

SUBCOMMITTEE NO. 4

Agenda

Senator Richard D. Roth, Chair
Senator Steven M. Glazer
Senator Janet Nguyen
Senator Richard Pan



Thursday, April 28, 2016
9:30 a.m. or upon adjournment of session
State Capitol - Room 2040

Consultant: Farra Bracht

Part B

VOTE-ONLY ISSUES

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Public Comment

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling (916) 651-1505. Requests should be made one week in advance whenever possible.

Issues Proposed for Vote-Only

Staff Recommendation: Approve all of the following vote-only issues as budgeted.

2400 DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (HCD)

Issue 1: Community Development Block Grant-National Disaster Resiliency Competition (April Finance Letter)

The Administration requests \$422,000 in federal state operations budget authority and one position through 2020-21 to administer the federal Community Development Block Grant Program for National Disaster Resiliency funding. The requested position and funding for an external consultant will enable HCD and partner agencies to carry out projects awarded to California under the National Disaster Resiliency competition. California received over \$70 million from the US Department of Housing and Urban Development for this grant program for disaster recovery and resiliency work related to the 2013 Rim Fire. The grant funding will be used to address resiliency needs in Tuolumne County in three areas: 1) forest and watershed health; 2) integrated biomass and wood products facility, and 3) community resilience center. HCD will administer the award through the local government in Tuolumne County and the Sierra Nevada Conservancy.

Issue 2: Affordable Housing and Sustainable Communities Program Administration (April Finance Letter)

The Administration requests an increase of 11 positions to continue the administration of the Affordable Housing and Sustainable Communities (AHSC) program. These positions (along with 11 currently established positions) will award and administer approximately \$320 million in 2016-17 in competitively awarded loans and grants for integrated housing and transportation projects. Future funding rounds will likely be similarly sized given that AHSC receives 20 percent of all cap-and-trade proceeds as a continuous appropriation. The cap-and-trade program, a key element in the Administration's plan to reduce greenhouse gas (GHG) emissions to 1990 levels by the end of this decade, sets a statewide limit on the sources of greenhouse gases and establishes a financial incentive for long-term investments in cleaner fuels and more efficient energy use. Subsequent to the passage of AB 32, (Núñez and Pavley), Chapter 488, Statutes of 2006, the Legislature passed several bills related to the reduction of GHGs. The AHSC program at SGC was established to further the purposes of AB 32 and SB 375 (Steinberg), Chapter 728, Statutes of 2008, by investing in projects that reduce GHG emissions by supporting more compact, infill development patterns, encouraging active transportation and transit usage, and protecting agricultural land from sprawl development.

0650 OFFICE OF PLANNING AND RESEARCH**Issue 1: State Board of Education Workload Funding (Conforming Action)**

The Governor's budget provides \$1.4 million in non-Proposition 98 General Fund over three years (\$548,000 in 2016-17, \$572,000 in 2017-18, and \$304,000 in 2018-19) to the Office of Planning and Research to support the State Board of Education's (SBE) work on local control and accountability plans (LCAP) and state accountability. This funding will continue to support limited-term positions for the SBE to continue workload related to the developing accountability system. This issue was heard in the Senate Budget and Fiscal Review Subcommittee No.1 on Education on April 21, 2016. The subcommittee heard and approved this issue.

Issues Proposed for Discussion and Vote

1700 DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

Issue 1: Enforcement Staffing and Resources (previously heard on March 3, 2016)

Governor's Proposal: The Governor's budget requests an increase of \$2.5 million General Fund for 28 positions to provide investigations of discrimination complaints. This funding would provide:

- 24 positions in the Enforcement Division to investigate claims.
- Two positions to establish a training unit.
- Two positions to respond to an increased number of Public Records Act requests.

Background: The Department of Fair Employment and Housing (DFEH) is responsible for protecting the people of California from unlawful discrimination in employment, housing, and public accommodations, and from hate violence. DFEH receives, investigates, conciliates, mediates, and prosecutes complaints of alleged violations of the Fair Employment and Housing Act (FEHA), Unruh Civil Rights Act, Disabled Persons Act, and Ralph Civil Rights Act. The budget proposes expenditures of \$25.9 million (\$20.2 million from the General Fund and \$5.7 million federal funds) for support of the department in 2016-17. This represents an increase of \$2.7 million (11 percent) over estimated current-year expenditures.

