Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 5 Agenda

Senator Loni Hancock, Chair
Senator Joel Anderson
Senator Holly Mitchell

Thursday, April 3, 2014
9:30 a.m. or upon adjournment - State Capitol Room 113

Consultant: Joe Stephenshaw

Items Proposed for Vote-Only

Items Proposed for Discussion

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Items Proposed for Discussion

PROPOSED FOR VOTE ONLY

7320 Public Employment Relations Board

Issue 1	Increased Litigation Workload

Governor's Budget Proposal. The Governor's budget includes $360,000 General Fund and four positions to address increased workload due to new statutory requirements as well as increased workload due to a contract expiring, and expanding support functions in two regional offices.

Background. The Public Employment Relations Board (PERB) is a quasi-judicial administrative agency charged with overseeing the collective bargaining statutes covering California public employees. Since 2001, PERB's jurisdiction expanded to cover additional public sector employees and their employers. Recent expansion to PERB's jurisdiction, caused by new legislation, has resulted in an increased workload. The new statutory requirements are:

- SB 1036 (Budget and Fiscal Review Committee, Chapter 45, Statutes of 2012), the In-Home Supportive Services Employer-Employee Relations Act, which expanded PERB's responsibility to include the creation of a statewide authority to negotiate terms and conditions of employment for a specialized segment of the healthcare system.

- AB 646 (Atkins, Chapter 680, Statutes of 2012), which amended the Meyers-Milas-Brown Act to establish fact finding as a mandatory method of resolving bargaining impasses.

- SB 1038 (Budget and Fiscal Review Committee, Chapter 46, Statutes of 2012), which expanded PERB's authority with the merger of state mediation and conciliation services.

Recommendation. Approve as proposed.

7350 Department of Industrial Relations

Issue 1 Enhanced Labor Enforcement Compliance from 2013 Legislation

Governor's Budget Proposal. The Governor's budget includes $1.1 million and 5.5 positions ($624,000 ongoing) from the Labor Enforcement and Compliance Fund to fulfill the provisions of various legislative bills: AB 10 (Alejo), Chapter 351, Statutes of 2013; AB 241 (Ammiano), Chapter 374, Statutes of 2013; AB 263 (Hernández), Chapter 732, Statutes of 2013; SB 390 (Wright), Chapter 718, Statutes of 2013; SB 400 (Jackson), Chapter 759, Statutes of 2013; SB 530 (Wright), Chapter 721, Statutes of 2013; and SB 666 (Steinberg), Chapter 577, Statutes of 2013.

Background. This proposal will allow the Department of Industrial Relations to carry-out new statutory requirements pursuant to recent legislation, specifically:

- AB 10 (Minimum Wage Adjustment) – The Division of Labor Standards Enforcement (DLSE) is mandated with issuing the new minimum wage order to employers.

- AB 241 (Expanded Overtime Coverage for Personal Attendants) – DLSE anticipates an additional 200 citations will be issued annually pursuant to the requirements of AB 241 as well as an additional 551 new wage claims.

- AB 263, SB 400, SB 530, and SB 666 (Retaliation Complaint Investigations) – DLSE requires additional resources to review and investigate increased complaints resulting from the passage of these four bills.

- SB 390 (Employee Wage Withholdings: Failure to Remit) – DLSE will add an additional investigator to handle the workload associated with the criminal misdemeanor created by this bill.

Staff Recommendation: Approve as budgeted.

7501 Department of Human Resources

Issue 1 Examination and Certification Online System Project

Governor's Budget Proposal. The Governor's budget includes $630,000 ($359,000 GF and $271,000 Central Service Cost Recovery Fund) to support the Examination and Certification Online System (ECOS) project.

Background. The proposal requests resources for the remaining three years of the ECOS project, which will eliminate outdated manual processes, reduce the cost and time required for exam administration, create real-time exam results for hiring departments, and mitigate risks by integrating seven disparate systems.

The State Personnel Board (SPB) was responsible for the creation and administration of civil service examinations, certification of hiring lists, and the review of appointments. Pursuant to the Governor's Reorganization Plan (GRP) No. 1, selection-related responsibilities were transferred from SPB to CalHR, including the ECOS project.

The ECOS project is intended to upgrade the current electronic exam and list certification systems, which are comprised of the following: Examinations, Certifications, Web Exam, Profile, State Restriction of Appointment (SROA), Reemployment, Vacant Position Online Search (VPOS) and the manual Career Executive Assignment (CEA) Examinations and Certification systems.

Almost all state departments use CalHR's systems to process their exams. The alternative to using CalHR's systems for an individual department include manual processing of exams or using their own systems. All current state employees will or have used the exam system to obtain positions within the state or to be eligible for promotion. The public also utilizes the exam system to apply for exams, and check their score and ranking.

CalHR is charged with maintaining the eligibility list for all state departments and ensuring that the applicable rules and laws are applied by all. State personnel offices use the eligibility certification listing on a daily basis to look for candidates.

In 2013-14, CalHR submitted a Spring Finance Letter requesting $1.9 million over four fiscal years. The Legislature approved funding for the ECOS project for the 2013-14 year, and required quarterly reports on the status of the project. The Legislature also required CalHR to submit a 2014-15 budget change proposal for the remaining three years of the project.

CalHR has reported quarterly to the Legislative Analyst's Office on the project and has taken actions to correct the schedule and identify additional needs of the project. The project is on schedule and ready to move forward.

Staff Recommendation. Approve as budgeted.

Issue 2 CalHR Indian Gaming

Governor's Budget Proposal. The Governor's budget proposes $75,000 from the Indian Gaming Special Distribution Fund for disbursement to the Tribal Labor Panel to provide support for its labor relation duties.

Background. In September 1999, as authorized by Section 10.7 of the Tribal-State gaming compacts, a Tribal Labor Relations Ordinance was adopted that provided for administration of labor relations concerns by a body referred to as the "Tribal Labor Panel." The Tribal Labor Panel has authority to handle dispute resolutions. The panel can hire staff as well as take other necessary actions to fulfill its obligations under the Tribal Relations Ordinance. The Department of Human Resources (CalHR) contracts with the American Arbitration Association to serve as the administrator of the Tribal Labor Panel.

In 2012, the Tribal Labor Panel was added to CalHR's budget. Subsequently, CalHR conducted a program review to determine what appropriation authority and program modification was needed on an ongoing level. Based on the review, CalHR determined that an annual appropriation of $75,000 should cover the dispute resolution costs and that any fund authority not used would revert to the Indian Gaming Special Distribution Fund.

Staff Recommendation. Approve as budgeted.

7900 Public Employees' Retirement System

Issue 1 Trailer Bill Language – Contingency Reserve Fund

Governor's Budget Proposal. The Governor proposes trailer bill language that enables state employee and employer contributions toward their Health Maintenance Organization premiums to be deposited into the Contingency Reserve Fund.

Background. The proposed language is consistent with how existing statute permits local contracting agency contributions for HMO premiums to be deposited in the Contingency Reserve Fund.

In April 2013, the CalPERS Board adopted health care contracts with five additional non-Kaiser HMO plans, consistent with AB 2142 (Furutani, Chapter 445, Statutes of 2012). The new HMO contracts include both capitation and a risk-adjusted fee for service component, which require a designated fund to process health care payments. This is a technical change to the current statute to enable CalPERS to deposit HMO premiums into the Contingency Reserve Fund and process health care payments, consistent with the new HMO contracts.

Staff Recommendation. Approve as budgeted.

7920 California Teachers' Retirement System

Issue 1 CalSTRS Budget Proposals

Governor's Budget Proposal. The following eight CalSTRS budget proposals are recommended for vote only:

- **Member Service Center Inland Empire.** CalSTRS requests an augmentation of one-time funding of $1.4 million in 2014-15, and $446,000 in 2015-16, and four full-time positions to support the establishment of the Inland-Empire CalSTRS-operated Member Service Center. This Member Service Center will be similar to other full-service counseling offices in Glendale, Santa Clara, and Orange County.
- **Expansion of Sustainability Program.** CalSTRS requests a permanent augmentation of $100,000 and one permanent full-time position to expand existing sustainability efforts by creating a corporate sustainability program in accordance with the CalSTRS Strategic Plan. This new position will be responsible for developing a comprehensive corporate sustainability program at CalSTRS.
- **Legal Administrative Support. The** CalSTRS budget includes a request for permanent funding in the amount of $57,000 and one position to support administrative functions associated with increased attorney workload from new audits stemming from the hiring of an attorney and legal analyst in 2013-14.
- **Investment Portfolio Internal Management.** CalSTRS requests a permanent funding augmentation of $2.2 million and 19 permanent positions to address an increase in internal management and growing complexity of the investment portfolio. Thirteen positions will be assigned to the Investment Branch to manage a portfolio and the additional six positions will be assigned to work in the Financial Services Branch.
- **Member Service Improvement.** CalSTRS requests $205,000 and three permanent positions to increase customer service levels in the contact center.
- **Reduce Reliance on Contractor Staff.** CalSTRS requests a permanent augmentation of nine full-time staff to reduce the reliance on external contractors. No additional funding is requested because contractor dollars will be redirected to cover staffing costs.
- **IT Infrastructure Security and ISO Workload Growth and Risk Management.** CalSTRS requests a permanent augmentation of $544,000 and five permanent positions to ensure the proper completion of on-going preventive maintenance and security activities and coordination of annual security audits. Over the past four years, CalSTRS IT infrastructure assets have grown significantly in volume but the resources to manage them have not increased accordingly. Additional resources are needed to address the increase in workload hours to manage these IT assets.
- **Actuarial Resources.** CalSTRS requests $165,000 and one full-time position to perform new actuarial and benefit administration functions. In 2012-13 these duties were backfilled by Milliman, Inc., which is an outside consultant that performs other work for CalSTRS. It has been determined that having a contractor perform the new actuarial and benefit administration functions is not the most cost effective way of addressing the increased workload.

Staff Recommendation. Approve as proposed.

9800 Augmentation of Employee Compensation

Issue 1	Trailer Bill Language - Phase in of Pay Increases Counting Toward Pensionable Compensation

Governor's Budget Proposal. This trailer bill language would affect any supervisor or manager of state Bargaining Unit 9 or 10 whose monthly salary will increase effective July 1, 2014.

Background. The Governor's budget includes a salary adjustment for 14 supervisory scientist classifications. Beginning in 2006, the supervisory division of the California Association of Professional Scientists has argued their members were performing similar work as certain engineering supervisors and should, thereby, receive similar salaries. The Department of Personnel Administration held a hearing on the issue and on April 28, 2008, recommended salary increases for the supervisory scientist classifications.

The trailer bill language provides a phased approach for the application of the pay increase that would apply to a pension or benefit. This would ensure that those who are receiving the raises continue to have an incentive to remain in their positions; this prevents a rush of retirees after they receive their pay increases. This proposal is similar to language that was included in previous budgets when other groups received a salary increase, such as the Department of Water Resources employees.

Recommendation. Approve as proposed.

Items to be Heard

7920 California Teachers' Retirement System

The California State Teachers' Retirement System (CalSTRS) administers retirement benefits for 868,493 (as of June 30, 2013) active and retired educators in public schools from pre-kindergarten through the community college system in California. Benefits include retirement, disability, and survivor's retirement benefits.

CalSTRS is governed by the Teachers' Retirement Board. The California Constitution provides that the Teachers' Retirement Board has authority over the administration of the retirement system; therefore, while the budget is subject to a Budget Act appropriation, the proposed appropriations are not reviewed or approved by the Governor. The following Governor's budget display shows the proposed funding and positions for CalSTRS.

3-YR EXPENDITURES AND POSITIONS

		Positions			Expenditures		
		2012-13	2013-14	2014-15	2012-13*	2013-14*	2014-15*
10	Service to Members and Employers	638.5	716.3	750.3	$109,134	$121,328	$193,873
15	Corporate Governance	8.0	9.1	9.1	2,138	2,097	2,155
20	Administration	204.1	260.6	265.6	30,604	44,642	69,129
99	Unclassified (Benefit Payments)	-	-	-	11,649,299	12,457,431	13,301,405
TOTALS, POSITIONS AND EXPENDITURES (All Programs)		**850.6**	**986.0**	**1,025.0**	**$11,791,175**	**$12,625,498**	**$13,566,562**
FUNDING					**2012-13***	**2013-14***	**2014-15***
0835	Teachers' Retirement Fund				$11,748,695	$12,581,435	$13,521,406
0995	Reimbursements				12	339	339
8001	Teachers' Health Benefits Fund				35,029	35,796	36,513
8005	Teacher's Replacement Benefits Program Fund				6,836	7,165	7,523
8041	Teachers' Deferred Compensation Fund				603	763	781
TOTALS, EXPENDITURES, ALL FUNDS					**$11,791,175**	**$12,625,498**	**$13,566,562**

Issue 1 BusinessRenew – Pension Solution

Governor's Budget Proposal. CalSTRS proposes $61.6 million in one-time funding in 2014-15, and an additional $151.4 million in one-time funding in 2015-16 through 2019-20, for project resources, staff, and vendor costs to support the Pension Solution Project under the CalSTRS BusinessRenew program. The Pension Solution Project is a multi-year technology project to replace CalSTRS current pension administration system with a more modern one.

Background. The BusinessRenew project is intended to implement multiple projects to transform CalSTRS technology infrastructure. It will implement changes in how CalSTRS operates in order to become more efficient, effective, and nimble. Expected outcomes include a reduction in operational risk by ensuring CalSTRS has an adequate system for administering benefits and the fiscal management system required to support business processes so that CalSTRS can provide accurate and timely payments to members, and staff have the tools necessary to perform.

BusinessRenew is being delivered via concurrent projects that address the strategies outlined in CalSTRS Solutions Framework and Implementation Roadmap documents. The following is a description of each BusinessRenew project:

BusinessRenew Project	Project Objective and Scope
BusinessDirect	Acquisition and implementation of a new budgeting, procurement, accounting, and contract management solution to deploy automated internal controls and processes, increase the timeliness of financial and operational reporting, and reduce the risk of error.
Pension Solution	Acquisition and implementation of a new benefits program management member/beneficiary account, benefit calculation and case management solution to support program and policy changes, incorporate automated internal controls, and improve processing times.
Data Preparation	Analysis, cleansing, standardization, and preparation activities for data conversion of pension data from the old system to the new pension solution system.
Enterprise Information Management	Implementation of a comprehensive approach to information management including identification of data stewardship and governance to ensure future information integrity.
Requirements Management	Acquisition and implementation of an automated tool and supporting processes for the centralized management of technology requirements, which will allow traceability to business processes, laws, and regulations.

Beginning in 2003, CalSTRS established an annual $20 million budget to fund all of its large, enterprise-wide technology projects. This budget covered both external and internal project costs including resources, equipment, and software, as well as the costs for the administration of the CalSTRS Project Management Office (PMO).

Effective in fiscal year 2012-13, a funding allocation change was made to allow for the use of technology project funding for up to three years. At the same time, the enterprise technology project budget was modified to reduce the annual project budget allocation from $20 million to $18.5 million, with a portion of the remaining $1.5 million available to support the PMO.

The current annual budget appropriation is sufficient to fund the implementation of most phases of the BusinessRenew project. The resources requested in this proposal are necessary to complete implementation of the Pension Solution project.

Staff Comment. This proposal will allow CalSTRS to implement technology projects that will improve their business processes and significantly reduce risks associated with current outdated systems. However, given the recent history of state entities with large information technology projects, the subcommittee may wish to ask for an update from CalSTRS regarding efforts it has undertaken to avoid major pitfalls and mitigate implementation risks.

Staff Recommendation. Approve as proposed.

7100 Employment Development Department

The Employment Development Department (EDD) is designated to enhance California's economic growth and prosperity by collaboratively delivering valuable and innovative services to meet the evolving needs of employers, workers, and job seekers. The EDD connects employers with job seekers, administers the Unemployment Insurance, Disability Insurance, and Paid Family Leave programs, and provides employment and training programs under the federal Workforce Investment Act of 1998. Additionally, the EDD collects various employment payroll taxes including the Personal Income Tax, and collects and provides comprehensive economic, occupational, and socio-demographic labor market information concerning California's workforce. The following Governor's budget display shows the proposed funding and positions for the EDD.

3-YR EXPENDITURES AND POSITIONS

		Positions			Expenditures		
		2012-13	2013-14	2014-15	2012-13*	2013-14*	2014-15*
10	Employment and Employment Related Services Program	941.3	1,338.7	1,338.7	$120,644	$181,949	$180,765
21	Tax Collections and Benefit Payments Program	6,361.4	5,884.5	5,639.6	18,206,095	15,755,208	13,033,288
22	California Unemployment Insurance Appeals Board	645.8	663.0	586.0	91,092	78,045	68,167
30.01	Administration	695.2	701.0	701.0	51,279	53,780	53,390
30.02	Distributed Administration	-	-	-	-47,226	-51,004	-51,004
50	Employment Training Panel Program	85.2	85.1	85.1	52,131	49,689	60,632
61	Workforce Investment Act Program	147.1	144.2	144.2	415,247	406,463	409,312
62	National Emergency Grant Program	3.1	1.5	1.5	3,413	45,000	45,000
TOTALS, POSITIONS AND EXPENDITURES (All Programs)		**8,879.1**	**8,818.0**	**8,496.1**	**$18,892,675**	**$16,519,130**	**$13,799,550**

