

SUBCOMMITTEE NO. 5

Agenda

Senator Loni Hancock, Chair
Senator Joel Anderson
Senator Jim Beall



Wednesday, May 20, 2015

10:00 a.m. - State Capitol Room 4203

Consultants: Farra Bracht, Anita Lee, and Brady Van Engelen

Items Proposed for Vote-Only

<u>Issue</u>	<u>Department</u>	<u>Page</u>
0820	Department of Justice	
Issue 1	Legal Division.....	3
Issue 2	Cardroom Licensing	5
Issue 3	Initiatives Workload	6
Issue 4	Registry of Charitable Trusts Enforcement Program.....	8
Issue 5	Electronic Recording Authorization Fund	9
7100	Employment Development Department	
Issue 1	Employment Development Department and Department of Social Services Trailer Bill Language	10
7350	Department of Industrial Relations	
Issue 1	Occupational Safety and Health Staffing.....	11
Issue 2	Implementation of Statutory Requirements	11
Issue 3	Elevator Safety Inspections.....	12
7920	California State Teachers' Retirement System	
Issue 1	Technology Project Reappropriation	13
Issue 2	Support, CalSTRS Retirement System	13
9650	Health and Dental Benefits for Annuitants	
Issue 1	Medical and Dental Premium Adjustments	14
CS 3.60	Control Section 3.60	
Issue 1	Rate Adjustments.....	14

Items Proposed for Discussion and Vote

<u>Issue</u>	<u>Department</u>	<u>Page</u>
0820	Department of Justice	
Issue 1	Armed Prohibited Persons System (APPS)	15
Issue 2	Controlled Substance Utilization Review and Evaluation System	18
7100	Employment Development Department	
Issue 1	Unemployment Insurance Program Administration	19
Issue 2	Workforce Innovation Opportunity Act Discretionary Fund Adjustment	20
7350	Department of Industrial Relations	
Issue 1	Process Safety Management Unit Expansion	22
7501	Department of Human Resources	
Issue 1	Healthier U State Employee Workplace Wellness Program	24
Issue 2	Civil Service Improvement	25
Issue 3	Vacancy Positions Trailer Bill Proposal and Control Section 4.11	27
0559	Labor and Workforce Agency	
Issue 1	Labor and Workforce Agency	30
7900	California Public Employees' Retirement System (CalPERS)	
Issue 1	Technical and Other Changes	31
9800	Augmentation for Employee Compensation	
Issue 1	Scheduled Employee Compensation Augmentation Increases	33
Issue 2	Provisional Language for Memorandum of Understanding Addendum	34
CS 3.61	Control Section 3.61	
Issue 1	Amendment to Budget Bill Control Section 3.61	38

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ITEMS PROPOSED FOR VOTE ONLY**0820 Department of Justice****Issue 1 Legal Division**

Governor's Budget Request. The 2015-16 budget includes a request for a permanent increase of twenty-nine positions and an increase of \$5.787 million in reimbursement authority (Legal Services Revolving Fund) in order to meet the increasing legal demands from various client departments.

Background. The DOJ's Legal Services Division (division) supports the Attorney General's mission of serving as the state's chief legal officer. The division is divided into three elements: (1) civil law, (2) criminal law, and (3) public rights.

The twenty-nine positions are to be located within the civil law division, which represents the state, its officers, agencies, departments, boards, commissions, and employers in civil matters. The positions are requested to support four sections within the Legal Services Division's civil law element.

The Licensing Section requests nine (9.0) deputy attorney general (DAG) positions, and six legal secretaries to support the increased enforcement-related workload to support the 35 boards and bureaus within the Department of Consumer Affairs. In order to support the requested positions, the Licensing Section's reimbursement authority will need to increase by \$2.765 million.

The Correctional Law Section requests five DAG positions, and one legal secretary to support the state and its officials in civil-rights litigation arising out of the California Department of Corrections and Rehabilitation (CDCR) operations. The requested positions will require a \$1.35 million increase in reimbursement authority for the Correctional Law Section. The Correctional Law Section currently has 80 DAG positions, 16 supervisors, and 17 paralegal staff.

The Health Quality Enforcement section requests three DAG positions with two legal secretaries. The Health Quality Enforcement Section's largest client, the Medical Board of California, added additional enforcement staff as part of the 2014 budget. Due to new procedures in place, the DOJ anticipates an additional 240 cases per year that will need to be managed by the Health Quality Enforcement section.

The Health, Education and Welfare (HEW) Section is requesting three DAG positions. The HEW section is responsible for representing the Governor's Office, the Departments of Health Care Services, Social Services, Public Health, State Hospitals, Education, Developmental Services, Superintendent of Public Instruction, the State Board of Education, and the Commission on Teacher Credentialing (COTC). The major purpose of the COTC is to serve as a state standards board for educator preparation for the public schools of California, the licensing and credentialing of professional educators in the state, the enforcement of professional practices of educators, and the discipline of credential holders in the State of

California. COTC cases are initially handled administratively and then through the courts for judicial review.

Historically, the COTC has referred an average of 40 to 50 cases per year. Recently, there has been a significant increase in referrals to the DOJ from the COTC, increasing from 38 cases in fiscal year 2011-12 to 107 cases in fiscal year 2013-14. The COTC has requested that the HEW section prosecute cases within certain timeframes, ranging from 30 days for emergency cases to ten months for low priority cases.

Staff Comment: This item was heard on April 30th and no concerns were raised with this request.

Staff Recommendation: Approve as budgeted.

Vote.

Issue 2 Cardroom Licensing

Governor's Budget Request. The 2015-16 budget includes a request to augment the Department of Justice's Bureau of Gambling Control (BGC) budget by \$1.559 million (Gambling Control Fund) and twelve three-year limited-term positions in fiscal year 2015-16, and \$1.423 million (Gambling Control Fund) in fiscal year 2016-17 and 2017-18, to address the current backlog related to initial and renewal finding of license suitability background investigations for the California Cardroom and Third-Party Providers of Proposition Player Services license applicants.

Background. The BGC, which was created in 1998, is the state's law enforcement authority with special jurisdiction over gambling activities and provides the Gambling Control Commission (commission) with background investigations on gaming license and work permit applications. The investigations, which can be fairly lengthy and exhaustive, provide the commission the information to take administrative actions, and determinations related to the regulation of gambling.

A significant backlog, totaling 2,221 applications, now exists within the licensing section. According to the DOJ, the backlog is due to a combination of additional responsibilities being assumed by the BGC, a more complex investigation process, and an increase in the number of applicants.

Staff Comment: This item was heard on April 30th and no concerns were raised with this request.

Staff Recommendation: Approve as budgeted.

Vote.

Issue 3 Initiatives Workload

Governor's Budget Request. The 2015-16 budget includes a request to augment the Department of Justice's budget by \$720,000 (General Fund) and four positions to implement the provisions of SB 1253 (Steinberg), Chapter 697, Statutes of 2014.

Background. The California Constitution authorizes individuals to place measures to amend statute or the Constitution before the voters after collecting and submitting a specified number of qualified signatures to the Secretary of State. Prior to the circulation of a measure for signatures, the Attorney General is required to prepare a title and summary for the proposed measure, which is a description of the major changes proposed and the estimated fiscal impact that the measure will have on state and local governments. State law specifies the process by which the title and summary must be prepared. Prior to January 2015, the Legislative Analyst Office (LAO) and the Department of Finance (DOF) were required to prepare the fiscal estimate within 25 working days from the day the final version of a proposed initiative was received by the Attorney General. The Attorney General would then have 15 days, upon receipt of the fiscal estimate, to submit the completed title and summary to the Secretary of State. Any substantive changes to the proposed measure by its authors would restart the statutorily mandated time frames. This could result in the LAO and DOF creating an additional fiscal estimate and the Attorney General creating an additional title and summary for the amended measure.

SB 1253, (Steinberg), Chapter 697, Statutes of 2014, made various changes to the above process that went into effect January 2015. Specifically, the legislation:

- Requires the LAO and DOF to prepare the fiscal estimate within 50 days (rather than 25 working days) from the day the proposed initiative is first received by the Attorney General. (The Attorney General still has 15 days from receipt of the fiscal estimate to submit the title and summary to the Secretary of State.)
- Requires the Attorney General to initiate a 30-day public comment period once the authors of the measure request a title and summary. Public comments are submitted through the Attorney General's website and provided to the authors, but are not publicly displayed during the review period. However, these comments are deemed to be public records, eligible to be viewed upon request under the process outlined in the California Public Records Act.
- Permits the authors of the measure to submit germane amendments to their measure within 35 days of filing the measure without having the statutorily mandated time frames restarted.

LAO Recommendation. LAO's review of this proposal notes that they concur that there will be a need for additional resources to address the modified public comment process in accordance with SB 1253. However, it is unclear to what extent SB 1253 will impact DOJ's workload. The LAO recommends that the Legislature approve \$114,000 from the General Fund and the AGPA position to support DOJ's new responsibilities related to public comment. The LAO notes that the DOJ should be able to manage within its existing resources until the impacts of SB 1253 become clearer.

Staff Comment. Staff concurs with the LAO that the requested funding and positions may be premature. If there is an increase in workload in the future, the DOJ can submit a budget request for additional resources.

Staff Recommendation: Approve LAO's recommendation.

Vote.

Issue 4 Registry of Charitable Trusts Enforcement Program

Governor's Budget Request. The 2015-16 budget includes a request for 13.0 positions (9.0 permanent and 4.0 limited-term) and increased expenditure authority of \$2.126 million (Registry of Charitable Trusts Fund) in 2015-16, \$2.051 million (Registry of Charitable Trusts Fund) in 2016-17, and \$1.650 million (Registry of Charitable Trusts Fund) in 2017-18 and ongoing to implement the provisions of AB 2077 (Allen), Chapter 465, Statutes of 2014.

Background. Current statute requires that charitable corporations, unincorporated associations, trustees, and other legal entities, which hold or solicit property for charitable purposes, are required to file a registration statement, articles of incorporation, and an annual financial report with the Attorney General's (AG) Public Rights Division. Statute provides the AG's office with broad supervisory and responsibilities over charitable organizations that are subject to the enforcement of charitable trusts.

AB 2077, among other things, allows for the funds that are deposited in the Registry of Charitable Trusts to be used, upon appropriation by the Legislature, for the purposes of maintaining and operating the registry of charitable trusts, enforce the regulations established by the Supervision of Trustees and Fundraisers for Charitable Purposes Act (Act), and to provide public access of reports filed with the AG via the internet. Prior to the passage of AB 2077, the AG's office was not authorized to use funds deposited in the Registry of Charitable Trusts to enforce registration and reporting requirements associated with the act.

The AG's automated mailing system has identified over 50,000 charitable organizations that are delinquent, but have registered with the AG's office. The AG's office notes that the automated system in use does have the capacity to distribute notices to delinquent organizations; it does not have the staffing capacity to address workload associated with follow up, which can include phone calls, emails, and follow up letters.

The AG has also noted that the automated system has the capacity to automatically generate notices to the estimated 130,000 entities in the state that are unregistered. The AG's office has reached the 130,000 unregistered charitable organizations by information received from the Secretary of State's office, which transmits information related to newly formed California non-profit public benefits corporations to the AG's office each month. The AG's office estimates that approximately 41,500 of the 130,000 unregistered charitable organizations are active in California, and have noted that they will direct their resources initially towards the active organizations that are operating in the state. Similar to the delinquent notification process, the AG's office has noted that they do not have capacity to conduct workload associated with the follow up of notices distributed to unregistered charitable organizations.

Staff Comment: This item was heard on April 30th and no concerns were raised with this request.

Staff Recommendation: Approve as budgeted.

Vote.

Issue 5 Electronic Recording Authorization Fund

Governor's Budget Request. The 2015-16 budget includes a request for trailer bill language that would redesignate the Electronic Recording Authorization Account within the special deposit fund as the Electronic Recording Authorization Fund within the state treasury.

Background: Existing law authorizes a county to establish an electronic recording delivery system for the delivery of recording digital records. The recording system is subject to oversight, regulation, and system certification of the Attorney General. Under current law, counties are required to pay for the direct costs associated with the Attorney General's regulation and oversight, which counties are able to impose a fee that would cover those costs. Under current law, fees paid are directed to the Electronic Recording Authorization Account, which is in the Special Deposit Fund and is continuously appropriated. The proposed changes would redesignate the Electronic Recording Authorization Account in the Special Deposit Fund as the Electronic Recording Authorization Fund in the State Treasury.

Staff Comment: Redesignating the account as the Electronic Recording Authorization Fund would allow for a greater level of accountability of the funds. Also, given that this is an operating fund it is more appropriate redesignate the fund as the Electronic Authorization Fund rather than continue to use a special deposit fund that must be renewed every five years. Staff has no concerns with this request.

Staff Recommendation: Adopt proposed trailer bill language.

Vote.

7100 Employment Development Department**Issue 1 Employment Development Department and Department of Social Services
Trailer Bill Language**

Governor's Budget Proposal. The Administration proposes trailer bill language that authorizes the Employment Development Department (EDD) to share data with federal, state, or local government departments or agencies, or their contracted agencies, to support social services administration.

Background. Existing law authorizes the use of EDD data for verification and eligibility purposes. However, it does not address data sharing for evaluation, research, budget development, and forecasting purposes. EDD does have the discretion to share with other government entities, but would prefer the establishment of explicit statutory authority. The current three-year agreement between Department of Social Services (DSS) and EDD allows DSS to acquire confidential wage and Unemployment Insurance claim information files for current and/or previous public assistance and program recipients of CalWORKs, CalFresh, Medi-Cal, foster care, Supplemental Security Income, and In-Home Supportive Services Program. This agreement has been in place, and renewed, since 1996. Under this contract, DSS submits lists of Social Security numbers (SSNs) to match with EDD databases. This output data from EDD provides employer-reported quarterly earnings for nearly 95 percent of California employment. This data allows DSS to create analyses for internal research, budget development, performance monitoring, and program evaluation.

According to the DSS, most recently, San Francisco and Los Angeles counties have requested EDD data to conduct specific projects within their counties; however, EDD denied the requests, citing the inability for the DSS to re-disclose data to counties. EDD and DSS have been working collaboratively on the language to resolve this. Senate Budget Subcommittee No. 3 heard and took action to approve this item on May 7th.

Staff Recommendation: Conform with action taken in Senate Budget Subcommittee No. 3 to approve placeholder trailer bill language.

7350 Department of Industrial Relations**Issue 1 Occupational Safety and Health Staffing**

The Governor's budget proposes a total of 44 positions and \$4.6 million in 2015-16, and \$7.1 million ongoing, from the Occupational Safety and Health Fund, for the Department of Industrial Relations (DIR) and DOSH to increase enforcement inspections in high hazard industries, improve performance in meeting state and federal mandates and inspecting high-risk worksites, and bring California's total rate of enforcement inspections in line with the national average.

The proposal also includes trailer bill language to prioritize investigations of serious accidents over complaints received for non-serious hazards, as well as costs to defend and negotiate claims filed against Cal/OSHA related to adequacy enforcement of the heat illness prevention regulation. This issue was heard at the subcommittee's April 9th hearing.

Staff Recommendation: Approve as proposed.

Issue 2 Implementation of Statutory Requirements

Background. These items were heard at the Subcommittee's April 9th hearing.

Item	
1	<p>SB 1299 (Padilla), Chapter 842, Statutes of 2014.</p> <p>DIR requests one position and \$156,000 in 2015-16, and one position and \$148,000 ongoing, to support the Division of Occupational Safety and Health (DOSH) in meeting the requirements of SB 1299. SB 1299 requires the Occupational Safety and Health Standards Board (OSHSB) to adopt standards developed by the DOSH requiring certain hospitals to adopt a workplace violence prevention plan as part of the hospital's Injury and Illness Prevention Plan (IIPP) by July 1, 2016. The Division is also required to post an annual report, by January 1, 2017, on its website containing information regarding violent incidents at hospitals. The additional staff will enable OSHSB to adopt standards developed by the DOSH.</p>
2	<p>AB 1522 (Gonzalez), Chapter 317, Statutes of 2014.</p> <p>DIR requests five positions and an augmentation of \$590,000 (Labor Enforcement and Compliance Fund) in 2015-16, and \$551,000 ongoing, to support the Division of Labor Standards Enforcement's (DLSE) legislative mandates related to AB 1522. AB 1522 enacts the Healthy Workplaces, Healthy Families Act of 2014, and provides that an employee who works in California for 30 or more days within a year from the commencement of employment is entitled to paid sick leave to be accrued at a rate of no less than one hour for every 30 hours worked. An employer is prohibited from discriminating or retaliating against an employee who requests paid sick days.</p> <p>The proposal requests three deputy labor commissioner I, and two deputy labor commissioner II positions, to support additional workload created by AB 1522. This request will help ensure DLSE has sufficient staffing to assist the public with filing claims, hold wage claim conferences, hold investigatory hearings, make appropriate decisions on violations of labor laws, enforce order, decision or awards, and investigate retaliation complaints.</p>

3	<p>AB 2272 (Gray, Chapter 900 Statutes of 2014).</p> <p>DIR requests one position and \$114,000 (State Public Works Enforcement Fund) in 2015-16, and \$105,000 ongoing, to support DSLE in efforts to comply with AB 2272. AB 2272 extends coverage under the California Prevailing Wage Law (CPWL) to require that all projects funded by the California Advanced Services Fund (CASF) pay the appropriate prevailing wage to all workers performing labor on these specific projects. AB 2272 extends the reach of the CPWL to include infrastructure projects funded by grants from CASF by including such projects with the definition of public works. The Senate Labor and Industrial Relations Committee cited that as of December 2013, CASF had committed to funding 56 projects. Each project can have a range of 10-20 contractors. Based on this, DLSE estimates the potential for about 700 new cases for which there could be a complaint. If DLSE receives actual complaints on only 15 percent of these potential cases, there would be 105 additional investigations. DLSE's Public Works Investigation Unit requires</p>
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Staff Recommendation: Approved as budgeted.

Issue 3 Elevator Safety Inspections Trailer Bill Language

Governor's Budget Proposal. Trailer bill language proposes to suspend the fee for annual inspection of elevators for 2015-16, and provides the director of the Industrial Relations, upon concurrence with the Department of Finance, the authority to suspend or reduce the fee for annual inspection in future years, as needed, to reduce surplus fund balance of Elevator Safety Account.

Background. The subcommittee has already taken action to approve the elevator inspection trailer bill at its April 9th hearing. Department of Finance has returned with some technical changes to the approved trailer bill.

(f) (1) For the 2015-16 fiscal year, the fees s for annual and biennial inspection of conveyances required by Section 7304 are ~~is~~ suspended on a one-time basis.

(2) For the 2016-17 fiscal year, for and every fiscal year thereafter, the Director of Industrial Relations, upon concurrence of the Department of Finance, may suspend or reduce the fees s for annual and biennial inspection of conveyances required by Section 7304 on a one-time basis ~~for a period that does not exceed one year~~ in order to reduce the amount of moneys in the Elevator Safety Account.

Staff Recommendation: Approve the revised trailer bill language, which reflects technical amendments.

7920 California State Teachers' Retirement System**Issue 1 Technology Project Reappropriation (April Finance Letter)**

Governor's Proposal. The Administration requests a reappropriation of \$179,200 from fiscal year 2013-14, and \$421,800 from 2014-15, for Provision (1) of the Information Technology Projects Fund to bring the total reappropriation request to \$26.5 million for 2015-16.

Background. The new pension solution system will replace the current legacy system to more efficiently and securely service members. In addition to the new system, there are related projects that are critical in supporting the success of the new system. In February 2015, the board accepted the recommendation for a vendor for the pension solution system. CalSTRS requires all available funding for the design, build, and implementation phases of the pension solution project in 2015-16. The updated reappropriation request includes consultant and support services still needed for IT projects, but not ready for encumbrance by the end of the current fiscal year, because expectations around timelines for procurement and pre-conversion project activities have shifted as the vendor selection process was completed.

Staff Comment. Staff has no concerns with this proposal. This request is a technical adjustment to provide more current estimates of amounts available for reappropriation.

Staff Recommendation. Approve as proposed.

Vote:

Issue 2 Support, CalSTRS Retirement System (May Revision)

Governor's Proposal. The Administration requests an increase of \$6.8 million due to an increase in creditable compensation for fiscal year 2013-14, as reported by CalSTRS.

Background and Detail. The proposal represents existing statutory funding requirements and is as follows: the defined benefit payment will be increased by \$1,860,000, the pre-1990 defined benefit level payment will be increased by \$2,650,000, and the supplemental benefit maintenance account contribution will be increased by \$2,305,000.

Staff Comment. Staff has no concerns with this proposal.

Staff Recommendation. Approve as proposed.

Vote:

9650 Health and Dental Benefits for Annuitants**Issue 1 Medical and Dental Premium Adjustments (May Revision)**

Governor's Proposal. The Governor proposes a General Fund increase for medical premiums of \$20.8 million and \$723,000 for dental premium increases over projections made in the Governor's budget.

Background and Detail. The Governor's budget projected 2016 health and dental premiums to increase 5.5 percent over 2015 rates. The May Revision includes an updated estimate that medical premiums will increase eight percent and dental premiums will increase 6.8 percent. These rates may not be finalized until June 2015, and in that case, if the actual rates differ from the estimated rates, a technical correction to the budgeted amounts will be made.

Staff Comment: Staff has no concerns with this proposal.

Staff Recommendation: Approved as proposed.

Vote:

Control Section 3.60**Issue 1 Rate Adjustments (May Revision)**

Governor's Proposal. The Administration requests that Control Section 3.60 be amended to capture reductions in state retirement contribution rates adopted by the CalPERS Board on April 14, 2015.

Background and Detail: The reduction reflects the impact of the employees entering the system under the benefit formulas pursuant to the Public Employees' Pension Reform Act of 2013, stronger than expected investment performance, higher mortality rates, and greater than expected contributions to the system. The newly adopted state employer contribution rates result in total state costs of \$338.0 million and a decrease of \$110.0 million from the \$447.9 million included in the Governor's 2015-16 budget. Of the \$110.0 million, the General Fund amount is \$55.6 million, special funds are \$35.5 million and other nongovernmental cost funds are \$18.8 million. Additionally, it is requested that the CalPERS fourth quarter deferral be reduced by \$9.2 million General Fund from the Governor's budget to reflect the changes in retirement rates.

The net effect of these changes is a decrease of \$46.4 million General Fund in 2015-16 as compared to the Governor's budget.

Staff Comment: Staff has no concerns with this proposal.

Staff Recommendation: Approve as proposed.

Vote:

ITEMS PROPOSED FOR DISCUSSION AND VOTE**0820****Department of Justice****Issue 1 Armed Prohibited Person System (APPS)**

Background. Beginning in 1999, the California Department of Justice (DOJ)—Bureau of Firearms began to study some of California's high-profile shootings in an effort to determine if there were remedial measures that could be enacted to curtail instances of gang violence and other similar violent events. The study found that many of the offending individuals were law-abiding citizens when they purchased the firearms, and were subsequently prohibited from gun ownership due to a variety of reasons specified in California's Penal Code. Persons prohibited from gun ownership ('prohibited persons') are designated as such for various reasons, including for a criminal conviction, juvenile adjudication, addiction to narcotics, defined mental health conditions, restraining or other court orders, or specified terms or conditions related to probation.

At the time of the study, the DOJ lacked the capacity to determine whether or not an individual who had legally purchased a firearm, and subsequently became prohibited from such ownership, was still in possession of a firearm. In addition, even if such a determination could have been made, the DOJ lacked the authority to retrieve that weapon from the prohibited person. SB 950 (Brulte), Chapter 944, Statutes of 2001, provided the DOJ with the authority to cross-reference their database of individuals who own handguns with their database listing of prohibited individuals. The 2002 Budget Act included General Fund support of \$1.0 million for DOJ to develop the Armed Prohibited Persons System (APPS). The database was complete in November 2006, with continued funding to support the program provided from the General Fund. Further legislation, SB 819 (Leno), Chapter 743, Statutes of 2011, allowed the department to utilize funds within the Dealers Record of Sale Account (DROS) for firearm enforcement and regulatory activities related to APPS.

According to the DOJ, there are on average 4,500 newly-identified armed and prohibited persons included in the system on an annual basis. Additionally, it is estimated that there are approximately 3,900 names that are purged annually because of court dispositions, death, orders that reinstate firearms, or prohibition expiration dates. The DOJ's Bureau of Firearms workload history is provided below.

**Armed Prohibited Persons
Workload History**

Fiscal Year	Armed and Prohibited Persons Identified	APPS Investigations Processed
2007-08	8,044	1,620
2008-09	11,997	1,590
2009-10	15,812	1,763
2010-11	17,606	1,700
2011-12	18,668	1,716
2012-13	21,252	2,772
2013-14	22,780	4,156
2014-15	17,479	7,573

In 2013, the Legislature, in coordination with the DOJ, determined that there was a significant workload resource gap. At that time, it was estimated that approximately 2,600 offenders were added to the APPS list annually, creating a significant backlog in the number of investigations. According to the DOJ, each special agent is capable of conducting 100 APPS investigations over a one-year period. During fiscal year 2012-13, the Bureau of Firearms (bureau) had authority for twenty-one agents. Therefore, the bureau was capable of conducting roughly 2,100 investigations on an annual basis with the special agent authority of twenty-one agents, which would add 500 possible armed and prohibited persons to the backlog each year.

To address the workload resources required to both reduce the growing backlog and actively investigate incoming cases in a timely fashion, the Legislature passed SB 140, (Leno), Chapter 2, Statutes of 2013. SB 140 provided DOJ with \$24.0 million (Dealer's Record of Sale Account) in order to increase regulatory and enforcement capacity within DOJ's Bureau of Firearms. The resources provided in SB 140 were provided on a three-year limited-term basis, which, according to the DOJ, was adequate time to reduce the overall number of Armed and Prohibited Persons. Ongoing cases could be managed with resources within DOJ's Bureau of Firearms.

Additionally, the measure included reporting requirements due annually to the Joint Legislative Budget Committee. From those reporting requirements, the Legislature has learned that some progress has been made. At the beginning of 2014 there were 21,249 names in the APPS database; by December 2014 there were 17,479 names in the APPS database, a net reduction of 3,770 names. As of December 31, 2014, the DOJ has hired 18.0 agents for the enforcement of the APPS program. The report also notes that the DOJ has recovered a significant portion of firearms due to APPS enforcement, recovering over 3,000 firearms, 275,000 rounds of ammunition, 300 high-capacity magazines, and made over 135 arrests. Additionally, the DOJ has collaborated with over 65 local law enforcement agencies to further reduce the APPS backlog.

DOJ Proposal: This item was first heard by this subcommittee on April 30th. At that time, the subcommittee directed the DOJ to return with a proposal that would better address the APPS backlog. The DOJ responded with a proposal that would, convert 22.0 limited-term positions within the DOJ's Bureau of Firearms to permanent, provide for a one-time local assistance appropriation of \$2.5 million from the DROS fund in order to incentive local law enforcement agencies to input existing seized weapons into the Automated Firearms System, revert the remaining available DROS funds (approximately \$12 million) that were included in SB 140 back to the DROS account, and, instead utilize funds available from the Firearms Safety and Enforcement Fund. The DOJ would need an augmentation of \$6 million from the Firearms Safety and Enforcement Fund in order to support the 22.0 proposed permanent positions. The DOJ has conveyed that there will be policy proposals that may address some of the concerns raised at the April 30th subcommittee hearing, as well.

Staff Comment: Staff concurs with the DOJ that there is a greater need for permanent positions within the Bureau of Firearms; however, given the late nature of this proposal, combined with the limited details supporting it, staff recommends a slight modification. Specifically, staff recommends converting the requested 22.0 positions from limited-term to permanent. As noted by the DOJ, this may allow the Bureau of Firearms to limit the number of staff losses suffered as staff seek permanent employment elsewhere. As noted by DOJ, there is approximately \$12 million remaining in the DROS account, while the DROS fund does not appear to be a viable long-term solution to fund the permanent positions, the DOJ does believe that the Firearms Safety and Enforcement Account could absorb the costs associated with the 22.0 permanent positions for seven years. Providing the 22.0 permanent positions now will provide the DOJ with enough time to thoughtfully craft a long-term approach to addressing the APPS backlog that could proposed as part of DOJ's fiscal year 2016-17 budget package. Also, the requested \$2.5 million in local assistance seems unnecessary given this is a function that is already expected of local authorities. Staff recommends the committee not approve that expenditure.

This subcommittee may wish to explore providing the DOJ with funding to support an informational awareness campaign as well. Staff would recommend providing DOJ with an additional \$250,000 from DROS to support the Bureau of Firearms efforts to inform individuals of their non-compliance with current statute related to the possession of a firearm. Also, to underscore that this has been a priority of the Legislature, staff would recommend adopting placeholder trailer bill that would require that a minimum staffing level of sworn agents be filled within the Bureau of Firearms.

Staff Recommendation: Convert 22.0 limited-term positions within the Bureau of Firearms to permanent status. Funding for the permanent positions shall remain the DROS fund. Provide \$250,000 in DROS funds for the purposes of informing individuals of their noncompliance with state gun ownership regulations. Also, adopt trailer bill language establishing a minimum number of sworn agents required to be within the Bureau of Firearms.

Vote:

Issue 2	Controlled Substance Utilization Review and Evaluation System (CURES) Ongoing Funding
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May Revision Proposal: The Governor's May Revision includes a proposal to provide the Department of Justice (DOJ) with 5.0 permanent positions, and \$1.112 million in reimbursement authority for fiscal year 2015-16, and ongoing.

Background: DCA has contracted with DOJ on behalf of the Medical Board of California, the Dental Board of California, the California State Board of Pharmacy, the Veterinary Medical Board, the Board of Registered Nursing, the Physician Assistant Board, the Osteopathic Medical Board of California, the State Board of Optometry, the California Board of Podiatric Medicine, and the Naturopathic Medicine Committee to upgrade and maintain CURES for the purpose of regulating licensees.

The 2013 Budget Act appropriated a total of \$3.941 million from the ten special funds that support the healing arts boards noted above. The funds were used to reimburse DOJ for upgrades to CURES over two years. The upgrades allowed for integration with major health information systems to maximize physician and pharmacist participation, provided timely patient activity reports to prescribers and dispensers, and provided law enforcement agencies and DOJ with reporting and crime analytics.

SB 809 (DeSaulnier), Chapter 400, Statutes of 2013 created the CURES fund, with DCA acting as the administrator of the fund. Effective April 1, 2014, a fee of \$6.00 has been assessed on each renewed licensee that has the capacity to prescribe or dispense controlled substances within DCA's healing arts boards and bureaus. DOJ has estimated that total costs associated with the maintenance of the upgraded CURES platform will not exceed \$1.112 million. The requested appropriation against the CURES fund will facilitate the reimbursement.

Staff Comment: This proposal includes budget bill language that specifies the funding only be made available upon the Department of Technology's (CalTech) approval of DOJ's maintenance and operations plan. Staff does not have any issues with this proposal.

Staff Recommendation: Approve May Revision proposal.

Vote:

7100 Employment Development Department**Issue 1 Unemployment Insurance Program Administration**

Governor's Budget Proposal. The Governor's budget proposes a decrease of \$8 million and 48.1 positions in the Unemployment Insurance program to reflect federal funding reductions and natural workload reductions due to an improving economy. This proposal includes a fund shift from the General Fund to two special funds to offset General Fund costs.

Additionally, the Governor's May Revise includes various technical changes, including:

Item	
1	Unemployment Insurance Loan Interest Rate Reduction —Decrease of \$9.8 million to reflect reduced interest due to the federal government for borrowing that has occurred to provide unemployment benefits without interruption.
2	Unemployment Insurance Benefit Adjustments —Decrease of \$173 million to reflect projected decrease in UI benefit payments due to historical trends and benefit payment projections. Decrease current year UI Benefit Authority by \$536 million due to improvement in the economy.
3	Disability Insurance Benefit Adjustment —Decrease of \$115 million to reflected a projected decrease in benefit payments, as well as a decrease of \$9.7 million in current year authority.
4	School Employees Fund Adjustment —Decrease of \$10 million to reflect decrease projected benefit payments and decrease of \$17.2 million in current year benefit authority.

Additionally, it is requested that Item 7100-490 be eliminated to reflect the shift from the General Fund to BAF and CF, as follows:

~~7100-490—Reappropriation, Employment Development Department. The balances of the appropriations provided in the following citations are reappropriated for the purpose of supporting the administration of the Unemployment Insurance Program and shall be available for encumbrance or expenditure until June 30, 2016 upon approval of the Department of Finance:~~

~~0001—General Fund~~

~~(1) Item 7100-001-0001, Budget Act of 2014 (Ch. 25, Stats. 2014)~~

Staff Recommendation: Adopt as proposed.

Issue 2: Workforce Innovation Opportunity Act (WIOA) Discretionary Fund Adjustment

Governor's Budget Proposal. The May Revision requests an increase of \$17.7 million above the Governor's January \$105.5 million for the Workforce Innovation Opportunity Act, to reflect an increase in discretionary funds from 8.75 percent to 10 percent of the federal allotment.

The Governor's May Revision proposes to use this increase for administrative resources and a variety of programs including the continuation of key workforce activities:

SlingShot - \$6.0 million - Funds will be awarded to regional coalitions that develop and organizations that support the regional alignment of supply (job seeker) and demand (labor market/industry sectors) through innovative workforce development, training, and career education approaches.

Regional Workforce Accelerator Program - \$5.4 million - Funds will continue the existing Regional Workforce Accelerator Program by making competitive development grants available to workforce collaboratives. The funds will also be used to fund partnerships that bring together local Workforce Boards, health and human services agencies, employers and industry representatives, labor, and education and training institutions to help veterans, long-term unemployed, low-income job seekers, barriers to employment, at-risk/disadvantaged youth, disadvantaged and disconnected job seekers, CalWORKs participants and parolees/ex-offenders obtain education and employment.

Governor's Award for Veterans' Grants - \$2.7 million- This will expand existing projects that accelerate employment and re-employment strategies for California veterans. These funds will focus on the efforts to transition veterans into high-wage, high-demand occupations to include: healthcare; professional, scientific and technical services; construction; transportation; security; utility and energy sectors; and information technology.

Additionally, the Governor's May Revision also requests a decrease of \$29,463,000 for Items 7100-101-0869 and 7100-101-0890 to align budget authority with current federal allotments for local area activities.

Legislature's Proposal.

Senate Budget Subcommittee No. 4 took action to provide \$670,000 reimbursement authority to the Military Department in order to receive WIOA discretionary funds. Each year, over 30,000 troops complete their military service and return to California. Between the often difficult transition to civilian life and the still-recovering economy, these new veterans are facing an uncertain economic future. As of March 2015, the unemployment rate of veterans under the age of 35 was nearly double the state's overall unemployment rate of 6.9 percent.

To address this, the state has access to a number of programs that specifically assist veterans' reentry into the job market. Through its workforce services branch, the Employment Development Department (EDD) receives federal funding from the U.S. Department of Labor via the Workforce Investment Act of 1998 (WIA), the Wagner-Peyser Act of 1993, and the Jobs for Veterans State Grant, however many of these programs failed to meet program

goals. In fact, according to the U.S. Department of Labor, California is one of the lowest performing states in the nation.

There are other programs that are more directly controlled at the state level which benefit veterans seeking reentry to the job market. The California Military Department has created the Work for Warrior (WFW) program, which was established in 2012 pursuant an interagency agreement with the Assembly, which will expire on July 1st. Prior to its establishment, members of the California National Guard and Reserves suffered from high unemployment rates. In 2012, the unemployment rate for the California National Guard and Reserves was approximately 14 percent, significantly higher than the national unemployment rate and California's overall unemployment rate. In response to the higher than average unemployment rate among service members, the California Military Department partnered with hundreds of companies within the state to directly place service members and their spouses in 4,000 jobs throughout the state.

At the time, the Military Department was able to survey the California National Guard to determine the unemployment rate; however, the pool of eligibility for the WFW program has expanded substantially and now includes member of the Reserves and members of the active duty who are separating from the military. The eligibility pool has increased from 28,000 to over 65,000. Other states (South Carolina, Florida, and Michigan) have developed a model similar to the WFW, and the program has received recognition from the National Guard Bureau as a successful model for other states to follow.

Staff Recommendation. Approve May Revise proposals on WIOA with adjustments to conform with Subcommittee No. 4's actions.

7350 Department of Industrial Relations

Issue 1 Process Safety Management Unit– Legislature’s Proposal

Background. At its April 9th hearing, the subcommittee heard an update on the Process Safety Management (PSM) Unit within the Division of Occupational Health (DOSH). The PSM Unit enforces process safety management procedures for 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 has 25 staff and one vacancy 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.

The 2014-15 budget approved \$2.4 million from the Occupational Safety and Health Fund, and 11 positions to expand the PSM Unit to implement recommendations of the Governor’s Interagency Working Group on Refinery Safety for the enforcement of workplace health and safety regulations in 15 refineries and over 1,800 other chemical facilities. These positions are funded by a new fee on the refinery industry, which is based on the amount of crude oil being processed at each refinery as a percentage of the state’s total.

Status Report on PSM Regulatory Oversight

DIR reports that Cal / OSHA will continue monitoring workload and inspection/ enforcement needs to ensure staffing levels and fee amounts are sufficient to support enforcement of existing law.

In the 2014 calendar year, the PSM Unit conducted 37 refinery inspections, two of which were planned Program Quality Verification (PQV) inspections. A PVQ inspection is a multi-point inspection covered by PSM regulation, which is more thorough than any other inspection performed by the division and entails comprehensive evaluation of the establishment’s program, the quality of the establishments procedures compared and verification of the effectiveness of the establishment’s program implementation.

Additionally in the 2014 Calendar Year, the PSM conducted 39 non-refinery inspections and 37 refinery inspections.

	Contractors Inspections	Unplanned/ Unprogrammed Inspections	Program Quality Verification Inspections	Total Inspections
Non-Refinery Inspections	2	12	25	39
Refinery Inspections	14	21	2	37

In the 2015 Calendar Year, PSM Unit plans to conduct 40 PQV inspections of non-refinery sites.

Staff Comments. While the Legislature approved additional staff in previous budget years to enhance PSM Unit resources in response to the Chevron refinery explosion, it is unclear how much more support DIR needs to reform its PSM responsibilities at both refinery and non-refinery facilities.

The PSM Units inspections of non-refinery facilities are important, as highlighted by the Central Texas fertilizer plant explosion 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, contaminating drinking water of some 300,000 residents. This year, DIR only plans to conduct a total of 39 inspection. Given that there are over 1500 non-refinery facilities that use, process, or store large quantities of toxic, flammable, or explosive chemicals, it is important to ensure that DIR has the adequate resources available to support non-refinery inspections.

Staff Recommendation. Adopt placeholder supplemental reporting language requiring DIR to report by March 31, 2016 on its methodology and criteria for assessing risk of non-refinery facilities, as well as additional staff or resources needed to support increased inspections.

7501 Department of Human Resources**Issue 1 Healthier U State Employee Workplace Wellness Program**

Governor's Proposal. The May Revision proposes one permanent position and \$122,000 reimbursement authority in 2015-16, and \$113,000 General Fund ongoing, to expand the existing Healthier U state employee workplace wellness program to additional worksites.

Background. In 2012, the State Controller's Office, State Treasurer, CalPERS, Service Employees Internal Union Local 1000, and CalHR partnered to create a model workplace wellness and injury prevention program for state employees. Given the state budget constraints at the time, private funding was obtained for the pilot.

The California Department of Public Health (CDPH) and Department of Health Care Services (DHCS) East End Complex were selected as pilot sites. According to CalHR, the pilot has exceeded all participation goals and benchmarks for the health screenings and program interventions. The pilot has been extended for a third year for the purpose of obtaining additional data for health outcomes evaluation and to expand to additional state worksites.

The Governor's proposal is seeking to implement Healthier U at additional worksites to gain a better understanding of worksite implementation policy issues and needs. SEIU has committed to continue to implement the pilot program and its expansion. Under the CalPERS contract, Kaiser Permanente will continue to provide funding for core web-based intervention program until June 3, 2015, and has committed two personnel staff until December 2015. However, the onsite wellness pilot coordinator by the California Wellness Foundation via Sierra Health Foundation has ended, and there is a void in staffing.

The additional staff personnel program analyst will be responsible for identifying and implementing Healthier U at additional worksites and expand the pilot beyond the existing satellite offices at CDPH and DHCS, as well as develop and implement plan for statewide use, and providing technical assistance to all state workers.

Staff Recommendation. Approve as proposed.

Issue 2	Civil Service Improvement
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Governor's Proposal. The May Revision proposes trailer bill language to make significant changes to the civil service and hiring process.

These changes include (1) expanding the pool of candidates eligible to be considered for a promotional position, including a career executive appointment and (2) eliminating three requirements that impose restrictions on hiring managers, outlined below.

	Statute	Description of Current Law	Proposal
1	Government Code 19057	<i>Rule of Three Names</i> -This statute limits departments to choose from only the top three individuals on promotional hiring lists.	Eliminate the code which imposes unnecessary hiring restrictions on departments.
2	Government Code 19057.2	<i>Managerial Six Ranks</i> -All managerial lists must include six ranks. When considering candidates for a managerial position, hiring managers generally may only consider applicants whose examination scores result in them being in one of the top three ranks.	Eliminate the code which imposes unnecessary hiring restrictions on departments.
3	Government Code 19057.4	<i>Rule of One Rank</i> -Departments are limited to choose from only the individuals within the first rank for supervisory classifications, with some exceptions.	Eliminate the code which imposes unnecessary hiring restrictions on departments.
4	Government Code 18546, 18990-18993, 19057.1, 19057.3, 19889.3	Individuals who have worked for the Legislature or held a nonelected exempt position for two or more consecutive years and have left state service for no more than one year may apply for a promotional position, including a career executive appointment.	Amend codes to expand the pool of possible candidates who can apply for promotional positions or career executive assignment examinations. (Specifically, these amendments allow individuals who have worked for the Legislature or held a nonelected exempt position to apply for a promotional position, even if they have not been in state service for more than one year.)

Background. California's current system of state civil service employment dates back to the November 1934 election, when voters approved Proposition 7, adding what is now Article VII to the State Constitution. The Constitution requires that all appointments and promotions within the civil service be made under a general system based on merit determined by competitive examination. All state employees are in the civil service unless specifically exempted by the Constitution. As a result, practically all of the state's non-higher education executive branch employees—outside of the very top ranks of management (such as department directors and deputy directors)—are in the civil service. In the more than 80 years since the voters first established the civil service, a variety of statutes, decisions, rules, practices, and case law have built upon the constitutional framework of a merit-based civil service system. Collectively, these civil service rules establish the state's policies for hiring, promoting, disciplining, and terminating state civil service employees.

In 1995, the Legislative Analyst's Office issued a report, *Reinventing the State Civil Service*, in which they identified a number of issues that indicate that the civil service system does not operate in an optimal manner for either the state, its employees, or the public. In the two decades since LAO issued that report, many efforts by past administrations sought to improve the civil service—most recently, the HR-MOD project established by the prior administration. Most of these past efforts have resulted in minor improvements.

Staff Comment. While the subcommittee agrees that there is a need of improving the state's hiring process to recruit and retain qualified employees, however the Governor's proposal is a substantive policy change and overhaul of current practices that warrants thorough consideration by the Legislature. There is only a few weeks remaining before the Legislature must approve the budget, which raises concerns if this provides Legislature adequate time to review and understand the full implications of adopting such significant policy changes to the state's civil service system.

The subcommittee may wish to ask:

1. To what extent has the Administration engaged with appropriate stakeholders regarding this proposal? What feedback was provided and how did the Administration address their feedback?
2. Has the Administration conducted an analysis of how these changes will impact the state civil service process moving forward?
3. How will this proposal impact department's operating budget moving forward?

Staff Recommendation: Hold Open

Issue 3 Vacancy Positions Trailer Bill Proposal and Control Section 4.11

Governor's Proposal. The Governor's May Revision proposes to delete existing law that eliminates positions that have been vacant for six consecutive months or more and also proposes that the state change how the budget reflects departmental expenditures for personnel-related costs and costs related to operating expenses and equipment.

Background

A significant share of the state's budget pays salary and benefit costs for state employees. For example, in 2013-14, the state paid more than \$22 billion for non-higher education state employees' salaries and benefits—about half of this was paid from the General Fund. Requests for positions receive particularly high levels of scrutiny from both the Department of Finance (DOF) and the Legislature. The Legislature approves a department's position authority—the number of full-time equivalent employees departments may employ to administer state programs.

For many years, in instances when departments received budget cuts or have been expected to “absorb” rising operational costs, departments have implemented a number of strategies to keep what resources they have.

- **A Vacant Position Frees Up Funds.** Each year, departments' costs of doing business increase. These costs include (1) inflationary cost increases for operating expenses and equipment (rent, postage, fuel, etc.) and (2) merit salary adjustments that departments must provide to eligible employees every year. Departments generally do not receive augmentations to pay for these rising costs. Some departments have learned to hold positions vacant as a strategy to pay for rising operational costs. In such instances, departments redirect the funds associated with a vacant position to pay for these rising operational costs.
- The high degree of scrutiny given to position requests makes it difficult for departments to increase their position authority. Consequently, departments have learned to hold onto what position authority they possess—even if they have no intention of filling a position in the near future.

Section 12439 of the Government Code requires the State Controller's Office (SCO) to abolish certain authorized positions in departments that are vacant for six consecutive months. When vacant positions are eliminated under this law, departments lose position authority but generally do not lose the funds associated with the eliminated positions. Departments are prohibited from executing any personnel transactions for the purpose of circumventing the provisions of the law. Despite this prohibition, the Legislative Analyst's Office and Department of Finance indicates this law largely has been ineffective at eliminating chronically vacant positions.

Departments sometimes choose to keep positions vacant so that they have the flexibility to increase staffing levels in the future without the need to convince DOF or the Legislature to increase its position authority.

Governor's Proposal

As part of the 2015-16 May Revision, the Governor proposes to repeal Section 12439 of the Government Code.

Control Section 4.11. The Governor further proposes that the state change how the budget reflects departmental expenditures for personnel-related costs and costs related to operating expenses and equipment. Under the proposed budgeting system, a department's budget no longer would reflect its total position authority approved by the Legislature. Instead, the departments' budgets would reflect a three-year average of filled positions. The money appropriated for a department's personnel-related costs would be based on this average number of filled positions. The department's non-personnel budget would reflect actual costs for operating expenses and equipment. The Governor proposes that DOF would conduct a biennial review of departmental budgets to reconcile departmental costs related to personnel and operations to improve the accuracy of the information presented in the budget. This proposal would change how the budget is presented and would not immediately result in any department losing position authority or funding.

~~SEC. 4.11. All new positions approved in the 2015–16 fiscal year shall be established effective July 1, 2015, unless otherwise approved by the Department of Finance. Before the end of each month, the Controller shall provide to the Department of Finance a listing of each new position approved that will be abolished pursuant to Section 12439 of the Government Code as a result of the position being vacant for six consecutive pay periods at the end of the immediately preceding month. The report provided by the Controller shall include the department, division, position classification, position number, and the date the position was established.~~

To promote greater transparency in how departments develop their support budgets, which include personal service and operating expenses and equipment, as defined in Control Section 3.00, the Department of Finance shall develop a bi-annual process for reconciling department budgets as it concerns the aforementioned categories. This reconciliation process will begin in the 2015-16 budget year and the results used to help build departments' budgets baseline budgets in the 2016-17 Governor's Budget.

Finance shall set departments' funding levels for personal services on the average number of filled positions over the last three fiscal years. Departments maintain the authority to fill all their authorized positions; however, funding will be set based on this historic data. Funding for operating expenses and equipment will be based on actual expenditures for purchase of materials, supplies, equipment, services, departmental services, and all other proper expenses, as defined in Control Section 3.00, over the last three fiscal years.

Additionally, the Administration will no longer propose the use of limited-term positions to address short-term workload, instead the Administration will propose limited-term spending authority that will act as a control on the number of positions a department can fill.

Legislative Analyst's Comments.

The LAO agrees with the Governor's proposal to repeal Section 12439 of the Government Code and recommends that the Legislature should repeal the law.

LAO also notes that is not clear how the proposed process affects Legislative oversight. The Governor's proposal to change how the state budget presents its staffing levels and costs might be a good idea in certain respects. However, LAO is concerned that—in the few weeks remaining for the Legislature to consider the budget—the Legislature does not have

adequate time to determine how the proposed process would affect legislative oversight over the state workforce.

The proposal could give the executive branch significant authority to determine which of their authorized positions should be filled. This could allow the administration to determine what programs' staffing have a higher priority than others and could result in legislative priorities not receiving the staffing levels they need to be executed fully.

Determining the maximum number of full-time equivalent employees in the state workforce is a significant power of the Legislature. Under the Governor's proposal, a department's position authority in excess of its three-year average filled positions represents a position authority reserve. As long as a department can operate within its existing funding level, it would have significant authority to increase the number of filled positions within its existing position authority. The Legislature will want to determine if it is comfortable allowing departments to have position authority reserves, and, if so, the appropriate size of such a reserve.

Under the Governor's proposal, it seems that departments only would request position authority when their level of filled positions equals their position authority (no position authority reserve) and some sort of workload need is perceived to require staffing levels above the existing position authority. Presumably, budget proposals to increase position authority would be similar to the existing process. The Legislature will want to consider how the administration should communicate departmental decisions to increase the number of filled positions within their existing position authority.

The proposed budget bill language specifies that "funding for operating expenses and equipment will be based on actual expenditures." In order to do this, without a constant erosion of a department's personal services budget, it would seem the state would need to change its current practice of requiring departments to absorb most rising costs of doing business. Increasing departmental appropriations for these costs could reduce available funding for other parts of the budget.

Staff Recommendation: Hold Open.

0559 Labor and Workforce Agency**Issue 1 Labor and Workforce Agency**

Governor's Proposal. The May Revision proposes an increase of \$148,000 General Fund and one position in 2015-16 and 2016-17 to develop and implement a pilot program to prevent abuses in the recruitment of H-2A temporary workers and to improve the coordination and effectiveness of various entities under the agency.

Background. The U.S. Department of Labor's H-2A temporary agricultural worker program allows agricultural employers, who anticipate a shortage of domestic workers, to bring nonimmigrant foreign workers, typically from Mexico, to the U.S. For temporary or seasonal agricultural labor that lasts no longer than one year. Employers typically rely on recruitment agencies to find contract workers. Under the federal program, it is unlawful for recruiters or recruitment agencies to charge recruitment fees to h-2A workers. Despite these statutory and program requirements, it is common practice for recruiters to charge Mexican workers high fees in exchange for connecting them with employment, and to make false claims about employment conditions. Additionally, H-2A workers often do not receive the required reimbursement for travel, visa and recruitment costs, reducing the worker's wages to below the applicable minimum wage. In July 2014, the Governor signed a letter of intent to cooperate with Mexico's Secretary of Labor and Social Welfare to protect the rights of H-2A temporary workers in California.

Multiple programs within the agency currently serve farmworkers, including the Employment Development Department (EDD), Department of Industrial Relations (DIR), and the Agricultural Labor Relations Board (ALRB).

The agency requests one career executive assignment position who will be responsible for the development, implementation and oversight of a voluntary pilot program that will reduce exploitation and prevent labor violations among this vulnerable workforce by improving transparency and accountability in the recruitment of these workers.

The program will include the following key elements:

- The Mexican government and California will work in partnership to develop a list of certified recruitment agencies that are compliant with all statutory and H-2A program requirements.
- Encourage current H-2A growers to utilize only certified recruiters from the list of reputable recruiters.
- Monitor working conditions for H-2A workers and address violations of federal and state labor laws, including making referrals to federal and state enforcement agencies.
- Require licensed Farm Labor Contractors to report the names of the growers they contract with and the physical location of the H-2A workers' job sites.

This position will also coordinate outreach among agency entities at resource fairs, as well as develop materials, public service announcement and other communications media, to ensure that all outreach is consistent in terms of the services available and how workers can access them.

Staff Recommendation. Approve as proposed.

7900 California Public Employees' Retirement System (CalPERS)**Issue 1 Technical and Other Changes**

Proposals. 1) The Governor proposes various budget bill amendments to incorporate the CalPERS board approved budget into the budget act. These changes are as follows and are display items for informational purposes to reflect a corresponding change in CalPERS' continuous appropriation authority:

- Item 7900-003-0830 be decreased by \$83,367,000;
- Item 7900-015-0815 be increased by \$96,000;
- Item 7900-015-0820 be increased by \$110,000;
- Item 7900-015-0822 be increased by \$10,795,000;
- Item 7900-015-0830 be increased by \$16,173,000;
- Item 7900-015-0833 be increased by \$435,000;
- Item 7900-015-0849 be decreased by \$2,000;
- Item 7900-015-0884 be increased by \$428,000; and
- and an increase of 38 positions.

The budget approved by CalPERS reflects a net reduction of \$55,332,000 primarily driven by transitioning investment portfolio management activities from outside contractors to state employees.

2) In addition, the legislatively proposed trailer bill language would add two sections to the statutes that govern working after retirement in order to clarify that prior exemptions that have been in place for many years, remain.

Background and Detail. The first change relates to elected officials. CalPERS has always exempted elected officials from the rules limiting working after retirement. Therefore, a retired CalPERS member who is receiving a benefit may run for public office and be elected and continue receiving his or her retirement benefit while serving in public office and receiving a salary. He or she may not earn service credit while in the CalPERS-covered elected position unless he or she reinstates, at which point the retirement allowance would cease. The only restriction CalPERS imposes is this: any part of an elected official's pension that is based on service in the elected position (such as when a person serves on the city council, retires, and then is subsequently reelected) may not be included in the pension received while the retired individual is serving in the elected position.

The second change relates to disabled workers. For many years CalPERS has had a program that allows disabled workers to continue working in jobs that are substantially different from those from which the worker was industrially retired. Most of the participants are disabled safety workers. For example, a disabled firefighter works as an arson investigator, or a disabled peace officer works in a training academy.

Under the program, the disabled worker is paid the regular salary for the job being performed. The salary is augmented by some or all of the retirement benefit to increase the disabled worker's salary up to the amount he or she was earning prior to becoming disabled. While in this program, the disabled worker does not earn service credit or additional retirement benefits for the work performed. When he or she fully retires, the full disability pension resumes.

There are approximately 230 individuals in this program and about half of them are local retirees and half are state retirees. Almost all participants are disabled safety employees. This program does not create additional costs and can provide modest savings to the retirement system during the period of employment, to the extent that the disabled workers receive smaller benefits during that time. The proposed changes to statute would restore the program to allow disabled workers to work in public employment and receive a blended salary of compensation and retirement benefit up to the retiree's pre-retirement compensation.

Staff Comments. The proposed trailer bill language clarifies law to ensure that prior exemptions for retirees in public office and disabled workers remain. Retaining this exemption for retirees would help to ensure a strong pool of candidates from the public sector. Private sector employees serving in public office do not have to give up their retirement income. Retaining the disabled worker program does not create additional state costs, and allows these workers to continue in public service without reducing their standard of living while creating small savings to the retirement system.

Staff Recommendation. First, approve the Governor's incorporation of the board-approved CalPERS budget into the state budget. Second, adopt placeholder trailer bill language to clarify that prior exemptions for (1) retirees who are elected to public office and (2) disabled workers that have been in place for many years, remain.

Vote:

9800 Augmentation for Employee Compensation

Issue 1	Scheduled Employee Compensation Augmentation Increases (May Revision)
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Governor's Budget Proposal: Budget Item 9800 allows for adjustments in departmental budgets to account for changes in employee compensation, including salaries, health and retirement benefits. This proposal would increase Item 9800-001-0001 by \$21,015,000, would increase Item 9800-001-0494 by \$9,023,000, and would increase Item 9800-001-0988 by \$4,445,000 to reflect changes discussed below.

Background: Item 9800 includes all augmentations in employee compensation. These reflect revised health and dental premium rates, increased enrollment in health and dental plans, updated employment information for salary increases previously provided in the Governor's budget, revised pay increases for Judges, updated information for salary increases for the California Highway Patrol (Bargaining Unit 5), and updated costs related to the California Department of Corrections and Rehabilitation On-Call and Call-Back addendum (Bargaining Unit 19).

These rates may not be finalized until later this year and, in that case, if the actual rates differ from the estimated rates, a technical correction to the budgeted amounts will be made.

Staff Comment: Staff has no concerns with this proposal.

Staff Recommendation: Approve as proposed.

Vote:

Issue 2	Provisional Language for Memorandum of Understanding (MOU) Addendum (May Revision)
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Governor's Proposal: The Governor proposes a modification to provisional language under Item 9800 relating to the existing Joint Legislative Budget Committee (JLBC) review process for side letters, appendices, or other addenda to a properly ratified MOU.

Background: SB 621 (Speier), Chapter 499, Statutes of 2005 established the legislative review process for any amendment to a legislatively ratified MOU. While this has resulted in increased oversight for the Legislature, there is agreement that the current review process is flawed. Specifically, when the Legislature is out of session, departments sometimes cannot lawfully implement program fixes/changes until the Legislature reconvenes, sometimes months later.

A workgroup including the Department of Finance, legislative staff, and the Legislative Analyst's Office has been meeting to reach agreement on a process to address MOU addendums in provisional language under Item 9800.

Under the Governor's proposed process, DOF would review addenda and CalHR would post them on their website. If DOF determined that an MOU addendum would have "no fiscal impacts," the Administration could implement it immediately. Even if DOF determined that the MOU addendum would have a fiscal impact, it could still request to implement the addendum without legislative approval if it met the following conditions: (1) it resulted in net costs of less than \$1 million in 2015-16, (2) costs could be absorbed within affected departments' existing budgetary authority, or (3) it does not include substantial policy changes relative to the legislatively ratified MOU. In such cases, the committee would have 30 days to review the Administration's determination that an addendum can be implemented without legislative approval. Agreements that do not meet the conditions listed above would need to be submitted to the Legislature for approval. Under the Administration's proposal, the Joint Legislative Budget Committee would not review MOU addenda determined by the DOF to have no fiscal impact.

LAO Comment: Given the extensive legislative review responsibilities, lack of clarity, and time delays inherent in the existing process, the LAO thinks changes to the current process are warranted. In general, the LAO thinks the Administration's proposal makes sense. However, the LAO finds that oversight could be improved under the proposed language and that the proposal misses an opportunity to address MOU addenda that are time-sensitive. Specifically, the May Revision language would allow the Administration to immediately implement any MOU addendum that it determined would have no fiscal impact. The language does not define "fiscal impacts." This is a concern because the Legislature and DOF might reasonably have a different interpretation of an agreement's fiscal impact. In addition, under its current practice, CalHR does not always include copies of documents referenced in the MOU addendum when it posts agreements on its website. When an agreement references an ancillary document as part of the agreement, that document also should be posted to ensure oversight and transparency. Finally, under the May Revision proposal, the soonest that any addendum could be implemented is 30 days after DOF has notified the JLBC. This may be too long for certain agreements.

The LAO recommends that the Legislature adopt the Governor's language, but with three modifications. Specifically, the LAO recommends that the Legislature (1) strike the sentence that refers to the subjective term of "fiscal impact" and (2) add language that allows the JLBC to expedite its review (this would allow time-sensitive agreements to be implemented earlier than 30 days after JLBC notification), and (3) specify that agreements in their entirety including attachments referenced in the agreement be posted online.

Staff Questions for LAO:

1. Please present your concerns with the Administration's proposal.

Staff Comment: Staff concurs with the LAO recommendation and recommends that the language proposed by the Administration and as modified below, be adopted.

Add Provisions 7 thru 10 to Item 9800-001-0001:

7. *Notwithstanding Sections 3517.6 and 3517.63 of the Government Code, the Department of Finance (Finance) shall provide written notification to the Joint Legislative Budget Committee (JLBC) regarding any expenditure of funds resulting from any side letter, appendix, or other addendum (collectively addendum) to a properly ratified memorandum of understanding (MOU). ~~Addendum determined by Finance to have no fiscal impacts do not require JLBC notification, however, these shall be posted on the Department of Human Resources' (CalHR) website pursuant to provision 10 of this section.~~*
8. *The notice shall include a copy of the addendum and a fiscal summary of any expenditure of funds resulting from the agreement in 2015-16 and future fiscal years. The notice shall indicate whether Finance determines that an agreement does or does not require legislative action to ratify the addendum before implementation, pursuant to paragraphs (A), (B), or (C) of this provision.*
 - (A) An addendum to a properly ratified MOU may be implemented without legislative action not less than 30 calendar days after notice has been provided to the JLBC—or not sooner than whatever lesser time after that notification the chairperson of the JLBC, or his or her designee, may in each instance determine—if all the following apply: (1) the agreement results in total net costs of less than \$1,000,000 (all funds) during the 2015-16 fiscal year; (2) any cost resulting from the agreement can be absorbed within the 2015-16 appropriation authority of impacted departments; and (3) the addendum does not present substantial additions that are reasonably outside the parameters of the original MOU.*
 - (B) An addendum to a properly ratified MOU that results in any expenditure of funds may be implemented not less than 30 calendar days after notice has been provided to the JLBC—or not sooner than whatever lesser time after that notification the chairperson of the JLBC, or his or her designee, may in each instance determine—if, during the legislative consideration of the 2015-16 Governor's Budget, Finance identified to the Legislature that (1) the administration anticipated that the addendum would be signed during 2015-16 and (2) any costs resulting from the addendum are included in the 2015-16 Governor's Budget or in another legislative vehicle.*
 - (C) An addendum to a properly ratified MOU that results in any expenditure of funds requires legislative action prior to implementation if any of the following applies: (1) the agreement*

results in total net costs greater than \$1,000,000 (all funds) during the 2015-16 fiscal year; (2) the agreement results in costs that cannot be absorbed within the 2015-16 appropriation authority of impacted departments; or (3) the addendum presents substantial additions that are not reasonably within the parameters of the original MOU.

9. *Notwithstanding Sections 3517.6 and 3517.63 of the Government Code, any addendum to a properly ratified MOU that is implemented in 2015-16, pursuant to paragraph (A) of Provision (8) of this item, and requires the expenditure of funds beyond 2015-16 that was not approved as part of the 2015-16 Budget Act, must be approved by the Legislature as part of the 2016-17 Budget Act or through another legislative vehicle.*
10. *The Department of Human Resources ~~CalHR~~ shall promptly post on its public website all signed addendum. The addendum shall be posted in its entirety—including any attachments, schedules, or other documents included as part of the agreement—along with the fiscal summary documents of the agreement.*

Add Provisions 8 thru 11 to Items 9800-001-0494 and 9800-001-0988:

8. *Notwithstanding Sections 3517.6 and 3517.63 of the Government Code, the Department of Finance (Finance) shall provide written notification to the Joint Legislative Budget Committee (JLBC) regarding any expenditure of funds resulting from any side letter, appendix, or other addendum (collectively addendum) to a properly ratified memorandum of understanding (MOU). ~~Addendum determined by Finance to have no fiscal impacts do not require JLBC notification, however, these shall be posted on the Department of Human Resources' (CalHR) website pursuant to provision 11 of this section.~~*
9. *The notice shall include a copy of the addendum and a fiscal summary of any expenditure of funds resulting from the agreement in 2015-16 and future fiscal years. The notice shall indicate whether Finance determines that an agreement does or does not require legislative action to ratify the addendum before implementation, pursuant to paragraphs (A), (B), or (C) of this provision.*
 - (A) *An addendum to a properly ratified MOU may be implemented without legislative action not less than 30 calendar days after notice has been provided to the JLBC—or not sooner than whatever lesser time after that notification the chairperson of the JLBC, or his or her designee, may in each instance determine—if all the following apply: (1) the agreement results in total net costs of less than \$1,000,000 (all funds) during the 2015-16 fiscal year; (2) any cost resulting from the agreement can be absorbed within the 2015-16 appropriation authority of impacted departments; and (3) the addendum does not present substantial additions that are reasonably outside the parameters of the original MOU.*
 - (B) *An addendum to a properly ratified MOU that results in any expenditure of funds may be implemented not less than 30 calendar days after notice has been provided to the JLBC—or not sooner than whatever lesser time after that notification the chairperson of the JLBC, or his or her designee, may in each instance determine—if, during the legislative consideration of the 2015-16 Governor's Budget, Finance identified to the Legislature that (1) the administration anticipated that the addendum would be signed during 2015-16 and (2) any costs resulting from the addendum are included in the 2015-16 Governor's Budget or in another legislative vehicle.*

(C) An addendum to a properly ratified MOU that results in any expenditure of funds requires legislative action prior to implementation if any of the following applies: (1) the agreement results in total net costs greater than \$1,000,000 (all funds) during the 2015-16 fiscal year; (2) the agreement results in costs that cannot be absorbed within the 2015-16 appropriation authority of impacted departments; or (3) the addendum presents substantial additions that are not reasonably within the parameters of the original MOU.

10. *Notwithstanding Sections 3517.6 and 3517.63 of the Government Code, any addendum to a properly ratified MOU that is implemented in 2015-16, pursuant to paragraph (A) of Provision (9) of this item, and requires the expenditure of funds beyond 2015-16 that was not approved as part of the 2015-16 Budget Act, must be approved by the Legislature as part of the 2016-17 Budget Act or through another legislative vehicle.*
11. The Department of Human Resources ~~CalHR~~ *shall promptly post on its public website all signed addendum. The addendum shall be posted in its entirety—including any attachments, schedules, or other documents included as part of the agreement— along with the fiscal summary documents of the agreement.*

Staff Recommendation: Approve the Governor's proposal with modifications.

Vote:

Control Section 3.61**Issue 1 Amendment to Budget Bill Control Section 3.61 (May Revision)**

Governor’s Proposal. The Administration requests that Control Section 3.61 be amended for technical clarification. This control section replaces 9651.

Background and Detail: Pursuant to existing labor agreements, the state contributes money to prefund retiree health benefits for California Highway Patrol (CHP) officers. In 2015-16, the administration anticipates that the state will spend about \$54 million for this purpose. The administration proposes changing how the state appropriates this money. This proposal would affect how the state prefunds these benefits for CHP officers and any other employees for whom the state begins prefunding these benefits in the future.

In the past, the state has appropriated money to prefund retiree health benefits through a central budget item—Item 9651. Using Item 9651 for this purpose has been problematic as the state repeatedly has not appropriated sufficient funds in the Budget Act. As a result, mid-year augmentations have been necessary to avoid running a deficiency. The Department of Finance indicated that the state needed to appropriate an additional \$3 million to prevent the item from running a deficiency in both 2013-14 and 2014-15.

As part of his January Budget, the Governor proposed ending the use of Item 9651 to prefund retiree health benefits and instead create a control section—Control Section 3.61—that prefunds retiree health benefits through departmental budgets. The May Revision includes minor changes to the January proposal. This decentralized method is similar to how the state makes its contribution payments towards pension benefits for state employees. Paying these costs through departmental budgets provides greater certainty as to the state’s prefunding obligations. In addition, paying these costs through departmental budgets provides the state greater ability to pay for these costs using federal grants and other funding sources that departments use to pay for personnel expenditures.

LAO Comments: The LAO generally agrees with the Administration’s approach to establish a more decentralized process to pay for the state’s ongoing obligations to prefund retiree health benefits through departmental budgets. As written, however, the proposal would grant the Administration authority to adjust the amount of money the state pays to prefund retiree health benefits pursuant to (1) “approved memoranda of understanding” in the case of rank-and-file employees and (2) administrative actions for employees excluded from the collective bargaining process. This arguably could give the administration significant authority in certain circumstances to establish the state’s retiree health prefunding policy without prior legislative approval. Accordingly, to ensure that the significant decisions about retiree health prefunding remain under the control of the Legislature, the LAO recommends modifying paragraph (c) of the proposed language to read:

(c) The Director of Finance may adjust the percentage levels of the employers' contribution for prefunding other postemployment benefits listed in subdivision (a) in accordance with ~~approved memoranda of understanding or labor agreements approved by the Legislature or other legislation approved by the Legislature, for employees excluded from collective bargaining, in accordance with salary and benefit schedules established by the Department of Human Resources.~~ The Director of Finance shall notify the Controller by executive order of adjustments made pursuant to this subdivision. Within 30 days of making an adjustment pursuant to this subdivision, the Director of Finance shall report the adjustment in writing to the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the committees in each house of the Legislature that consider appropriation.

Staff Comment: Staff agrees with the LAO comments and recommendation.

Staff Recommendation: Approve Control Section 3.61 with the LAO modifications as specified above.

Vote: