Senate Budget and Fiscal Review—Holly J. Mitchell, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Maria Elena Durazo
Senator Jim Nielsen
Senator Thomas J. Umberg

Thursday, March 28, 2019
9:30 a.m. or upon adjournment of session
State Capitol - Room 2040

Consultants: Anita Lee and Yong Salas

ITEMS PROPOSED FOR VOTE ONLY

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ITEMS PROPOSED FOR VOTE ONLY

0855 GAMBLING CONTROL COMMISSION

Issue 1: Tribal Nation Grant Fund Program (AB 880)

Governor's Budget. The California Gambling Control Commission requests $237,000 Indian Gaming Special Distribution Fund (SDF) and one position to support the implementation of AB 880 (Gray), Chapter 801, Statutes of 2018. The Commission also requests provisional language that (1) provides the authority to transfer excess revenues from the Revenue Sharing Trust Fund (RSTF) to the Tribal Nation Grant Fund (TNGF), and (2) provides $39.3 million TNGF to provide grants to eligible tribes, as required by legislation.

Background. The TNGF was created in the 2012 Compact with the Federated Indians of Graton Rancheria and included in subsequent Compacts and the Secretarial Procedures. The Compacts established the TNGF as a fund to make discretionary distribution of funds to Non-Gaming Tribes and Limited-Gaming Tribes upon application of such tribes for purposes related to "effective self-governance, self-determined community, and economic development."

The SDF receives tribal revenues, which is used for gambling addiction programs, support of local and state entities impacted by tribal government gaming, including the Commission. The RSTF receives revenues from gaming device license fees and distributes these revenues to non-gaming tribes. Recent compacts require tribes to make payments to the Commission for deposit into the RSTF or TNGF, and these payments vary by compact. AB 880 requires that costs related to the implementation of the Compacts be paid out of the SDF, and explicitly prohibits these costs to be funded by the RSTF or the TNGF. Additionally, AB 880 established a nine-member panel to consider applications requesting grant awards from the TNGF.

Staff Recommendation. Approve as budgeted.

7910 OFFICE OF ADMINISTRATIVE LAW

Issue 2: Staffing Augmentation

Governor's Budget. The Office of Administrative Law (OAL) requests ongoing $109,000 General Fund and one position to address increased workload related to a greater number of Public Records Act requests, legislative review, and regulatory packages.

Background. OAL was created to provide an important function to the public and the state by protecting the public's rights under the Administrative Procedure Act (APA) and reducing the state's exposure to potential litigation for state agencies enforcing illegal rules. Among its duties, OAL: (1) reviews over 700 filings submitted by more than 200 state agencies proposed administrative regulations for compliance with the APA; (2) publishes, maintains, and posts the California Code of Regulations; and (3) reviews allegations of state agencies using "underground regulations." OAL is also responsible for researching, reviewing, analyzing, monitoring and reporting on proposed legislation to the Government Operations Agency of any impact or potential impact on the APA.

Since 2015-2016, the number of hours staff spent to respond to Public Records Act requests have increased by 230 percent, with some being complex and related to sensitive matters, such as lethal injections of inmates and assault weapons. The proposed position will coordinate the Public Records Act requests, in addition to assisting with the coordination of the legislative workload of the office.

Staff Recommendation. Approve as budgeted.

8885 COMMISSION ON STATE MANDATES

Issue 3: Administrative Staff Augmentation

Governor's Budget. The Commission on State Mandates (CSM) requests ongoing $53,000 General Fund and half of a position to meet human resources requirements, as well as personal services contracting and new procurement requirements under FI$Cal.

Background. CSM is the agency responsible to make mandate determinations and then estimate the costs of mandated programs. It has contracted with the Department of General Services' Contracted Fiscal Services for its accounting and budgeting services. However, the implementation of FI$Cal and a compliance audit conducted by the State Personnel Board showed that CSM required multiple roles that provided a separation of functions for its procurement for items such as office supplies. Due to the small staff size of CSM, the Chief Counsel has taken on a procurement role. Additionally, the California Department of Human Resources required agencies to appoint Human Resource Liaisons to serve as program-related personnel activities and must also undergo various trainings and roles. CSM states that the Assistant Executive Director, who is also the HR officer, has taken on this role and the required trainings has impacted the workload related the mandate determination process.

The proposed position would take on procurement and human resources duties and alleviate the workload for the existing staff who have undertaken these additional responsibilities.

Staff Recommendation. Approve as budgeted.

8850 STATE PUBLIC WORKS BOARD

Issue 4: Technical Clean-Up – Baby Diaper Changing Stations

Governor's Budget. The Administration requests trailer bill language that will provide technical clean up for a drafting error in legislation requiring state-owned buildings to provide baby diaper changing stations.

Background. Section 15805 of the Government Code added by AB 1127 (Calderon and E. Garcia), Chapter 755, Statutes of 2017, requires certain state-owned public buildings financed with lease revenue bonds issued by the State Public Works Board that include at least one public restroom, to provide baby diaper changing stations. This requirement applies to public building construction and renovation projects with estimated costs of $10,000 or more in these state-owned public buildings, unless an exemption is granted by a local building permitting entity or building inspector.

This proposal corrects a drafting error in Section 15805 that made these state-owned public buildings subject to local government oversight for the installation or exemption of the baby diaper changing station requirements. Under the California Constitution, the state is sovereign and state facilities are not subject to local governmental permit or oversight requirements. This proposal would have the State Public Works Board as the entity providing the necessary oversight.

Staff Recommendation. Approve as budgeted.

7100 EMPLOYMENT DEVELOPMENT DEPARTMENT

The Employment Development Department (EDD) connects employers with job seekers, administers the Unemployment Insurance, Disability Insurance, and Paid Family Leave programs, and provides employment and training programs under the federal Workforce Innovation and Opportunity Act. Additionally, EDD collects various employment payroll taxes, including the personal income tax, and collects and provides comprehensive economic, occupational, and socio-demographic labor market information concerning California's workforce.

Issue 5: Information Security Enforcement Team

Governor's Budget Proposal. EDD requests $1.99 million ($996,000 in Contingent Fund and $996,000 in Disability Insurance Fund) and five positions in 2019, and $882,000 ($441,000 in Contingent Fund and $441,000 in Disability Insurance Fund) and five positions in 2020-21 and ongoing to establish a new Information Security Enforcement Team (ISET). The request for 2019-20 includes operating expenses for a one-time consulting contract and equipment purchases. The 2020-21 and ongoing request includes equipment maintenance costs. These resources will accommodate workload growth within the critical functions of information security, including detection and remediation of system security issues, infrastructure improvements, and improved compliance with current state and federal security standards.

Additionally, the Administration proposes provisional budget bill language to augment the unemployment compensation disability fund and the EDD Contingent Fund by up to $1 million each one-time, above the budget change proposal, for necessary security-related software in 2019-20.

Staff Recommendation. Approve and adopt modified budget bill language to require notification to the Joint Legislative Budget Committee should the Department of Finance approved increase fund authority on the unemployment compensation disability fund and EDD Contingent Fund.

Issue 6: Deferred Maintenance

Governor's Budget Proposal. EDD requests $2 million General Fund one-time to address deferred maintenance needs at EDD's Modesto and Merced facilities. Specifically, funds will be used in the construction phase of replacing the heating, ventilation and air conditioning (HVAC) systems at both facilities, and the fire alarm system at the Merced facility. At Merced, a study conducted by the Department of General Services (DGS) found that the facility's HVAC system is past its equipment service life, and can no longer be maintained or serviced. For the Merced facility, DGS is currently preparing the study with recommendation for replacement of the HVAC and fire alarm systems, and will begin working drawings upon completion of the study.

In addition to the two facilities above, EDD has identified four other EDD owned facilities with deferred maintenance needs. These facilities are not funded by the Governor's budget. Specifically, the Eureka facility requires $1.27 million to replace HVAC, San Bernardino requires seismic bracing and repair to the Americans with Disabilities Act (ADA) pathways for $1.9 million, El Centro's parking lot requires ADA corrections and geotechnical work to address the sinking foundation for $1.7 million and Pasadena requires seismic bracing and repair for ADA pathways for $1.5 million. The subcommittee may wish to ask the rational for prioritizing the Modesto and Merced facilities.
Staff Recommendation. **Approve as budgeted.**

7120 CALIFORNIA WORKFORCE DEVELOPMENT BOARD

The California Workforce Development Board (CWDB) collaborates with both state and local partners to establish and continuously improve the state workforce system, with an emphasis on California's economic vitality and growth. CWDB also provides leadership for a unified state plan that works in partnership with other state entities such as the Health and Human Services Agency, the Departments of Social Services and Rehabilitation, the Community Colleges, and the Department of Education. The workforce system is comprised of state and local programs and services that prepare current and future workers to meet the ever-evolving demands of California's businesses and industries. These services include matching job seekers with career opportunities and jobs; supplying high-skill workers to business and industry; providing labor market and economic information necessary for state, local, and regional planning; preparing the neediest youth for advanced learning and careers; and encouraging the inclusion of special populations as critical elements of the workforce

Issue 7: AB 2915 (Caballero), Chapter 722, Statutes of 2018

Background

AB 2915 requires CWDB to develop, in conjunction with the Employment Development Department and with input from local workforce development boards, a policy regarding mutual aid agreements between local boards to enable them to effectively respond to disasters.

Governor's Budget Proposal

The CWDB requests 0.6 positions and $62,000 General Fund in 2019-20 and 2020-21 to develop a policy regarding mutual aid agreements among Local Workforce Development Boards to enable them to effectively respond to disasters.

This cost estimate is consistent with the Assembly Appropriations Committee Analysis.

Staff Recommendation. Approve as proposed.

7300 AGRICULTURAL LABOR RELATIONS BOARD

The Agricultural Labor Relations Board (ALRB) is responsible for: (1) carrying out the policy of the state to encourage and protect the associational rights of agricultural employees; (2) conducting secret ballot elections so that farm workers in the state may decide whether to have a union represent them in collective bargaining with their employer; and (3) investigating, prosecuting, and adjudicating unfair labor practice disputes.

Issue 8: Assembly Bill 2751 (Stone), Chapter 718, Statutes of 2018

Background

AB 2751 (Stone), Chapter 718, Statutes of 2018, required ALRB to process findings of liability for monetary amounts due to final order within one year. This significantly shortens the timeline for staff to complete this detailed and time-consuming process, and the timeline required by AB 2751 cannot be met with existing staff.

Governor's Budget Proposal

ALRB requests $245,000 General Fund and two Field Examiner II positions to work exclusively on all tasks necessary to complete award calculations to meet the requirements of AB 2751.

This is cost estimate is consistent with the Assembly Appropriations Committee analysis.

Staff Recommendation. Approve as proposed.

7350 DEPARTMENT OF INDUSTRIAL RELATIONS

The Department of Industrial Relations (DIR) protects the workforce in California, improves working conditions, and advances opportunities for profitable employment. DIR is responsible for enforcing workers' compensation insurance laws, adjudicating workers' compensation claims, and working to prevent industrial injuries and deaths. DIR also promulgates regulations and enforces laws relating to wages, hours, and conditions of employment, promotes apprenticeship and other on-the-job training, and analyzes and disseminates statistics which measure the condition of labor in the state.

Issue 9: Apprenticeship Standards Federal Grant Funds Extension

Governor's Budget Proposal

DIR requests five positions and $859,000 in Federal Trust Fund authority for 2019-20. Funding provided by the federal Apprenticeship USA State Expansion Grant will enable DIR's Division of Apprenticeship Standards to expand its outreach activities to targeted nontraditional industries, while promoting increased apprenticeship opportunities to new and underrepresented demographics such as women, veterans, people with disabilities, disconnected youth and people of color. This is the second round of federal grant funding. The continued support will also enable the division to address additional priorities including: implementing a regional approach when engaging high-demand industry employers, providing internal staff training to effectively work with these same employers, establishing pipelines to connect youth with pre-apprenticeship or apprenticeship programs, and developing funding opportunities to expand apprenticeship into state civil service.

Staff Recommendation. Approve as proposed.

Issue 10: Permanent Authority for Limited-Term Positions

Governor's Budget Proposal. DIR requests 10 positions and $1.6 million ongoing from the Labor Enforcement and Compliance Fund to provide permanent authority for proposals approved only for a limited-term basis in prior fiscal years. In addition to ongoing support for these positions, this proposal also requests six positions and $817,000 for a two-year limited-term from the Labor and Workforce Development Fund to further educate awarding bodies and contractors of their requirements under public works law to maximize compliance with registration requirements. Specifically, this proposal extends positions associated with the following:

- <u>Senate Bill 588 (de León), Chapter 803, Statutes of 2015.</u> This bill allowed the Labor Commissioner to file a lien or levy on an employer's property in order to assist the employee in collecting unpaid wages when there is a judgment against the employer. The budget change proposal (BCP) requests four positions and $768,000 ongoing from the Labor Enforcement and Compliance Fund to make permanent positions previously authorized on a limited-term basis.