DFEH receives approximately 23,000 employment and housing discrimination complaints annually and is required to investigate all complaints. Most of these are employment complaints. Approximately 50 percent of the claims are requests for "right to sue". This occurs when complainants decide to immediately sue rather than proceed through DFEH's investigation process and a "right to sue" letter from DFEH is required to file the lawsuit. The remaining 50 percent of claims are investigated by DFEH.

SB 1038, (Committee on Budget and Fiscal Review), Chapter 46, Statutes of 2012, made significant changes to DFEH's workload by eliminating the Fair Employment and Housing Commission and transferring the duties of the commission to DFEH. As a result, some of the staff used to conduct investigations was transferred to other functions and the number of cases each investigator was responsible for increased significantly, from roughly 150 cases per investigator to over 200. According to DFEH, this high of a caseload-per-investigator is unmanageable and is resulting in complaints not being processed in a timely manner, which can have negative consequences for Californians in some cases. DFEH notes that federal departments with similar workloads average about 35-70 cases per investigator and it also used caseload information from the California Department of Industrial Relations, Division of Labor Standards Enforcement as a benchmark.

The figure below shows the total number of cases/complaints received, the number investigated, the number of investigator positions authorized and filled, and the average number of cases per investigator since 2006-07.

**Department of Fair Employment and Housing
Investigator Caseloads
2006-07 through 2015-16**

	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16
Total Cases	21,454	24,827	25,119	22,993	22,720	21,785	17,178	19,403	22,646	22,646
Cases Investigated	13,504	15,506	14,563	11,840	11,473	9,772	9,421	8,646	11,675	11,675
Authorized Investigator Positions	96	106	107	102	99	95	82	76	70	59
Filled Investigator Positions	87.7	98	92.8	85.5	73.9	64.2	58	53	47	51
Average Cases per Investigator	154	158.2	156.9	138.5	155.2	152.2	162.4	163.1	248.4	228.9

As shown in this figure, the number of cases received and investigated has remained relatively flat over the time period; however, the number of investigator positions has declined, and the average number of cases per investigator has increased. While DFEH has had problems filling its vacant investigator positions, recent changes in the allowable qualifications for this job classification should help to resolve DFEH's problem with filling vacant positions.

Questions:

- 1) DFEH staff will present the department's complaint processing process, discuss the value of the right-to-sue letter, and the performance metrics that have been developed for its complaint processing process (specifically metrics for key steps in the process).

Staff Comment: DFEH has a history of problems in completing investigations within statutory time limits. The 1996 Budget Act required the state auditor to perform a comprehensive fiscal and performance audit of the department and to develop recommendations for improving administrative operations and management of complaints related to housing and discrimination. The auditor found DFEH could make changes to improve the efficiency and timeliness of its complaint processing. However, at the time, the department took issue with many of the recommendations.

Unfortunately, DFEH continues to struggle with processing complaints in a timely manner and complaints take staff about as many hours to process as they did 20 years ago. The problem has been compounded over time by a reduction in the number of staff responsible for conducting investigations.

The budget request does not provide a good justification for the number of additional staff requested or an explanation of why investigations take the amount of time they do to complete. It is clear that DFEH would benefit from having additional investigators; however, it is difficult to determine what is the appropriate level of staff. As a result, concurrent with, or prior to approving a request for additional positions, it may be useful to have the auditor again assess DFEH's 1) organizational effectiveness; 2) caseload management practices for housing and employment complaints; 3) development of workload

standards; and 4) the adequacy of DFEH's information technology (IT) systems. As an alternative to an audit, the Legislature may wish to adopt reporting language that would require DFEH to report beginning in 2017 on performance metrics. If the proposal is approved, it would be especially useful to have benchmark data to thoroughly assess the value of the additional investigative staff.

Staff Recommendation: Approve as budgeted and adopt the following placeholder supplemental reporting language:

Item 1700 001-0001—Department of Fair Employment and Housing

Employment and Housing Case Information. On or before March 1, 2019, the Department of Fair Employment and Housing shall submit a report to the Joint Legislative Budget Committee that includes the following information for each calendar year, January 1, 2017 through December 31, 2018:

- 1) Average number of days between receipt of a pre-complaint inquiry and the intake interview.
- 2) Number of cases for which the amount of time between receipt of a pre-complaint inquiry and the intake interview exceeds 30 days.
- 3) Average number of days for complaints to be served on respondents, differentiated by complaints dual-filed with the U.S. Department of Housing and Urban Development or U.S. Equal Employment Opportunity Commission and those not dual-filed.
- 4) Number of dual-filed cases not served within 10 days.
- 5) Number of non-dual-filed cases not served with 60 days.
- 6) Average number of days to close a case.
- 7) Percentage of cases closed within 100, 180, 275 and 365 days.
- 8) Number of cases rejected by the U.S. Equal Employment Opportunity Commission for payment due to quality reasons.
- 9) Number of cases remanded by the U.S. Department of Housing and Urban Development because of incomplete or inadequate investigation.
- 10) Number of cases waived to the U.S. Department of Housing and Urban Development or U.S. Equal Employment Opportunity Commission because the department identified possible merit too late to adequately investigate.
- 11) U.S. Department of Housing and Urban Development scoring of investigation quality.

Vote:

Issue 2: Replace Existing Case Management System (April Finance Letter)

Governor's Proposal: The Governor requests \$1.9 million from the General Fund, \$1.45 million from the Enforcement Litigation Fund, and three permanent positions in the budget year to replace DFEH's current case management system. The total project cost is \$6.5 million of which \$2.15 million is being redirected from existing resources. In 2017-18, the cost will be \$993,000 General Fund and in future fiscal years, \$944,000 General Fund will be ongoing.

Background: As mentioned in the previous item, DFEH receives approximately 23,000 discrimination complaints annually and is required to investigate all complaints. To process and track this massive volume of complaints, DFEH implemented a web-based case management system known as "Houdini" in May 2012. The system allows complainants and/or their representatives to file online complaints, and provides the ability to submit online Public Records Act (PRA) and right-to-sue requests.

The vendor for the current system notified DFEH that it will not renew its contract and will terminate all system support at the conclusion of the existing contract in December 2017. The lack of an automated system would require DFEH to revert to a time-consuming, laborious, paper-based process, which would hinder DFEH's effectiveness in meeting the public need and in fulfilling its statutory mandate.

DFEH is working with the California Department of Technology (CDT) and plans to procure and implement a commercial-off-the-shelf case management system that is hosted and maintained by the vendor in their cloud environment. To implement and support the new system, DFEH would need three additional staff. The new system will be supported by a combination of existing and new IT resources. New IT resources will cover the project support activities by working with the vendor to implement the replacement system, as well as the ongoing support to configure and support the CMS with added functionality that includes user account management, designing and modifying templates, configuration of business processes in the new CMS, document and content management support, external interfaces programming, online web portal, database support, report configuration, and training related activities.

Considering the project's business and technical complexity, DFEH and CDT have determined that the project also will require a data processing manager III to plan, organize, and manage the new CMS project for 12 months, from July 1, 2016 to June 30, 2017. It is anticipated that this will be a one-time cost to contract with CDT for these services.

Staff Comment: Staff has no concerns with this proposal.

Staff Recommendation. Approve as proposed.

Vote:

2240 DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**Issue 1: California Housing Loan Insurance Fund-Trailer Bill Language**

Governor's Budget Request: The Governor proposes trailer bill language to amend various Health and Safety Code sections to allow the California Housing Finance Agency (CalHFA) to (1) replace the Director of Insurance position with a Director of Enterprise Risk Management and Compliance and (2) to require the annual audit of the California Housing Loan Insurance Fund (mortgage insurance fund) to be based on agreed upon procedures.

Background: CalHFA is authorized to use the California Housing Loan Insurance Fund's (fund) assets as at-risk capital in support of mortgage insurance programs which finance the acquisition, new construction, or rehabilitation of residential structures in California. The fund insures loans made by the agency; loans made by lenders for securitization by the Federal National Mortgage Association and Federal Home Loan Mortgage Corporation; and loans made by localities, nonprofit agencies, and the California State Teachers' Retirement System.

The fund stopped insuring new housing loans in 2009 and is currently winding down. CalHFA anticipates funds (revenues from payments of existing insurance premiums) will be available to continue to pay claims through at least 2020. CalHFA indicates that the requirement to have a Director of Insurance and to complete an annual independent audit costs the fund approximately \$240,000 per year (\$170,000 for the director and about \$65,000 for audits), which reduces the number of claims the fund is able to pay. There is currently about \$45 million in the unpaid claim queue. CalHFA uses the cash it receives (about \$2.5 million in the last fiscal year and expected to be about \$2 million in the current fiscal year) to pay the next unpaid claim in the queue on a first-in-first-out basis. CalHFA has done a premium deficiency calculation for future premiums collected vs. future claims and does not expect the fund to ever have net assets.

By replacing the Director of Insurance with a Director of Enterprise Risk Management and Compliance that is funded out of the California Housing Finance Fund, would save the mortgage insurance fund approximately \$170,000 annually. Existing CalHFA staff would oversee the administrative responsibilities for winding down the fund by following existing procedures. The Director of Enterprise Risk Management and Compliance would be responsible for assisting in the implementation of processes, tools and systems to identify, assess, measure, manage, monitor, and mitigate risks related to the development of new programs or changes to existing laws or regulations that may result in new or increased risk to CalHFA. Changing the annual audit requirement to an agreed upon procedures engagement, the fund would save approximately \$35,000 annually. CalHFA indicates that this more focused approach is appropriate because the fund is no longer insuring new loans or creating new liabilities. The work resulting from the more focused approach would still be contracted out but, would cost less, roughly \$30,000 annually.

Proposed California Housing Loan Insurance Fund – Trailer Bill Language

1. Add Section 50912.5 to the Health and Safety Code

There shall be within the Agency a Director of Enterprise Risk Management and Compliance appointed by the Governor and serving at the pleasure of the executive director of the agency. The Director of Enterprise Risk Management and Compliance shall assist in the implementation of processes, tools and systems to identify, assess, measure, manage, monitor and mitigate risks related to the development of new programs or changes to existing laws or regulations that may result in new or increased risk to CalHFA, as well as any other duties as the executive director prescribes.

2. Delete Section 51618 of the Health and Safety Code

~~There shall be within the Agency a Director of Insurance of the fund, appointed by the Governor and serving at the pleasure of the executive director. The Director of Insurance of the fund shall demonstrate knowledge of, and expertise in, mortgage insurance. The Director of Insurance of the fund shall manage and conduct the business and affairs of the insurance fund under the direction and supervision of the Agency, and shall perform any other duties as the executive director prescribes.~~

3. Delete Section 51619 of the Health and Safety Code

~~The Agency may delegate to the Director of Insurance of the fund, under the resolutions of the board and subject to the conditions as it from time to time prescribes, any power, function, or duty conferred by law on the Agency in connection with the administration, management, and conduct of the business and affairs of the insurance fund. The Director of Insurance may exercise the powers and functions and perform the duties with the same force and effect as the executive director, but subject to his or her approval.~~

4. Amend Section 51622 of the Health and Safety Code

The Agency shall obtain an annual ~~audit~~ agreed upon procedures engagement of the insurance fund's books and accounts with respect to its activities under this part to be made at least once for each calendar year by an independent certified public accountant."

5. This act is a bill providing for the appropriations related to the Budget Bull within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.

Questions:

- 1) Please explain why the new position is necessary and what the proposed changes to statute would do.

Staff Comment: Staff has no concerns with the proposal.

Staff Recommendation: Approve the proposed trailer bill language.

Vote:

0650 OFFICE OF PLANNING AND RESEARCH**Issue 1: Precision Medicine Funding and Trailer Bill Language**

Governor’s Budget Request: The Governor’s budget requests \$10 million General Fund for precision medicine to build tools, applications, and platforms that integrate diverse data sets that may lead to improved health outcomes and new areas for healthcare innovation and discovery; and to establish a more dynamic asset inventory in the state. With the proposed augmentation of funding the Administration proposes to fund six new demonstration projects (\$1.2 million each) and the remaining \$2.8 million would be used to support non-demonstration project activities (asset inventory, convenings, evaluation, and other administrative activities, and at the initiative’s discretion, competitive round for finalist projects under the initial call for proposals).

The budget also proposes trailer bill language to establish the program in statute.

Background: According to the National Institutes of Health (NIH), precision medicine is an emerging approach for disease treatment and prevention that takes into account individual variability in genes, environment, and lifestyle for each person. While some advances in precision medicine have been made, the practice is not currently in use for most diseases. On January 20, 2015, President Obama announced the Precision Medicine Initiative to enable a new era of medicine in which researchers, providers and patients work together to develop individualized care.

The President called for \$215 million in fiscal year 2016 to support the initiative, which includes several components with efforts from across the federal government. Of this total proposed budget, \$130 million was allocated to NIH to build a national, large-scale research participant group, called a cohort, and \$70 million was allocated to the National Cancer Institute to lead efforts in cancer genomics. In addition, many private and public universities are researching precision medicine.

In the 2014-15 budget, the Legislature approved \$3 million General Fund for precision medicine. Approximately \$2.4 million was allocated to two demonstration projects and \$600,000 was allocated to other activities. These are described below.

- ***California Kids Cancer Comparison.*** Approximately \$1.2 million was awarded to University of California, Santa Cruz to lead the California Kids Cancer Comparison project. This project uses large scale data processing to improve the outcomes of clinical trials that are underway at UC medical centers to identify new therapies for incurable tumors. The project analyzes each patient’s tumor in the context of thousands of pediatric and adult tumors that have undergone similar characterization. The project is developing “Medbook”, a secure social network designed for medical research and medical decision support.
- ***Precision Diagnosis of Acute Infectious Disease.*** Approximately \$1.2 million was awarded to University of California, San Francisco (UCSF) to lead the first-ever demonstration of precision medicine in infectious diseases. UCSF has pioneered the use of a sequencing test called metagenomic next-generation sequencing to reveal the cause of infections that routinely elude physicians.

- **Other Activities.** OPR has developed an inventory of data, research, experts, and other resources related to precision medicine to facilitate cooperation in precision medicine research. In addition, funding (a total of \$600,000 over two years) for other activities has been provided as follows:

Precision Medicine Administrative Costs

	2015-16	2016-17
Staff (two positions)	\$220,102	\$232,508
Catering	31,500	31,500
Transportation/hotels	13,690	13,700
Website/communications	25,000	25,000
Other	3,500	3,500
Total	\$293,792	\$306,208

Governor Proposes Additional State Funding for Precision Medicine. The 2016-17 Governor's Budget proposes to make a one-time appropriation of \$10 million from the state General Fund to OPR to fund additional precision medicine research. The Administration intends for these funds to be allocated in a manner similar to the \$3 million in 2014-15, but intends to broaden its call for proposals beyond the UC campuses.

The proposal would fund six new demonstration projects of \$1.2 million each and provides \$700,000 over 2016-17 and 2017-18 to fund IT staff to further develop the asset inventory. However, based on additional information from the Administration, it is possible this \$700,000 may not be used for this purpose and may be used to fund other demonstration projects. Also, in 2016-17, an additional two positions would be funded at a total cost of \$303,973 (bringing the level of administrative funding to a total of \$609,181 in 2016-17) and in 2017-18 administrative costs would total \$596,027.

What Is the State's Role in Funding Research? California's academic and research institutions conduct a wide variety of research with the potential to improve Californians' health and wellbeing. Most of the state's research institutions, including UC, receive a majority of their direct funding for research from federal, private, and other non-state sources. The state currently does not have a framework for prioritizing the allocation of General Fund monies across various research topics. Without such a framework, it is difficult to evaluate the Governor's proposal. Factors that may be reasonable to consider include:

- Are federal resources for the research inadequate?
- Are economic incentives insufficient to spur privately-funded research?
- Could the research yield benefits that are particularly important for California?

Legislative Analyst’s Office (LAO) Comments: The LAO finds it difficult to justify allocating state funding for precision medicine research over other research areas and recommends rejection of the proposal. Below, the LAO discusses several questions left unanswered by the Governor’s proposal.

- ***What Is the Program’s Objective?*** The Administration has not articulated specific goals to be achieved with this funding. What is the state hoping to achieve by providing this funding for precision medicine research? What identifiable benefits will this research be expected to provide to the state and its residents? Without defined policy objectives, it is difficult for the Legislature to evaluate the Governor’s proposal.
- ***Why \$10 Million?*** The proposal provides insufficient information for the Legislature to judge whether \$10 million is a proper amount of state funding. How many projects are intended to be funded and at what cost? Why is federal funding inadequate? How much state funding will be used for administrative costs? Without these details, the Legislature will have difficulty evaluating the Administration’s funding request.
- ***How Will Funds Be Awarded?*** The Administration states that it intends to allocate the requested \$10 million via a process similar to the one used to allocate the prior \$3 million. The Administration, however, has not offered any statutory language to define and formalize this allocation process. In the absence of such language, the Legislature and the public cannot be confident these funds will be allocated fairly and effectively.

Staff Comments: Staff agrees with the LAO analysis and finds the use of additional state funds for researching precision medicine lacks justification.

Staff Recommendation: Reject the proposal.

Vote: