

# SUBCOMMITTEE NO. 5

# Agenda

Senator Loni Hancock, Chair  
Senator Joel Anderson  
Senator Lois Wolk



**Part B**  
**Wednesday, May 25, 2011**  
**9:00 a.m.**  
**Room 113**

**Consultant: Keely Martin Bosler**

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## **Corrections, Public Safety and the Judiciary**

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## Vote Only Agenda

### 8830 California Law Revision Commission

#### 1. Elimination of the California Law Revision Commission

**Background:** The Law Revision Commission is responsible for reviewing California law, recommending legislation to make needed reforms, and making recommendations to the Governor and Legislature for revision of the law on major topics (as assigned by the Legislature). The Commission consists of seven gubernatorial appointees plus one Senator, one Assembly Member, and the Legislative Counsel.

**May Revise:** The Governor's May Revision proposes to eliminate the commission, for a reduction of \$333,000 (\$325,000 General Fund) and 2.7 personnel years.

**Staff Comments:** For the current budget year, the commission is fully supported by reimbursements from the Legislative Counsel Bureau's budget.

**Staff Recommendation:** Instead of eliminating the commission, continue the current-year approach in which the commission is supported by reimbursements from the Legislative Counsel Bureau's budget, by adopting the following budget bill language:

*X. For the 2011-12 fiscal year only, the reimbursements identified in Schedule (2) shall be paid from the amounts appropriated in Items 0160-001-0001 and 0160-001-9740.*

### 8840 Commission on Uniform State Laws

#### 1. Elimination of The Commission on Uniform State laws

**Background:** The Commission on Uniform State Laws presents to the Legislature uniform laws recommended by the National Conference of Commissioners on Uniform State Laws and promotes the passage of these uniform acts.

**May Revise:** The Governor's May Revise proposes to eliminate the commission, for a savings of \$74,000 in General Fund.

**Staff Comments:** For the current budget year, the Commission on Uniform State Laws is fully supported by reimbursements from the Legislative Counsel Bureau's budget.

**Staff Recommendation:** Instead of eliminating the commission, continue the current-year approach in which the commission is supported by reimbursements from the Legislative Counsel Bureau's budget, by adopting the following budget bill language:

*X. For the 2011-12 fiscal year only, the reimbursements identified in Schedule (2) shall be paid from the amounts appropriated in Items 0160-001-0001 and 0160-001-9740.*

## 0250 Judicial Branch

### 1. Technical Adjustment – SB 678

**Background.** In an effort to stem the flow of felony probationers being sent to state prison, the Legislature approved SB 678 that established a system of performance-based funding that will share General Fund savings with county probation departments when they demonstrate success in reducing the number of adult felony probationers going to state prison because of committing new crimes or violating terms of probation. This measure is designed to help lower California's prison admissions by reducing criminal behavior, and thus relieve overcrowding and save public funds.

SB 678 creates a State Community Corrections Performance Incentive Fund and authorizes the state to annually allocate money from this fund into a Community Corrections Performance Incentive Fund established by each county.

Each county must use the funding to establish a local community corrections program. These local programs must be targeted towards felony probationers and the funding should be used for specified purposes related to improving local probation practices. Each county is also required to identify and track outcome-based measures and report their plans and progress to the Administrative Office of the Courts (AOC).

At the end of every calendar year, the Department of Finance (DOF) is required to determine the statewide and county specific felony probation failure rates. Using a baseline felony probation failure rate of the years 2006-2008, DOF then calculates the amount of savings to be provided to each county.

**May Revision.** The Governor's May Revision proposes to reduce the administrative costs associated with the Community Corrections Performance Incentive Program to reflect actual expenditures. This proposal will reduce funding for the courts by \$1.2 million General Fund.

**Staff Recommendation.** Staff recommends adjusting the Judicial Branch budget as proposed in the May Revision.

## 0250 Judicial Branch

### 1. Court Security

**Background.** Existing law requires that the Sheriffs provide security in trial court facilities. The Governor's realignment proposal in January and the subsequent realignment proposal adopted by the 2011 Conference Committee included realigning the funding in the judicial budget that supports court security. This funding has historically been provided to reimburse counties in arrears. Under realignment the funding will now be allocated to the counties to manage the security costs within the funding provided.

**May Revision.** The May Revision proposes to adjust the trial court funding allocated as part of realignment for inflation since the proposed funding in January was based on prior year data. The May Revision increases the court security allocation by \$10.7 million.