- <u>Senate Bill 1001 (Mitchell), Chapter 782, Statutes of 2016.</u> This bill prohibited an employer from requesting more or different employment authorization documents than are required under federal law, refusing to honor documents tendered, refusing to honor documents or work authorization based upon the specific status or the term of status accompanying the authorization, or reinvestigating or reverifying an incumbent employee's authorization to work. Violation of these provisions could result in a civil penalty of not more than $10,000 imposed by the Labor Commissioner. The BCP requests three positions and $461,000 ongoing from the Labor Enforcement and Compliance Fund to make permanent positions previously authorized on a limited-term basis.

- <u>Senate Bill 1063 (Hall), Chapter 866, Statutes of 2016.</u> This bill amended the Equal Pay Act to prohibit employers from paying employees a wage rate less than the rate paid to employees of a different race or ethnicity for substantially similar work. The BCP requests three positions and $390,000 ongoing from the Labor Enforcement and Compliance Fund to make permanent positions previously authorized on a limited-term basis

- <u>Assembly Bill 97 (Committee on Budget) Chapter 14, Statutes of 2017. Extended Support for Public Works Education.</u> The 2017 Budget Act provided six positions on a limited-term basis to provide outreach and education to public works awarding bodies on benefits of the existing pre-qualification guidelines and how to better manage their responsibilities on public works projects. Educating and engaging awarding bodies and providing them with a strong tool to weed out unscrupulous contractors allows the unit to work as partners on the offensive to prevent labor law violations, including non-registration. The BCP requests an extension of the six limited-term positions for an additional two-years and an associated $817,000 from the Labor and Workforce Development Fund.

These costs are consistent with the Senate Appropriations Committee analyses on these proposals.

<u>Staff Recommendation.</u> Approve as proposed.

Issue 11: Implementation of Various Legislation

Governor's Proposal

DIR requests 15.5 positions and $3.1 million in 2019-20 and $2.7 million ongoing to fulfill the provisions of recently chaptered legislation:

- Assembly Bill 2358 (Carrillo), Chapter 675, Statues of 2018. This bill prohibited discrimination in any building and construction trades apprenticeship program on the basis of certain enumerated categories with regards to acceptance into or participation in the program as specified. The BCP requests one position and $161,000 for 2019-20 and $148,000 in 2020-21 and ongoing to provide resources for the Division of Apprenticeship Standards to implement this bill.

- Assembly Bill 3018 (Low), Chapter 882, Statutes of 2018. This bill increased public agency reporting requirements, creating penalties for noncompliance, and providing the Labor Commissioner with the authority to issue a civil wage and penalty assessment against a contractor or subcontractor found in violation of state law. The BCP requests 4.5 positions and $813,000 in 2019-20 and $743,000 ongoing from the Apprenticeship Training Contribution Fund to implement AB 3018.

- Senate Bill 1402 (Lara), Chapter 702, Statutes of 2018. This bill required DIR to post on its website the name and other essential information, regarding any port drayage meter carrier with an unsatisfied judgment finding that the meter carrier failed to fulfill its wage, payroll tax or workers' compensation obligations, or misclassified its employees as independent contractors. DIR is required to remove these postings within 15 business days after the division determines that there has been full payment, or an approved settlement, of the unsatisfied judgment. DIR requests 10 positions and $2.1 million in 2019-20 and $1.8 million ongoing from the Labor Enforcement and Compliance Fund.

These costs are consistent with the Senate and Assembly Appropriations Committee analyses.

Staff Recommendation. Approve as proposed.

7501 CALIFORNIA DEPARTMENT OF HUMAN RESOURCES

The Department of Human Resources (CalHR) is responsible for managing the state's personnel functions and represents the Governor as the "employer" in all matters concerning state employer-employee relations. CalHR is responsible for issues related to recruitment, selection, salaries, benefits, and position classification, as well as provides a variety of training and consultation services to state departments and local agencies. CalHR's main objectives are to:

- Manage examinations, salaries, benefits, position classification, training, and all other aspects of state employment other than those areas assigned to the State Personnel Board under the civil service provisions of Article VII of the California Constitution.
- Represent the Governor in collective bargaining with unions representing rank and file state employees.
- Set salaries and benefits for employees excluded from collective bargaining and employees exempted from civil service.
- Serve as the sole fiduciary and administrative body for the Savings Plus Program (defined contribution program for full-time and part-time state employees).
- Provide legal representation to state agencies for appeals of disciplinary actions and labor relations matters.
- Hold ex-officio membership to the 13-member Board of Administration of the California Public Employees' Retirement System.

Issue 12: Statewide Human Resources Workload

Governor's Proposal

CalHR requests eight positions and $1.26 million ($603,000 General Fund, $312,000 Central Service Cost Recovery Fund, and $352,000 Reimbursements) for fiscal year 2019-20 and $1.19 million ($569,000 General Fund and $294,000 Central Service Cost Recovery Fund, and $332,000 Reimbursements) in 2020-21 and ongoing for the following:

- Selection Division and Information Technology Division Limited Examination and Appointment Program (LEAP) - $452,000 ($59,000 General Fund, $352,000 Reimbursements, $41,000 Central Service Cost Recovery Fund) for two Staff Personnel Program Analysts and one Information Technology Specialist I.

  The Staff Personnel Program Analysts will serve as consultants over all service-wide LEAP assessments for civil service classifications and will develop online, continuous filing, and open service wide examinations to maximize the availability of LEAP assessments. These positions will review the service-wide classification specifications to determine the minimum qualifications logic for the LEAP assessments, which will be provided to the Information Technology Division for programming.

  The Information Technology Specialist I will program the online continuous filing, open service-wide assessments in compliance with existing departmental standards. This position will conduct quality assurance testing to safeguard that the new online assessments are functioning correctly and make any necessary modifications.

Currently, nine out of the 250 online, service-wide classification are streamlined for LEAP assessments. These LEAP online assessments are for staff services analyst, office assistant typing, office assistant general, program technician, attorney, accountant trainee, custodian, office technician general, and office technician typing. The goal of the BCP is to develop and deploy 40 new LEAP assessments per year; as a result, it will take approximately six years to complete 250 online exams. The goal is to go beyond the current 250 exams, and make more civil service classifications LEAP eligible. There are currently 2,800 civil service classifications.

- <u>Workforce Development Division Workforce Planning</u> - $321,000 ($183,000 General Fund, $138,000 Central Service Cost Recovery) for one Staff Services Manager (SSM) II and one Research Data Specialist II.

  Through these positions CalHR will be able to produce annual statewide workforce and succession plans, conduct a deeper analysis of available workforce data to support statewide recruitment, organizational development, and training functions, provide constructive feedback and consultative services to organizations. Currently, 52 out of the 121 departments, agencies, and commissions have workforce plans, and 38 have succession plans. This proposal will also help CalHR review all plans against the Workforce and Succession Plan Requirements Policy.

- <u>Statewide Recruitment</u> - $161,000 ($92,000 General Fund, $69,000 Central Service Cost Recovery) to support one SSM II.

  The position will allow CalHR to empower departments to implement focused recruitment strategies, adopt a model to conduct both examination assessments and hiring interviews at career events, develop strategies to better compete for candidates in hard-to-recruit classifications, and leverage social media to market examination and job opportunities. It will also allow for the development of methodologies to strategically measure the effectiveness of recruitment efforts with the goal of continual improvement and efficient allocation of resources.

- <u>Personnel Management Division Leadership Performance and Career Development</u> - $149,000 ($85,000 General Fund, $64,000 Central Service Cost Recovery) to support one Personnel Program Advisor.

  CalHR has standard forms for supervisors and managers to use in the performance evaluation process, however most do not use them. Only 30 percent of departments complete probation reviews, which violates Government Code Section 19992.11. The survey also found that only one percent of merit salary adjustments are denied. The position would allow CalHR to establish and lead statewide performance for supervisors and managers and career development for rank-and-file to management. Specifically, the position will help create streamlined, competency-based leadership and rank-and-file evaluation processes.

- <u>Human Resources Management Office of Digital Innovation Human Resources Management</u> - $184,000 General Fund to support one Personnel Program Manager II.

  In addition to its own human resources functions, CalHR manages the human resources functions for various departments including GovOps. Currently, GovOps has roughly 20 permanent positions; however, adding the Office of Digital Innovation more than triples GovOps to almost 70 ongoing permanent positions. To meet the additional workload, CalHR is requesting a

Personnel Program Manager II (PPM II), which provides the high-level oversight necessary to manage the complex and challenging human resources workload generated from an office of 50 civil service employees. This position will manage the onboarding of 50 employees, ongoing position control, discipline, grievances, pay, leave, benefits, and other daily human resources tasks.

Staff Comments

The Legislature is currently reviewing the Governor’s proposal to create an Office of Digital Innovation. Given this, it may be premature to approve the human resources Personnel Program Manager II position.

Staff Recommendation

Approve all positions except for human resources Personnel Program Manager II position for the Office of Digital Innovation, which will be held open.

Issue 13: Administrative Funding Realignment

Background

Reimbursable Programs. CalHR operates eight reimbursable programs totaling $25 million, which are collected from applicable departments. Specifically, these programs are:

Reimbursable Program	2018-19 Budget Act (dollars in millions)
Office of Civil Rights (reimbursable July 1, 2019)	$0.5
Selection Division	$5.8
Merit System	$2.8
Legal	$7.7
Training	$5.4
Psychological Screening	$1.9
Medical Office	$0.5
Substance Abuse Testing	$0.9

CalHR notes that it experiences delays in collecting reimbursements from departments, and as a result has experiences cash flow issues. For services in 2017-18, CalHR has an outstanding balance of $854,000 from departments. For services in 2016-17, CalHR has an outstanding balance of $60,000 from departments. As a result, CalHR has to take a general fund loan in order to cover costs. CalHR is authorized to request a loan amount up to 35 percent of it reimbursement authority. Since 2012, the loan amount has ranged from $4 million to $7.6 million, or 12 percent to 28 percent each year.

Alternative Retirement Program. SB 1105 (Committee on Budget and Fiscal Review), Chapter 214, Statute of 2004, created the Alternative Retirement Program (ARP) under Deferred Compensation. SB 1105 specifies that specified state employees shall not make contributions to CalPERS or receive credit for their service for the first 24 months of their employment. The state shall not make contributions during that period. The bill required these employees, instead, to contribute five percent of their monthly compensation to an alternative retirement system, similar to a 401(k). AB 340 (Furutani), Chapter 296, Statues of 2012, closed ARP to new state employees hired on or after July 1, 2013. Senate Bill 1308 (Committee on Budget), Chapter 665, Statutes of 2012, made ARP inoperative effective January 2013.

Governor's Proposal. CalHR requests a reduction of $575,000 in reimbursement authority for the phase-out of the ARP.

CalHR also requests trailer bill language to provide direct transfer authority in 2019-20 and ongoing for services rendered by its various reimbursable programs. Specifically, the trailer bill will authorize direct transfer authority for the following reimbursable programs: office of civil rights, selection division, merit system, legal and training. The other programs would require regulatory changes and collective bargaining to authorize direct transfers. CalHR notes that the Department of General Services, Department of Justice, State Personnel Board and the Department of Technology has this type of authority.

Staff Recommendation. **Approve as proposed.**

Issue 14: Statewide Medical and Psychological Screening Policy

Background

The Medical Office at CalHR reviews medical evaluations of peace officer candidates in accordance with Peace Officer Standards and Training (POST) regulations and medical evaluations of non-peace officer candidates. The Medical Office determines whether candidates are able to perform the job without risk of safety to themselves or others, or if the candidate can perform the job with a reasonable accommodation. The Medical Office provides the hiring authority a recommendation on each candidate's medical suitability in accordance with the Americans with Disabilities Act (ADA) of 1990, as amended by the ADA Amendment Act of 2008 (ADAA), the California Fair Employment and Housing Act (FEHA) and POST guidelines, as applicable.

Under ADAA and FEHA, job candidates may only be subject to medical screening when required by law or regulation (e.g., peace officers, hospital workers) or when a business necessity requires medical screening. The ADAA and FEHA encompass a complex and evolving body of law and policy that requires employers to stay abreast of and update their medical review policies to ensure that their hiring process remains compliant with federal and state mandates.

The Psychological Screening Program conducts psychological screenings which are intended to identify those individuals who, because of mental/emotional conditions and/or maladaptive personality characteristics, are unable to perform peace officer duties in a safe and effective manner. Upon completion of the interviews, the contract psychologist is required to submit a written report to CalHR with a recommendation to either approve or disqualify the candidate for employment as a peace officer. Based on the oral interview and supporting documentation that is provided to CalHR, psychologists re-evaluate the information to provide the final decision to approve or withhold to the hiring department.

Existing medical review practices and policy guidance provided to state departments are insufficient to ensure consistent application of and compliance with ADAA, FEHA, and other rules governing the hiring process. This creates liability exposure for CalHR and state departments engaged in the hiring process.

In order to mitigate the state's broader liability exposure, the same practices and policies developed at CalHR need to be applied across hiring authorities statewide. This will require CalHR to: 1) develop and provide extensive guidance to hiring departments, 2) provide ongoing training and expert consultation, and 3) promulgate regulations to fully implement these policies.

Governor's Budget Proposal

CalHR requests four permanent positions and $188,000 ($100,000 General Fund and $88,000 Reimbursements) for 2019-20, and $179,000 ($100,000 General Fund and $79,000 Reimbursements) for 2020-21 and ongoing for a new division that provides statewide consultation and direction on medical and psychological pre-employment screening. This proposal supports:

- Career Executive Appointment (CEA) A - (redirection only - no additional funding). CalHR will redirect a vacant CEA position from its Benefit Division to be Chief of the Fre-Employment Services Division. Since this position is being redirected from another reimbursable division, it will not require additional funding. This position will provide Executive Leadership over the Medical Office, the psychological Screening program, and the team providing program administrative support. This position will establish statewide policies regarding medical and psychological screening that ensure ongoing compliance with ADAA and FEHA mandates. This position will provide statewide leadership and facilitate consistent application of medical evaluation and screening policies across state departments

- Legal Contracts ($100,000 General Fund). This funding allows CalHR to contract for legal services to advise the Chief, and staff, of the Preemployment Services Division on matters involving the ADAA and FEHA. The contracted legal services will verify that external communication are in compliance with ADAA and FEHA mandates, will keep up-to-date with the evolving ADAA and FEHA developments, and provide legal advice to ensure that policies remain compliant with ADAA and FEHA mandates.

- Psychologist - two position authority (no additional funding). CalHR requests position authority for two positions (currently in the temporary help blanket). This transitions psychological screening workload from contracted psychologists to civil service staff. These positions perform pre-employment screening evaluations, including review of test data, interpretation of test results, review of background investigative reports, and writing reports.

- Staff Services Analyst – one position authority (no additional funding). This position (currently in the temporary help blanket) provides analytical support for the psychological screening program. Additionally, this position will analyze and interpret psychologists' action log notes to create pertinent treatment record request letters, and review psychological and medical records.

- Office Technician-Typing – one position ($88,000 Reimbursement). This positon is responsible for data entry of candidate information and candidate case file appointments. This position schedules interviews, provides quality control of candidates' psychological material prior to submission to psychologists, redacts and images electronic files, prepares cases for review, and prepares result letters and memoranda to candidates and department staff. This is a long-term solution to ensure consistent and proper application of ADAA and FEHA nondiscrimination mandates.

Staff Recommendation. Approve as proposed.

7503 STATE PERSONNEL BOARD

The five-member State Personnel Board (SPB), whose members are appointed by the Governor for ten-year terms, was established in the California Constitution in 1934. SPB is responsible for California's civil service system, ensuring it is free from political patronage and that employment decisions are based on merit. The SPB prescribes probationary periods and classifications, adopts other rules authorized by statute, sets merit related policy, reviews disciplinary actions as well as other merit oversight activities, and performs merit system audits to ensure departmental compliance.

Issue 15: Compliance Review Unit

Background

The Compliance Review Unit (CRU) performs compliance reviews of appointing authorities' personnel practices in five areas: examinations, appointments, equal employment opportunity, personal services contracts, and mandated training. CRU also performs special investigations, and manages both SPB's and CalHR's compliance reviews. The purpose of these reviews is to ensure state agencies are in compliance with merit-related laws, rules, and policies and to share best practices identified during the reviews. CalHR's reviews are funded by the General Fund and CSCR, whereas SPB's reviews are funded by reimbursements. There are currently 23 staff in the compliance review division.

Governor's Budget Proposal

The SPB requests a reduction of $1.59 million from reimbursements and an increase of $911,000 from the General Fund and $687,000 from the Central Services Cost Recovery (CSCR) Fund beginning in 2019-20 for the CRU.

This proposal eliminates the need to bill for and collect reimbursements from departments for compliance reviews and special investigations workload. Additionally, departments would no longer have to process payments to the SPB. Instead, funding for CRU would be assessed from departments and allotted directly to the SPB budget based on the Department of Finance's CSCR cost methodology. Funding SPB's compliance reviews through the General Fund and CSCR would be consistent with how CalHR's compliance reviews are funded.

Staff Recommendation. Approve as proposed.

ITEMS PROPOSED FOR DISCUSSION

7920 CALIFORNIA STATE TEACHERS RETIREMENT SYSTEM

CalSTRS is governed by the Teachers' Retirement Board, which is composed of eight members and four ex-officio members. The California Constitution provides the Teachers' Retirement Board authority over the administration of the retirement system. CalSTRS provides pension benefits, including disability and survivor benefits, to California’s full-time and part-time public school teachers from pre-kindergarten through community college and certain other employees of the public school system. As of June 30, 2018, there are approximately one million members, retirees, and beneficiaries of the State Teachers' Retirement Plan (STRP) Defined Benefit Program.

CalSTRS administers a defined benefit plan, two defined contribution plans, a post-employment benefit plan, and a fund used to account for ancillary activities associated with various deferred compensation plans and programs, including: (1) STRP, (2) CalSTRS Pension Program, (3) Teachers' Health Benefits Fund, and (4) Teachers' Deferred Compensation Fund.

CalSTRS does not provide health or dental insurance coverage as they are collectively bargained at the local school district level. Each district has its own policies. Existing law requires school districts, community colleges and county offices of education to offer retiring CalSTRS members and their spouses or registered domestic partners the opportunity to continue their medical and dental insurance at their own cost.

CalSTRS Budgeted Expenditures and Positions
(Dollars in Millions)

	2017-18	2018-19	2019-20
Service to Members and Employers	$382.0	$604.8	$571.6
Corporate Governance	$4.8	$36.2	$34.7
Benefit Payments	$14,462.5	$15,822.7	$16,759.1
Positions	1,134	1,294	1,313

Issue 16: Supplemental Pension Payment

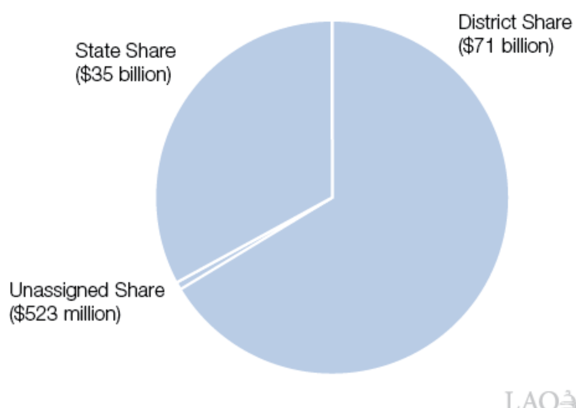
<u>Background</u>

Prior to 2014,CalSTRS faced a large unfunded liability with no plan in place to fund teachers pensions, and CalSTRS was expected to exhaust its assets in the mid-2040s. The state adopted a funding plan, described below, to fully fund the system by 2046. Currently, the overall unfunded liability for CalSTRS is $107.3 billion (of which the state's share is $35.3 billion). As of June 30, 2017, the funded status for CalSTRS was 64 percent meaning the retirement systems only have approximately two-thirds of the funds required to make pension payments to retirees.

Figure 2

State and District Share of CalSTRS Unfunded Liability

As of June 2017



Assembly Bill 1469 (Bonta), Chapter 47, Statute of 2014, CalSTRS Funding Plan to Address Large Unfunded Liability. AB 1469 was adopted as a part of the 2014-15 budget, which set CalSTRS on a path towards full funding by 2046. Specifically, the plan phased in contribution rate increases for the state, employers and employees. The plan gives the board limited authority to adjust the employer and state contribution rates.

- **<u>District Contribution Rate.</u>** AB 1469 set the district contribution rate through 2020-21, which increases the rate from 14.4 percent of salary in 2017-18 to 16.3 percent in 2018-19. This is an increase of 1.9 percentage points. By 2020-21, the district rate is set to reach 19.1 percent. After 2020-21, CalSTRS can increase or decrease the rate by up to one percentage point per year; however, existing law states that the total district rate cannot exceed 20.25 percent.

- **<u>Employee Contribution Rate.</u>** The Public Employees' Pension Reform Act (PEPRA) requires employees hired after January 1, 2013, to pay half of the normal cost of their pension benefits. Due primarily to the assumption of lower investment returns, CalSTRS' estimate of the normal cost has increased. As a result, the contribution rate for PEPRA employees is increasing from 9.2 percent in 2017-18 to 10.2 percent in 2018-19.

Absent future changes in the investment return and other assumptions, PEPRA employees' contribution rates will tend to remain more stable than the district and state rates. Compared to PEPRA employees, existing law specifies the rate for employees hired prior to January 1, 2013, to remain flat at 10.3 percent, rather than being tied to an estimate of normal cost.

- **<u>State Contribution Rate.</u>** The state's share of the unfunded liability has more than doubled in recent years, growing from $15 billion as of June 30, 2015 to over $35 billion as of June 30, 2017. Existing law limits the annual allowable increase in the state rate to 0.5 percentage point. The CalSTRS board approved a 0.5 percentage point increase in the state contribution rate for 2018-19, bringing the total state rate to 9.6 percent. Because of the rate adjustment limit in state law, CalSTRS projects that the state rate will continue increasing by 0.5 percentage point each year through 2023-24.

The Legislative Analyst's Office (LAO) chart below displays the projected CalSTRS contribution rates.

CalSTRS Projected Contribution Rates
(As a Percentage of Payroll, May 2018 Projections)

Year	District[a]	State[b]	Employees (Pre-PEPRA)[c]	Employees (PEPRA)[d]
2017-18	14.4%	9.1%	10.3%	9.2%
2018-19	16.3%	9.6%	10.3%	10.2%
2019-20	18.1%	10.1	10.3%	10.2%
2020-21	19.1%	10.6%	10.3%	10.2%
2021-22	18.6%	11.1%	10.3%	10.2%
2022-23	18.1%	11.6%	10.3%	10.2%

[a] Reflects statutory rate through 2020-21 and CalSTRS' projections thereafter.
[b] Reflects actual rate through 2018-19 and CalSTRS' projections thereafter. State contribution rate is based on payroll from the second preceding year. For example, the 2018-19 rate is applied to actual 2016-17 payroll. Includes roughly 2.5 percentage points related to a program that protects retirees' pensions from the effects of inflation.
[c] Reflects fixed statutory contribution rate for employees hired before January 1, 2013.
[d] Reflects actual rate through 2018-19 and CalSTRS' projections thereafter.

CalSTRS Unfunded Liability. The state is responsible for the share of the unfunded liability that would exist today if no changes had been made to benefits or contributions since 1990, and districts are responsible for the unfunded liability created by changes to pension benefits and contribution rates adopted after 1990, but only for benefits earned through 2013-14.

CalSTRS interprets the law so that district and state shares of the unfunded liability will change annually based on a complex formula. Specifically, the formula is based on hypothetical unfunded liability calculated by estimating what the defined benefit program's assets and liabilities would be today if the benefit improvements had never occurred after July 1, 1990, and if contributions to the pension fund had not been decreased. Under this formula, the calculations show that CalSTRS' unfunded liability would be smaller today. In general, the state will pay for these smaller theoretical unfunded liabilities, while the districts pay for the difference between the real world unfunded liabilities and the state's share. Because districts pay for the balance, the district share will increase when the state share decreases or vice versa. As a result, the state's share of the unfunded liability and the contribution rate is very sensitive to investment volatility.

Responsibility for a small amount of the unfunded liability that is associated with changes made after 1990 for benefits earned after 2013-14 remains unassigned to either the state or districts. As of June 30, 2018, CalSTRS estimates this to be approximately $200 million, and is expected to grow to about $1 billion by 2046. The funding formula does not include a mechanism for funding this unassigned unfunded liability.

Discount Rate. In February 2017, the CalSTRS board adopted changes to investment return assumptions over a two-year period. Specifically, for the June 30, 2016 actuarial valuation, the discount rate decreased from 7.50 to 7.25 percent, and for the June 30, 2017 actuarial valuation, the discount rate decreased from 7.25 to 7 percent.