Issue 1 Unemployment Insurance Program Administration

Governor's Budget Proposal. The Governor's budget proposes a $64.0 million augmentation from the Employment Development Department (EDD) Contingent Fund in support of the state's Unemployment Insurance (UI) program. These funds are proposed to be used to minimize the degradation of UI services due to underfunding from the federal Department of Labor (DOL) and the reduction of federal funding due to sequestration. This proposal includes: 1) $38 million from the Contingency Fund, 2) an increase in withholding penalties deposited into the Contingency Fund from 10 to 15 percent, and 3) a one-time suspension of the transfer of personal income tax withholdings to the GF, and instead retaining $15.9 million for the program.

Joint Legislative Budget Committee Letter (JLBC). On February 7, 2014, the Department of Finance sent a letter to the JLBC notifying the Legislature that the Administration intended to take three steps to address UI customer services issues:

1. Spend $43.3 million in federal funds in the current year to address the customer service backlogs.

2. Submit a budget request to augment the EDD budget with General Fund, likely by "tens of millions."

3. Submit a Section 11 notification to the Legislature to augment resources for the UI Modernization project. The Legislature received this request on February 28, 2014, which anticipated $3.6 million in project spending (this is in addition to $1.7 million from a January Section 11 notification).

The DOF letter also included a letter from the Secretary of Labor and Workforce Development, David Lanier, to the EDD, which outlined the Administration's approach to addressing problems with the department's administration of the UI program. The elements of this approach are:

1. Hire 280 additional staff, starting March 1, 2014.

2. Retain 250 permanent intermittent staff currently, in place until June 30, 2015.

3. Continue overtime pay.

4. Rehire up to 50 program staff that are trained and can provide UI services immediately.

5. Hire 155 program staff to fill existing vacancies.

6. Implement Virtual Hold/Automatic Call notification technology for callers to EDD's UI system to improve customer service.

7. Obtain additional information technology expertise at EDD.

Background. The UI program is a federal-state program that provides weekly UI payments to eligible workers who lose their jobs through no fault of their own. Benefits range from $40 to $450 per week, depending on the earnings during a 12-month base period. UI program benefits are financed by employers who pay state unemployment taxes, ranging between 1.5 and 6.2 percent, on the first $7,000 in wages paid to each employee in a calendar year. Employers responsible for a high number of unemployment claims pay the highest tax rate.

During the recent economic recession, EDD struggled to pay unemployment benefits or answer phone calls from the public in a timely manner. The department recently launched a new system, called the Continued Claim Redesign (CCR), which was intended to allow customers to handle UI transactions through self-service phone and internet interactions. During the fall of 2013, bugs within the CCR system temporarily exacerbated the department's customer service problems.

As of January 2014, only 31.1 percent of claims were paid in seven days or less and 68.7 percent were paid within 14 days. During the last week of December 2013, almost two million calls were made to EDD and over 1.6 million of these were unanswered. While these performance challenges continue, a combination of an improved economy and 1.2 million Californians exhausting all benefit eligibility over the recession have reduced the overall workload for the department.

Notwithstanding workload reductions, the EDD continues to face a shortfall in federal funding to administer the UI program. The federal government is supposed to fund the cost of administering the program based on a forecasted workload model, known as the Resource Justification Model (RJM), provided by EDD. Persistently, the federal government has failed to provide one hundred percent of the funding for the UI program, based on its own RJM formula.

Due to this federal funding shortfall, the Governor's budget proposed a budget amount that would be 15 percent below full program funding; however, allow EDD to provide service levels at the 2012-13 level, which they believe is a reasonable level of service given the circumstances. The Governor's budget proposed a UI program administration funding need of $522.5 million, which assumes the federal government provides California with $366 million, and the $156.5 million funding gap is addressed by the state. The budget proposal includes $43.2 million in additional one-time special funds, which reduce the funding gap from $156.5 to $113.3 million. The Governor's budget proposed two strategies to address the remaining $113 million funding gap:

1. $64.0 million augmentation from the EDD Contingent Fund in support of the state's UI Program. These funds will be used to minimize the degradation of UI services due to underfunding from the federal Department of Labor (DOL) and the reduction of federal funding due to sequestration. The proposal also provides a corresponding decrease of $64.0 million in the Unemployment Administration (UA) Fund

2. $49.2 million and 295 positions reductions for efficiencies identified through what the Governor's proposal identifies as a zero-based budgeting effort. This effort identified the following efficiencies:

   - **Extending the Grace Period for Continued Claim Forms Arriving Late:** Eligibility for UI benefits is determined on a weekly basis. Previously, claimants were required to complete and return their continued claim form within 14 days of the date noted on the form. Extending this timeframe to 21 days will reduce the amount of follow-up work done by the EDD staff to determine if the claimant had good cause for returning the forms late. This will allow more staff to focus on providing other necessary services to claimants, while avoiding delays in paying benefits to claimants. This was implemented in February 2014 and will save an estimated $6.3 million.

   - **Streamline Identity Verification System:** Currently, if the EDD is unable to verify a claimant's identity, the claimant receives a request to provide additional verifying information so that EDD can ensure benefits are paid appropriately. The EDD is working to streamline this process, resulting in greater efficiency and more staff being available to provide other necessary services to claimants. This will save an estimated $1.6 million.

- **Shorten Initial Phone Message When Calling EDD:** When customers call the toll-free number for the UI program, they hear a lengthy recorded message providing general information. By shortening the length of this message, callers will spend less time in the phone system, at a reduced cost to the UI program, and will be able to get to their desired selection more quickly. This was implemented in late 2013 and will save an estimated $900,000.