**Staff Comments.** Staff finds that "right-sizing" the budgets for the programs that are going to be realigned will help to avoid future problems in funding the realigned programs. This is especially important with court security where the judicial branch (funded by the state) will be relying heavily on the realigned service.

**LAO Analysis.** The LAO has raised reservations about realigning court security since court security is a necessary operational cost related to the courts and the courts are now nearly exclusively funded by the State. Furthermore, the LAO has recommended that a better model for providing court security is to allow courts the flexibility to meet their security needs with providers other than the Sheriff. The LAO has not raised any concerns with the methodology suggested by the Administration to adjust the court security costs, but does continue to object to the realignment of the court security funding.

**Staff Recommendation.** Staff recommends that the Subcommittee approve this May Revision request.

### 2. Parole Revocation Workload

**Background.** Assembly Bill 109 (Budget) that was passed earlier this year enacted major reform related to the parole revocation process. The law required that all offenders released from state prisons who commit a violation of the terms and conditions of parole or post-release supervision would be subject to revocation decisions by the courts. This eliminates the current role that the Board of Parole Hearings (BPH) has regarding revocation hearings that return offenders back to state prison for short revocation terms. This Legislation did not impact the role that the BPH has related to lifer inmate determinations.

**May Revision.** The May Revision includes \$41.8 million General Fund in the budget year to support the revocation hearing workload that the courts will be assuming as a result of the passage of AB 109. In calculating the funds to support this request, the Administration has

assumed that the revocation workload will be 115 percent of the actual workload in the prior year. Furthermore, the Administration is assuming that each hearing will take two hours (on average) and will be handled by a judge. The Administration has also built in one-time tenant improvements for each new courtroom activated by this new workload. The proposal assumes that the ongoing funding resulting from this workload drops after the one-time tenant improvements to \$18 million.

**LAO Analysis.** The LAO finds that this request is over budgeted for the following reasons:

- The LAO does not believe it is appropriate to assume that this workload would be handled by judges, when using hearing officers would be a more cost-effective approach for accommodating the additional workload. They recommend reducing the request by \$1.4 million accordingly.
- The LAO also does not think there is a justification to assume that there will be more revocation hearings than BPH is currently experiencing (115 percent assumption). They recommend that the budget request be reduced by \$5.3 million to reflect this adjustment.
- The LAO also indicates that the administration and the courts have not provided sufficient justification for the \$27 million in tenant improvements requested on a one-time basis to activate the additional courtrooms to handle the new revocation workload.

**Staff Comments.** Staff agrees that sufficient justification has not been provided by the courts or the administration regarding the space needs of the individual courts in order to meet this new workload. However, staff finds that in many counties this workload will require the courts to activate several new courtrooms to handle the new court calendar of parole revocation hearings. The courts will incur a cost related to this activation. Therefore, some funding is warranted and costs will vary greatly from court to court depending on local circumstances. Furthermore, the overall cost of the program is unclear at this time because it is unclear how the changes in AB 109 will be implemented by all affected parties. The Legislature should review the actual revocation workload next year to determine if adjustments will be needed to the courts budget.

**Staff Recommendation.** Staff recommends that the Subcommittee approve this May Revision request.

### 3. Court Capital Outlay Reappropriations and Extensions

**May Revision.** The Governor's May Revision proposes to reappropriate lease revenue, Immediate and Critical Needs Account, and State Court Facilities Construction Fund funding for eight capital outlay projects and, for two of these projects, extend the encumbrance and expenditure period. These proposals do not impact the General Fund.

**Background.** The projects included in this request are:

Project	Amount	Action	Reason
Madera Courthouse	\$88.2 million	Reappropriation	Delay in site acquisition.

Stockton Courthouse	\$256.5 million	Reappropriation and Extension	Delay in site acquisition.
Fairfield Old Solano Courthouse	\$23.7 million	Reappropriation and Extension	Delay acquiring the courthouse from the county. Additionally, the AOC was required to consult with the State Historic Preservation Office.
Hollister Courthouse	\$33.5 million	Reappropriation	Delay in bond sale due to budget short fall.
San Andreas Courthouse	\$40.4 million	Reappropriation	Delay in bond sale due to budget short fall.
Riverside Mid-County Courthouse	\$54.5 million	Reappropriation	Delay in bond sale due to budget short fall.
San Bernardino Courthouse	\$304.7 million	Reappropriation	Delay in bond sale due to budget short fall.
Porterville Courthouse	\$81.1 million	Reappropriation	Delay in bond sale due to budget short fall.