Reporting Requirement. AB 1469 also requires CalSTRS to report to the Legislature on or before July 1, 2019, and every five years thereafter, on the fiscal health of the Defined Benefit Program and the unfunded actuarial obligation with respect to service credited to members of the program, before July 1, 2014. The report must identify adjustments required in contribution rates in order to eliminate, by June 30, 2046, the unfunded actuarial obligation of the Defined Benefit Program with respect to service credited to members of the program before July 1, 2014.

Governor's Budget Proposal

District's Share of Unfunded Pension Liabilities. The Governor proposes for the state to pay CalSTRS an additional $2.3 billion General Fund in 2018-19 to address the district's share of the unfunded liability.

CalSTRS District Contribution Rates. The Governor proposes providing $700 million over the next two years ($350 million per year) to provide school and community college districts with immediate budget relief. Specifically, the funds would reduce districts' CalSTRS rates in 2019-20 and 2020-21—freeing up resources for other parts of districts' operating budgets.

Restructures Proposition 2 Plan to Pay Down State's Share of CalSTRS Unfunded Liability. Proposition 2, the Rainy Day Budget Stabilization Fund Account (Assembly Constitutional Amendment 1 one the November 2014 ballot), requires specified state revenues to be dedicated to the Budget Stabilization Account (BSA) and partially used to repay state debts and unfunded liabilities. By paying down all remaining special fund loans with discretionary resources, the Administration creates capacity within Proposition 2 requirements for other debt payments. The Governor proposes using this new capacity to reduce the state's share of the CalSTRS unfunded liability.

The Governor proposes to pay $1.1 billion in Proposition 2 to CalSTRS in 2019-20 to address the state's share of the unfunded liability. Moreover, the Administration proposes an additional $1.8 billion in Proposition 2 funds through 2022-23, as follows: $802 million in 2020-21, $615 million in 2021-22, and $345 million in 2022-23, to be paid towards the state's share of the unfunded liability.

The Governor's proposed trailer bill language provides the Department of Finance the authority to determine the schedule and timing of the transfer of funds.

Estimated Savings from the Proposed Supplemental Payment for the Employer Liability Share to CalSTRS. The Administration estimates that the proposed $3 billion General Fund ($2.3 billion to address the employer share of the CalSTRS unfunded liability, and $700 million to supplant the required contributions for school employers for 2019-20 and 2020-21) payment in 2018-19 would save school employers $6.9 billion ($3.9 net savings) over the next 30 years under current actuarial assumptions.

The Administration estimates that the $700 million to supplant the school employer contributions would result in a one percent reduction in the employer contribution for 2019-20 and 2020-21. Moreover, the $2.3 billion supplemental payment to the employer share of the unfunded liability would reduce the employer contribution rate by approximately 0.5 percent starting in 2021-22, over the next three decades. The Administration's chart below displays the impact of the supplemental payment towards the employer's contribution rate.

Supplemental Pension Payments to CalSTRS—School Employer Liability Share
Estimated Impact

	Current		With Supplemental Pension Payment		
Fiscal Year	Employer Contribution Rate	Employer Contribution (in Millions)	Employer Contribution Rate	Employer Contribution (in Millions)	Savings from Supplemental Pension Payment (in Millions)
2019-20	18.13%	$ 6,277	17.10%	$ 5,927	$ 350
2020-21	19.10%	$ 6,844	18.10%	$ 6,494	$ 350
2021-22	18.40%	$ 6,837	17.90%	$ 6,641	$ 196
2022-23	18.40%	$ 7,047	17.90%	$ 6,883	$ 164
2023-24	18.40%	$ 7,301	17.90%	$ 7,131	$ 170
Total Savings—2019-20 through 2023-24					$ 1,230
Total Savings—2024-25 through 2045-46					$ 5,691
Total Savings—2019-20 through 2045-46					$ 6,921

Note: The employer contribution rate, with and without the impact of the supplemental pension payments, is projected to remain constant from 2023-24 through 2045-46. Unlike the state contribution rate, asset smoothing (smoothing the impact of investment volatility on the rate) does not have a material impact on the employer contribution rate over this period.

Estimated Savings from Supplemental Payment Proposal to the State Liability Share to CalSTRS. The Governor proposes a $1.1 billion Proposition 2 funds payment in 2019-20, and $1.8 million Proposition 2 funds payment through 2022-23 to pay down the state's share of the CalSTRS defined benefit unfunded liability. The Administration estimates a gross savings of $7.4 billion ($4.4 billion net), and will reduce the state contribution rates starting in 2022-23 by 0.5 to 0.6 percent over the next 30 years. The Administration notes that the impacts of these savings are contained within the CalSTRS Funding Plan, and will help improve the system's ability to reach fully funded status per the CalSTRS Funding Plan.

According to the Administration, the state's share of the CalSTRS defined benefit program is 85 percent funded as of June 30, 2017. The Administration's chart below displays the impact of the supplemental payment towards the state's contribution rate.

Supplemental Pension Payments to CalSTRS—State Liability Share Estimated Impact					
	Current		With Supplemental Pension Payments		
Fiscal Year	State Contribution Rate	State Contribution (in Millions)	State Contribution Rate	State Contribution (in Millions)	Savings from Supplemental Pension Payments (in Millions)
2019-20	7.83%	$ 2,569	7.83%	$ 2,569	$ -
2020-21	8.33%	$ 2,786	8.33%	$ 2,786	$ -
2021-22	8.83%	$ 3,057	8.83%	$ 3,057	$ -
2022-23	9.30%	$ 3,330	8.80%	$ 3,149	$ 181
2023-24	9.20%	$ 3,395	8.60%	$ 3,184	$ 211
Total Savings—2019-20 through 2023-24					$ 392
Total Savings—2024-25 through 2045-46					$ 7,057
Total Savings—2019-20 through 2045-46					$ 7,449

Note: It is projected that with the supplemental pension payments, the state contribution rate will continue to decrease slightly during the period from 2024-25 through 2045-46, to 8.2 percent. Absent the supplemental pension payments, it is projected that the state contribution rate will decrease to 8.8 percent by the end of this same period. The slight decrease in the state contribution rate over this time period can be attributed to asset smoothing (smoothing the impact of investment volatility on the rate).

Legislative Analyst's Office Comments

Short- and Long-Term Trade-Off. The LAO notes that district pension costs typically are covered using Proposition 98 General Fund; however, the Governor proposes using non-Proposition 98 General Fund for this proposal. Whereas this proposal would provide districts with perceptible budget relief over the next two years, the LAO notes that using the $700 million instead to pay down more of the CalSTRS unfunded liability would provide a longer-term benefit. Although over the long-term the districts' CalSTRS rate would be only slightly lower than it would be otherwise, the value of a making a $700 million unfunded liability payment now would grow over time. Such future relief could be important during the next economic downturn.

State Might Not Achieve Savings From Contribution to CalSTRS Before 2046. CalSTRS' limited rate setting authority dampens the expected savings to the state compared to what the Administration initially asserted. Using actuarial assumptions about investment returns, which is based on one scenario where precise actuarial assumptions materialize over the next 30 years, CalSTRS estimates that the proposed $1.1 billion payment to the state's share of the unfunded liability would result in $2 billion net savings through 2046. While the LAO does not have stochastic analysis, which examines a range of possible outcomes based on many scenarios, for this particular payment, the LAO notes that there is a roughly 15 percent and 20 percent probability it would show that the state will achieve no savings before 2046. In these scenarios without savings by 2046, CalSTRS actuaries indicate that savings would materialize after 2046. In addition, the average savings ratio under the stochastic analysis is lower than the actuarial estimate.

School Funding Is at Historically High Level and Growing. Most districts identify rising pension costs as one of their most significant fiscal challenges. School funding, however, has grown by nearly $22 billion (37 percent) over the past six years, significantly outpacing growth in pension costs. Adjusted for inflation, school and community college funding per student is at its highest level since the passage of Proposition 98. Under the Governor's 2019-20 budget, school and community college funding continues to grow, increasing a projected 3.6 percent. Though districts view rising pension costs as difficult to manage today, these difficulties will be much more pronounced if the state were to enter a recession and Proposition 98 funding were to drop.

Consider Setting Aside Funding for Future Rate Relief. Rather than providing districts with budget relief over the next two years, the state could modify the Governor's proposal to provide rate relief during the next economic downturn. Under this alternative, the state would set aside funds for school district retirement costs, but not immediately adjust district contribution rates. Later, during a downturn, the Legislature could choose when to apply the additional funds and reduce district rates. Such an approach is beneficial because it mitigates the need for pension rate increases at a time when districts would have less funding and be facing even more difficult budget choices.

State's Cash Position Varies Throughout the Fiscal Year. Cash flows in the General Fund can swing widely throughout the year. In particular, the state usually faces seasonal cash deficits during the early months of the state fiscal year. Cash surpluses are more common during the second half of the fiscal year. This is because state tax collections are concentrated in the second half of the fiscal year, especially in April (the annual income tax payment deadline), January, and June.

Resources Available Based on Projections. The current estimate of the surplus available to allocate for the upcoming fiscal year is largely based on projections of revenues for the next 16 months. (Some of this surplus is attributable to actual revenues received through the end of 2018.) These estimates are inherently uncertain. Actual revenues over the next year could be lower or higher than current projections by billions of dollars.

Governor Proposes Debt Repayments Early in Fiscal Year, Limiting Flexibility. The Governor proposes making some key debt repayments in the first month of the 2019-20 fiscal year (although the payments would be attributed to 2018-19). Notably, the Governor proposes transferring $7.1 to California Public Employees' Retirement System (CalPERS) and CalSTRS in July 2019. When an employer—including the state—makes a contribution to a pension fund, the employer has no legal right to withdraw the funds at a future date. This means that, once transferred in July 2019, the state would no longer be able to revisit these transfers, even if revenues in 2019-20 end up being significantly below expectations. In this case, the Legislature would only have the option to make adjustments to other parts of the budget (such as by lowering programmatic expenditures).

The proposed state contribution to CalSTRS would make progress toward addressing the system's unfunded liability, but might not achieve as much state savings as other options. The Legislature might want to consider maximizing state savings as the highest priority when considering how to make supplemental payments to retirement benefits. One option for maximizing state savings would be to concentrate pension supplemental payments on behalf of the state to CalPERS

<u>Staff Comments</u>

For the year to date, revenues are below projections by a total of $2.2 billion, due to January revenues coming in significantly below projections. The LAO and others believe much of the January shortfall was due to timing of payments and expect that some of shortfall may be made up in April payments. Since this proposal is a part of the overall architecture of the budget, the Legislature may wish to wait until update revenue projections are available before approving this proposal.

<u>Staff Recommendation.</u> Hold Open.

7900 California Public Employees' Retirement System

The California Public Employees' Retirement System (CalPERS) administers retirement benefits for about two million active employees and retirees of state and local agencies in California as of June 30, 2018. Benefits include retirement, disability, and survivor retirement benefits. CalPERS also provides health benefits for approximately 1.5 million active and retired state, local government, and school employees and their family members as of June 30, 2018. CalPERS develops, negotiates, and administers contracts with health maintenance organizations, group hospitals, and medical insurance plans. In addition, CalPERS administers a long-term care program for members and eligible individuals. CalPERS is governed by a Board of Administration, which is composed of 13 members: six elected members, three appointed members, and four ex-officio members. The California Constitution provides the CalPERS Board of Administration authority over the administration of the retirement system with the exception of the Health Benefits Program. The total fiduciary net position in the Public Employees' Retirement Fund (PERF) was $354 billion as of June 30, 2018.

CalPERS Budgeted Expenditures and Positions
(Dollars in Millions)

	2017-18	**2018-19**	**2019-20**
Retirement	$93.5	$106.3	$106.3
Health Benefits	$64.8	$74.4	$74.4
Investment Operations	$68.7	$74.1	$74.1
Administration	$192.7	$217.3	$218
Benefit Payments	$27,776	$29,480	$31,244
Unscheduled Items of Appropriation	N/A	$3,000*	N/A
Positions	**2,708**	**3,005**	**3,005**

*The Administration's 2019-20 budget proposes a supplemental payment of $3 billion General Fund payment in 2018-19 to address the CalPERS unfunded liability.

Issue 17: Supplemental Pension Payment

Background

State Makes Annual Pension Contributions. The state provides pension benefits to retired state employees through CalPERS. CalPERS state pensions are funded by three sources: investment gains, employer contributions from the state, and employee contributions. The state's contributions have been rising (due to actuarial assumption changes and lower-than-assumed investment returns) and are expected to continue to rise over the next several years. Specifically, the state's CalPERS pension contributions are expected to increase by more than 25 percent between now and 2023-24.

Unfunded Liability. Unfunded liabilities occur when assets on hand are less than the estimated cost of benefits (liabilities) earned to date. According to the Department of Finance, the state's current unfunded pension liability for CalPERS is $58.7 billion. As of June 30, 2017, the funded status for CalPERS was 67 percent.

Public Employees' Pension Reform Act (PEPRA). In January 2013, PEPRA modified the way CalPERS retirement and health benefits are applied, placing compensation limits on members, with the greatest impact on new employees hired after January 1, 2013. Below is a brief summary of some of the components of PEPRA.

- Reduced Benefit Formulas and Increased Retirement Ages – PEPRA established retirement benefits of two percent of the employee's final compensation at age 62 for all new miscellaneous (non-public safety) members with an early retirement age of 52, and a maximum benefit factor of 2.5 percent at age 67. PEPRA also created three defined benefit formulas for new safety members. Previously, the benefit formula was two percent of the employees final compensation at age 55 for state employees hired between January 15, 2011 and December 31, 2012, and two percent of the final compensation at age 60 for new employees hired prior to January 11, 2011.

- Capped Pensionable Compensation – Caps the annual salary that can be used to calculate final compensation for new members, excluding judges, at $113,700 for employees that participate in Social Security, or $136,440 for those who do not, which may be adjusted based on changes to the consumer price index. Previously, first-time members hired after January 1, 1996 had a compensation cap, which was set by the Internal Revenue Service and was referred to as the 401(a)(17) limit.

- Equal Sharing for the Normal Costs – For public agencies, schools employers, the California State University, and the judicial branch, a new member's initial contribution rate will be at least 50 percent of the total normal cost rate or the current contribution rate of similarly situated employees, whichever is greater, except as provided in an existing memoranda of understanding.

  Starting January 1, 2018, public agency and school employers that collectively bargained may require classic members to pay up to 50 percent of the total normal cost of their pension benefit after certain conditions are met. However, the employee contribution can only be increased by specified percentages for various classifications.

Additionally, CalPERS has rate setting authority and employer and member rates are examined every year in the fall. Changes are reported through the Annual Valuation Report provided to each employer.

CalPERS Employer Contribution Rates Are Increasing. In December 2016, the CalPERS governing board voted to lower its discount rate (investment return assumption) from 7.5 percent to seven percent over three years. In 2019-20, the discount rate will be seven percent for state employers. By assuming less money comes into the system through investment gains, the state will be required to contribute more money to pay for current and future pension costs as well as a larger unfunded liability. As a result of this and other assumption changes, average employer contribution rates are projected to rise over the next few years.

State employee salaries are paid by the General Fund or other funds, depending on the employees' work. Employee benefits—like pensions—are paid by the same fund as the employees' salaries. Employer contributions to CalPERS are based on payroll. Some funds—like the Motor Vehicle Account (MVA)—primarily support operations performed by state employees (such as registering vehicles), and therefore have relatively high associated state pension costs. Other funds primarily pass funding through to local governments and therefore do not support many state employees and as such have low state pension costs. When employer contribution rates rise, the associated costs to each fund also rise. The LAO chart below displays the major funds making contributions to the five state CalPERS plans.

Major Funds Making Pension Contributions by CalPERS Plan

	Share of Contributions
Miscellaneous	
General Fund	37%
Federal Funds	11
State Highway Account	8
CSU Trust Fund	6
Motor Vehicle Account	5
Industrial	
General Fund	97%
Prison Industries Revolving Fund	2
Safety	
General Fund	89%
Motor Vehicle Account	4
Prison Industries Revolving Fund	1
Peace Officers and Firefighters	
General Fund	90%
State Parks and Recreation	1
Motor Vehicle Account	1
Highway Patrol	
Motor Vehicle Account	96%
State Highway Account	3

2017-18 Pension Borrowing Plan. SB 84 (Committee on Budget and Fiscal Review), Chapter 50, Statues of 2017, approved the Governor's May Revision proposal to borrow $6 billion from the state's cash balances in the Pooled Money Investment Account (PMIA) to make a one-time supplemental payment to CalPERS. The Administration estimated gross savings of $11.8 billion ($4.8 million net savings) from this payment. While annual state pension contributions will continue to rise over the next several years, CalPERS estimates this supplemental payment would reduce the required contribution for 2018-19 by approximately $177.3 million. The Administration notes that of the $6 billion principal amount, the remaining balance is about $5.8 billion.

On September 28, 2017, the Department of Finance submitted a letter to the Joint Legislative Budget Committee regarding the supplemental payment, which included various stochastic models. According the analysis, the plan has a 95 percent chance to save the state money. The median scenario from the analysis suggests the plan would save the state $3.1 billion over 20 years. The actual savings associated with the plan may be higher or lower than this amount, potentially by billions of dollars, depending on a variety of factors, most notably CalPERS' future investment performance.

Governor's Budget Proposal

State's CalPERS Unfunded Liability. The Administration proposes a $3 billion supplemental payment to CalPERS in 2018-19, and payment to each state plan would be a proportionate share of the required General Fund contribution. The proposed trailer bill language provides the Department of Finance the authority to determine the schedule and timing of the fund transfer. Additionally, the trailer bill language specifies that of the funds, up to approximately $1.4 billion would be transferred to the state miscellaneous plan, $81.5 million to the state industrial plan, $178.3 million to safety plan, and $1.4 million to the state peace and firefighter plan. Since the highway patrol plan does not make General Fund contributions, it would not receive a payment under the proposal.

Savings Would Be Distributed Among All Funds That Make Pension Contributions to Plans. With the payment, the employer contribution rate is expected to be around one percent of pay lower each year until nearly 2040—representing an average of around $225 million in savings per year. In total, this investment would create net savings of $6.3 billion in net savings over about 30 years.

The savings each plan receives would be distributed proportionally to each fund that pays its pension costs. For the four plans receiving a payment, this means the benefit of the payment would be distributed proportionally across all contributing funds. Consequently, the General Fund would only receive $6 billion of the total $9.3 billion in gross savings. Because the General Fund would pay the full $3 billion supplemental payment, its net savings would be $3 billion. All other funds would receive a respective share of the gross savings. Under the median stochastic scenario, federal funds would receive savings of $500 million, the State Highway Account would save $340 million, the California State University Trust Fund would save $255 million, and the MVA would save $260 million. The LAO chart below displays the anticipated payment and savings by state plan under the Governor's proposal.

Anticipated Payment and Savings by CalPERS Plan under the Governor's Proposal
(In Billions)

Plan	Total Contribution	Gross Savings	Net Savings
Miscellaneous	$1.4	$4.3	$2.9
Industrial	0.1	0.3	0.2
Safety	0.2	0.6	0.4
Peace Officer/Firefighter	1.4	4.1	2.7
Highway Patrol	—	—	—
Totals	**$3.0**	**$9.3**	**$6.3**

Other Contributions. The budget also includes a statutorily required annual contribution of $6.8 billion ($3.9 billion General Fund) to CalPERS for state pension costs, of which $727.5 million General Fund is for California State University retirement costs. The estimated $566 million increase is the net effect of changes in actuarial assumptions, including the lower discount rate adopted by the CalPERS Board in 2016, savings from greater investment returns, and the $6 billion supplemental pension payment the state made to CalPERS in 2017-18.

2017-18 Loan Repayment. An additional $390 million in Proposition 2 debt funding is included in the budget to pay down the General Fund's share of the loan that funded the 2017-18 supplemental pension payment.

Legislative Analyst's Office Comments

The LAO notes that the Governor's proposal has a few shortcomings. Specifically, the proposal:

- **Does Not Maximize General Fund Benefit.** The major shortcoming associated with the Governor's plan is that it generates much less benefit for the General Fund than it could. That is because the General Fund only would accrue a part of the savings derived from the plan, but it would make the entire supplemental payment.

- **Provides Benefits to Federal Funds Without Reimbursement.** While most of the funds that would benefit from the plan are operated by the state, some are not. In particular, federal funds would benefit by $500 million. Under the Governor's plan, the state would not seek reimbursement for the state payment that results in this federal benefit.

- **Provides Little Benefit to the MVA.** There are concerns about the fiscal condition of the MVA, a major state fund that makes significant pension contributions. In 2018-19, the MVA faces an operational shortfall of almost $400 million. Absent corrective actions, the account likely again would experience an operational shortfall in 2019-20 and potentially become insolvent in the future. Although pension costs only explain a part of the MVA's growing imbalance, addressing rising pension costs in the MVA could play a role in improving the long-term solvency of the fund. The Governor's proposal would result in slightly lower pension costs for the MVA, but because no supplemental payment is made to the Highway Patrol plan, the benefit is much smaller than it could be.

Alternative Payment Options. The LAO offers a few alternative strategies for the supplemental payment.

1. **Keep DOF Distribution, but Require Other Funds to Repay General Fund.** A first alternative to the Governor's proposal would be to keep DOF's proposed distribution of payments by plan, but require funds that benefit from this plan to repay the General Fund. Under this alternative, the $3 billion would still be distributed to only four of the five plans, but funds would repay $1 billion, over time, back to the General Fund for their shares of the contribution. (Many funds might not have the resources to repay the General Fund right away, but could use their accrued savings from lower pension payments over time to make these repayments.)

2. **Distribute the Payment Based on Unfunded Liability and Require Repayments.** If the Legislature wanted to make a payment to all CalPERS plans, it could distribute the payment according to each plan's unfunded liability and require the benefiting funds to repay the General Fund in proportion to their benefit. Under this second alternative, the $3 billion would be distributed among all five plans and other funds would repay $1.5 billion to the General Fund.

   In addition to proportionally allocating benefit among all employee types, this alternative would maximize potential savings for the MVA, somewhat reducing the fund's ongoing structural imbalance. Lower pension payments—and a net benefit of roughly $700 million over 30 years—could put the fund in a slightly better condition over the long-term.

3. **Make Full Payment to Peace Officers and Firefighters Plan.** One concern about administering the proposal using repayments is the administrative complexity involved. While the state is already administering repayments for the 2017-18 CalPERS supplemental payment, DOF has noted this is administratively burdensome for them and the State Controller's Office. A third alternative, which would maximize General Fund benefit without a complicated repayment system, would make the entire supplemental payment to Peace Officers and Firefighters plan. This plan is nearly entirely General Fund supported and the vast majority of the benefit would still accrue to the General Fund. The state could generate over $5 billion net savings, which is the most General Fund benefit of the proposals.

Anticipated Payments and Savings by CalPERS Plan under Alternative Proposals
(In Billions)

	Governor's Plan and Alternative 1 (DOF With Repayments)		Alternative 2 (UFL With Repayments)		Alternative 3 (POFF)	
Plan	**Total Contribution**	**Gross Savings**	**Total Contribution**	**Gross Savings**	**Total Contribution**	**Gross Savings**
Miscellaneous	$1.4	$4.3	$1.8	$5.6	—	—
Industrial	0.1	0.3	0.1	0.2	—	—
Safety	0.2	0.6	0.1	0.5	—	—
Peace Officer/Firefighter	1.4	4.1	0.8	2.3	$3.0	$9.0
Highway Patrol	—	—	0.3	0.8	—	—

Totals	**$3.0**	**$9.3**	**$3.0**	**$9.3**	**$3.0**	**$9.0**

Ensuring Funds Pay Their Shares, Including Federal Funds. Another key disadvantage of the Governor's plan is that it delivers benefit to the federal government without asking the federal government to pay its proportionate share. All of the other alternatives would involve requesting that the federal government reimburse the state for its share of the initial payment. That said, it is not necessarily guaranteed that the federal government would agree to make these payments. The state is still working with a federal negotiator to request repayments on the federal share of the initial 2017-18 CalPERS supplemental payment and has not yet received a final decision.

Suggest the Legislature Consider Alternative 2 for Supplemental Payment. While relatively administratively simple, the Governor's proposal would result in the smallest General Fund savings of the four options. The two alternatives that provide the greatest General Fund benefit—Alternatives 1 and 3—create preferential treatment by not benefitting all employee groups. Also, neither of these alternatives create much benefit (if any) for the MVA—a large fund that faces fiscal pressure as a result of rising pension costs. As such, the Legislature may have a preference for Alternative 2, which would distribute the payment by unfunded liability to the various plans and require each fund that benefits—including federal funds—to repay the General Fund for their shares of the initial payment. As shown in Figure 7, Alternative 2 creates slightly more General Fund benefit than the Governor's proposal, but also ensures all plans and funds, including MVA, derive their proportionate share of benefit from the supplemental payment.

Summary of Alternative Options
(In Billions)

	Net General Fund Benefit	Net MVA Benefit	Provides Benefits to Some or All Plans?				
			Miscellaneous	**Industrial**	**Safety**	**POFF**	**Highway Patrol**
Governor's Plan	$3.0	$0.3	✓	✓	✓	✓	
Alternative 1—DOF with repayments	4.1	0.2	✓	✓	✓	✓	
Alternative 2—UFL with repayments	3.2	0.7	✓	✓	✓	✓	✓
Alternative 3—POFF	5.1	0.0				✓	

MVA = Motor Vehicle Account; POFF = Peace Officer/Firefighter; DOF = Department of Finance; and UFL = unfunded liability.

Staff Comments

The Administration notes that the payment is proposed for 2018-19 due to the estimated availability of General Fund this year, and that there is no long-term savings impact if the payment is applied on June 30, 2019, as compared to January 1, 2020. The proposal also assumes an investment return of 8.6

percent for 2017-18 (which is based on the most recent actuarial report from June 30, 2017), and seven percent for 2018-19 and thereafter.

The Governor's proposal provides significant spending in 2018-19. The Legislature may wish to wait until update revenue projections are available before approving this proposal. As the Legislatures evaluates the Governor's proposal, it may wish to consider what it's priorities are on how the funds (1) maximizes General Fund benefit, (2) provides benefit to the MVA—a large fund that faces fiscal pressure as a result of rising pension costs and other cost pressures, and (3) distributes benefits to all CalPERS plan types.

CalPERS Amortization Base Period. As noted previously, the 2017-18 budget provided a $6 billion PMIA loan to pay down the CalPERS unfunded liability. DOF estimated that the $6 billion payment in 2017-18 would result in net savings of $5 billion. For the 2019-20 budget, DOF indicates that the proposed $3 billion supplemental pension payment would result in a net savings of $4.2 billion. The Administration notes that the difference in savings can be explained by how much savings can be achieved by the amortization base to which the payment is applied.

Actuarial gains/losses in each year are amortized over a period of time specified by CalPERS board policies. The gain or loss in each year is called an "amortization base." Previously, actuarial gains/losses were amortized over a 30-year period. However, in February 2018, the CalPERS board adopted a new policy that, beginning with the June 30, 2019 valuation (first affecting the 2020-21 contribution rates), will amortize any new gains/losses over a 20-year period. The 2017-18 $6 billion supplemental payment to CalPERS was amortized over a 20-year period.

The Governor's proposal applies the $3 billion supplemental payment to the 2016 amortization base, which had a 30-year amortization period. This base was chosen because it is the most recent amortization "loss" base. There are 27 years remaining in the amortization schedule to pay down this loss. By applying the payment to this amortization base, the benefit of the $3 billion supplemental payment would be spread out over 27 years to maximize savings.

Similar to the Governor's proposal on CalSTRS, this proposal is a part of the overall architecture of the budget, the Legislature may wish to wait until update revenue projections are available before approving this proposal

Staff Recommendation. Hold Open.

DEFERRALS

Issue 18: Payroll Deferral Trailer Bill Language and CalPERS Deferral

Background

Payroll Deferral. The 2009-10 budget package included an ongoing one-month deferral of June state payroll to early July, providing savings for the state. This accounting action did not affect when paychecks were issued to state employees. Because payroll costs grow over time, the deferral continues to provide ongoing savings for the state General Fund. For example, in 2016-17, the associated General Fund benefit was $65 million (savings vary from year to year depending on how payroll costs are growing). Undoing this deferral would eliminate this annual benefit.

CalPERS Deferral. The state makes quarterly payments to CalPERS for pension contributions for state employees. The state pays the fourth-quarter contribution to CalPERS in the first quarter of the subsequent fiscal year. This means the state makes the transfer in the first few days of July. This deferral only applies to the state's General Fund pension payments. For cash purposes, the state also defers other payments to CalPERS throughout the fiscal year. For example, a portion of the third-quarter payment is transferred in mid-April, rather than the end of March. Because pension costs grow over time, this deferral provides ongoing savings for the General Fund. For example, in 2016-17, this General Fund benefit was $56 million (savings vary from year to year depending on how pension costs are growing).

Governor's Proposal

The Governor proposes trailer bill language to repeal sections of the Government Code to eliminate the state payroll deferral. The Administration estimates the cost to undo this action will be $973 million for the General Fund. The state never recognized the deferral in other funds' budgetary statements and, as a result, undoing it would only have budgetary implications for the General Fund.

There is no trailer bill to undo the CalPERS deferral. This change is reflected in the Department of Finance's summary schedules. Specifically, this is reflected in Schedule 9 regarding comparative statements of expenditures. Undoing the deferral would eliminate these savings. The Administration estimates the cost to undo this action is $707 million General Fund (other funds' fourth quarter CalPERS payments are not deferred).

The Administration notes that the intent of the proposals is to reuse this tool in the future.

Legislative Analyst's Office Comments

The LAO notes that the Governor's proposal to end the payroll and pension deferrals has the following implications:

- **Improves the State's Fiscal Position.** The Governor's proposal to undo the payroll and pension deferrals would allow the state to take these actions again in the future (essentially, carrying a reserve-like benefit). However, undoing and redoing deferrals involves more administrative complexity.

- **Moderately Improves the State's Fiscal Transparency and Budgetary Practices.** Undoing the pension and payroll deferrals could moderately improve the state's fiscal transparency and budgetary practices. In particular, the payroll deferral results in an inconsistency between the state's fund condition statements (published on a budgetary basis) and the state's official accounting reports (published consistent with generally accepted accounting principles). Undoing the payroll deferral would reconcile these reports. The Administration has recently indicated that improving the state's budgetary practice is its current rationale for proposing to undo these deferrals.

- **Does Not Reduce Adverse Effects on Other Entities.** Neither the payroll nor the pension deferral carries notable adverse consequences for any nonstate entities. The payroll deferral does not affect when state employees receive their paychecks. The pension system does not experience adverse consequences from receiving funds in early July rather than late June.

The LAO also notes that there are other alternatives that the state could use $1.7 billion, and recommends the Legislature reject the Governor's proposal to undo the payroll and pension deferral because they provide ongoing budgetary savings.

Specifically, the LAO recommends the Legislature instead use $1.7 billion to reverse the fee-for-service (FSS) Medi-Cal deferral ($300 million) and use the remaining $1.4 billion to build more reserves, which could generate investment returns for the state. In FSS, the state makes weekly payments directly to health care providers. Deferred payments in Med-Cal means that managed care plans and some health care providers face a gap in payments at the end of the state fiscal years, and entities must arrange their finances to cover this gap. Entities that receive a high percentage of their total revenue from Medi-Cal, small entities with fewer resources, or entities that receive most of their Medi-Cal payments through the FSS are the most impacted by this deferral. Some specific examples are rural hospitals with a high amount of Medi-Cal patients, and providers of family planning services, such as Planned Parenthood.

Staff Recommendation. Hold Open.

7350 DEPARTMENT OF INDUSTRIAL RELATIONS

Issue 19: Domestic Workers Outreach (Informational)

Background

In 1938, the U.S. Congress enacted the Fair Labor Standards Act introducing the forty-hour work week and establishing minimum wage and overtime protections for workers, with some exceptions including domestic workers and farmworkers. "Domestic workers" or "household workers" are generally comprised of housekeepers, nannies and caregivers of children and others, including the disabled and elderly, who work in private households to care for the health, safety and well-being of those under their care. According to a University of California, Los Angeles Labor Center report, 16 percent of all households in the state hire for housecleaning, childcare or homecare support, with as many as two million households in California hire domestic workers. About two-thirds reside in Southern California, 26 percent in the Northern California and 11 percent in Central California. Based on labor market information from the EDD, the report finds that by 2022, the number of personal care aides in California will increase by 52 percent to over half a million workers.

AB 241 (Ammiano), Chapter 374, Statutes of 2013. Until very recently, domestic workers in California were excluded from the employer requirement of overtime for hours worked beyond the state minimum of eight hours a day or 40 hours a week. AB 241 enacted the Domestic Worker Bill of Rights extending overtime compensation rights to domestic workers who are personal attendants after nine hours of work in one day and 45 hours a week. The provisions of AB 241 included a sunset date of January 1, 2017. SB 1015 (Leyva), Chapter 315, Statutes of 2016 repealed the sunset date making these provisions permanent.

AB 2314 (Ting, Gonzalez Fletcher). In 2018, Governor Brown vetoed AB 2314 (Ting, Gonzalez Fletcher), sought to require the Division of Labor Standards Enforcement (DLSE), upon appropriation of funds, to create the Domestic Work Enforcement Pilot Program for the provision of resources, education, and training regarding labor standards in the domestic work industry for both employees and employers. The Assembly Appropriations Committee reported that the bill would have one-time costs of up to $2.6 million and ongoing costs of to $2.2 million for DLSE. Major cost drivers include additional staff for training and outreach, the establishment of an online resources hub and dedicated telephone helpline, additional worksite inspections, and a possible increase in wage and retaliation claims.

The Governor's veto message states, "This bill would create a Domestic Work Enforcement Pilot Program in an effort to provide resources, education and training regarding labor standards in the domestic work industry for both employees and employers.

The author of this measure added a provision to the 2018-19 Budget Act that requires the DLSE to provide a report, by July 1, 2019, on the labor enforcement actions that have been taken by the Division to date, what barriers exist that may prevent greater enforcement, and to provide recommendations on improving employer compliance through outreach and education. Given the wide variety of domestic work and the sparse information available, I believe the legislature should wait for the findings of this report, and then conduct thorough and thoughtful hearings on how families can take care of their loved ones in a fair and affordable manner.

Keeping a family member out of a nursing home and in a place where they have lived for years is a profoundly moral and social good. I urge the legislature to tread carefully when adding more enforcement rules or costly mandates on ordinary families trying to do their best for their infirmed or aging loved ones."

2018-19 Budget Act. As noted in Governor Brown's veto message, the 2018-19 require DLSE to submit a report by July 1, 2019, on labor law enforcement in the domestic worker industry, as specified. In preparing the report, the DLSE is required to incorporate expertise, feedback, and comments from domestic workers' employers and from domestic worker employee representatives.

Partial Preliminary Report. DIR provided staff with a partial preliminary report. The report notes that there are about 545,940 formal, direct caregivers in 2017, of whom 25,180 were home health aides. DLSE conducted a statewide review of 2016, 2017 and 2018 claims received to date that were attributed to domestic workers. The statewide median annual salary for personal care aides is $26,220 ($11.41 per hour) and $31,610 ($13.06 per hour) for home care aides. Workers reported an average hourly wage of $13.64, and the median was $11.50. Nearly a quarter of claimants who reported their wage received an hourly wage between $10-$11 and one in five claimants were paid less than $10 per hour.

Between 2016 and 2018, there was an increase in the number of wage claims filed with the Labor Commissioner by domestic workers. In total, 798 wage claims met the criteria to be reviewed for purposes of evaluating filings submitted by domestic workers. DIR notes that limited number suggests findings should be interpreted with caution and are not necessarily generalizable to all domestic workers. Over a third of cases with reported outcomes were settled. One in five were abandoned by the claimant and 16 percent failed to appear for their case. An average $4,337 was awarded to claimants who filed wage claims from 2016 to 2018.

DIR notes that there are logistical and jurisdictional barriers for enforcement. For example an employer/client's home is the place of employment. The DLSE Bureau of Field Enforcement (BOFE) would not enter the employer/client's home for investigation, but instead set up an Order to Appear (OTA). Additionally, a worker may fear of loss of job and/or benefits such as room and board. Moreover, there are legal complexities, and case laws that impact this group of workers and employers need to be clarified.

Budget Request. The California Domestic Workers Coalition requests $5 million General Fund ongoing to establish the Domestic Work Industry Rights Education and Outreach Program at DLSE to increase awareness and enforcement.

Staff Recommendation. None. This is an informational item.

7300 AGRICULTURAL LABOR RELATIONS BOARD

Issue 20: Continued Funding for the Agricultural Labor Relations Board

Governor's Budget Proposal

To address workload since fiscal year 2015-16, the ALRB, Office of the Board is requesting $593,000 General Fund to convert 2.5 limited-term positions to permanent. The Office of the Board (Board) requests permanent funding of $593,000 General Fund for existing limited-term positions: 1.5 Hearing Officer II positions and one Attorney IV position. These positions have been limited-term for four years and the workload for these positions has not decreased. ALRB's objective is to resolve legal matters in a proactive and timely manner for our stakeholders and thereby advance the policies of the Agricultural Labor Relations Act. The request for permanent funding will provide the Board with resources to continue to achieve that objective and ALRB's mission.

The 1.5 hearing Officer II positions have allowed the Board to maintain no backlog and continue to schedule hearings within a 60 to 90 day timeframe. Prior to these resources being added in 2015-16, it took between 200 and 600 days to schedule a hearing. The Board requests a permanent augmentation for the Attorney IV position. Permanently augmenting the Attorney IV position will avoid additional legal expenditures and is the most efficient means to meet the Board's workload and provide continuity in case litigation.

Staff Recommendation. Hold Open.

7120 CALIFORNIA WORKFORCE DEVELOPMENT BOARD

Issue 21: Assembly Bill 1111 (E. Garcia), Chapter 824, Statutes of 2017

Background

AB 1111 established the Breaking Barriers to Employment Initiative for the purpose of assisting individuals who have multiple barriers to employment to receive the remedial education and work readiness skills to help them to successfully participate in training, apprenticeship, or employment opportunities that will lead to self-sufficiency and economic stability.

This grant targets a broad array of populations, which includes: (1) youths who are disconnected from the education system or employment, (2) women seeking training or education to move into nontraditional fields of employment, (3) displaced workers and long-term unemployed, (4) unskilled or under-skilled, low-wage workers, (5) persons for whom English is not their primary language, (6) economically disadvantaged persons, (7) CalWORKs participants, (8) persons who are incarcerated and soon to be released or formerly incarcerated, (9) armed services veterans, (10) Native Americans, (11) migrants or seasonal farmworkers, (12) persons with developmental or other disabilities, (13) immigrants, and (14) persons over 50 years of age who need retraining for in-demand skills, among others.

AB 1111 funds are to supplement and not supplant state or federal funding for programs. This grant is eligible for a broad array of activities, which includes: (1) English language improvement training, (2) basic skills and adult education, (3) high school diploma and General Education Development (GED) acquisition, (4) skills and vocational training that aligns with regional labor market needs identified as part of the California Workforce Innovation and Opportunity Act regional planning process, (5) work experience, (6) on-the-job training, (7) stipends for trainees, (8) earn and learn training, (9) Industry certifications, (10) preapprenticeship, and (11) mentoring, among others.

The Assembly Floor Analysis for the final version of the bill (September 8, 2017), stated that the bill would result in an unknown cost pressure to fund a grant program. State administrative costs would depend upon the size of the grant program. For illustrative purposes, the analysis states that for a future appropriation of $10 million, the grant will incur administrative costs of approximately $430,000. In addition, the EDD generally serves as the fiscal agent for grant programs managed by CWDB. EDD's administrative costs are generally five to ten percent of grant funding. However, its costs can vary considerably depending on 1) the total amount of grant funding available, 2) the number of grants awarded, 3) the number of funding rounds, 4) legal challenges, and 5) the complexity of reporting requirements. Thus, based on a $10 million appropriation, EDD's costs would be up to $1 million.

The Department of Finance legislative analysis for AB 1111 is not publically available.

The 2018-19 budget act provided $15 million one-time General Fund for AB 1111 and funds are available for encumbrance or expenditure until June 30, 2020, and for liquidation until June 30, 2022. The budget bill also capped state operations and administrative expenditures to five percent or $750,000.

Governor's Budget Proposal

The Governor requests six positions (one staff services manager I, one research analyst II, and four associate governmental program analysts) and redirection of $914,000 General Fund in 2019-20, and $1.2 million in 2020-21 and 2021-22 to administer and oversee the AB 1111 grant. This results in a total of $3.3 million or 22 percent redirection from the $15 million grant that was approved in the 2018-19 budget.

CWDB notes that they plan to provide assistance to grantees and work closely with grantees through the life of the grant. They plan to provide frequent project check-ins, resolve issues, and offer technical support. Managers and analysts will develop community of practice for each program to build support network for grantees to learn from each other through meetings, webinars, and conference calls. Program managers oversee the development of materials from policy briefs to best practices, highlighting solutions.

Staff Comments

The Governor's request for administrative and technical support is significantly larger than what was contemplated in the 2018-19 budget act and the appropriations committee analysis. The Legislature may wish to consider whether or not this is the appropriate amount of funding for this purpose.

Staff Recommendation. Hold Open

7100 EMPLOYMENT DEVELOPMENT DEPARTMENT

Issue 22: Paid Family Leave

Background

State Disability Insurance Program. Established in 1946, the California State Disability Insurance (SDI) program provides short-term Disability Insurance (DI) wage replacement benefits to eligible workers who need time off work. SDI provides California workers, including private sector employees and some specified state employees whose bargaining units have elected to participate in the program, with partial wage replacement benefits in the event they are unable to work due to the employee's own non-work-related illness, injury, or pregnancy, for up to 52 weeks. In 2014, paid family leave (PFL) was added to the SDI program. Approximately 18.7 million California workers are covered by the SDI program.

Existing law requires employers to inform their employees of SDI benefits, and requires coverage for employees working for employers with payrolls in excess of $100 in a calendar year. There are a few exceptions, specifically for some domestic workers, some governmental employees, employees of interstate railroads, employees of some non-profit agencies, and individuals claiming religious exemption.

DI and PFL provide weekly benefit amounts of approximately 60 to 70 percent of wages earned five to 18 months prior to the employee's claim start date. Depending on the employee's salary, they may receive up to a maximum of $1,252 per week for 2019.

The SDI is funded through employee payroll deductions based on a statutory formula. For 2019, the payroll withholding rate for 2019 is one percent with a maximum taxable wage limit of $118,371 per employee, and the maximum to withhold for each employee is $1,183.71. Existing law specifies the maximum payroll withholding rate at 1.5 percent.

In the 1980s, an advisory committee comprised of labor and employer representatives worked with EDD and independent actuaries on recommendations to maintain a stable and prudent reserve for SDI. The committee recommended that a DI fund balance ranging from 25 percent to 50 percent of the prior 12 months of disbursements is generally considered adequate to maintain solvency through typical fluctuations in contributions and disbursements. The adequacy rate is adjusted based on a statutory formula. The DI Fund adequacy rate, which is the end of calendar year fund balance as a percentage of calendar year disbursements, was 49 percent for 2017, and is projected to be 47 percent in 2018, 43 percent for 2019, and 54 percent for 2020.

The EDD's October 2018 DI Fund Forecast notes that, at the end of 2017, the DI Fund balance was $3.1 billion, and it is projected to be $3.4 billion at the end of 2018, $3.4 billion at the end of 2019, and $4.6 billion at the end of 2020 after payment of benefits.

In 2017, the total SDI net benefits, including PFL, were $6 billion, and they are projected to increase to $6.9 billion in 2018, $7.6 billion in 2019, and $8.1 billion in 2020. Net benefits for PFL were $779.1 million in 2017, and they are projected to increase to $1 billion in 2018, $1.1 billion in 2019, and $1.2

billion in 2020. The projected increases in net benefits are primarily due to projected increases in SDI claims paid and the average weekly benefit amount.

Disability Insurance. DI provides eligible workers with benefits for non-work related illness or injury, which includes physical or mental illness, surgery, pregnancy, childbirth or other related medical conditions. In order to be eligible for DI, the employee must: (1) be unable to do their regular or customary work for at least eight days, (2) be under the care and treatment of a licensed physician/practitioner within the first eight days of their disability, (3) have lost wages because of the disability, (4) have a physician complete the medical certification of the disability claim, (5) earned at least $300 from which the SDI deductions were withheld during the base period, and (6) be either working or looking for work at the time the disability begins.

Additionally, a pregnant person may receive disability insurance for a normal pregnancy up to four weeks before the expected delivery date, and up to six weeks for a normal delivery, or eight weeks for cesarean section, after the delivery.

DI benefits are payable for a maximum of 52 weeks. For claims beginning on or after January 1, 2019, weekly benefits range from $50 to a maximum of $1,252. The weekly benefit amount is approximately 60 to 70 percent (depending on income) of wages earned five to 18 months prior to the claim start date. The average weekly benefit amount in 2017, not including PFL, was approximately $540, and in 2018 it was approximately $586. A person may not be eligible to receive DI if they are receiving benefits from another EDD benefit program.

Paid Family Leave (PFL). Senate Bill 1661 (Kuehl), Chapter 901, Statutes of 2002, created PFL, which began on January 1, 2004. Subsequent legislation, SB 727 (Kuehl), Chapter 797, Statutes of 2003, and SB 770 (Jackson), Chapter 350, Statutes of 2013, expanded the program to allow for care of specified relatives.

PFL is a component of the SDI program, which provides eligible employees with up to six weeks of partial wage replacement benefits, approximately 60 to 70 percent of lost wages, to care for a seriously ill child, spouse or registered domestic partner, parent, siblings, grandparents, grandchildren, and parents-in-law, or to bond with a child within one year of birth, adoption or foster care placement. PFL is funded through employee payroll deductions described above. PFL does not provide job protection or return to work rights, nor does it require continued group health coverage during leave. The average weekly benefit amount in 2017 was $599, with approximately 245,000 first claims paid. In 2018 it was $661, with approximately 279,000 first claims paid.

New mothers after their pregnancy-related DI claim ends, new mothers who did not previously have a pregnancy-related DI claim, fathers when their baby enters the household, and new parents of foster or adopted children, are eligible for PFL bonding claims. Additionally, the length of time a claimant worked in their current job does not impact PFL eligibility.

Employers may require that employees take up to two weeks of earned unused vacation when using PFL; however, existing law prohibits employers from requiring employees to use sick leave. Employees may be able to take unused sick leave and receive PFL benefits at the same time, but the combined benefits cannot exceed 100 percent of regular earnings or the PFL benefits will be reduced by the amount of sick leave wages received.

Other Programs for Family and Medical Leave

California Family Rights Act (CFRA) and the federal Family and Medical Leave Act (FMLA). CFRA and the federal FMLA provide eligible employees of covered employers (those with 50 or more employees) up to 12 workweeks of unpaid job-protected leave during a 12 month period, for specified family and medical reasons, including time to bond with a new child through birth, adoption or foster care placement, among others. Additionally, the CFRA and FMLA require continued group health insurance coverage under the same terms and conditions as if the employee had not taken leave. CFRA and FMLA are required to be taken concurrently.

New Parent Leave Act (NPLA). Senate Bill 63 (Jackson), Chapter 686, Statutes of 2017, requires employers with 20 or more employees to provide eligible employees with up to 12 weeks of unpaid job-protected parental leave to bond with a new child within one year of the child's birth, adoption, or foster care placement, with continued health coverage during the duration of the parental leave.

Pregnancy Disability Leave (PDL). Under the Fair Employment and Housing Act, PDL requires private employers with five or more employees and public employers to provide up to four months of unpaid, job-protected leave for pregnancy, childbirth or related conditions. Employees may use accrued vacation and paid sick leave during PDL, and are entitled to reasonable accommodations and reinstatement to the job held before PDL began. Employers are required to continue health coverage during PDL.

State Employees. Non-industrial disability leave (NDI) covers state-excluded employees, career executive officers, legislative employees, and specified rank-and-file employees according to their memorandum of understanding (MOUs), who are disabled and unable to work due to a non-work related injury or illness, including disability due to pregnancy or childbirth. There are no employee contributions, enrollment fees, or medical examinations required for coverage. NDI entitles employees to up to twenty-six weeks of leave with partial pay. If an employee is enrolled in the Annual Leave program, which replaces traditional sick and vacation leave with an annual leave pool, up to 50 percent of the employee's gross pay is covered. If the employee is not enrolled in an Annual Leave Program, they may receive up to $135 per week. NDI is paid for by the employer and does not offer a paid family leave program. Bargaining units not covered by the NDI are eligible to receive SDI.

Disability Insurance Elective Coverage Program. Created in 1962, the Disability Insurance Elective Coverage program (DIEC) is a voluntary program that permits small business owners, entrepreneurs, and self-employed individuals who make up a large portion of companies doing business in California, and individuals who are not covered by the SDI program to elect to pay into disability insurance, and requires participants to remain in the program for two complete calendar years unless they meet specified early termination criteria.

Voluntary Plans. Existing law allows an employer or a majority of employees to apply to the EDD for approval of a Voluntary Plan (VP) for the payment of DI and PFL benefits in place of mandatory SDI coverage. A VP must provide all the benefits of SDI, at least one benefit that is better than SDI, and it cannot cost employees more than SDI. To be approved for a VP, the employer must post a security deposit with the EDD to guarantee that it meets all obligations of the VP.

Below is a summary of some of California's leave policies and their requirements.

	CFRA/FMLA	PFL	DI	NPLA
Job Protection	Yes	No	No	Yes
Employers Covered	50 or more employees in 75 mile radius of worksite.	One or more (employee pays, employee receives).	One or more (employee pays, employee receives).	20 or more employees within 75 miles.
Employee Eligibility	Worked 1,250 hours in prior 12 months.	Employee earned $300 in base period for fund contribution, and subject to SDI tax contribution.	Working or looking for work at the time disability begins. Employee earned $300 in base period for fund contribution, and subject to SDI tax contribution.	Worked 1,250 hours in prior 12 months.
Reason for Leave	Employee serious health condition; seriously ill family member care; bond with newborn or newly placed adopted or foster child.	Care for seriously ill family member; bond with a child within one year of birth, foster care or adoption placement.	Non-work related illness or injury, including physical or mental illness, surgery, pregnancy, child birth, or other medical related conditions.	Bond with a child within 1 year of birth, adoption or foster care placement.
Length of Leave	12 weeks in 12-month period.	6 weeks in 12-month period. Employers may require employees take up to two weeks of earned unused vacation leave.	Provides up to 52 weeks of paid benefits when taking time off work for your own non-work-related illness, injury, or pregnancy. DI provides 4 weeks before the expected delivery date, 6 weeks for normal delivery, and 8 weeks for a cesarean section after delivery.	Up to 12 weeks.
Paid or Unpaid	Unpaid, may run concurrent with other paid leave.	Partial wage replacement.	Partial wage replacement.	Unpaid, employee can use vacation, paid sick time.
Continued Health Coverage	Yes	No	No	Yes

Governor's Budget Proposal

The Administration proposes to expand the PFL program to allow a child to receive six months of bonding time to be split between parents or close relative. In the short-term, the Administration proposes to adjust the reserve requirement for the DI fund, which supports the PFL program. The Administration also proposes to convene a task force to consider options to phase-in and expand the program, to increase program participation among eligible workers, and to align with existing worker protections and non-retaliation protections.

As of writing this agenda, staff has not received additional detail or trailer bill language regarding the Governor's proposal.

Staff Comments

Over the last several years, the state has invested funding to increase outreach and participation in the PFL program. Specifically, the 2014-15 budget provided $1 million from the Unemployment Compensation DI Fund to begin a three-year plan for the EDD to administer a PFL outreach campaign. In addition, the 2014-15 budget included supplemental reporting language requiring the EDD to report on the type of, and effectiveness of, outreach activities. In 2015-16, the budget provided an increase of $2.5 million to administer the PFL outreach campaign. Staff has not received updated information regarding the uses of these funds or their outcomes. In 2016-17, the budget included a one-time augmentation of $5 million from the Unemployment Compensation DI Fund, along with a one-time augmentation of $629,000 in 2017-18, to support the costs incurred as a result of AB 908 (Gomez), Chapter 5, Statutes of 2016. This legislation increased the wage replacement rate for the PFL program from 55 percent to 60 to 70 percent depending on a person's wages, and removes the one week PFL wait time. AB 908 set to sunset on January 1, 2022.

The EDD report, *Paid Family Leave Market Research*, released on December 14, 2015, conducted market research to assess awareness levels and to identify the motivators behind an individual's choice to use the PFL program or not. The report found awareness of the program is generally low across most populations, with users having difficulty ascertaining eligibility, challenges with the application process, and the lack of job protection and full wage replacement as important considerations.

Program Awareness. In 2015, the California Center for Research on Women and Families conducted a field poll which found that only 36 percent of voters were aware of the PFL program. Additionally, the US Department of Labor report, *California Paid Family Leave Law: Lessons from the First Decade*, found that individuals who were unaware of the program were most likely to have the greatest need, such as younger parents, people of color, or individuals with less education or low-incomes.

PFL Program Participation. In 2014, the EDD released a report, *Paid Family Leave: Ten Years of Assisting Californians in Need*, which found that during 2004-05 to 2012-13, the number of PFL claims increased by 43.4 percent (from approximately 150,500 to 215,800 claims), and claims filed by males increased by 400 percent (from approximately 12,800 to 65,500 claims).

EDD notes that approximately 87 to 89 percent of PFL claims from 2014 to 2018 were for bonding, while 11 to 13 percent were for care claims. In 2014, 99 percent of bonding claims were made by biological parents, and 27 percent of all PFL claims were made by biological fathers. The 2014 report found that while 6,000 to 8,000 children are adopted annually in California, only 548 PFL bonding claims were made in 2014 for adoptions. Participation rates for foster parents were even lower, with 698 bonding claims for approximately 36,000 children entering into foster care (two percent).

<u>Participation by Geography.</u> The *PFL Research* report notes that "biological mothers claiming benefits are focused in densely populated counties, specifically coastal southern California and the Bay Area." These compare to the areas that constituted highest percentage of PFL eligible births, although some substantial gaps emerged. The San Francisco Bay Area, especially the east and south bay, have slightly higher PFL usage than the rest of the state. Los Angeles and Fresno County have the lowest rate of use, with inland southern California also having low use. According to the report, this correlates with awareness levels. The utilization gap for biological fathers shows that Los Angeles, Orange and San Diego counties have the lowest utilization rate.

<u>Participation by Income.</u> The *PFL Market Research* report also notes that in 2014, 47 percent of female bonding claimants earned less than $36,000. Conversely, men tended to be from higher income groups with 60 percent of claimants earning over $36,000.

However, based on 2013 data, among lower income groups for women earning $12,000 to $24,000 and less than $12,000, the participation rate was 55 percent, and less than ten percent, respectively. Additionally, for mothers making $48,001 to $60,000, the participation rate was 50 percent, whereas higher income group participation was 70 to 85 percent.

The Legislature may wish to consider why these geographic disparities exist, and if additional outreach is needed to increase participation in Los Angeles, Fresno and inland southern California. Additionally, the Legislature may wish to consider additional outreach and education to adoptive parents and foster parents, as well as men and lower income groups, to increase participation.

Other States' Paid Family Leave Programs. In addition to California, New Jersey, New York, Massachusetts, and Rhode Island currently provide paid family leave. In February 2017, Washington D.C. enacted a paid family leave program that will take effect on July 1, 2020. In July 2017, the State of Washington created a paid family leave program; however, benefit payments will start in 2020. In 2018, Massachusetts created a paid family leave program, with premiums to begin in July 2019, and benefits to begin in January 2021.

Similar to California, the paid leave programs in New Jersey, New York, and Rhode Island are administered through pre-existing temporary disability insurance programs and funded via employee payroll deductions. Washington D.C. created a Universal Paid Leave Implementation Fund that will receive funding from a payroll tax on employees of covered employers and self-employed individuals who opt into the program. Washington created a similar family and medical leave insurance account in the state treasurer's office. The chart on the following page provides a brief summary of paid family leave programs in other states.

	Reason for Leave	Length of Leave	Weekly Benefit Amount
Massachusetts	Bonding with new child, or care for self or family member with serious health condition.	12 weeks for family leave, 26 weeks for caring for a covered service member, 20 weeks for own serious health condition. No more than 26 weeks total per year for combined family and medical leave.	The maximum weekly benefit is $850 in the program's first year, and will be adjusted annually to an amount equaling 64 percent of the state average weekly wage.
New Jersey	Disability, or care for new child, or family member with serious health condition.	26 weeks for disability, or six weeks for family care.	Benefits are 66 percent of a worker's average weekly wage, with a maximum benefit of $637 in 2018.
New York	Bonding with new child, or care for family member with serious health condition.	For family leave, eight weeks in 2018, increasing to 10 weeks in 2019 and 12 weeks in 2021.	Wage replacement rates are scheduled to be 50 percent in 2018, 55 percent in 2019, 60 percent in 2020, and 67 percent in 2021, up to a specified amount based on a formula.
Rhode Island	Bonding with new child, or are for family member with serious health condition.	Four weeks for family leave.	Up to $831 per week for claims effective January 1, 2018 or later.
Washington	Bonding with new child, or are for family member with serious health condition.	12 weeks for family leave, with a maximum of 16 weeks combined for own serious health condition and family leave. Benefits may be extended by two additional weeks due to pregnancy.	The maximum weekly benefit is $1,000 in the program's first year, and will be adjusted annually to an amount equaling 90 percent of the state average weekly wage.
Washington DC	Bonding with new child, or are for self or family member with serious health condition.	Eight weeks for parental leave, six weeks for family care, two weeks for own serious health condition. No more than eight weeks total per year combined.	Starting in 2020, the maximum benefit will be $1,000 per week.

San Francisco Paid Family Leave Ordinance. In 2016, the San Francisco Board of Supervisors passed the Paid Parental Leave Ordinance (PPLO), which requires employers to provide supplemental compensation to employees who are receiving PFL for purposes of bonding with a new child through birth, adoption, or foster care placement. Covered employers are required to provide supplemental compensation so that the combined PFL compensation and PPLO supplemental compensation is equal to 100 percent of their gross weekly wage. The 2019 PPLO cap is $2,087 per week for a maximum of six weeks of parental bonding leave.

This program was phased in over a two year period. Specifically, employers with 50 or more employees must comply with the ordinance by January 1, 2017, employers with 35 or more employees by July 1, 2017, and employers with 20 or more employees by January 1, 2018. Employers may require employee to use up to two weeks of accrued, unused vacation to cover supplemental compensation payments.

In order to be eligible for the PPLO, an employee must work at least 180 days prior to the start of a leave period with the specified employer, work at least eight hours of work per week for the employer in San Francisco, and at least 40 percent of those total weekly hours worked for the employer in San Francisco.

Wage Replacement Rate. The *PFL Market Research* report found that both low-income and higher income workers cited the wage replacement rate as a key limitation on using PFL. This is particularly pronounced in potential lower income users, who use PFL at lower rates. The contractors who completed the report conducted a survey of workers, and found that low income workers stated that it was difficult to make ends meet with partial wages. Higher income workers felt similar to low income earners; however, they reported that their employers had policies in place, such as use of vacation and sick time, that could provide alternatives to PFL or be used in conjunction to the PFL program.

Assembly Bill 908 increased the wage replacement rate from 55 percent to 60 to 70 percent depending on a person's wages, and removed the one week PFL wait time. AB 908, is however, set to sunset on January 1, 2022. AB 908 requires the EDD to report to the Legislature by March 1, 2021, on the utilization of SDI and PFL benefits based on income categories, the cost of the increased wage replacement rates, and the SDI contribution rates. The Legislature may wish to request a preliminary report on the impact of AB 908, which may help inform budget conversations this year, as the Legislature considers the Administration's proposal.

Additionally, the Legislature may wish to consider if the current wage replacement rate is appropriate to increase participation in the PFL, or if it is an adequate amount for people to make ends meet. Should the Legislature wish to increase the wage replacement rate, it may wish to consider various mechanisms to fund the program. As noted previously, the program is currently funded solely from employee contributions; however, the Legislature may wish to increase the employee contributions or to have employers make contributions, similar to New Jersey.

Lastly, the Administration's proposal provides six months of bonding time per child to be split between parents; however, it is unclear what the wage replacement structure is under the proposal.

Job Protection. The focus groups and stakeholders also noted job protection as an important consideration when deciding to take leave. As noted previously, PFL does not provide job protection; however, an employee may be eligible for job protection under the FMLA/CFRA or the NPLA. These various laws may be confusing for a consumer to navigate and to determine under which laws they are protected. Specifically, the CFRA/FMLA is only applicable to employers with 50 or more employees, whereas the NPLA is only applicable to employers of 20 or more employees. However, the PFL is available to workers who pay into the DI system. The Legislature may wish to consider making the system easier for consumers to navigate, and whether the state should expand job protection to all employees who seek to take leave regardless of the number of employees an employer has.

Task Force. As noted previously, the Governor's budget proposes to expand the PFL by increasing child bonding leave for a parent or close relative to up to six months. The Administration also proposes to convene a task force to consider options to phase-in and expand the program, to increase program participation among eligible workers, and to align with existing worker protections and non-retaliation protections. As of the writing of this analysis, trailer bill language detailing these changes has not been released, nor are there additional details regarding the proposal.

Technology Infrastructure. In 2016-17, the state approved the modernization of EDD's benefit systems, or the Benefits Modernization Project (BSM). Currently, the information technology associated with the unemployment insurance, DI, and PFL programs are independent and not integrated, and rely on an aging main frame that is difficult and expensive to maintain. Additionally, each programs' databases reside in different platforms, and there is inconsistency for EDD customers across programs. EDD notes that the PFL system has not been modernized since being implemented in 2004. The goal of the BSM project is to create one benefit system to automate many UI, DI and PFL claims that are currently handled manually, as well as to make systems easier to update. The project is currently on stage three out of the four stages of the Project Approval Lifecycle (PAL) process, which conducts a procurement analysis and develops solution requirements and a solicitation policy.

The Legislature may wish to consider the impact of the Governor's proposal on the BSM project, and whether or not this would constitute a substantive change that would cause the PAL process to start over. As proposed, a child would receive six months of bonding time split between the parents; however, the current benefit system is not structured based on a child, but instead focused on each parental claim. Additionally, it took 18 months for EDD to implement changes to the benefit system associated with AB 908, which was largely within the existing framework of PFL. Implementing the changes associated with the Governor's proposal could further delay the BSM project.

Staff Recommendation. Hold Open.