- **Eliminate Certain Requirements for those Enrolled in School:** Currently, a claimant who indicates they are attending school or training is scheduled for an eligibility interview, even if they also indicate they are still available for work and able to work. However, with the use of alternate school schedules such as night classes and online schooling increasing, claimants are increasingly able to attend school or training and also be able and available for work. Eliminating eligibility interviews in these cases will reduce unnecessary workload and assign additional staff to provide other services to claimants, while avoiding delays in payment of benefits to claimants. This was partially implemented in December 2013, and fully implemented in January 2014, saving an estimated $500,000.

- **Review and Reduce Operational Costs:** The EDD conducted a thorough review of the operational costs of the UI program and has made changes resulting in savings in mailing, facility, administrative, hiring, and other overhead costs. In addition, the California Unemployment Insurance Appeals Board, which is the appellate body for the UI program and works closely with the EDD, is making process improvements and identifying additional efficiencies. These cost savings help close a budget gap without reducing staff that provide direct services to claimants. For example, the estimate savings from consolidating facilities ($3.5 million) and implementing a hiring freeze of administrative staff ($6.8 million) will result in saving an estimated $10.3 million.

UI Trust Fund Condition. Beginning in January 2009, the state's UI Fund was exhausted due to an imbalance between benefit payments and annual employer contributions. To continue to make UI benefit payments without interruption, EDD began borrowing funds from the Federal Unemployment Account. The UI Fund deficit was $10.2 billion at the end of 2012 and is projected to be $8.8 billion at the end of 2014.

While annual interest payments were waived under the American Recovery and Reinvestment Act for 2010, interest payments totaling $870.7 million were paid in 2011, 2012, and 2013. The budget includes $231.6 million GF to make the 2014 interest payment. Interest will continue to accrue and be payable annually until the principal on the UI loan is repaid. The interest payment must come from state funds. As a result of the fund's insolvency, employers are negatively affected by a reduction in their Federal Unemployment Tax Act credit - meaning they are paying increasing levels of federal taxes each year until the fund is returned to solvency.

The Governor's budget contains a reference to meetings convened in February 2013 by the Secretary for Labor and Workforce Development to bring together key stakeholders, including business and labor, to identify preferred alternatives to meet annual federal interest obligations, repay the federal loan, and return the state's UI Trust Fund to solvency.

The Governor's 2014-15 Budget Summary makes the following statement:

"A solvency solution should be developed with the following goals and principles:

- Achieve a prudent reserve by 2021 substantial enough to withstand a recession.

- Repay the Disability Insurance Fund and General Fund for interest payments made by the state. Phase-in changes to the financing structure to smooth the impact on employers to the extent possible.

- Include reforms to improve the integrity of the unemployment insurance program."

Staff Comments. During this past year, EDD has faced many challenges in administering the UI program. Many of these challenges have received significant attention, including: 1) the September 2013 problems with the rollout of the first phase of the CCR, which delayed unemployment checks to approximately 150,000 recipients; 2) a Los Angeles Times report that, from October 2013 to January 2014, phone calls were answered by a live human only 10 percent to 17 percent of the time and, even then, some people had to call 40 times to reach an agent; and, 3) recent reports that at least half of EDD's denials of benefits are reversed on appeal. In addition to these issues with administration of the UI program, a recent audit by the California State Auditor found that EDD failed to participate in a federal program that would have allowed the state to collect hundreds of millions of dollars.

Primarily, the EDD attributes most of the challenges the department has faced in carrying out its UI program responsibilities to the lack of appropriate resources provided by the federal government. As such, it is encouraging that the Administration and department are aggressively pursuing efforts that enhance resources available to the EDD to administer the program. The EDD has recently reported that significant gains are being made. Following are examples of improvements recently cited by EDD:

- Nearly doubled the amount of calls answered between the week ending February 8, with more than 23,000 calls answered, and the week ending March 8, when more than 45,000 calls were answered.

- Increased the percentage of calls answered from a low of 11 percent in late November to 60 percent for the week ending March 8, 2014.

- Reduced the average number of times a person has to dial to access the call center by close to 89 percent since back in November. Over the last month, the average number of redials decreased from 30.9, for the week ending February 8, to 4.8, for the week ending March 8, a 84.4 percent decline.

- Reduced the average wait time to speak to an agent by more than 50 percent, to fewer than three minutes.

- Decreased the percentage of blocked calls from a high of 90 percent in November and December to 18 percent for the week ending March 8, 2014.

In addition to enhanced resources, it is worth noting that the Administration has recently named a director for the department, which will, hopefully, provide for stable leadership, something EDD has not had for some time.

Staff Recommendation: Hold Open.

7350 Department of Industrial Relations

The Department of Industrial Relations (DIR) is responsible for protecting the workforce in California, improving working conditions, and advancing opportunities for profitable employment. The department is responsible for enforcing workers' compensation insurance laws, adjudicating workers' compensation claims, and working to prevent industrial injuries and deaths. The department also promulgates regulations and enforces laws relating to wages, hours, and conditions of employment, promotes apprenticeship and other on-the-job training, and analyzes and disseminates statistics which measure the condition of labor in the state. The following Governor's budget display shows the proposed funding and positions for DIR.

3-YR EXPENDITURES AND POSITIONS

		Positions			Expenditures		
		2012-13	2013-14	2014-15	2012-13*	2013-14*	2014-15*
10	Self-Insurance Plans	21.9	27.1	27.1	$3,153	$6,312	$6,211
30	Division of Workers' Compensation	959.4	1,077.8	1,077.8	160,154	200,697	197,020
36	Commission on Health and Safety and Workers' Compensation	6.8	8.1	8.1	2,373	3,484	3,416
40	Division of Occupational Safety and Health	668.8	722.4	726.9	107,768	120,239	127,106
50	Division of Labor Standards Enforcement	430.5	516.9	509.4	56,860	68,479	72,250
60	Division of Apprenticeship Standards	54.6	55.3	55.3	9,854	10,476	10,511
80	Claims, Wages, and Contingencies	-	-	-	59,232	61,182	181,182
94.01	Administration	330.1	384.0	385.0	40,773	54,766	49,905
94.02	Distributed Administration	-	-	-	-40,773	-54,766	-49,905
TOTALS, POSITIONS AND EXPENDITURES (All Programs)		2,472.1	2,791.6	2,789.6	$399,394	$470,869	$597,696

Issue 1 Process Safety Management Unit Expansion

Governor's Budget Proposal. The Governor's budget proposes $2.4 million from the Occupational Safety and Health Fund and 11 positions to expand the Process Safety Management (PSM) Unit to implement the recommendations of the Governor's Interagency Working Group on Refinery Safety in enforcement of workplace health and safety regulations in 15 refineries and over 1,600 other chemical facilities.

Background. In August 2012, a fire broke out at the Richmond Chevron refinery when a severely corroded pipe in the refinery's #4 Crude Unit began leaking. Chevron managers did not shut the unit down; instead, they instructed workers to remove insulation, which led to the pipe's rupture and a massive fire. While there were no serious worker injuries, a reported 15,000 residents of surrounding communities sought treatment after breathing emissions from the fire.

The PSM Unit within the Division of Occupational Safety and Health (DOSH) enforces "process safety management" procedures regarding potentially hazardous processes that exist in a wide variety of industries, including oil refineries. The PSM Unit was established after the 1999 fire at the Tosco refinery in Martinez that killed four workers.

California is the only state to have a dedicated unit for this function, which, until actions taken by the Legislature in adopting the current year's budget, had a staff of 11 to inspect 15 refineries and over 1,600 other facilities that use, process, or store large quantities of toxic, flammable, or explosive chemicals. On average, from 2001-2012, this unit inspects 27 refineries as well as 112 other facilities per year. Last year, this subcommittee found that the PSM needed at least 15 additional positions to have enough personnel to ensure worker and citizen safety within these industries.

Labor Code Section 7870 states that the department "may fix and collect reasonable fees for consultation, inspection, adoption of standards, and other duties" in relation to process safety management at these hazardous sites. Prior to the adoption of the current year budget, the department did not collect such a fee. The 2013-14 Budget Act contained budget bill language directing the department to use its statutory authority to approve a fee to support an increase in funding and at least 15 new positions for the PSM Unit.

The Governor's budget proposes that positions related to refinery inspection be funded with the new fee on the refinery industry. The newly established regulatory fee for oil refineries is based on the amount of crude oil being processed at each refinery to fund inspections and enforce workplace health and safety regulations.

Instead of establishing 15 new positions, consistent with the intent of the Legislature's action from last year, the Governor's proposal establishes 11 new positions and redirects four positions from other areas within the department. This proposal would result in a staffing level of 26 employees for the PSM Unit, including 20 inspectors.

The increased number of staff and resources proposed in the Governor's budget will enable the PSM Unit to ensure greater refinery safety by conducting: 1) planned refinery inspections that would match the scope and duration of the federal OSHA's National Emphasis Program inspections; 2) intensive and targeted inspections of refinery "turnaround" maintenance operations when the most hazardous work is performed; and, 3) comprehensive inspections of non-refinery facilities.

Under this proposal, the PSM Unit will be divided into a refinery safety group and a non-refinery safety group. Both groups will conduct inspections prompted by worker complaints, reports of worker injuries and illness, referrals from government agencies, as well as comprehensive inspections designed to target the most hazardous operations and work processes on site.

Refinery Safety Group. Ninety percent of the Refinery Safety Group's time will be spent on in-depth, planned inspections to pro-actively target the most hazardous operations and processes in the refineries to ensure compliance. The following table displays the three types of planned inspection that will be performed by the Refinery Safety Group.

Refinery Safety Group Planned Inspections	
Type	**Description**
Turnaround Inspections	Inspections of refinery units undergoing "turnarounds," or scheduled maintenance, repair and replacement work after the units have been shut down. The planned turnaround inspections will involve an average of 1,500 hours of inspector time for pre-turnaround analysis and on-site observation as work is completed.
National Emphasis Program Inspections	Inspections follow the methodology of the federal OSHA National Emphasis Program, which involve 1,200 hours per inspection and evaluate compliance with the 13 elements of the PSM regulation throughout the refinery.
Special Emphasis Program Inspections	Inspections will focus on specific hazards or processes in refineries that have generated incidents, injuries and illnesses, with 500 hours per inspection.
Contract Employee Inspections	Inspections of contractors working in the refineries during any of the other planned inspections.

The following table displays the projected number of refinery inspections, by type and hours.

Projected Inspections at Refineries (14 Inspectors)		
Inspection Type	**Number of Inspections**	**Hours**
Unplanned Inspections (Complaints, Accidents, Referrals)	25	2,000
National Emphasis Program	4	4,800
Turnaround Type	4	6,000
Special Emphasis Program	15	7,500
Contractors on Site	60	4,800
Total Refinery Inspections	**108**	**25,100**

Non-Refinery Safety Group. The Non-Refinery Safety Group will conduct unplanned and planned inspections in the over 1,600 other PSM-designated facilities that include fertilizer plants, chemical plants, refrigeration plants using ammonia, and water treatment and other facilities using chlorine. Inspections based on complaints, incident investigations and referrals will constitute approximately 20 percent of inspector hours, while the 80 percent balance will be enhanced, comprehensive inspections evaluating the facilities compliance with program requirements of the PSM regulation. The following table displays the projected number of non-refinery inspections, by type and hours.

Projected Inspections at Non-Refinery PSM Facilities (6 Inspectors)		
Inspection Type	**Number of Inspections**	**Hours**
Unplanned Inspections (Complaints, Accidents, Referrals, Follow-ups)	50	4,500
Site Operator	70	4,900
Contractors on Site	5	250
Total Refinery Inspections	**125**	**9,650**

As a result of this new fee, the department is redirecting $3.3 million of Occupational Safety and Health Fund revenues that once supported the PSM program to the overall Division of Occupational Safety and Health program. This allows the department to fill 26 existing positions that lacked funding.

Staff Comment. While the Legislature added staff last year to enhance PSM Unit resources in response to the Chevron refinery fire, work still must be done to ensure that DIR has the support it needs to perform its PSM responsibilities at both refinery and non-refinery facilities. The PSM Unit plays a critical role in protecting workers and the communities in which these facilities operate. Recent incidents at Tesoro Corp.'s Golden Eagle Refinery just outside Martinez, in which two workers suffered first- and second-degree burns when they were splashed with acid from a broken pipe on February 12 of this year, and two contractors doing maintenance work in the same processing unit suffered burns when they were splashed with sulfuric acid the following month, again-remind us of the critical need to ensure appropriate safety measures are in place in our state's refineries.

The PSM Units inspections of non-refinery facilities are no less important, as highlighted by the Central Texas fertilizer plant explosion last year that killed 14 people and injured approximately 200, and the incident in which chemicals used to clean coal leaked into the Elk River in Charleston, West Virginia this past January, contaminating the drinking water of some 300,000 residents.

Along these lines, it is encouraging that, in the aftermath of the fire at Chevron's Richmond oil refinery in August 2012, Governor Brown formed an interagency working group to examine ways to improve public and worker safety through enhanced oversight of refineries, and to strengthen emergency preparedness in anticipation of any future incident. The working group consists of participants from 13 agencies and departments, as well as the Governor's Office. Over an eight-month period, the working group met internally and with industry, labor, community, environmental, academic, local emergency response, and other stakeholders. The working group issued a draft report in July 2013 and received comment on the draft from local governments, industry stakeholders, nongovernmental and labor representatives, and members of the public. The working group issued its final report in February of this year, which included recommendations pertaining to the following areas:

- Oversight and Coordination
- Emergency Response and Preparedness
- Safety and Prevention of Hazardous Events
- Community Education and Alerts

Specifically, the working group's report recommends that existing state prevention programs, including PSM, should be strengthened to require refineries to:

1. Implement inherently safer systems
2. Perform periodic safety culture assessments
3. Conduct damage mechanism hazard reviews
4. Conduct a root cause analysis after significant accidents or releases
5. Explicitly account for human factors
6. Require structured methods to ensure effectiveness of safeguards

Staff notes that the DIR reports that they have initiated a five-part refinery safety effort within DIR that focuses on both prevention and enforcement, as follows:

1. **Staffing and training:** Pursuant to this Budget Change Proposal (BCP), the DIR is increasing the staffing numbers and training of the Cal/OSHA statewide PSM unit, which regulates the refineries and other hazardous industries.

2. **Regulatory modernization:** DIR is re-writing the state's PSM regulations, which apply to the state's refineries and other hazardous process industries.

3. **Policy collaboration:** DIR is coordinating regulatory changes with California EPA, the Governor's Office of Emergency Services, the State Health Department; and other agencies and departments of the Interagency Refinery Task Force.

4. **Enforcement collaboration:** In Northern California, DIR is collaborating refinery enforcement operations with U.S. EPA, the U.S. Chemical Safety Board, the Contra Costa County Health Services Agency, and the Bay Area Air Quality Management District.

5. **Outreach and transparency:** DIR is actively engaging with workers, the public, and industry leaders in our efforts to improve refinery safety.

Staff also notes that the DIR is proposing to have one full-time inspector for each refinery in the state, even though the U.S. Chemical Safety and Hazard Investigation Board (CSB) has recommended two full-time inspectors for each refinery in the state. The DIR reports that, after some discussion, they made slight modifications to the staffing levels reflected in this BCP, and then reviewed their revised approach and program staffing levels with CSB staff, who have agreed that this approach is reasonable and should be reviewed annually for effectiveness.

To build upon efforts of this subcommittee last year to enhance DIR's PSM capabilities, the subcommittee should reassess whether this BCP adequately adds staffing as intended by the Legislature. In addition, the subcommittee should ask the Administration to report on the efforts and timeline of implementing the Governor's working group recommendations, as well as, how the DIR's efforts align with the recommendations of the working group.

Staff Recommendation: Hold open.

Issue 2 Occupational Safety and Health Staffing

The Governor's budget proses $3.3 million from the Occupational Safety and Health (OSH) Fund to support 26.0 of the 31.5 existing, unfunded positions in the Cal/OSHA program to help increase the overall capacity to perform statewide safety inspections.

Background. The Division of Occupational Safety and Health (DOSH), better known as Cal/OSHA, protects workers from health and safety hazards on the job in almost every workplace in California through research and standards, enforcement, and consultation programs. Cal/OSHA also oversees programs promoting public safety on elevators, amusement rides, and ski lifts. In addition, the division oversees programs promoting the safe use of pressure vessels (e.g., boilers and tanks).

In 2008-09, about $24 million of Cal/OSHA's operations were funded by the GF. The 2009-10 budget eliminated GF support for Cal/OSHA and increased the assessment and funding in the OSH Fund to offset the reduction. Historically, funds generated by the OSH Fund were not sufficient to fund the level of staffing authorized in the budget. For example, the department reports that the 2012-13 budget authorized 724.4 positions for DOSH, but OSH Fund revenue only provided sufficient funding for 673 of these staff, leaving 51.4 positions vacant.

Actions taken by this subcommittee last year eliminated a sunset on the employer assessment and provided the Department of Industrial Relations (DIR) the authority to increase the assessment amount, based upon the level of appropriation authorized in the budget. In 2013-14 this provided DIR additional funding to fill vacant positions.

As mentioned previously, the Governor's budget redirects $3.3 million (OSH Fund) savings associated with the new refinery fee to support 26.0 of 31.5 existing, unfunded positions in the Cal/OSHA program within the DOSH without an increase to the current assessment level. The remaining 5.5 positions are proposed to be abolished.

Staff Comments. In the past few years, DOSH staffing has been determined by available funding and cash flow rather than the safety needs of the state. As the funding for the program stabilizes, the subcommittee may wish to consider what the appropriate standards for safety enforcement should be and what level of staffing is necessary to achieve that level of performance.

For example, a recent federal OSHA audit included the following findings regarding DOSH's performance in meeting federal benchmarks:

- DOSH cannot open inspections in response to worker complaints fast enough to meet the federal OSHA benchmark (5 days). DOSH's average was 14.9 days.

- DOSH cannot complete either safety or health inspections fast enough to meet the federal OSHA benchmarks (55.9 days, and 67.9 days, respectively). DOSH's average time for closing safety inspections was 85.8 days and closing time for health inspections was 97.4 days.

- DOSH cannot open inspections of non-fatal accidents that result in serious worker injuries in a timely fashion.

- DOSH cannot conduct the number of "follow-up" inspections at workplaces where serious citations have been issued that are required by law (Labor Code 6320).

- DOSH cannot conduct the inspections of the state's mining and tunneling projects that are required by law.

The resources requested by this proposal will address these program gaps; however, they will not fully close them. The department reports that the ability to deploy staff, which has not previously been funded is a significant step toward improving overall program efficacy and that the federal benchmarks and other indicators listed above are too narrow to provide an accurate gauge of the value of the division's efforts to help ensure workplace safety. Even so, it is critical that the department provide the Legislature with reasonable measurements of its resource needs, including, those needed to meet federal program standards.

Staff Recommendation: Hold open.

Issue 3 Public Works Contracting Enforcement

Governor's Budget Proposal. The Governor's budget proposes to stabilize and consolidate funding support for the public works program within the Department of Industrial Relations (DIR), Division of Labor Standards (DLSE), by supporting the function with a new fee on public works contractors. This proposal includes an annual $300 fee on all contractors, both prime and sub-contractors, who wish to bid on public works projects each year.

Background. Since 2009, public works enforcement activities of the Division of Labor Standards and Enforcement have been supported by either:

1. a set aside of 0.25 percent of bond funds for a public project for bond funded projects; or,

2. a surcharge on employee compensation premiums for non-bond funded public works projects.

These funding mechanisms did not provide stable and predictable revenue necessary to support the positions needed for enforcement for various reasons including cash flow timing and a mismatch between the projects with funding and those that may need enforcement. In last year's budget, the Administration indicated that it would begin work on a replacement funding plan to fix this problem.

The 2013 Budget Act contained a provision that allowed the department to request a $5 million loan from the Targeted Inspection Consultation Fund and statutory authority to bill other funding sources tied to public works projects to allow the program to run at near-full capacity during the current fiscal year, while working with the Department of Finance to develop a permanent funding solution.

In contemplating an alternative source of funding for the program, the department reviewed how other states have been supporting their public works enforcement functions, with a focus on approaches that would streamline and minimize administrative overhead, accelerate and make more reliable the capture of revenue, and eliminate barriers to the holistic enforcement of labor law on public works projects. According to the department, the approach selected most closely resembles models used in New Jersey and New Mexico.

The Governor's budget includes both budget and trailer bill language to implement the new model. The Administration's plan includes supporting the prevailing wage activities with a new fee, estimated at $300 per contractor, in lieu of the previous funding mechanism. The program would have $11.4 million and 83 positions for public works activities in 2014-15. In addition, this proposal would eliminate 13 historically unfunded positions.

Staff Comment. The subcommittee received a copy of a letter to DIR from the Associated General Contractors of California that suggested several changes to the proposal, including a statutory cap on the assessment and clarification in regards to the scope of entities that will be impacted by the fee. Staff has been informed that DIR is currently working with stakeholders to address concerns with this proposal.

Staff Recommendation: Hold open.

Issue 4 Unpaid Wage Fund Insolvency

Governor's Budget Proposal. The Governor's budget includes a decrease of $3.3 million in authority from the Industrial Relations Unpaid Wage Fund (UFW), and a corresponding increase of $3.3 million from the Labor Enforcement and Compliance Fund (LECF), to shift existing labor enforcement positions to a more appropriate funding source. This will continue to support the Bureau of Field Enforcement, Labor Enforcement Task Force, and the wage claim collection functions within the Division of Labor Standards Enforcement (DLSE).

Background. DLSE enforces state wage and hour laws ensuring workers are paid the correct wages, and is responsible for recovering wages that are lawfully due to workers in California. To fulfill these responsibilities, the DLSE conducts investigations of any claim alleging wage underpayments, and acts as a trustee of collected unpaid monies.

The UWF was created for the deposit of unpaid wages or benefits collected by the Labor Commissioner and to provide state operations support to the Department of Industrial Relations for underground economy enforcement. Wages or benefits collected are remitted to workers, with any year-end balance transferred to the GF (less six months of expenditures).

This proposal addresses a structural funding issue within the UWF created by state operations being funded by unclaimed wage collections. Using UWF as a funding source for wage and penalty assessment collection operations undermines staff funding since the more effective DLSE is in finding workers, the less revenue is deposited into the fund and available to continue such work.

Replacing the UWF appropriation with a LECF appropriation will address the current uncertainty of revenue available for operations. Because the intent of both the UWF and LECF is consistent with supporting labor compliance enforcement work, there is a nexus in moving UWF staff and authority to the LECF.

Staff Recommendation: Approve as budgeted.