**Staff Recommendation.** Approve the May Revision Proposals.

## 0690 California Emergency Management Agency

**Department Overview.** The principal mission of the California Emergency Management Agency (CalEMA) is to reduce the state's vulnerability to hazards and crimes through emergency management and criminal justice programs.

The CalEMA was created by Assembly Bill 38 (Chapter 372, Statutes of 2008) as an independent entity reporting directly to the Governor. The CalEMA was formed by merging two departments, the Office of Emergency Services (OES) and the Office of Homeland Security (OHS).

During an emergency, CalEMA functions as the Governor's immediate staff to coordinate the state's responsibilities under the Emergency Services Act. It also acts as the conduit for federal assistance through natural disaster grants and federal agency support. Additionally, CalEMA is responsible for the development and coordination of a comprehensive state strategy related to all hazards that includes prevention, preparedness, response, and recovery.

### 1. Fire Engine Purchase with Federal Funds

**Background:** The Fire and Rescue Division currently has a fleet of 129 engines and uses a seventeen year fire engine replacement cycle. As far back as the original purchase of fire engines, there has always been a replacement protocol. Replacements are critical as technology is improving and standards are getting stricter and older model engines cannot be upgraded with this newer technology.

**May Revision:** The Governor's May Revision proposes a one-time reduction of \$1,750,000 to reflect the planned purchase of fire engines using federal funds in 2011-012. The Governor's May Revision letter argues that this General Fund reduction is necessary to address the remaining budget shortfall.

**Staff Comments:** Currently, \$1.8 million is set aside in the General Fund from the Division's budget to cover the replacements. CalEMA has accumulated federal funds tied to reimbursement of costs associated with fires that it has identified for use in 2011-12 to cover planned fire engine replacements for the year.

**Staff Recommendation:** Approve.

### 2. Golden Guardian and state agency training

**Background:** Golden Guardian is a statewide annual disaster response exercise involving multiple agencies at the local and state level. It provides training to CalEMA and other state agencies.

**May Revision:** An ongoing reduction of \$779,000 related to the elimination of General Fund support for the annual Golden Guardian Exercise and state agency training. The Agency will continue to conduct the Golden Guardian Exercise and will offer state agency training on a reimbursement basis.

**Staff Comments:** This proposal will reduce the General Fund (\$200,000) and CalEMA will identify federal funds in which to support the exercise on-going. The State Agency Direct Support Unit and CalEMA is proposing to reduce the General Fund portion of the unit (\$579,000). The agency will use reimbursement contracts to continue state agency training; all activities will continue on a reduced level.

**Staff Recommendation:** Approve.

### 3. California Disaster Assistance Act

**Background:** When local governing units determine they have insufficient resources to respond to or recover from a disaster, they declare a disaster and request the Governor to proclaim a disaster. CalEMA analyzes the event and evaluates the local needs, and when appropriate recommends to the Governor that a proclamation is issued. If the Governor proclaims a disaster, the event would be a California Disaster Assistance Act-only event and the state would typically cover 75 percent of the allowable costs. If the disaster also meets the federal threshold, the Governor would request the President to declare a disaster. If the President declares a disaster, typically, the Federal Emergency Management Agency will cover 75 percent of the allowable costs and the state's share would be 25 percent split between 18.75 percent by the state and 6.25 percent by the local entity.

**May Revision:** The Governor's May Revision proposes a reduction of \$20 million local assistance for the California Disaster Assistance Act. This will reduce funding so that it is more in line with historical expenditure levels.

**Staff Comments:** Prior to 2006-07, the CDAA appropriation was funded at an average of \$48 million per year. Since 2009-10, the CDAA appropriation has been \$69 million. This proposal will reduce the program to historic funding levels as CalEMA reports recent expenditures have been lower (\$40 million in 2009-10) and the department has made an effort to make final reimbursement payments and close out many old disaster claims.

In the event California does have a major disaster in future years, CalEMA can seek deficiency funding to adjust the CDAA appropriation. However, it should be noted that the majority of the permanent repair costs from disasters are typically paid several years later as the projects are complete.

