*Senate Budget and Fiscal Review—Nancy Skinner, Chair*

# SUBCOMMITTEE NO. 4 Agenda

**Senator Anna Caballero, Chair**
**Senator Jim Nielsen**
**Senator Richard Roth**

**Wednesday, February 24, 2021**
**1:00 p.m.**
**State Capitol - Room 4203**

Consultant: Yong Salas

## ITEMS FOR VOTE ONLY

## ITEMS FOR DISCUSSION

# ITEMS FOR VOTE-ONLY

## 1111 DEPARTMENT OF CONSUMER AFFAIRS (DCA)

### Issue 1: Vehicle Repair Assistance Program (Bureau of Automotive Repair)

**Request.** The Bureau of Automotive Repair (BAR) under DCA requests an increase of $2.3 million in 2021-22 and 2022-23, from the High Polluter Repair or Removal Account (HPRRA), to increase repair assistance to consumers when their vehicles fail a Smog Check inspection.

**Background.** BAR is responsible for administering the nation's largest motor vehicle emissions reduction program. To help in its clean air efforts, BAR administers the Consumer Assistance Program (CAP). CAP improves California air quality by helping consumers comply with the requirements of the Smog Check Program. Consumers can also receive financial incentives to retire their unwanted vehicle at any time and for any reason through CAP.

CAP has two programs for assisting consumers:

- Repair Assistance (RA) provides income-eligible consumers financial assistance to make emissions-related repairs when their qualifying vehicle fails a biennial Smog Check inspection. RA is funded by HPRRA.

- Vehicle Retirement (VR) allows consumers to retire a vehicle based upon certain criteria. It has two different funding sources and eligibility requirements. Consumers can voluntarily retire their high-polluting vehicle when it fails its most recent biennial Smog Check inspection. Income-eligible consumers receive $1,500; all other consumers receive $1,000. HPRRA funds this portion of VR. In addition, income-eligible consumers can also retire their vehicle at any time and for any reason and receive up to $1,500. The Enhanced Fleet Modernization Subaccount (EFMS) funds this portion of VR. In many instances, a consumer's vehicle is eligible for retirement with funding from either EFMS or HPRRA.

Participation in RA has declined steadily for many years due to a low state subsidy of $500, an unpopular consumer copay structure requiring the applicant to pay all diagnostic fees, and seemingly unnecessary eligibility restrictions pertaining to vehicle registration. The program has seen fewer applicants, and a lower percentage of those who do apply are actually approved.

BAR developed new regulations intended to remedy this issue. Under these regulations:

- Approved applicants with 1995 and older vehicles may now receive up to $900 in state subsidized repairs. Those with 1996 and newer vehicles may receive up to $1200 in state subsidized repairs.
- The co-payment is now only 20 percent of all diagnostic and repair costs, reducing the upfront cost of participation.
- Eligibility criteria have been changed to allow participation of applicants with vehicle registrations expired up to 365 days instead of 120 days.

- Eligibility criteria limiting registration lapses that occurred in prior registration years have been removed.

This request is intended to fund these changes for the next two fiscal years. Limited-term funding will allow BAR to collect data from 2020-21 and 2021-22 to determine the appropriate ongoing level.

**Staff Recommendation.** Approve as requested.

**Issue 2: Information Technology Security**

**Request.** DCA is requesting two positions and $2.0 million in 2021-22 and $1.7 million ongoing to meet State of California mandated information technology security regulations and processes across all five department domains.

**Background.** Beginning in 2016-17, the State of California began conducting enhanced security assessments and audits of all State of California departments and agencies. The Information Security Program Audit (ISPA) provides expertise to evaluate compliance with state security and privacy policies, by validating security systems, procedures, and practices are in place and working as intended. The Cyber Network Defense Team of the California Military Department through Chapter 518, Statutes of 2015 (AB 670) added the requirement to conduct, or require to be conducted, an independent security assessment of any state agency, department, or office, the cost of which is to be funded by the state agency, department, or office being assessed.

During the 2018-19 CMD security assessment, each department domain had a list of Plan of Action and Milestones (POAMS) that identified key security best practices that require remediation. Within the assessments and audits, recommendations have been made by California Department of Technology (CDT) and CMD that detailed the security software, services, and best practices that each Department domain must adopt and resolve through the POAM process. This process was a collaborative process between DCA , CDT, and CMD to make sure that each POAM and associated costs to remediation were kept to a minimum. Through this collaborative process, the CMD identified the major cyber security gaps across all Department domains and provided possible solutions and actions that would keep costs to a minimum while closing security gaps. In support of the remediation of the security assessment outcomes, DCA must purchase additional security hardware, software, services and cannot absorb the cost within the existing appropriation.

These costs will be broken down by domain, per the following table:

**Cost Breakdown by Domain**

| Description | DCA | Accountancy | BREA | MBC | CSLB | 2021-22 | Ongoing |
|---|---|---|---|---|---|---|---|
| Information Technology Specialist I | $170,000 | - | - | - | - | $170,000 | $162,000 |
| Information Technology Specialist I | $190,000 | - | - | - | - | $190,000 | $182,000 |
| Security Hardware | $390,000 | - | - | - | - | $390,000 | $78,000 |
| Security Software | $445,000 | $29,000 | $19,000 | $50,000 | $255,000 | $798,000 | $798,000 |
| Security Services | $460,000 | - | - | - | - | $460,000 | $460,000 |
| Total | $1,655,000 | - | - | - | - | $2,008,000 | $1,680,000 |

This request includes two positions to implement the various improvements needed to comply with state security and privacy policies. The positions will be responsible for the design, implementation and maintenance of end point protection systems, monitoring IT security subsystems and email security systems, installing and maintaining all security software and auditing Department servers, desktops, laptops and other IT hardware for security software. Additionally, these positions will serve as the point of contact for all CDT requests for security information and future CMD IT security assessments.

**Staff Recommendation.** Approve as requested.

## Issue 3: Business Modernization Cohort 1

**Request.** The Department of Consumer Affairs requests funding for maintenance activities associated with the selected Business Modernization Cohort 1 software alternative. The total combined request is $1.8 million in fiscal year 2021-22 to fund software licensing, project management, maintenance, credit card services, technical knowledge transfer, and 3.5 existing positions.

**Background.** In January 2020, three boards and one bureau completed the Project Approval Lifecycle (PAL) process and began project implementation activities: the Board of Professional Engineers, Land Surveyors, and Geologists (BPELSG), the Bureau of Private Postsecondary Education (BPPE), the California Acupuncture Board (CAB), and the Board of Chiropractic Examiners (BCE). Collectively, these boards/bureau make up Business Modernization Cohort 1.

Below is a summary table of the request, broken down by board or bureau:

| | | |
|---|---|---|
| Acupuncture Board | $ | 434,000 |
| Board of Chiropractic Examiners | $ | 159,000 |
| Board for Professional Engineers Land Surveyors and Geologists | $ | 131,000 |
| Bureau for Private Postsecondary Education | $ | 1,021,000 |
| DCA Admin - Distributed (Office of Information Services) *Costs included in the above boards/bureau authority* | $ | 506,000 |
| TOTAL | $ | 1,745,000 |

For each of the boards/bureau, the project has already delivered functionality to production that includes online application submissions, back office streamlined workflows, online consumer complaint submissions, and real-time application status updates with the applicant via email and text messages. To date, the project is within its baseline budget and is within a month of its baseline schedule. Several successful software releases have occurred since project implementation, increasing and refining functionality for the boards/bureau.

With upgrading current systems to allow for a stronger online presence, the Department and some of its boards and bureaus are integrating functionality to allow applicants and licensees to pay for their fees using credit card payments. Cohort 1 is funding credit card processing fees on behalf of users of credit card payments.

The proposal also includes $350,000 for payment of credit card processing fees on behalf of users of credit card payments. The requested amounts assume that 80 percent of all estimated revenue will be collected via online payments and assumes an average convenience fee of two percent per transaction in the second year of the project's implementation.

**Staff Recommendation.** Approve as requested.

### Issue 4: Enforcement Staffing Augmentation (Veterinary Medical Board)

**Request.** The Veterinary Medical Board is requesting $430,000 in fiscal year 2021-22, $406,000 in 2022-23, $246,000 in 2023-24 and ongoing, and three positions, to sufficiently address oversight and probation monitoring workload. Funding for one of the positions is requested on a two-year limited-term basis.

**Background.** In 2018-19, the Board began researching and implementing additional efficiencies to address the ever-increasing number of complaints received since 2014-15. The Board attributes the increase in complaints to BreEZe, as it became more readily available and simpler for the consumer to submit a complaint online. The size of the enforcement team had not proportionally increased with the amount of complaints, and this trend was causing a backlog of complaints as well as a steady increase in case investigation cycle times.

As a result of the growing complaints, the Board's pending case backlog nearly quadrupled since 2014-15 (from 607 cases to 2,416 cases). Further, overall investigation cycle times are currently 309 days, which will continue to rise while the oldest of the backlogged cases are completed.

The 2020 Budget provided the Board with six enforcement positions with three years of limited-term funding. This continual increase in pending complaints was the catalyst for the Board's 2020-21 BCP request for six enforcement analysts. In October 2019, the Board voted to raise fees to support the need for ongoing resources, knowing that without the additional resources, the Board's backlog would continue to increase, putting thousands of consumers and animals at risk. While the new positions will have a positive impact to address the rising complaints, the impact will generate more probationers downstream, contributing to the need for more probation monitoring staff.

**Staff Recommendation.** Approve as requested.

**Issue 5: Licensure with Criminal Background (Structural Pest Control Board)**

**Request.** The Structural Pest Control Board (Board) is requesting $188,000 in fiscal year 2021-22, $180,000 in 2022-23 and 2023-24, and one position to address the additional workload associated with implementing Chapter 995, Statutes of 2018 (AB 2138), and oversee the Board's probation monitoring.

**Background.** AB 2138 became operative on July 1, 2020, and reduced barriers to licensure for individuals with prior criminal convictions.

Currently, the Board reviews the fingerprint reports along with the conviction disclosed on their application to determine if the crime is substantially related to the duties, qualifications, or functions of a pest control technician, and to evaluate if the applicant has demonstrated sufficient rehabilitation. Depending on the applicant's criminal history and rehabilitation provided, the Board will either deny a license to the applicant or the applicant will be offered a probationary license.

As of 2019-20, the Board has 22,582 active and inactive Applicator, Field Representative, and Operator licensees and 3,578 company registrations and branch offices. Over the last four years, the Board fingerprinted 28,698 individuals. Of those, approximately 13 percent (3,678) had at least one conviction of some kind. Only 173 (or 4.7 percent) of those with criminal records were denied a license and 194 (or 5.2 percent) were placed on probation.

In either case, the Board requires the criminal history information to meet the due process requirements in the event an administrative case is initiated against an applicant or a licensee with a criminal conviction. If the Board is unable to obtain the criminal history from the applicant directly, it must request the information from the courts and arresting agencies.

This proposal would address the mandates as prescribed in AB 2138 and provides the Board with the necessary licensing staff to follow several new procedures and processes to obtain criminal history records. Most of this proposal is to manage the additional workload expected to obtain that criminal history information either from the applicant directly through responses to inquiries or by obtaining it from county courthouses. Staff would need to contact the counties for this information and the Board will need to pay any associated costs for such documents, including possible certification costs from the courts.

**Staff Recommendation.** Approve as requested.

### Issue 6: Board of Optometry – Mobile Optometric Office License (AB 896)

**Request.** The California State Board of Optometry is requesting $262,000 in the fiscal year 2021-2022, $246,000 in 2022-23 and 2023-24, and two three-year limited-term positions to address anticipated workload as a result of Chapter 121, Statutes of 2020, which creates a new license type for mobile optometric offices.

**Background.** AB 896 was signed into law by Governor Newsom on September 24, 2020. Among other things, AB 896 creates a new licensure type for mobile optometric offices, which is affiliated with nonprofit and charity care organizations to provide optometric services to patients regardless of the patient's ability to pay.

The Board is requesting two positions to implement the new mobile optometric office licensure program. Specifically, the Board requires one Associate Governmental Program Analyst to perform the program implementation changes necessary to integrate the new licensing programs into the Board's processes, develop application and renewal forms, as well as develop the consumer notice. Once the program has been implemented, the analyst will be responsible for reviewing complaints, reviewing quarterly reports from the mobile clinics, analyzing enforcement issues and referring cases to outside agencies or the Attorney General’s office. Additionally, the Board requires one Office Technician (OT) to oversee the application process, assist with administrative functions, respond to phone and email inquiries, conduct the initial complaint review, process the quarterly reports, and assist with other enforcement issues. The Board cannot implement the provisions of AB 896 without additional resources.

**Staff Recommendation.** Approve as requested.

### Issue 7: Witness and Court Reporter Costs (Board of Psychology)

**Request.** The California Board of Psychology is requesting funding to augment the Board’s expert witness budget and to support court reporter expenses as follows: $165,000 in 2021-22, $178,000 in 2022-23, $186,000 in 2023-24, and $193,000 thereafter for expert witnesses, and $13,000 in

2021-22 and $14,000 thereafter for court reporters. This will align the Board’s budget more closely with actual costs.

**Background.** The Board's enforcement efforts are focused on protecting a vulnerable consumer population from exploitative, unscrupulous, and/or otherwise negligent psychologists. In 2015-16, in order to attract and retain more qualified expert witnesses for the enforcement unit, the Board increased its reimbursement rates for all expert witnesses. It is important the Board maintain and attract high quality experts in its pool to draw from when enforcement cases need their expertise. In 2019-20, the Board reorganized its expert witness review process to streamline the review, allowing one expert to become familiar with the case from the beginning, thus allowing for their assistance with an assigned investigator when one is needed.

Due to the restructuring of this process, the Board modified its reimbursement rates, differentiating reimbursements for the more expedited initial case review, and a final review which entails the completed report utilized by the Office of the Attorney General should it be determined that there was a departure from the standard of care. Both rate increases are not properly appropriated and have been absorbed within the Board’s existing resources since the inception of the first increase in 2015-16. Over the same time period, the Board was able to absorb increasing operating costs, but is no longer able to do so.

The Board is required to use court reporters during formal hearings or petitions before the Board. Formal hearings begin after the Board has determined that the licensee or registrant departed from the standard of care and has filed an accusation against the licensee. Petitions take place when a current or former licensee/registrant is petitioning the Board for the reestablishment of their license, reduction in probation, or modification of specific probationary terms. The Board also utilizes court reporters when applicants, who have been denied a license, request a formal hearing.

The Board does not have a court reporter line item budget; however, it spends an average of $9,000 annually. Additionally, the Board has an evidence/witness line item budget of $90,000 to support costs that have increased annually and exceeded $300,000 in 2019-20. These costs are not expected to decrease. The Board has been forced to absorb these costs within existing resources. However, with increasing complaint intake, increases in expert reimbursements, and overall increases in costs to the Board, these costs can no longer be absorbed.

**Staff Recommendation.** Approve as requested.

## Issue 8: Cemetery and Funeral Bureau (AB 795)

**Request.** The Cemetery and Funeral Bureau requests a 0.5 position and $86,000 in 2021-22, and $78,000 in 2022-23 and ongoing, from the Cemetery and Funeral Fund, to address the additional workload related to the requirements of Chapter 309, Statutes of 2019 (AB 795).

**Background.** An endowment care cemetery is a private cemetery where a portion of the purchase price of a cemetery grave, niche, or crypt is deposited into an endowment care fund. The fund's assets are invested and the income generated is used to pay for ongoing care and maintenance of the cemetery. Without sufficient assets in the fund, there is a possibility that, once a cemetery is no longer profit-generating, it will not be adequately maintained by a private cemetery authority, thereby requiring taxpayers to assume responsibility for care and maintenance.

Chapter 750, Statutes of 2017 (AB 926) required the Bureau to develop processes and functions necessary to facilitate and regulate the conversion of endowment care trust funds from a net income distribution method to a unitrust distribution method. Under the net income method, only the income generated from endowment care fund investments may be used for cemetery care and maintenance. The unitrust method allows expenditures based on the total net value of endowment care fund assets, regardless of the actual income earned from the investment of those assets. AB 926 capped the unitrust amount at 5 percent and capped trustee fees at 0.1 percent of the net fair market value of endowment care funds.

AB 795 modified current law to convert an endowment care fund from a net income distribution method to a unitrust distribution method by requiring the compensation of the trustee to be reasonable and meet specified requirements based on the net fair market value of the endowment care fund. In addition, AB 795 increased allowable trustee fees to up to 0.8 percent of the fund and removed investment advisor fees and other operating expenses from this cap. The intent of AB 795 was to provide more flexibility in asset management and encourage trustees to maximize total assets of these trusts.

AB 795 also required the Bureau to conduct additional analyses of licensed cemetery authorities' initial applications to convert from the net income distribution method endowment care fund to a unitrust distribution method endowment care fund.

**Staff Recommendation.** Approve as requested.

## Issue 9: Examination Development and Validation (Board of Optometry)

**Request.** The California State Board of Optometry requests $60,000 in fiscal year 2021-22 and ongoing to fund continued optometry examination development and validation. Ongoing annual development and validation of the Board's licensing exams is critical to avoid any potential compromises of the exams.

**Background.** In 2018-19, the Board regulated a total of 8,402 optometrist licensees, and received 367 applications for licensure. Of the 367 applications, 94 were approved for an optometric license. Pursuant to California Code of Regulations §1531, the Board requires applicants to pass two exams to obtain licensure to practice optometry in California, both of which must be subjected to the necessary review and analysis to make sure they are psychometrically sound and legally defensible:

- National Boards of Examination in Optometry (NBEO) – Sections I, II, III
- California Laws and Regulations Exam (CLRE)

The Department of Consumer Affairs (DCA) Office of Professional Examination Services (OPES) assists the Board in examination development and validation. Existing law requires that the Board utilize OPES as staff possess the necessary expertise to assist the Board in validating the exam. The Board enters into an annual contract with OPES to conduct such work, which typically includes performing an occupational analysis (OA), conducting exam item development, evaluating the performance of examinations, and consulting on matters pertaining to the measurement of minimum competency standards for licensure.

Ongoing exam development is required for a licensing program to provide continuously valid exams. Ongoing exam development includes maintaining a sufficient pool of current, functioning test items that discriminate between candidates who have mastered the knowledge required to practice their profession competently, and those who have not. After a new exam is developed, item analysis should be performed continuously to monitor item performance. Ongoing exam development workshops are required to review and revise items to maintain optimum discrimination performance.

In addition, new items must be added to the pool to prevent item overexposure. A large item pool is required to protect the Board if an exam is compromised. For these reasons, maintaining a sufficient pool of items is especially necessary for the Optometry CLRE. The Board must also take the necessary steps to preclude candidates from having prior knowledge of exam questions in the CLRE. This is critical to prevent item overexposure. Ongoing workshops are required to provide a constant supply of new items into the jurisprudence exam.

**Staff Recommendation.** Approve as requested.

## Issue 10: Continued Resources for Accounting and Business Services Workload

**Request.** DCA requests $436,000 in fiscal year 2021-22 and ongoing to support one existing position in the Business Services Office and two existing positions in the Fiscal Operations Office, which were received in 2019-20 with two years of limited-term funding. These positions will continue to address significant ongoing workload increases, enhanced reporting requirements, and complex accounting processes. This proposal also includes removal of the remaining four positions, also received in 2019-20, which are not requested to be continued.

**Background.** In July 2017, DCA was onboarded and began transacting in the new Financial Information System for California (FI$Cal). This transitional year posed significant process changes that created many challenges and hurdles to overcome. In addition to staff and managers working overtime, as an interim solution, DCA hired student assistants and retired annuitants to address the increased workload.

The organizational composition under DCA presents a unique challenge in that boards and bureaus all have their own individual appropriations and specific funding sources. While many of the transactions that occur within the 70 special fund sources in DCA’s portfolio are similar in nature, such as payroll transactions and various operating purchases, the mere volume exacerbates the issues regarding transactional processing timelines and back office reconciliations.

DCA received seven positions and two years of funding in the 2019 Budget that included costs for contracts and student assistants to assist with the significant changes to DCA's processes, workloads, and reporting requirements in various areas including, but not limited to, procurement, accounting, budgeting, and cash management. These changes have presented DCA staff with many unforeseen challenges and has contributed to significant delays and missed deadlines in the processing of several of DCA's fiscal responsibilities including, but not limited to, monthly and annual reconciled financial statements, late payments to vendors, delayed utility payments, and timely reimbursements to Subject Matter Experts (SMEs) who are critical to DCA's mission. In addition, DCA is unique from other state entities with regard to its basic organizational structure, which lends to an extraordinarily high volume of invoices, transactions, and complex workloads. Late payments are damaging to DCA's reputation and erode its relationships with vendors and SMEs.

Many of the issues, complexities, and challenges DCA faced with the transition to the FI$Cal system have stabilized since July 2017. DCA's needs have since shifted as the system continues to mature and functionality becomes more streamlined. However, both the volume and the steps involved to process transactions in FI$Cal still require the need to address ongoing workload that justifies and will require permanent funding for three of the seven positions.

**Staff Recommendation.** Approve as requested.

## 1703 CALIFORNIA PRIVACY PROTECTION AGENCY

### Issue 11: Establishing the California Privacy Protection Agency

**Request.** The budget includes $5 million General Fund in 2020-21 and $10 million ongoing General Fund beginning in 2021-22 to support the operations of the agency.

**Background.** Proposition 24, the California Privacy Rights Act of 2020, was approved by California voters on November 3, 2020, creating the California Privacy Protection Agency. The Agency is vested with administrative power, authority, and jurisdiction to implement and enforce the California Consumer Privacy Act of 2018, which is aimed at protecting the use of personal information and the promotion of public awareness and understanding of the risks, rules, and rights related to the collection, use, sale, and disclosure of personal information, including the rights of minors.

Proposition 24 requires that $5 million is appropriated in 2020-21 and that $10 million is appropriated in 2021-22, with $10 million appropriated in each following year with adjustments for cost-of-living.

**Staff Recommendation.** Approve as requested.

## 2100 DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL (ABC)

### Issue 12: Business Modernization and Responsible Beverage Service

**Request.** ABC requests an increase in expenditure authority of $2,943,000 one-time Alcohol Beverage Control Fund in 2021-22 for ongoing support costs following the completion of the Business Modernization and Responsible Beverage Service (BizMod/RBS) project.

**Background.** Prior to its modernization efforts, ABC licensees did not have the option to renew licenses online, pay fees electronically, apply for licensure online, or other administrative actions that can be generally completed online in this modern time. The 2019 Budget provided the first phase of funding to build a system to support the implementation of the Responsible Beverage Service (RBS) Training Program Act, which has a target completion date of March 2021. The 2020 Budget Act also shifted the effective date of the requirement that all servers be trained by July 1, 2022. This funding will allow ABC to retain the solution provider contract and state staffing as it continues to further progress.

The second phase of the funding was authorized in 2020-21 and began the modernization of ABC public services including electronic payment, electronic notifications, license renewal, and online application origination options in order to provide licensees the ability to interact with ABC in a more efficient and customer-centric manner.

This proposal requests funding for the first year after the project's scheduled completion date of June 30, 2021. This proposal includes funding for 2021-22 based on updated project costs estimates contained in the Stage 4 project approval documents with an additional contract for a Product Manager/Solution Architect. This additional contract is estimated to cost $288,000.

Ongoing funding to support ABC's modernization effort will be determined as part of the Post Implementation Evaluation Report (PIER) that is due June 30, 2022, and ABC plans to submit a final budget proposal related to the ongoing costs of this effort for the 2023-24 fiscal year based on that report.

**Staff Recommendation.** Approve as requested.

## 7502 DEPARTMENT OF TECHNOLOGY (CDT)

### Issue 13: Security Operations Center and Audit Program Funding Conversion

**Request.** CDT requests a $21 million General Fund augmentation in 2021-22 and ongoing to convert 49 existing Office of Information Security positions currently funded through the

Technology Services Revolving Fund. This request will be accompanied by a trailer bill to allow for CDT to receive General Fund for audits.

**Background.** The current statewide funding model makes it difficult for state entities to absorb the cost of these services. Several entities cannot allocate funding to meet their security requirements due to competing priorities while others are not able to sustain audits, assessments, security solutions, and Security Operations Center (SOC) mitigations. At times, this has resulted in substandard security implementations and deferred security requirements.

This request proposes California adapt an interim centralized security funding model to ensure SOC and Statewide Information Security Oversight continue to provide critical statewide security benefits to all state entities and support the maturity of the statewide infrastructure of information security program oversight services, threat information sharing, protection, and centralized SOC services. By funding these activities through the General Fund, these state entities would be able to repurpose funds budgeted for their audits/assessments to fix critical gaps identified through the oversight program and strengthen their security posture.

The requested funding will ensure that the SOC and the Information Security Program Audit can continue to provide critical statewide security benefits to state entities while enabling those state entities to focus their limited resources on remediating identified security vulnerabilities.

**Legislative Analyst's Office (LAO).** The LAO recommends the Legislature approve CDT's information security budget proposal with revised statutory language to reflect the intent of the administration for state entities to use funding previously budgeted for information security program audits to remediate deficiencies in their information security programs. The LAO also recommends the Legislature direct CDT to report back at future budget hearings on the possibility of funding statewide SOC services in this proposal through the state's Pro Rata and Statewide Cost Allocation Plan processes, as well as other alternative funding sources for new programs and services.

**Staff Recommendation.** Approve funding as requested and adopt placeholder trailer bill language.

## 7760 DEPARTMENT OF GENERAL SERVICES (DGS)

### Issue 14: Contracted Fiscal Services Workload 2021-22

**Request.** The Department of General Services (DGS), Contracted Fiscal Services requests $1.146 million in additional ongoing authority comprised of the following funds: General Fund ($567,000), Central Services Cost Recovery Fund ($431,000), and Service Revolving Fund ($148,000). Additionally, DGS requests seven positions to provide administrative services for four new client agencies.

**Background.** The Financial Information System for California (FI$Cal) provides a unified and consistent financial system that will be used by virtually all state entities, and provides transparency in state financial data. With the transition to the new system, FI$Cal changed how some state entities performed their accounting and budgeting functions. For example, FI$Cal requires multiple users operating within it to maintain a separation of duties in order to prevent fraud and minimize errors, and changed how transactions were recorded. At the same time, the Contracted Fiscal Services (CFS) unit within DGS, which provides budgeting and accounting services to other state departments, boards, and commissions that do not have the staff or expertise necessary to perform budget and/or accounting functions, has seen an increase in its clientele. Currently, CFS provides accounting services to 46 state entities, budgeting services to 22 state entities, and HR services to 17 clients using FI$Cal, and recovers its costs by billing customers through an interagency agreement.

In 2021-22, CFS will be providing services for the California African American Museum, the California Arts Council, the Native American Heritage Commission, the Delta Protection Commission, and the Office of Energy Infrastructure Safety.

**Staff Recommendation.** Approve as requested.

**Issue 15: Facilities Management Division (FMD) New Buildings Operations and Support**

**Request.** The Facilities Management Division (FMD) within DGS requests $15.31 million ongoing Service Revolving Fund (SRF) expenditure authority and 105.0 authorized permanent positions beginning in fiscal year 2021-22 to manage, operate, and maintain the new Clifford L. Allenby (Allenby) and new Natural Resources Headquarters (Resources) buildings located in Sacramento.

**Background.** The newly-constructed Allenby and the Resources buildings are expected to open in Spring and Summer 2021, respectively.

The new Allenby building is 11 stories high and is approximately 361,000 square feet in size. Tenants will include the California Health and Human Services Agency (CHHS), the Department of State Hospitals (DSH), and the Department of Developmental Services (DDS). Once Allenby is constructed, tenants from the Bateson Building will be transitioned over floor by floor beginning in February through March 2021. DGS states that a total of 50 positions are required to properly maintain this building.

The new Resources building is 21 stories and approximately 875,500 square feet. The tenant departments under the California Natural Resources Agency are primarily relocating from the current Natural Resources and Bonderson buildings, though some tenants will be relocating from leased space into the new building. Their phased move-in is expected to occur from August through November 2021. Since phased move-ins are being employed at both locations, FMD will need to simultaneously maintain both the current and new state office buildings once the moving commences. DGS states that a total of 97 positions are required to properly maintain this building.

In total, 147 positions are required to properly maintain both the Allenby and the new Resources building. The balance of required positions will be redirected from the existing Resources, Bateson, and Bonderson Building staff where possible – while the Resources and Bateson building are in warm shutdown modes due to renovations, staff may service multiple buildings within a service area and may be unable to be redirected to the new buildings.

**Staff Recommendation.** Approve as requested.

**Issue 16: FMD Fire Alarm System Deferred Maintenance**

**Request.** The Department of General Services (DGS) Facilities Management Division (FMD) requests $20 million in one-time General Fund for fiscal year 2021-22 to address critical Fire, Life, and Safety (FLS) issues related to Fire Alarm Systems in three state buildings owned and operated by DGS.

**Background.** Fire alarm systems include fire alarm control panels (FACP), accessible pull stations, smoke detection systems, and accessible audio-visual announcement devices. The existing fire alarm systems require replacement for a number of reasons, including increased failure rates of system components and the inability of manufacturers to provide replacement parts for antiquated systems. This proposal will address the most urgent fire alarm system safety deficiencies. Below is a list of the proposed projects:

**Table 1: Proposed Statewide Fire-Life-Safety Projects**

| Project Type | Location – Building Name | Amount |
|---|---|---|
| FLS | San Francisco – Ronald M. George SOC (Hiram Johnson Bldg.) | $7,600,000 |
| FLS | Los Angeles – Ronald Reagan State Building | $7,000,000 |
| FLS | Sacramento – DOJ Attorney General Building | $5,400,000 |
| | **TOTAL** | **$20,000,000** |

<u>Ronald M. George SOC (Hiram Johnson Building)</u>

The fire alarm system for the Hiram Johnson Building at 350 McAllister Street is original to the building's construction in 1998 (22 years old). The existing Fire Alarm system has not been able to be certified due to continuing component failures – last certification was 2017. The design phase for this integrated safety improvement is ready to begin as soon as funding is available.

<u>Ronald Reagan State Building</u>

The fire alarm system for the Ronald Reagan Building at 300 Spring Street, Los Angeles is original to the building's construction in 1991 (29 years old). The existing Fire Alarm system has not been able to be certified due to continuing component failures and as of date of this report the building is on fire-watch due to the condition of the existing system. The design phase for this integrated safety improvement is ready to begin as soon as funding is available.

<u>DOJ Attorney General Building</u>

The DOJ Attorney General Building located at 1300 I Street, Sacramento was completed in 1995. The fire alarm system has had some upgrades over the past 25 years; however, it is largely original to the building and no longer code compliant. There have been on going issues with the fire alarm system, including extensive issues related to the smoke control and stairwell pressurization. Many of the components of the system have become inoperative and are no longer compatible with each other or just broken. Some of the noted deficiencies include; some detectors that are incompatible with the current fire alarm system; smoke and strobes do not meet code requirements for coverage; the existing Fireman's Override Panel and Fire Alarm program have been set in bypass mode due to system malfunctions; and the exit stairways have been over-pressurized during fire alarm events, thereby restricting access to the stairways with the door pressure exceeding code maximum.

**Staff Recommendation.** Approve as requested.

## Issue 17: Division of the State Architect Evaluation of Detectable Warnings

**Request.** The Department of General Services, Division of the State Architect (DSA) requests a one-time budget authority increase of $1.3 million in the Disability Access Account for 2021-22 to complete a statutorily-mandated study of detectable warning surfaces.

**Background.** In 1999, the California Legislature passed Assembly Bill 685 (Chapter 386, Statutes of 1999), which requires DSA to select an independent entity to issue a two-year product approval, renewable upon reevaluation at two-year intervals thereafter, and assist in the development of criteria to ensure that shape, color fastness, confirmation, sound-on-cane acoustic quality, resilience, and attachment of detectable warning surfaces will not degrade significantly for at least five years. Detectable warning surfaces are required by the federal Americans with Disabilities Act Accessibility Guidelines (ADAAG) and the California Building Code. These surfaces are applied on pedestrian paths (for example, the raised yellow bumps at a crosswalk) to warn individuals who are blind or visually-impaired that they are approaching or entering hazardous areas like a street, vehicular area or the edge of a transit station boarding platform.

DSA kick started the evaluation process between 2001 and 2002 by promulgating framework regulations in the California Building Code (CBC). DSA also entered into a contract with a nationally recognized laboratory testing consultant, Underwriters' Laboratories (UL) for the technical expertise required to test and facilitate the standards and criteria to be developed by DSA, which was approved in 2003.

In 2004, DSA's Access Codes and Standards (ACS) section established an ad-hoc Evaluation of Detectable Warnings Advisory Committee (EDWAC) to work on the study. The committee was comprised of product users, members of the disability community and organizations, architects and design professionals, public works departments, code enforcement departments, and other government agencies with the objective to propose durability and degradation testing standards for detectable warning surfaces. The committee worked with the UL consultant to draft recommended testing criteria and protocol standards to be used as the basis for the evaluation and approval of detectable warnings and directional surfaces in California.

All funding for these efforts came from the Disability Access Account. Once the contracted funding for UL was exhausted, the contract expired in 2006. In 2008, DSA issued another Request for Proposal to complete the work. Since the initial contract was established only to help create a protocol and did not include the services to validate and test the protocol and criteria, DSA needed to renew the contract in order to complete the testing and validation phase and thereafter the full study.

When DSA received the 2008 cost proposal from UL for the validation phase it was determined the division's budget could not accommodate this item and the EDWAC project would be deferred. Though the EDWAC project deferral was expected to be short-term, the economic downturn between 2008 and 2012 prolonged that deferral.

Basing the current need on initial contract costs and quotes and factoring in inflation, DSA requires a total of $1,300,000 in budget authority to renew the contract with the testing consultant so UL can review the history and meeting notes, assemble and work with a new ad hoc committee, provide initial review and commentary, and finalize and validate the testing protocols.

**Staff Recommendation.** Approve as requested.

**Issue 18: Statewide Support Emergency Management Functions**

**Request.** The DGS Office of Risk & Insurance Management (ORIM) requests $300,000 in ongoing Service Revolving Fund expenditure authority and two permanent positions to support the increased demand for departmental and statewide emergency management functions, specific to statewide resiliency and emergency planning.

**Background.** The 2020 Budget provided ORIM with two new permanent positions to accommodate the ongoing nature of wildfires and other statewide emergencies, bringing the total to four. However, due to COVID-19, the unit's emergency activation tasks significantly increased. The table below displays the significant increase in the workload:

**DGS Emergency Activation Tasks**

| Year | Number of Events | Total Duration (days) | Total Number of Tasks | Total Support Hours | Total Expense |
|---|---|---|---|---|---|
| 2015 | 1 | 54 | 13 | 1,012 | $ 2,611,916 |
| 2016* | 1 | 183 | 4 | 336 | $ 23,545 |
| 2017 | 3 | 407 | 262 | 5,374 | $ 9,540,396 |
| 2018 | 4 | 536 | 403 | 9,064 | $ 58,024,770 |
| 2019** | 4 | 48 | 108 | 2,031 | $ 6,976,568 |
| 2020*** | 2 | 151 | 1302 | 19,287 | $ 1,995,917,765 |

*Support hours are an estimate based on activation duration

**2019 expense data is based current FI$Cal data and received invoices

***Both events are currently ongoing

**Staff Recommendation.** Approve as requested.

## 9210 Local Government Financing

### Issue 19: Local Government Backfill

**Request.** The Administration requests $10.3 million to reimburse the Counties of Alpine and San Mateo for shortfalls incurred in 2019-20.

**Background.** As part of the 2004 Budget compromise, the Vehicle License Fees (VLF) – which were a local revenue source – were reduced, and any shortfalls were offset from a countywide educational revenue augmentation fund (ERAF).

Local property taxes are shared by local governments, including K-12 and community college school districts. K-12 districts are guaranteed an overall funding level between state and nonstate resources, which is called a revenue limit. K-12 districts whose nonstate share from local property taxes meet or exceed its revenue limit are called basic aid districts. ERAF distributes property taxes to nonbasic aid school districts to offset revenue they would otherwise receive from the General Fund, and the 2004 Budget compromise provided that ERAF would also backfill the revenue shortfalls due to the changes in the VLF.

The Administration is proposing $10.1 million for San Mateo County and $148,000 for Alpine County so it can reimburse its cities and the counties in the context of there being (1) insufficient ERAF monies and (2) too many basic aid school districts.

The subcommittee has received letters of support for these adjustments from the following entities: County of San Mateo Board of Supervisors, San Mateo City Council, City of Redwood City, City of South San Francisco, and Woodside Town Manager Kevin Bryant.

**Staff Recommendation.** Approve as requested.

# ITEMS FOR DISCUSSION

## 8880 FINANCIAL INFORMATION SYSTEM FOR CALIFORNIA (FI$CAL)

**Issue 20: Special Project Report 9 Update**

**Overview.** FI$Cal is the statewide project to integrate and re-engineer the statewide business processes related to budgeting, accounting, procurement and cash management. FI$Cal provides a unified and consistent financial system that will be used by virtually all state entities, and provides transparency into state financial data. The FI$Cal project was developed and implemented by a partnership of four control agencies – Department of Finance, State Controller's Office (SCO), State Treasurer's Office, and the Department of General Services, and is managed by the Department of FI$Cal.

Departments began operating in FI$Cal in July 2013, and since then, have onboarded in "waves" and "releases" through July 2018. In 2016-17, the Legislature approved a permanent administrative structure for FI$Cal, establishing it as a stand-alone department. FI$Cal is a central service agency, and non-general fund costs are recouped through the Central Service Recovery Fund, which charges various special and nongovernmental funds. There are 10 deferred departments, who are implemented or in the process of implementing their own financial management system (and as these systems require upgrades or the departments desire expanded functionality, they will move on to FI$Cal). There are also 10 exempt departments, who have statutory authority to use systems other than FI$Cal for their financial management.

FI$Cal is a working system with 152 departments and approximately 15,000 end users processing $363 billion in expenditures each year. The State Treasurer's Office (STO) functionality handles about $2 trillion in state government banking transactions annually. Departments are paying their bills and balancing their budgets every single day using the FI$Cal system.

*Recent Budget Actions.* The 2019 Budget Act appropriated $58.1 million through June 2022 to provide additional support for state departments utilizing the FI$Cal system and struggling to transition from their legacy and department-specific applications to the integrated financial platform. Accenture, LLP is the contracted FI$Cal System Integrator, and assisted the state in heavily configuring software developed by Oracle and used in FI$Cal, and in deploying the software for department usage. This included departmental trainings to use the software, solving complaint tickets, and providing enhancements to the software based on feedback. In addition, the 2019 Budget Act provided $6 million to implement the SCO cash management functionality and the Consolidated Annual Financial Report (CAFR) reporting.

*Progress Update.* In its October 2020 report to the Legislature, FI$Cal states that effective July 2020, seven areas of major functionality that were deployed for more than a year were formally closed out. Deployed functionality closeout reports (DFCRs), which were accepted by the California Department of Technology (CDT), acknowledge that the majority of the project has been successfully completed. The seven areas of functionality include: Centralized Financial Transactions functionality and departmental onboarding; Deposits and STO control functions;

Budget; Procurement; Department of General Services (DGS) – Activity Based Management System (ABMS); Legacy Data Repository; and Security Information and Event Management (SIEM).

In June 2020, FI$Cal successfully completed implementation of SCO/STO Integrated Solution Milestone 3 and 4 functionality, enabling FI$Cal to start collecting financial transactions in order to produce a statewide ledger in parallel with the SCO legacy system. Currently, FI$Cal allows the legacy systems and FI$Cal to run in tandem on a daily basis.

*Special Project Report 9.* FI$Cal is an ambitious and complex project that has undergone numerous changes in scope, schedule and cost. These various changes have been incorporated and documented in special project reports (SPRs) with the project currently working under the rubric of SPR 9, which was approved in October 2020. SPR 9 details one primary change from SPR 8, which is a 24-month schedule extension for implementing the functionality that will fulfill the minimum viable product (MVP) for SCO and complete the FI$Cal project. The MVP will allow FI$Cal to capture the information required to generate the financial reports, validate the balances, and ensure the data captured in FI$Cal aligns with the SCO's legacy system. This approach provides SCO with an accurate solution and the opportunity to validate data in FI$Cal with its legacy systems prior to turning off those legacy systems. This is estimated to be completed in June 2022.

Staff notes that under SPR 8, total project costs were estimated to be over $1 billion. However, under SPR 9, these costs were reduced to $965.5 million – a savings of nearly $100 million.

*Auditor's Concerns.* The State Auditor issued a letter report on FI$Cal on January 7, 2021, and raised concerns, including: (1) the FI$Cal Project Office missing many target completion dates and extending the project completion date to June 2022; (2) agencies operating in FI$Cal continue to struggle to produce financial reports on time and caused delays to critical state financial reporting that determines the State's ability to secure low-cost financing; and (3) continuing independent oversight and promptly address the concerns that oversight raises.

One of the examples the Auditor provides is that as of September 2020, the oversight contractor has reported that the project office has not developed adequate processes and requirements for FI$Cal and the State Controller's existing system to run in parallel. The project plan update identifies the parallel operation of these two systems as a key project goal because this operation will allow the State Controller to verify the accuracy of data in FI$Cal and prepare for a final transition to using FI$Cal exclusively. However, as of September 2020, the oversight contractor repeated its finding that the project office lacked processes to ensure that parallel operations run smoothly. The oversight contractor tempered its report by noting that the issue had shown some improvement. For example, the contractor observed improvements in test procedures and related error resolution that allowed staff to more efficiently perform testing tasks. Lack of proper processes and procedures could ultimately introduce inefficiencies for State Controller staff as they attempt to reconcile these complex, interconnected systems.

Potential Questions for the Subcommittee to Consider:

- What is FI$Cal doing to ensure that parallel operations between the State Controller's legacy system and FI$Cal are running smoothly?
- What are the drivers in the savings between SPR 8 and SPR 9, and are there any expected changes or future funding requests that would change the new estimated project total?
- As of February 5, 2021, the SCO reports that there are 11 departments still delinquent on closing out their annual financial reports. What kind of additional assistance is being provided to these departments and departments who are struggling to close out their financial reports?

**Staff Recommendation.** This is an oversight item.

## 7760 DEPARTMENT OF GENERAL SERVICES (DGS)

### Issue 21: Progressive Design-Build Trailer Bill Language

**Request.** DGS requests trailer bill language to allow the Director of DGS to use the progressive design-build procurement process for up to three public works projects, as jointly determined by DGS and the Department of Finance.

**Background.** Progressive design-build is a variant of the design-build method of procurement, and is designed to streamline the traditional design-build process, saving time, and in turn, costs.

Under a traditional design-build procurement process, DGS will contract with a criteria architect who establishes performance criteria; this process typically takes eight to twelve months. This criteria then serve as the basis for a design competition, which DGS would evaluate and then award to a design-build entity that completes the design and construction of the project. Recent projects that utilized the traditional design-build procurement process includes the Richards Boulevard Office Complex in Sacramento, and the New Natural Resources and the Clifford Allenby Buildings.

A progressive design-build method eliminates the role of the criteria architect, which also eliminates the need for a design competition. Instead, design-build entities compete and are selected based on a review of their qualifications. The selected design-build entity then completes the pre-construction phase of the project and proposes a guaranteed maximum price, which can be negotiated by the state. Under the progressive design-build method, the state has sole and absolute discretion on whether to award the second, subsequent phase. If the state has any concern at this point in the project, it would be able to solicit alternate firms to award the design-build phase using a stipulated sum.

The progressive design-build strategy was piloted with the swing space at 10th and O Streets, which began in 2018 and is slated to finish by the fall of 2021. In comparison, the New Natural Resources and the Clifford Allenby Buildings, both delivered under the traditional design-build process, started in 2016 and will be completed in Summer and Spring 2021, respectively. Additionally, DGS states that the state's COVID laboratory was constructed ahead of schedule and within budget using a form of progressive design-build.

DGS states that the progressive design-build process would be used for the three renovation projects proposed in 2021-22: (1) the Gregory Bateson Building, (2) the Jesse Unruh Building, and (3) the Resources Building. These proposals are detailed in the next few agenda items.

**Staff Recommendation.** Adopt placeholder trailer bill language.

## Issue 22: Sacramento Region: Gregory Bateson Building Renovation

**Request.** DGS requests $191.6 million lease-revenue bond authority in 2021-22 for the design-build phase of a project to renovate the Gregory Bateson Building, located at 1600 Ninth Street in Sacramento.

**Background.** The 2018 Budget Act provided $5.2 million General Fund for the performance criteria phase of the Gregory Bateson Building renovation project. This request brings the current total estimated project cost to be $196,798,000 ($5,213,000 for performance criteria and $191,585,000 for design-build). It should be noted that in 2018, the total project costs were estimated to be $161 million; however, in addition to construction escalation, DGS states that while exterior water intrusion was evident, further investigation revealed the entire exterior system was unsalvageable. In addition, replacement of the exterior balcony guard rails is needed. However, DGS states that under the traditional design-build model, escalation costs would have increased the total project cost to $199.7 million; under the progressive design-build model, escalation costs increased the total project cost to $196.8 million.

The building ranked sixth statewide for state owned, DGS- controlled office buildings requiring renovation or replacement. The current occupants, the Health and Human Services Agency, Department of Developmental Services, and Department of State Hospitals, will be relocated to the New O Street Office Building starting April 2021. Proposed tenants for the renovated Bateson Building include California Natural Resources Agency departments from leased space that are not consolidating into the New Natural Resources Agency Headquarters Building.

This renovation project includes the correction of building-wide deficiencies such as: fire and life safety improvements; hazardous materials removal; repairs to water damage and water intrusion prevention; detailing of exterior facades and their components; updates and repairs for accessibility compliance; improvements and enhancements to energy systems; addition of high-tech HVAC and lighting controls; addition of security systems and procedures controlling movement within the building and between spaces security officer station, and physical barriers at the west entrance; and improvements to interior spaces.

The project would continue implementation of the Ten Year Sequencing Plan.

**Staff Recommendation.** Approve as requested.

**Issue 23: Sacramento Region: Jesse Unruh Building Renovation**

**Request.** DGS requests $122.4 million lease-revenue bond authority in 2021-22 for the design-build phase of a project to renovate the historic Jesse Unruh Building, located at 915 Capitol Mall in Sacramento.

**Background.** The 2018 Budget Act provided $6.3 million General Fund for the performance criteria phase of the Jesse Unruh Building renovation project, and at the time, total project costs were estimated to be $89.9 million. However, DGS states that due to construction escalation, as well as mitigation for more hazardous materials found than previously anticipated, as well as repair costs due to more severe water intrusion than previously anticipated, total project cost is estimated to be $128,727,000 ($6,335,000 for performance criteria and $122,392,000 for design-build). However, DGS states that under the traditional design-build model, escalation costs would have increased the total project cost to $130.6 million; under the progressive design-build model, escalation costs increased the total project cost to $128.7 million.

The building is located in a prominent area on Capitol Mall, adjacent to the historic Stanley Mosk Library and Courts Building, and the State Capitol. The current occupants of the building include the State Treasurer’s Office, Government Operations Agency, Business, Consumer Services and Housing Agency, and the California State Transportation Agency. The proposed backfill tenant is the State Treasurer’s Office.

The Capitol Fountain was completed circa 1928, and is one of three listed contributors to the Capitol Annex National Register Historic District, which also includes the Unruh Building and the Stanley Mosk Library and Courts Building. However, the draft environmental impact report for the Jesse Unruh Building Renovation Project found that there were issues with “electrical shortages in the fountain lighting, failure of mechanical equipment, leaks in the fountain bowl and associated valves, and a possible drain line collapse.”[1]

The Jesse Unruh building was built in 1929 and is a historical landmark – the proposed renovation will restore the building’s historical character and also address critical life safety and other code deficiencies. The proposed $122.4 million in lease-revenue bond financing would only be enough to renovate the building. To include restoration to the fountain, the total amount needed would $118.8 million, an increase of $2 million, and would also include potential modification costs to the Capitol Mall roundabout area as well.

[1] https://www.dgs.ca.gov/-/media/Divisions/RESD/Resources/Notices-Information-Resources-for-CEQA/Projects/Sacramento-County/Jesse-M-Unruh-Building-Renovation-Project/Unruh-DEIR-508-compliant.pdf

A facilities condition assessment completed in 2015 ranked the Jesse Unruh Building number five for requiring renovation or replacement. This project is part of DGS' 10-year sequencing plan for Sacramento.

**Staff Comments.** Treasurer Fiona Ma submitted a letter expressing concerns over the timing and costs of the project. The Treasurer's Office is currently located in the Jesse Unruh Building and will be temporarily relocating to the Bonderson building located at 901 P Street until renovations at the Jesse Unruh building are complete. The letter expressed concerns over cost escalations, the inability to properly social distance during a pandemic in the Bonderson building, and the need for a reassessment of space needs with regard to teleworking.

Preservation Sacramento, Save Our Heritage Organization, and the California Capitol Historic Preservation Society have submitted letters requesting restoration of the Capitol Fountain as an addition to the Jesse Unruh building renovation.

Should the subcommittee consider approving this project, staff recommends approving $124.4 million in lease-revenue bond financing for the design build phase of the renovations to the Jesse M. Unruh Building and the Capitol Plaza, including the restoration of the State Capitol Fountain in accordance with the Secretary of Interior's Standards for treatment of historic properties, and adopting budget bill language that prohibits the demolition of the State Capitol Fountain.

**Staff Recommendation.** Hold open.

**Issue 24: Sacramento Region: Resources Building Renovation**

**Request.** DGS requests $452.1 million lease revenue bond authority for the design-build phase of a project to renovate the Resources Building, located at 1416 Ninth Street in Sacramento.

**Background.** The 2019 Budget Act provided $8.9 million General Fund for the performance criteria phase of the renovation project, and at the time, total project costs were estimated to be $367 million. However, since then, DGS states that the extent of the hazardous materials in the building will now require a phased demolition approach, which is costlier than a more straightforward demolition approach, and abatement costs that were not previously included. This request brings the total estimated project cost to be $460,980,000 ($8,874,000 for performance criteria and $452,106,000 for design-build).

Current tenants include departments within the Natural Resources Agency, which will relocate to the New Natural Resources Agency Headquarters Building when it is completed in November 2021. Proposed tenants include the Employment Development Department currently located at 800 Capitol Mall, 750 N Street, and 751 N Street, as well as other departments within the Labor and Workforce Development Agency. This project would continue implementation of the Ten Year Sequencing Plan.

A study completed in 2008 (and updated in 2013) identified various fire and life safety, building code, hazardous materials, and other infrastructure deficiencies at the Resources Building, which was the first major post-war development constructed in 1964 and has not received any significant renovations since then. It has been designated as a “historic building” due to its historical significance and its architectural design and requires State Historic Preservation Office review.

A facilities condition assessments completed in 2015 found that the Resources Building ranked first statewide for state-owned, DGS-controlled office buildings requiring renovation or replacement. This project will correct numerous and serious code deficiencies, including lack of fire suppression, inadequate fire alarm, presence of hazardous materials such as asbestos, poor indoor air quality, lack of proper emergency exiting, and inadequate structural integrity.

**Staff Recommendation.** Approve as requested.

**Issue 25: OS EVSE Infrastructure Assessment and Facility Development**

**Request.** Office of Sustainability (OS) in DGS requests a one-time budget augmentation of $50 million in General Fund and $1.3 million in Service Revolving Fund (SRF) authority. This request is to fund year five of the DGS Zero Emission Vehicles (ZEV) Five-Year Infrastructure Investment Plan (2017-18 through 2021-22) to continue performing installations of Electric Vehicle Service Equipment (EVSE) at state-owned and leased facilities, to meet California’s transportation and greenhouse gas goals.

**Background.** DGS supports state agencies in completing readiness surveys, conducting site assessments, and providing oversight of architectural and engineering functions, construction management, system activation, and identification of alternative funding options if available.

Prior budgets funded this project through an equal split between the Service Revolving Fund, which receives General Fund and charges for work rendered by DGS, and the General Fund. However, the 2020 Budget provided $23.1 million in Service Revolving Fund authority to fund Year Four of the ZEV Action Plan, with no General Fund split due to the economic uncertainty as a result of COVID.

DGS states that restrictions on fund use and budgetary challenges kept departments from using special funds, and made it difficult for DGS to obtain the necessary funding. The table below reflects DGS’ use of General Fund and special funds in prior years (in thousands), and shows that of the total budget authority provided, only 45 percent of fund authority has been utilized:

| Year | Budget Authority Received | General Fund Actuals | Special Funds Actuals | Total Utilized |
|---|---|---|---|---|
| **2017-18** | $ 6,700 | $ 3,300 | $ 1,400 | $ 4,700 |
| **2018-19** | $ 15,600 | $ 7,800 | $ 6,600 | $ 14,400 |
| **2019-20** | $ 18,600 | $ 9,300 | $ 200 | $ 9,500 |
| **2020-21** | $ 23,100 | $ - | $ - | $ - |
| **TOTAL** | $ 64,000 | $ 20,400 | $ 8,200 | $ 28,600 |

The 2016 ZEV Action Plan requires DGS to oversee plans to make electric vehicle charging infrastructure available in at least five percent of workplace parking spaces at state facilities.

Further, DGS is responsible for ensuring that 25 percent of annual light-duty fleet purchases are ZEVs by 2020 and 50 percent of those purchases are ZEVs by 2025.

The Governor issued an executive order in September 2019 that leveraged state assets to advance the state's climate goals, DGS adopted an administrative policy that prohibits state agencies from purchasing sedans powered solely by an internal combustion engine (ICF) utilizing fossil fuels, as well as sedans powered by flex-fuel or bi-fuel engines utilizing petroleum-based fuels and other alternative fuels, such as ethanol.

On September 23, 2020, Governor Newsom issued another executive order that set new statewide goals for phasing out gasoline-powered cars and trucks in California. Under this executive order, 100 percent of instate sales of new passenger cars and trucks are to be zero-emission by 2035 and 100 percent of in-state sales of medium- and heavy-duty trucks and busses are to be zero-emission by 2045, where feasible.

This request is to fund year five of the DGS ZEV Five-Year Infrastructure Plan to install EVSEs in state facilities to support both the state fleet and state employee charging needs. 1,801 charging ports have been installed to date, funded from both Legislature-approved budget authority and administrative authority. With this request, DGS states that an additional 2,015 charging ports will be installed.

**Staff Comments.** Senate Subcommittee #2 is also considering the Administration's broader ZEV proposal, which includes requests for $1 billion of future revenues to increase the pace and scale of the construction of electric vehicle charging and hydrogen fueling stations necessary to accelerate zero-emission vehicle adoption, and $465 million one-time Cap and Trade funds to improve access to new and used ZEVs. This proposal is one of the components of the Administration's broader ZEV strategy.

The proposal states that utilities and other providers are beginning to offer charging services which may be cost efficient in certain situations in lieu of state-owned infrastructure. DGS states that more data will be gathered and additional analysis performed before leveraging these alternative options. DGS is also leading efforts to negotiate agreements with utilities and other third parties that have EV infrastructure programs that can be leveraged by DGS and other state departments to meet their EVSE goals.

Additionally, COVID is evolving the state's teleworking policies and workforce, and may have impacts even after COVID-related restrictions are lifted across office space usage and parking and charging patterns. The Administration's telework dashboard shows that of the approximately 11,200 staff, 9,500 staff are eligible for telework due to COVID restrictions.

The subcommittee may wish to inquire how the evolving nature of the teleworking policies as well as evolving charging technologies may impact decisions to invest in further building out state-owned charging infrastructure.

**Staff Recommendation.** Hold open.

## 0511 GOVERNMENT OPERATIONS AGENCY (GOVOPS)

### Issue 26: Workload BCP

**Request.** GovOps requests four positions, and $1 million in expenditure authority—$649,000 General Fund and $362,000 reimbursements—in 2021-22, and $836,000 ongoing, to fund and manage existing and new workload associated with oversight and management of state government operations. The request includes trailer bill language that authorizes the Governor to appoint a Chief Equity Officer.

**Background.** This request is for the following four positions:

- *Special Advisor/Chief of Staff*. This position is currently filled by a borrowed vacant exempt position from the Department of General Services, and serves to assist the Agency Secretary with her oversight, management and involvement in GovOps' activities.

- *Attorney, Tax Specialist*. GovOps has a significant need for independent legal services with a specific focus and background in tax law and policy. Currently, GovOps oversees the Franchise Tax Board (FTB) and the California Department of Tax and Fee Administration (CDTFA) and has numerous interactions with the Office of Tax Appeals and the Board of Equalization. Collectively, all these agencies are responsible for the collection of over $100 billion in annual revenues for the State of California and handle tax appeal cases for businesses and individuals. Navigating the complex landscape of state and federal tax laws is becoming ever more challenging each year and the need for independent counsel on such laws requires specialized knowledge of such tax laws that currently doesn't exist within GovOps.

- *Office Technician.* Currently, GovOps only has one Office Technician supporting 18 different staff persons including managing their calendars, arranging meetings, processing mail, routing documents, etc. This ratio is insufficient to support the large increase in work that GovOps has undertaken under this Administration.

- *Chief Equity Officer*. The Chief Equity Officer will address disparities in state government by: (1) review existing policies and practices in state hiring and procurement; (2) design and update training initiatives on cultural competency, gender differences, and other topics; (3) work with CalHR to develop training to promote cultural understanding and competency; (4) develop and coordinate diversity training manuals and materials, among others.

This request also includes one-time $175,000 General Fund for its upcoming move from the Jesse Unruh building to 1304 O Street.

**Staff Recommendation.** Hold open.

**Issue 27: Statewide Data Strategy**

**Request.** GovOps is requesting three positions and $558,000 General Fund in 2021-22 and ongoing to facilitate and support the implementation of the Statewide Data Strategy (SDS) and conduct evaluations for GovOps' Center of Government Excellence.

**Background.** The 2020 Budget provided resources for a Chief Data Officer, and this position serves as the primary steward of the data portal for the state's public data, and a mediator when disagreements arise among data holders who decline to share requested data. The chief data officer was also working with the Department of Technology to develop a public repository of state government interagency data exchange agreements. Supplemental reporting language was added for the chief data officer to summarize the proposals in the repository in the 2020 Budget.

GovOps established a Center for Government Excellence and Transformation (GET) within their existing resources, and intends to help departments and agencies prototype ideas, research best practices, and map possible next steps under the GET Center process. Defined challenges and opportunities will be selected by the review team, guided by the key criteria chosen. The objectives of the GET Center are to: (1) better prioritize time and resources; (2) gather and share best practice; and (3) break silos and foster connections across government. This request will allow the GET Center to deploy toolkits tailored to the demands of a problem or priority. A portion of the requested staff resources will support ongoing evaluation of these projects to help inform how well they are working and if they should be scaled.

**Staff Recommendation.** Hold open.

## 7502 Department of Technology (CDT)

**Issue 28: Stabilize Critical Services and IT Infrastructure**

**Request.** CDT requests 17 positions and $11.4 million General Fund in 2021-22, $9.4 million in 2022-23, and $6.4 million ongoing to invest in proactive measures to stabilize critical services and enhance performance statewide. Additionally, this request proposes to augment resources to support the State's Broadband for All initiative.

**Background.** This request can be broken down as follows:

- The Office of Enterprise Technology (OET) manages and delivers IT state services and information to enhance digital government that works for all Californians by providing foundational platforms and technology (such as GIS/Open Data, Web Portals, Software Engineering and Open Source code curation). CDT requests seven positions within OET in order to support application and infrastructure development and operations, and provide strategic leadership over expanded operations.

- The Office of Technology Services (OTech) manages and operates the State Data Center. OTech is responsible for providing innovative, reliable, and secure cloud based, onpremise and telecommunications services to state, federal and local government entities and custodian of the state's mission critical data. CDT requests three positions within OTech to partner with departments to stabilize legacy infrastructure and build scalable services iteratively.

- The Office of Statewide Project Delivery (OSPD) comprises three functions: Project Approvals and Oversight (PAO), Statewide Technology Procurement (STP) and the California Project Management Offices (CA-PMO). CDT requests four positions within OSPD in order to develop a brand new Service Assessment capability, which does not currently exist. This capability will allow CDT to understand the "vitals" of critical services enabled or delivered through information technology, and will enable OSPD to trigger targeted diagnostic and intervention efforts, and support more departments as they embark upon incremental continuous service improvement programs.

- The Office of Government Affairs - Policy Office is responsible for establishing and enforcing statewide IT policies, standards, instructions, and guidelines regarding IT operations, security, project approval, procurement, enterprise architecture and oversight. CDT requests one attorney for this office.

- The Office of Government Affairs - Broadband Digital Literacy (OGA-Broadband) supports the California Broadband Council (Council) which was established by SB 1462 (Chapter 338, Statutes of 2010) to promote broadband adoption and broadband deployment in unserved and underserved areas of the state, as defined by the Public Utilities commission. Recently, the Governor issued an executive order in August 2020 establishing the Broadband Action Plan. CDT requests two positions in OGA-Broadband to support statewide Broadband for All efforts. A policy analyst to design and consult on statewide broadband policy initiatives, and a technical assistance lead to support local governments and tribes seeking to accelerate broadband deployment and adoption. This request may evolve pending action plan development.

CDT also requests $3 million to sustain operational expenses for the ongoing support of COVID-19 software and cloud services. OET implemented many new technology solutions directly related to the COVID-19 response including data warehouses, Extract Transform and Load (ETL) tools, GIS solutions and cloud infrastructure. Although the initial cost of these solutions were submitted for reimbursement, OET needs ongoing funding for annual license renewals, maintenance and cloud service consumption costs. This operation expense is needed as the technology tools and infrastructure that was created for the COVID-19 response is already being leveraged for other statewide emergencies such as the state's fire response.

In addition to staff, CDT requests $5 million to bring in the necessary specialist diagnostic capabilities required during the assessment process, and bootstrap initial critical service stabilization activities. Unfortunately, the State does not yet have all the necessary skills, such as business operations analytics, required to assess, stabilize, and transform services. It is anticipated the amount required will decrease to $3 million in subsequent years.

*Vision 2023.* The follow is an excerpt from the Administrations Vision 2023, which was released on January 15, 2021.

> "Vision 2023 lays out how technology powers not just more efficient and effective government, but a compassionate and fair government. Our vision is of a government that operates without surprises or hidden traps. It is a convenient, accessible, and reliable government and one that hears its people's voices and reacts to their needs and desires.
>
> "In the next three years and beyond, our goals are to:
> - Deliver easy-to-use, fast, dependable, and secure public services.
> - Ensure public services are equitable and inclusive.
> - Make common technology easy to access, use, and reuse across government.
> - Build digital government more quickly and more effectively.
> - Build confident, empowered multi-disciplinary teams.
>
> "We will achieve our vision by working toward these goals and applying our guiding principles: **to put people first**, **make continuous, timely improvement** and recognize that **working together beats working alone**."

*Broadband for All.* In California, more than 673,000 households are not served by adequate broadband. These connectivity gaps primarily impact low-income residents, rural communities, and communities of color, thereby exacerbating existing inequities across communities and regions in California, and was further exacerbated by the COVID-19 pandemic.

In August 2020, Governor Newsom issued an executive order launching the California Broadband Action Plan development process. This plan identified three main goals: (1) all Californians should have access to high-performance broadband at home, (2) all Californians should be able to afford broadband and the devices necessary to access the Internet, and (3) all Californians should be able to access necessary training and support to enable digital inclusion.

The recently approved federal COVID-19 relief bill will make an additional $5.1 billion available nationwide to address broadband access issues. It will provide funding for low-income California households to receive a $50 or $75 per month subsidy for broadband access, and opportunities for California tribal governments or colleges to compete for $1 billion in nationwide grants for tribal broadband programs. The bill also provides opportunities for California local governments and tribes to compete for $300 million in nationwide grants for deployment of broadband infrastructure in rural areas, and for California-based minority-serving colleges to compete for $285 million available nationwide for broadband improvements in their communities. This funding would be in addition to the nearly $700 million in federal broadband funding that California recently secured from the Federal Communications Commission Rural Digital Opportunity Fund.

**LAO.** The LAO recommends the Legislature approve CDT's Stabilize Critical Services and IT Infrastructure proposal with budget bill language that conditions the expenditure of some amount of approved funding on the completion of changes in administrative policy and notification of (at a minimum) the Joint Legislative Budget Committee for legislative review. The exact amount of approved funding subject to this provision would be negotiated between the administration and the Legislature.

**Staff Comment.** This request reflects CDT's prominent role in managing the state's high-risk IT projects, as well as its role in managing a statewide network for an evolving workforce that has been teleworking due to the COVID-19 pandemic. This request also reflects CDT's role in this Administration's advancement towards a more sophisticated data management strategy (please see GovOps' request for Statewide Data Strategy in the previous item).

The Broadband Action Plan was released in December 2020, and laid out an ambitious plan to achieve the goals identified by the executive order and identified key parties to help implement aspects of the plan. The Broadband Action Plan identifies CDT as the key party for the creation of a Broadband for All website portal, which is intended to serve as a clearinghouse for broadband resources, including state and federal funding opportunities. Additionally, the Plan identifies CDT for various contracting and purchasing strategies, as well as leveraging existing state resources around broadband infrastructure, among others. The subcommittee may wish to inquire the following:

- What can the state do through its purchasing power to encourage and accelerate broadband deployment to unserved areas?
- What kind of technical assistance can the CDT provide to local agencies, nonprofits, and tribal entities that will help them submit competitive funding applications?

**Staff Recommendation.** Hold open.

## 1111 DEPARTMENT OF CONSUMER AFFAIRS (DCA)

### Issue 29: Regulations Unit – Funding Extension

**Request.** DCA requests a two-year limited-term extension of $1.7 million in 2021-22 and 2022-23 to continue supporting eight existing positions in the Department's Regulations Unit. A two-year limited-term extension will allow DCA to fully implement and evaluate the effectiveness of a dedicated Regulations Unit.

**Background.** Development and review of regulations at DCA involves board and bureau members and staff, the Department's legal, budget, and executive staff, and staff of the Business, Consumer Services and Housing Agency (BCSHA).

In March 2018, the Senate Business, Professions & Economic Development Committee and the Assembly Committee on Business and Professions, in its sunset review hearing over DCA, raised issues regarding the centralization of legal services that are housed within DCA, limiting legal resources and subject matter expertise, rather than allowing boards and bureaus to hire their own counsels.

The regulation review process was modified in late 2016 to improve the quality of DCA rulemaking packages. Before the process change, the Office of Administrative Law (OAL) disapproved some of DCA's rulemaking files for failing to meet statutory standards. In an effort to improve the quality of the rulemaking packages, BCSHA rescinded a longstanding waiver of the requirement that the Form Std. 399 (Economic and Fiscal Impact Statement) must be reviewed and approved at the agency level before a notice of proposed action was submitted to OAL for publication in the California Regulatory Notice Register. As a result, DCA restructured its review process to make sure that DCA and BCSHA reviewed rulemaking files before and after publication in the Notice Register.

The process change improved the quality of rulemaking packages and reduced the number of packages that OAL disapproved. The number of disapproved regulations dropped from nine in 2017 (a 16% disapproval rate) to zero. However, the enhanced review process also lengthened the time needed to develop and review files.

The following chart identifies (1) the number of regulations anticipated each calendar year according to the OAL rulemaking calendar; (2) the number of regulation files submitted to DCA for review; and, (3) the actual number of regulations filed with OAL each year. DCA states that only one package has been disapproved (in 2018) since 2018.

**Chart 1 - Historical Regulation Workload**

| Calendar Year | 2013 | 2014 | 2015 | 2016[2] | 2017 | 2018 | 2019 | 2020 |
|---|---|---|---|---|---|---|---|---|
| Proposed – OAL Calendar[3] | 116 | 113 | 133 | 107 | 164 | 173 | 246 | 260 |
| Submitted to DCA | 52 | 64 | 84 | 59 | 46 | 52 | 101 | 28 (as of 6.30.2020) |
| Final Submission to OAL[4] | 56 | 50 | 53 | 69 | 46 | 28 | 18 | 21 (as of 7.24.2020 / 60 projected for year-end) |

In 2019, DCA stated that impending regulations packages as a result of AB 2138 (Chiu, 2018), which reduced barriers to licensure for individuals with prior criminal convictions, necessitated a dedicated regulations unit to focus on preparing and submitting regulations packages. Of the AB 2138 regulation packages that need to be submitted, DCA states that 29 have been submitted to OAL, seven have been approved, none have been disapproved, and nine are still in development.

**Staff Recommendation.** Hold open.

**Issue 30: Budget Bill Language Request (Contractors State License Board)**

**Request.** The CSLB is requesting the following Budget Bill language to authorize the augmentation of its Construction Management Education Account (CMEA) appropriation, to provide the flexibility to increase the grants awarded from the fund based on the amount of contributions made to the CMEA:

*The Department of Finance may augment this appropriation, based on revenues available in the Construction Management Education Account, for the purpose of increasing the number of grant disbursements to public postsecondary construction management education programs. Any augmentation shall be authorized not sooner than 30 days after notification in writing to the Chairperson of the Joint Legislative Budget Committee, or whatever lesser time the chairperson, or the chairperson's designee, may determine.*

**Background.** In the early 1990s, the construction industry recognized it was facing a critical shortage of qualified workers, particularly at the supervision and management levels, and sponsored the Construction Management Education Sponsorship Act of 1991 (Act). Several construction management programs existed within the California State University system, but they were severely underfunded. The Act was established to address that issue.

Each year, the Board's Licensing Division notifies accredited construction management education programs to prepare an application for funds in the coming year. Staff review the applications to confirm the applying institutions remain properly accredited and propose an award amount for all qualifying institutions based on the number of students that graduated the prior year. The Board is the ultimate decision maker on the disbursements from the CMEA. In recent years, the Board has received more voluntary contributions than what has been appropriated to the program (see Resource History Chart). The Board is requesting the flexibility to align its appropriation, as needed, to the amount of contributions received annually.

**History of CMEA Grant Disbursements**

| Accredited Universities | 2005-06 | 2009-10 | 2010-11 | 2011-12 | 2012-13 | 2013-14 | 2018-19 | 2019-20 |
|---|---|---|---|---|---|---|---|---|
| CSU, Chico | $81,409 | $77,325 | $45,029 | $48,387 | $57,970 | $59,210 | $42,125 | $38,596 |
| CSU, Fresno | $42,168 | n/a | $16,125 | $18,710 | $17,753 | $28,125 | n/a | $8,421 |
| CSU, Long Beach | $39,715 | n/a | $15,517 | $20,000 | $29,347 | $14,803 | n/a | n/a |
| CSU, Northridge | n/a | n/a | $6,998 | $5,161 | n/a | n/a | n/a | n/a |
| CPU, Pomona | $14,000 | $15,698 | $17,951 | $24,193 | n/a | n/a | n/a | n/a |
| CPU, San Luis Obispo | $48,708 | $41,279 | $37,119 | $20,968 | $36,231 | $32,072 | $45,421 | $33,333 |
| CSU, Sacramento | $13,000 | $15,698 | $11,257 | $12,581 | $8,695 | $15,790 | $12,454 | $19,650 |
| **Totals Granted** | **$239,000** | **$150,000** | **$149,996** | **$150,000** | **$149,996** | **$150,000** | **$100,000** | **$100,000** |

In the coming year, the Board will disburse just under $100,000 (its current budget appropriation) even though the current fund balance is approximately $337,000. The CMEA fund balance continues to rise due to increasing contributions and the current expenditure authority of $100,000. The CMEA receives an average of $120,000 annually in contributions. From 2018-19 to 2019-20, the CMEA has seen a 14-percent increase in annual contributions. The fund will have approximately $574,000 at the end of this fiscal year.

**Staff Comment.** The CMEA was created at a time when there was a shortage of construction management staff. However, since then, the construction industry is experiencing a labor shortage – the Associated General Contractors of America, in its 2020 Construction Outlook Survey, reports that 81 percent of construction companies are having difficulty filling some or all positions. Additionally, of those surveyed, top concerns include worker quality (75 percent) and worker shortages (72 percent).[2]

There are apprenticeship preparation system and business recruitment requirements that are tied to agencies receiving SB1, or the gas tax, funds. The California Workforce Development Board oversees a suite of investments and policy initiatives to advance construction careers as a reliable pathway to the middle class for disadvantaged Californians. One of its programs, the High Road Construction Careers (HRCC), prioritizes partnerships that link local building and construction trades councils to workforce boards, community colleges, and community-based organizations, creating structured pathways to state-certified apprenticeships in a variety of crafts.

The subcommittee may wish to ask the Board about the potential impacts of expanding the eligibility of these funds to apprenticeship and pre-apprenticeship programs, especially in the context of the current workforce landscape.

**Staff Recommendation.** Hold open.

## 1115 DEPARTMENT OF CANNABIS CONTROL

### Issue 31: Establishing the Department of Cannabis Control

**Summary of the Request.** The Department of Cannabis Control (Department) is requesting $153.8 million in 2021-22, $151.1 million in 2022-23, $150.3 million in 2023-24, $136.6 million in 2024-25 and ongoing, and 621 permanent positions, to assume the ongoing regulatory responsibilities of the three state cannabis licensing authorities pursuant to the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) (Chapter 27, Statutes of 2017). Of the positions requested, 598 positions are from existing position authority and 23 are new. These resources are requested from the Cannabis Control Fund, which is funded by licensing fees. The Department also requests statutory changes as necessary.

[2] https://www.agc.org/sites/default/files/Files/Communications/2020_Outlook_Survey_National.pdf

**Background.** Since the 2016 passage of Proposition 64—the Control, Regulation and Tax Adult Use of Marijuana Act, which authorized adults aged 21 years or older to legally grow, possess, and use marijuana for non-medical purposes—the Legislature passed two pieces of legislation that further implemented the Act. First, in 2017, the Legislature passed Senate Bill 94 (Committee on Budget and Fiscal Review), Chapter 27, Statutes of 2017, the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), that created a single-comprehensive system to control and regulate the cultivation, distribution, transport, storage, manufacturing, processing and sale of both medicinal and adult-use cannabis. Then, in 2019, Assembly Bill 97 (Committee on Budget), Chapter 40, Statutes of 2019, strengthened enforcement tools and licensing requirements, and extended the time for local governments to undergo the California Environmental Quality Act to July 1, 2021, related to cannabis activities, among other provisions.

Prior to the passage of Proposition 64, the Legislature and the voters created a layered network of cannabis-related policies. These include:

- In 1996, California voters approved Proposition 215, known as the Compassionate Use Act, which statutorily authorized the use of medical cannabis, and provided protections for physicians who made medical cannabis recommendations.

- In 2003, Senate Bill 420 (Vasconcellos), Chapter 875, Statutes of 2003, established the voluntary Medical Marijuana Program under the California Department of Public Health, which provided access to medical cannabis for qualified patients and primary caregivers and created a medical marijuana identification card and registry database.

- In 2015, Governor Jerry Brown signed the Medical Marijuana Regulation and Safety Act, comprised of Assembly Bill 243 (Wood), Chapter 688, Statutes of 2015; Assembly Bill 266 (Bonta), Chapter 689, Statutes of 2015; and Senate Bill 643 (McGuire), Chapter 719, Statutes of 2015. Together, these bills established the oversight and regulatory framework for the cultivation, manufacture, transportation, storage, and distribution of medical cannabis in California.

As a result of varied and layered policies, the pathway for cannabis licensure has been, anecdotally, burdensome and costly. Existing law and regulations require operators to be dually-licensed at both the local and state levels. However, approximately 70.6 percent of cities and 58.6 percent of counties have passed ordinances that ban all legal medicinal and adult-use cannabis sales in their jurisdictions as of February 4, 2021. Less than 45 percent of California's 482 cities and 58 counties currently permit commercial cannabis businesses. It is estimated that legal sales make up about 23 percent of the total adult use cannabis market in California (excluding medicinal cannabis), and that the total addressable cannabis market is about $7.8 billion – of which only $2.1 billion comprises legal taxable cannabis sales.[3]

[3] Applied Development Economics, Inc. (2020). *Analysis of Cannabis Market in California and Case Study Cities.* http://www.cahcc.com/Portals/0/ADE%20Cannabis%20Report%20_8-6-20.pdf?ver=2020-08-11-125659-360&timestamp=1597175841928

*State and local governance.* While the law prior to Proposition 64 generally limited a medical cannabis licensee to hold state licenses in no more than two categories, Proposition 64 allowed nonmedical cannabis licensees to hold licenses in more than two categories. For vertically-integrated licensees, this could mean interfacing with several state licensing authorities and experiencing challenges during enforcement efforts. The regulatory entities listed below are responsible for regulating cannabis standards for labelling, testing, and packaging products and to develop a system to track such products from production to sale. Local governments continue to have the ability to regulate where and how cannabis businesses operate.

**Cannabis Industry Regulated by Multiple State Agencies**

| Regulatory Agency | Primary Responsibilities |
| --- | --- |
| Bureau of Cannabis Control | License cannabis distributors, transporters, testing facilities, and retailers. |
| Department of Food and Agriculture | License and regulate cannabis growers. |
| Department of Public Health | License and regulate producers of edible cannabis products. |
| State Water Resources Control Board | Regulate the environmental impacts of cannabis growing on water quality. |
| Department of Fish and Wildlife | Regulate environmental impacts of cannabis growing. |
| Department of Pesticide Regulation | Regulate pesticide use for growing cannabis. |

*Cannabis Equity Programs.* The burdens of cannabis prohibition in California, including arrests, convictions, and long-term collateral consequences fell disproportionately on Black and Latinx communities, despite the fact that people of all races use and sold cannabis at nearly identical rates. The California Department of Justice data shows that from 2006 to 2015, inclusive, Black Californians were two times more likely to be arrested for cannabis misdemeanors and five times more likely to be arrested for cannabis felonies than White Californians. During the same period, Latinx Californians were 35 percent more likely to be arrested for cannabis crimes than White Californians.

In response to the disproportionate impacts of cannabis prohibition on disadvantaged communities in California, some local jurisdictions established equity programs that assist those impacted by cannabis prohibition in overcoming longstanding barriers to entry into the legal cannabis market. These local efforts included application assistance, microloans for businesses, or technical assistance. In 2018, the Legislature passed SB 1294 (Bradford), Chapter 794, Statutes of 2018, the California Cannabis Equity Act, which provides state resources to local equity applicants. Pursuant to SB 1294, the budget provided resources for local equity programs, with the 2018 budget providing $10 million, and the 2019 budget providing nearly $30 million.

In 2019, the Legislature passed SB 595 (Bradford), Chapter 852, Statutes of 2019, that requires cannabis licensing entities to develop and implement a program that provides a fee deferral or fee waiver to obtain or renew a license for a needs-based applicant or licensee, as specified, contingent upon an appropriation in the annual Budget Act or another statute.

**Proposal.** The new Department will be comprised of 10 divisions: (1) the Executive Division, (2) the Licensing Division, (3) the Compliance Division, (4) the Enforcement Division, (5) the Laboratory Division, (6) the Information Technology Division, (7) Legal Affairs Division, (8) Legislative Affairs Office, (9) Administration Division, and (10) the External Affairs Division.

The chart below summarizes the existing resources of the licensing authorities compared with the consolidated request in this proposal. The additional positions are primarily added to the Executive and Information Technology Services Divisions to create a management structure similar to other state departments.

| Department | BY Funding | BY+1 Funding | PYs |
|---|---|---|---|
| **BCC** | $73,446,00 | $74,535,000 | 322 |
| **CDFA** | $48,129,000 | $44,450,000 | 155 |
| **CDPH** | $29,080,000 | $29,080,000 | 121 |
| **Total** | **$150,675,000** | **$148,065,000** | **598** |
| **DCC** | $153,834,000 | $151,268,000 | 621 |
| **Difference** | **$3,159,000** | **$3,203,000** | **23** |

Below is a summary of the divisions' responsibilities and roles in the consolidated department:

- *Executive Division.* The Department's Executive Division will be responsible for all statewide policy and procedures impacting licensees, stakeholders, staff, and the public. The Executive Division will serve as the primary liaison with the Legislature, and other state government entities on behalf of the Department. Lastly, the Executive Division will provide crucial oversight of the Department's divisions and programs.

- *Licensing Division.* The Department's Licensing Division will be responsible for administering all aspects of the license cycle (application review, license issuance, renewal, and modifications), providing technical assistance and support to applicants and licensees, engaging and working closely with local jurisdictions, coordinating license actions with compliance and enforcement, and providing enhanced assistance to equity applicants and licensees. The Division will also work collaboratively with other state agencies, such as State Water Resources Control Board and the California Department of Fish and Wildlife, to coordinate and develop policy recommendations, environmental remediation protocols, and environmental analysis studies and surveys on environmental health and natural resource management. Additionally, this division will be responsible for serving as the statewide point of contact for local jurisdictions regarding the state's statutory and regulatory licensing requirements. This division will also work closely with the Governor's Office of Business and Economic Development and administer and oversee the Department's equity activities.

- *Compliance Division.* The Department's Compliance Division will be responsible for processing all complaints submitted to the Department, conducting inspections, investigating violations of law and regulation by licensees, and partnering with other regulatory and law enforcement agencies throughout the state as needed to better administer the Department's inspection and enforcement activities.

- *Enforcement Division.* The Department's Enforcement Division will be responsible for handling criminal and unlicensed commercial cannabis investigations for the Department. This Division will work closely, and coordinate investigative actions, with other state and local law enforcement agencies and state departments as needed to address illegal market activities.

- *Laboratory Division.* The Laboratory Division will provide regulatory oversight of cannabis testing laboratories, oversee the activities of the state cannabis reference laboratory, and stay informed of the emerging science on cannabis and cannabis products.

- *Information Technology Division.* The Information Technology Services Division is comprised of Application Support and Information Technology (IT) Operations.

- *Legal Affairs Division.* The Legal Affairs Division will provide the full range of legal services to the Department including providing legal advice and guidance to the Department's executive management and staff regarding legal issues that develop during the Department's day-to-day operations. Legal staff will conduct research in complex and emerging areas of law, provide advice on a broad range of legal issues, draft and review legal documents and responses, liaise with the Attorney General's office regarding Department litigation, and provide legal support to the licensing, compliance, and enforcement divisions.

- *Legislative Affairs Office.* The Legislative Affairs Office will be responsible for advancing the policy interests of the Department. The Office will monitor and anticipate relevant political and policy developments impacting the Department and develop strategies and recommendations in response. Members of the office will attend legislative hearings and represent the Department as needed. This team will track, analyze, and develop bill analyses on the behalf of the Department. They will provide technical assistance to legislative offices and bill sponsors regarding legislation, interact with authors of bills that impact the Department, and monitor daily file for floor actions and scheduled events. The Office will represent the Department and Agency as needed in meetings and policy engagements with local officials, legislators, and key stakeholders.

- *Administrative Division.* The Administration Division will provide a multitude of services to guarantee the timely and efficient execution of the Department's day-to-day operations and administrative oversight. The Administration Division will include three key functions: Financial Management, Human Resources, and Operations. In order to create an efficient and effective division and to determine the appropriate staffing level for the Administration Division, the Department looked to similarly sized departments and determined the requested staff were necessary to meet the Department's administrative needs.

- *External Affairs Division.* The External Affairs Division will be responsible for developing the Department's communications strategy, public engagement plans, media strategy, internal and external publications, and educational efforts. The Division will be responsible for the overall communications and outreach activities of the Department with its internal and external stakeholders. In addition, the Division will develop and execute public affairs strategies to support the goals and objectives of the Department. The Division's primary responsibilities will include media relations, risk communications, web services, social media, development of key publications and educational tools.

This proposal also includes approximately $35 million for external contracts, of which approximately $30.7 million will be used for track and trace licensing systems and the Proprietary Plant and Package radio-frequency identification tags.

**Staff Comment.** While legal, taxable, regulated cannabis is a multi-billion dollar industry in California, the industry as a whole largely remains in the unregulated shadows. Barriers to licensing, access to capital, and access to local jurisdictions that permit cannabis, among others, are significant challenges that continue to impact the cannabis industry.

Licensing is an area where businesses attempting to enter the legal market have struggled and continue to struggle. For example, in 2019, temporary licenses issued by the Department of Food and Agriculture were allowed to expire without resolution on pending applications for provisional or annual licenses, leaving businesses who were attempting to enter the legal market at risk of becoming noncompliant and unlicensed. The Legislature worked with the Administration at the time, who redirected resources to address the backlogs that were occurring in the Department and threatening the lapse in licensing. AB 97 in 2019 provided a two-year extension period ending on January 1, 2022 and authorized the issuance of provisional licenses while compliance with the California Environmental Quality Act (CEQA) was underway. The CEQA review process is still ongoing, with the sunset of provisional license authority approaching. SB 59 (Caballero) was introduced this year to address this issue.

In the context of some of these licensing challenges, the Administration's proposal does not seem to augment licensing staff in its consolidation efforts, and no new resources are requested for the licensing division. In addition to licensing responsibilities, the licensing division will be tasked with liaising with local governments and supporting equity efforts. The subcommittee may wish to discuss whether the Administration's proposal provides an appropriate level of resources given some of the challenges that licensing cannabis businesses have posed in the past.

Additionally, uneven enforcement and compliance at the local level have created uncertainty for individuals who wish to participate in the legal marketplace but unknowingly end up tangled in the illegal marketplace. A Politico article from February 2021 shares the story of a dispensary security guard hired through a contractor in Los Angeles who mistakenly thought he was working at a licensed dispensary, but was in fact not, and arrested as a result. The Administration stated that in this year alone, it has seized 23,000 pounds of unlicensed cannabis – however, it is unclear whether those impacted by these seizures were flagrantly violating the law, or were attempting to abide by the law but fell short of compliance.

The Administration is proposing statutory changes to allow the Department to recall and condemn products – these are important and necessary tools to protect consumers, especially in the absence of federal action. The subcommittee may wish to inquire how the Administration plans to balance compliance and enforcement during this transition period in an industry that is struggling to enter the legal market.

*Potential Questions for the Subcommittee to Consider:*

- What are some of the efforts that the Administration is doing to encourage businesses to participate in the legal marketplace?

- What are some of the efforts that the Administration is doing to encourage local governments to permit cannabis within their jurisdictions?

- How will the Administration guarantee that regular business operations will not be disrupted during consolidation efforts?

- It’s estimated that the unlicensed cannabis sales comprise approximately three-quarters of all cannabis activities in the state; does the state’s enforcement efforts against unlicensed activity versus licensed activity reflect this split as well?

- Given that the funding to support all of these resources is derived from licensing fees, what is the Administration's plan to ensure that there isn't a significant decline in licensed businesses as we approach the sunset on provisional licenses?

- To the extent that consolidation is intended to streamline the licensing process, including technical assistance, how does this consolidation proposal improve the customer experience and licensing outcomes? Can the Administration speak to whether the timeline for a licensee to be issued a license will be shortened with this plan?

**Staff Recommendation.** Hold open.