitments	340
Mentally Retarded Defendants Representation*	36
Missing Persons Report*	0
Not Guilty by Reason of Insanity*	5,214
Open Meetings Act/Brown Act Reform	96,090
Pacific Beach Safety: Water Quality and Closures	344
Perinatal Services*	2,338
Personal Safety Alarm Devices*	0
Photographic Record of Evidence*	291
Pocket Masks*	0
Post-Conviction: DNA Court Proceedings	410
Postmortem Examinations: Unidentified Bodies and Human Remains	1,180
Prisoner Parental Rights*	0
Senior Citizens Property Tax Postponement	481
Sex Crime Confidentiality	0
Sex Offenders: Disclosure by Law Enforcement Officers	0
SIDS Autopsies*	0
SIDS Contacts by Local Health Officers*	0
SIDS Training for Firefighters*	0
Stolen Vehicle Notification*	1,117
Very High Fire Hazard Severity Zones	0
Victims' Statements-Minors*	0
Fifteen-Day Close of Voter Registration	0
Absentee Ballots	50,924
Permanent Absent Voters	2,686
Absentee Ballots-Tabulation by Precinct	68
Brendon Maguire Act	0
Voter Registration Procedures	2,452
In-Home Supportive Services II	449
Crime Statistics Reports for the DOJ and CSR for the DOJ Amended*	138,722
Total Suspended Savings	\$375,669

The 56 mandates proposed to be suspended for 2012-13 generally include the same mandates that were suspended last year. In addition, some mandates suspended during the current year have expired. The suspension of these mandates would result in budget savings of almost \$376 million.

Actions in Other Subcommittees: The Senate Budget Committee adopted a process to allow examination of mandates selected for repeal by its appropriate subcommittees. The following actions have been taken in those subcommittees:

- **Suspensions.** At its May 10 hearing, Senate Budget Sub 5 approved the suspension of all public safety mandates noted in the table above, except for one mandate. (This remaining mandate relates to Crime Statistics Reports, and will also be addressed in Subcommittee 5.)
- **Reject Repeal TBL.** At its April 11 hearing, Senate Budget Sub 2 rejected the TBL to repeal the mandates for Airport Land Use Commission/Plans, Animal Adoption, Local Coastal Plans and SIDS Training for Firefighters. At its May 10 hearing, Senate Budget Sub 3 took action to reject TBL to repeal the mandates for Conservatorship for Developmentally Disabled Adults, and at its March 8 hearing rejected the TBL to repeal SIDS Autopsies, and SIDS Contacts by Local Health Officers.
- **Adopt Repeal TBL.** At its May 8 hearing, Senate Budget Sub 5 took action to approve TBL to repeal the mandate for Filipino Employee Surveys. At its March 8 hearing, Senate Budget Sub 3 took action to approve TBL to repeal the Perinatal Services.

Assembly Actions: Assembly Budget Subcommittee 4 considered mandates at its March 13 hearing. It took action to suspend those mandates noted in the table above, but reject the repeal TBL in its entirety. (It also approved funding the mandates noted in Issue 1, above.)

Staff Comment: At the time this agenda was finalized, no concerns had been raised with the continued suspension of these mandates. The mandates selected have been suspended in previous years. Regarding the TBL to repeal, a careful review should be conducted. Some of the mandates were considered as part of the budget subcommittee process and actions taken. To the extent that this did not occur, these proposals should be referred to policy committee that considers and addresses the particular subject matter.

Staff Recommendations: Suspend mandates proposed by the Governor for suspension, as noted above. Reject TBL to repeal selected mandates, except for those two mandates noted above where repeal TBL was specifically approved in subcommittee.

Vote: Hold Open

9210 LOCAL GOVERNMENT FINANCING

Department Overview: The 9210 budget item includes several programs that make State subventions to local governments. The payments include \$2.1 billion General Fund for constitutionally-required repayment of 2009-10 "Prop 1A" borrowing from local governments; a small subvention related to former Redevelopment Agencies (RDAs) to help retire a portion of outstanding debt that was backed by the personal property tax – about \$500,000, and a new subvention of \$4.4 million General Fund proposed this year for Mono and Amador counties.

Budget Overview: The proposed budget for the 9210 item is \$2.1 billion General Fund. Year-over-year comparisons show a major increase in expenditures as Prop 1A borrowing was \$91 million in 2011-12 and will be \$2.1 billion in 2012-13. Prop 1A debt will fully be repaid in 2012-13, so there is no ongoing cost. Additionally, some public safety grants were included in this item in prior years, but that funding was shifted with the 2011 Public Safety Realignment legislation and is now funded with the new local revenues instead of State grants.

Issue 1 – Reimbursements to Amador County

Governor's Request: In the January Budget, the Governor proposed a new General Fund subvention of \$4.4 million to backfill Mono and Amador counties due to unique circumstances that reduced property tax directed to those county governments and cities within those counties in 2010-11. In an April 1 Finance Letter, the Governor rescinded the funding for Mono County indicating that updated data suggested the problem did not exist in that county for 2010-11. The Governor maintains the funding request of \$1.5 million for Amador County. The revenue loss is understood to also have occurred in 2011-12 and will continue into 2012-13 and likely beyond, but the Administration indicates it is undetermined at this time whether its proposal is one-time or ongoing.

Background and Detail: Legislation enacted early in the Schwarzenegger Administration shifted local property tax from schools to cities and counties to accommodate two State fiscal initiatives. Schools were then backfilled with State funds. Overall, the fiscal changes resulted in a large net revenue gain for cities and counties as the replacement revenue streams have grown faster than the relinquished revenue streams. However, for Amador County, unique circumstances reportedly reversed this outcome in 2010-11 and it is possible this outcome could occur for a few additional counties in the future.

- **Financing Economic Recovery Bonds (ERBs).** In the 2004 primary election, voters approved Proposition 58, which allowed the State to sell ERBs to pay its accumulated budget deficit. The local sales tax for cities and counties was reduced by one-quarter cent and the State sales tax was increased by one-quarter cent to create a dedicated funding source to repay the ERBs. Property tax was redirected from schools to cities and counties, and the State backfilled schools via the Proposition 98 funding guarantee. This financing mechanism is sometimes called the "triple flip," and was anticipated to hold local governments harmless. When the ERBs are repaid in 2016-17 (or earlier), the local sales tax rate is restored.
- **Backfilling for the Vehicle License Fee (VLF) Tax Cut.** Also in 2004, the Legislature enacted the "VLF Swap" to provide a more reliable funding mechanism to backfill cities

and counties for the local revenue cut by the State when the VLF tax on motor vehicles was reduced from 2.0 percent of a vehicle's value to 0.65 percent of a vehicle's value. Here again, the state redirected property tax from schools to cities and counties and backfilled schools with State funds.

- **Problem for Amador:** The funding mechanism stopped fully working for Amador County (and initially Mono County) reportedly in 2010-11 due to all the schools in those counties becoming "basic aid" schools. Basic aid schools receive sufficient local property tax to fully fund the per-student amounts required by the Proposition 98 guarantee and therefore the State's funding is minimal. Due to this "basic aid" situation, current law would not backfill schools for any property tax shifted to cities and counties and county auditors have reportedly reduced or discontinued the "AB 8" shift of property tax from schools to those cities and counties. The estimated loss for the two counties in 2010-11 is \$4.4 million. Conversely, in a non-"Test 1" Proposition 98 year, the State would realize a savings from not having to backfill schools – but 2012-13 appears to be a Test 1 year.

Issues to Consider: The financing shifts and educational financing provisions are complex, and perhaps not entirely relevant to making a determination on this budget request. The Subcommittee may instead want to focus on some broader ideas and issues:

- **Revenue growth uncertainty.** The funding shifts did include uncertainty and risk, as the relative growth of various revenue streams over many years was unknown. On a statewide basis, data suggests most counties – perhaps as many as 56 of 58 counties - have received a net benefit from the shifts. Since 2010-11, reportedly Amador has not seen net benefits. Individual county estimates of benefits or costs are not currently available, but Amador County has estimated the isolated effect of the property tax shift at \$1.5 million.
- **No backfill guaranteed in the original legislation, but the Amador outcome was not anticipated.** The enacting legislation did not include provisions for the State to backfill locals with new subventions if the baseline funding mechanism proved to be insufficient to maintain city and county funds. At the time of the legislation, stakeholders were likely aware of the risk of variable levels of growth for different revenue streams, but may not have anticipated this outcome of all schools within the county becoming "basic aid." Since this outcome may not have been foreseen by the State or local governments at the time of bill enactment, does the State have a responsibility to backfill for this revenue loss?
- **Budget challenges in most cities and counties.** Since many cities and counties are continuing to experience budget shortfalls, should the Legislature consider the fiscal condition of the two counties relative to other counties as a factor in the determination. For example, has the decline in revenue for these counties since 2007-08 exceeded the statewide average?
- **Timing of the Subvention.** If the Legislature determines a subvention is appropriate, should the Legislature appropriate for revenue loss through 2012-13 (maybe funding at a level of \$13.2 million), or conversely decide to fund, but defer reimbursement to later in the fiscal year.

Question:

LAO: Is there any potential for other counties to fall into a position similar to Amador's? What might be the potential costs to the state?

Staff Comment: The Subcommittee heard this issue on March 8, when the Administration was requesting \$4.4 million for Amador and Mono counties, and the issue was left open. The Administration has reduced the request in an April 1 Finance Letter and is currently requesting only \$1.5 million for Amador County, indicating that Mono County did not lose funds in 2010-11.

Staff Recommendation: Staff recommends approving the budget request, with one-half the funding to be provided initially and the remainder to be disbursed upon a finding of necessity by the Department of Finance based on criteria established in Budget Bill Language. Absent a finding by Department of Finance, the funds would revert to the General Fund. Staff also recommends that LAO and DOF be directed to develop criteria whereby funding for such backfill shortfalls might be determined in the future.

Vote: APPROVE AS BUDGETED AND BBL AND SRL: 3 - 0