**Staff Recommendation:** Approve.

#### 4. Elimination of Emergency-Related Councils

**May Revision:** The Governor's May Revision proposes to eliminate the following emergency-related councils:

**Governor's Emergency Operations Executive Council (GEOEC)** – This council was established as a result of Governor's Executive Order S-04-06, which required the Directors of the Office of Homeland Security and Emergency Services to convene a coordinating body for emergency management and homeland security activities across California state government. In 2008, legislation created CalEMA by merging these two departments. According to the administration, there are other committees that maintain the state's emergency plan, thereby making the need for this council unnecessary.

**California Emergency Council (CEC)** – This council is responsible for recommending and approving orders, regulations, and emergency planning documents for the Governor. According to the administration, the members of this group can be convened as necessary, and an ongoing council is not necessary. The members of the CEC include the following: the Governor (ex-officio chair); (2) the Lieutenant Governor, or an alternate; (3) the Attorney General, or an alternate; (4) one representative of the city governments of the state and one representative of the county governments of the state, to be appointed by the Governor; (5) one representative of the American National Red Cross, to be appointed by the Governor; (6) one representative of the city or county fire services of the state and (7) one representative of the city or county law enforcement services of the state, to be appointed by the Governor; (8) the President pro Tempore of the Senate, or an alternate; (9) the Speaker of the Assembly, or an alternate and (10) one representative of a local public health agency.

**Staff Comments:** Staff finds that the GEOEC may have served a purpose at one time, but with the formation of CalEMA in 2008 this council is no longer needed. Furthermore, as the Governor indicates in his May Revision, the members of the CEC could be convened if needed.

**Staff Recommendation:** Approve.

## 0820 Department of Justice

### 1. DNA Identification Fund Shortfall

**Background:** The Department of Justice's (DOJ) Bureau of Forensic Services operates 11 full-service criminalistic laboratories throughout the state. These laboratories provide some state and many local agencies with analysis of various types of physical evidence and controlled substances, as well as analysis of materials found at crime scenes. For fiscal year 2010-11, the DNA penalty assessment on all convicted offenders was increased to provide additional revenue to offset General Fund costs related to the state's crime labs. The penalty was increased from an additional \$1 penalty for every \$10 in fine, penalty, or forfeiture collected by the courts to \$3 for every \$10 collected. Language was also adopted to expand the allowable uses of this funding for crime lab operations.

**May Revise:** The Governor's May Revision proposes \$14.1 million General Fund to support Department of Justice (DOJ) forensic crime laboratories by: 1) transferring \$10 million (ongoing) to the DNA Identification Fund and, 2) providing \$4.1 million to support lease-related costs currently funded from the DNA Identification Fund. The administration also proposes trailer bill language to increase the priority with which the penalty assessment revenue deposited in the DNA Identification Fund is collected. Lastly, it proposes budget bill language authorizing the Department of Finance to reduce the amount of the General Fund transferred based on revenues and to require the DOJ to conduct a zero based analysis of program costs and report those findings to the administration and the Legislature.

**Staff Comments:** For the current fiscal year, the administration had estimated revenues for the DNA Fund of \$45.1 million. However, revenues have not come in as expected. One possible reason is the priority order in which this assessment is collected. The proposed trailer bill language would exempt this penalty assessment from a provision of law that places these revenues in a lower priority for payment. With the proposed trailer bill language, the Administration projects an increase of revenue to the DNA Fund of \$16.9 million in 2011-12.

The LAO recommends that the Legislature reject the proposed General Fund augmentation, and allow DOJ to use its existing statutory authority to charge fees to local enforcement for the use of the labs. Some local public safety entities have reported that if they are charged fees for use of these labs this would negatively impact investigations due to their inability to afford such services.

**Staff Recommendation:** Approve.

### 2. Eliminate Anti-Terrorism Information Center

**May Revision.** The Governor's May Revision includes the elimination of 43 boards and commissions including the following:

- **California Anti-Terrorism Information Center (CATIC)** – This program is currently operated by the Department of Justice (DOJ) through a \$6.4 million grant provided by Cal-EMA. The Department of Finance (DOF) argues this center is duplicative of another center operated by CalEMA, the State Terrorism Threat Assessment Center, which it operates using federal homeland security funding. The DOF argues that elimination of CATIC will streamline state anti-terrorism functions and result in General Fund savings of \$3.2 million and 23.3 personnel years in 2011-12.

**Staff Recommendation:** Approve.