Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 5 Agenda

Senator Loni Hancock, Chair
Senator Joel Anderson
Senator Holly Mitchell

Wednesday, May 21, 2014
10:00 a.m. State Capitol Room 113

Consultant: Joe Stephenshaw

Part A

Items Proposed for Vote-Only

Items Proposed for Discussion

PROPOSED FOR VOTE ONLY

Vote Only

7900 California Public Employees' Retirement System

Issue 1 CalPERS Administrative Budget Adjustments

Governor's Proposal. The May Revision proposes adjustments to eight items in the California Public Employees Retirement System's (CalPERS) administrative budget based on the 2014-15 CalPERS budget approved during the April 16, 2014, board meeting.

Background.

- Item 7900-003-0830, CalPERS board administrative costs paid by the Public Employees Retirement Fund, decreased by $19,393,000;
- Item 7900-015-0815, CalPERS board administrative costs paid by Judges' Retirement Fund, decreased by $286,000;
- Item 7900-015-0820, CalPERS board administrative costs paid by Legislators' Retirement Fund, decreased by $60,000;
- Item 7900-015-0822, CalPERS board administrative costs paid by the Public Employees Health Care Fund, increased by $522,000;
- Item 7900-015-0830, CalPERS board administrative costs paid by the Public Employees Fund, increased by $11,582,000 and 42 positions;
- Item 7900-015-0833, CalPERS board administrative costs paid by the Annuitants' Health Care Coverage Fund, decreased by $235,000;
- Item 7900-015-0884, CalPERS board administrative costs paid by the Judges' Retirement System II Fund, decreased by $12,000; and
- Reimbursements to the main item decreased by $2,713,000.

Staff Recommendation. Approve as proposed.

Issue 2 Control Section 3.60

Governor's Proposal. The May Revision includes revised budget bill language to Control Section 3.60 to capture the proposed retirement rates.

Background. The General Fund will increase by $342,655,000, other special funds will increase by $166,180,000, and various other nongovernmental cost funds will increase by $65,828,000 for retirement rate adjustments. The estimated increase in retirement costs are due to the following reasons:

First, on February 20, 2014, the California Public Employees' Retirement System (CalPERS) Board of Administration adopted new demographic assumptions as part of a regular review of demographic experience. Key assumption changes included longer post-retirement life expectancy, earlier retirement ages, and higher than expected wage growth for State Peace Officers/Firefighters and California Highway Patrol.

The impact of the assumption changes will be phased in over three years, with a twenty-year amortization, beginning in FY 2014-15. Of the total, this action accounts for $430,092,000 ($254,244,000 General Fund).

Second, retirement rates are higher than originally projected in the Governor's budget due to actual payroll growth being less than actuarially assumed, employees retiring earlier than actuarially assumed, and differences in projected employer contributions and benefit payments as compared to actuals. Of the total increases, this action accounts for $146,571,000 ($88,411,000 General Fund).

Staff Recommendation. Adopt Amended budget bill language as provided in the May Revision.

9650 Health and Dental Benefits for Annuitants

Issue 1 Retiree Health and Dental Benefits for Annuitants

Governor's Proposal. The item proposes provisional language to ensure that final health and dental rates can be updated after they are updated at the end of June 2014. The budget currently includes estimates.

Proposed Provisional Language:

- *The Director of Finance may adjust this item of appropriation to reflect the health benefit premium rates approved by the Board of Administration of the California Public Employees' Retirement System for the 2015 calendar year. Within 30 days of making any adjustment pursuant to this provision, the Director of Finance shall report the adjustment in writing to the Chairperson of the Joint Legislative Budget Committee and the chairperson of the committees in each house of the Legislature that consider appropriations.*

Staff Recommendation. Approve as proposed.

9800 Augmentation for Employee Compensation

Issue 1 Augmentation for Employee Compensation

Governor's Proposal. The May Revision proposes increases in employee compensation resulting from updated health care and dental enrollment figures, updates to salary information for salary increases previously provided in the Governor's budget, updates to salary survey estimates for the California Highway Patrol (Bargaining Unit 5), health and dental benefits for the state employees of the Judicial Branch and Commission on Judicial Performance, and increases to salaries and benefits associated with International Union of Operating Engineers (Bargaining Unit 13).

Additionally, this request includes provisional language.

Background. Item 9800 in the budget 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 $12,594,000, would increase Item 9800-001-0494 by $20,217,000, and would increase Item 9800-001-0988 by $9,957,000 to reflect changes discussed above.

Proposed Provisional Language. Additionally, this item includes provisional language to allow flexibility to adjust estimates for final health rates, which are not expected until the end of June 2014; and to ratify provisions that require the expenditure of funds associated with various Memorandum of Understanding (MOUs).

- *The Director of Finance may adjust this item of appropriation to reflect the health benefit premium rates approved by the Board of Administration of the California Public Employees' Retirement System for the 2015 calendar year. Within 30 days of making any adjustment pursuant to this provision, the Director of Finance shall report the adjustment in writing to the Chairperson of the Joint Legislative Budget Committee and the chairperson of the committees in each house of the Legislature that consider appropriations.*
- *By inclusion of this provision, for purposes of Section 3517.63 of the Government Code, the Legislature hereby ratifies provisions that require the expenditure of funds with: (1) addendum to the Memorandum of Understanding (MOU) dated November 22, 2013, with State Bargaining Unit 1 (State Employees International Union) for Aviation Consultants, (2) addendum to the MOU dated March 4, 2014, with State Bargaining Unit 19 (American Federation of State, County, and Municipal Employees) for Recreational Therapists, and (3) the MOU dated May 5, 2014, including continuous appropriation of compensation components in the event that a budget act is not in place prior to July 1, 2016, with State Bargaining Unit 13 (International Union of Operating Engineers). The estimated costs to implement these agreements are included in this item.*

Staff Recommendation. Adopt May Revision proposal and provisional language outlined above.

Issue 1 Occupational Safety and Health Staffing

The Governor's budget proposes $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 Recommendation: Approve as proposed.

Issue 2 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.

Staff Comment. The subcommittee previously held this item open to allow time for stakeholders to work through issues with the proposed trailer bill language. This process has been completed.

Staff Recommendation: Approve the revised trailer bill language, which reflects amendments based on stakeholder concerns.

To Be Heard

7501 Department of Human Resources

Issue 1	In-Home Supportive Services Employer-Employee Relations Act

Governor's Proposal. The May Revision proposes additional positions to implement the Governor's initiative to create a Statewide Authority to oversee labor relations for the In-Home Supportive Services program (IHSS).

The Department of Finance (DOF) has also proposed a technical scheduling change necessary to correctly schedule funding between programs 10 (Human Resources Management), 30.10 (Administration), and 30.20 (Distributed Administration). This change does not impact the overall appropriation authority being requested.

Background. The proposal requests five permanent positions and $848,000 ($424,000 General Fund and $424,000 Reimbursements) in FY 2014-15, and nine permanent positions and $1,359,000 ($679,000 General Fund and $686,000 Reimbursements) in FY 2015-16 to address workload associated with the passage of SB 1036 (Chapter 45, Statutes of 2012).

The resources are an estimate based on the current assessment of workload. Until the Statewide Authority is established and the duties assigned to CalHR are clearly defined, the staff necessary to complete the assigned workload is not completely known.

The Budget Act of 2012 authorized the Coordinated Care Initiative (CCI), whereby persons eligible for both Medicare and Medi-Cal would receive medical, behavioral, long-term support and services, and home and community based services coordinated through a single health plan in eight demonstration counties (Alameda, Los Angeles, Orange, Riverside, San Bernardino, San Diego, San Mateo, and Santa Clara). It is anticipated that CCI will eventually be expanded to cover IHSS recipients and providers in all 58 counties.

SB 1036 enacted the In-Home Supportive Services Employer-Employee Relations Act (IHSSEERA), which made substantial changes in how the day-to-day labor relations contract administration and collective bargaining will be conducted by IHSS providers. IHSSEERA established a Statewide Authority to function as the employer of IHSS providers for the purposes of labor relations. The IHSSEERA provides that CalHR, through the Statewide Authority, will assume responsibility for the day-to-day labor relations, contract administration, and collective bargaining with the unions in the eight counties.

The eight demonstration counties were originally scheduled to begin March 2013; however, that date was extended. Currently, one county is scheduled to begin the transition in April 2014 and is scheduled to complete the transition by February 2015. Another four are scheduled to be under the Statewide Authority by August 2015.

Other challenges facing the Statewide Authority is that by the time the counties transition to CCI, all of their MOUs will be expired with the exception of three. This means that CalHR must commence bargaining in these counties immediately upon transition.

In FY 2013-14, CalHR submitted a Spring Finance letter and received funding for four positions to meet the needs of IHSSEERA. The workload from these positions helped to shape the request for the May Revision proposal.

Staff Comment. CalHR does not anticipate any future delays with the project. However, workload is still an estimate at this time and it is unknown what, if any, additional resources will be needed once the Statewide Authority is established.

The additional resources will ensure that the transition of San Mateo County in February 2015, followed by Riverside, San Bernardino, Los Angeles, and San Diego is seamless.

Staff Recommendation. Approve as proposed with the technical change requested by DOF.

7100 Employment Development Department

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.

The May Revision proposes an increase of $67.6 million, including $46.6 million General Fund, to provide additional resources for the administration of the UI Program in 2014-15.

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.

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.

The May Revision proposes additional staff and overtime funding to support the following service levels:

- Process all claims for unemployment benefits within three days of receipt.
- Respond to online inquiries within five days of receipt.
- Schedule 95 percent of eligibility determinations in a timely manner.

- Respond to 50,000 calls per week.

To achieve the service level goals identified in this May Revision proposal, EDD would need to maintain 598.1 positions above the base level, add 175.2 positions to achieve the goals for determinations and calls, and could reduce 18.6 PEs from initial claim and online inquiry workload. This results in a SFY 2014-15 position need of 754.7 above what was included in the Governor's Budget.

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.

The Labor agency and the department have taken numerous steps in recent months to address the challenges EDD faces in administration of the UI program. The Governor's proposals are an integral part of these efforts.

Staff Recommendation: Adopt the Governor's budget and May Revision proposals with additional Budget Bill language requiring a report no later than March 1, 2015 on the progress in achieving the identified service level outcomes.

Issue 2 Paid Family Leave Outreach

Proposal. A three-year approach to fund Paid Family Leave outreach activities from the State Disability Account has been proposed, as follows:

- 2014-15 - $1 million
- 2015-16 - $2.5 million
- 2016-17 - $3 million

The first year would be dedicated to ramping up and developing materials and the third year would include an evaluation component.

Background. In 2002, legislation was enacted to extend disability compensation to cover individuals who take time off work to care for a seriously ill child, spouse, parent, or registered domestic partner, or to bond with a new child. Senate Bill 1661 established the Paid Family Leave insurance program, also known as Family Temporary Disability Insurance program, to be administered by the State Disability Insurance (SDI) program. An estimated 13.1 million California workers who are covered by the SDI program have also been covered for Paid Family Leave insurance benefits as of July 1, 2004.

For California workers covered by SDI, Paid Family Leave insurance provides up to six weeks of benefits for individuals who must take time off to care for a seriously ill child, spouse, parent, or registered domestic partner, or to bond with a new child. The fund is projected to have a $2.8 billion balance in 2013, which is expected to grow to $3.1 billion this year.

Benefits of Paid Family Leave

A 2011 study of California's Paid Family Leave program by Eileen Appelbaum and Ruth Milkman found that the increased use of Paid Family Leave increased job retention, positively affected respondents' ability to care for a new baby or adopted child and doubled the median duration of breastfeeding for all new mothers who used it.

Awareness

Polling suggests many workers are unaware of the benefits they can receive from Paid Family Leave. In September 2011, a California Field Poll surveyed registered voters to assess their awareness of the state's Paid Family Leave program. The poll included 1,001 registered voters and was conducted from September 1 to 12, 2011.

Overall, well under half (42.7 percent) of respondents had "seen, read or heard" of the PFL program, which was created by a 2002 law. Awareness also varied geographically, with the highest level in the San Francisco Bay Area and the lowest in Los Angeles County. Awareness among low-income groups, Latinos, and young workers was substantially lower than the average.

Staff Recommendation. Approve the three-year plan, as identified above, for EDD to administer a Paid Family Leave outreach campaign and supplemental reporting language requiring EDD to report on the type of, and effectiveness of, outreach activities.

7350 Department of Industrial Relations

Issue 1 Process Safety Management Unit Expansion

Governor's Budget Proposal. The Governor's budget proposed $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.

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.

Staff Recommendation: Approve the proposal with budget bill language requiring the department to report by February 1, 2015 on the status of Process Safety Management efforts, as follows:

x. The Department of Industrial Relations shall report to the Director of Finance, the chairpersons of the fiscal committees of both houses of the Legislature, and the Legislative Analyst's Office by February 1, 2015 on 1) the status of Process Safety Management and Risk Management Program regulatory changes, and; 2) the status of all efforts the department is taking to implement recommendations of the final report from the Governor's Interagency Working Group on Refinery Safety.

x. The Department of Industrial Relations shall report to the Director of Finance, the chairpersons of the fiscal committees of both houses of the Legislature, and the Legislative Analyst's Office by February 1, 2015 on 1) the status of the department's annual workload evaluation of the staffing needed to meet the enforcement requirements of Section 7870 of the Labor Code, for both refinery facilities and non-refinery facilities that meet the threshold for Cal/OSHA Process Safety Management regulatory oversight, and the aggregate fees needed to support the function; 2) the departments process or plan for categorizing non-refinery facilities that meet the threshold for Cal/OSHA Process Safety Management regulatory oversight by type of facility, risk level, and inspection cycles; 3) The number of staffing vacancies, by classification, within the Process Safety Management Unit, and; 4) the number of inspections performed, to date, during the current fiscal year, by both type of facility and type of inspection.