

## SUBCOMMITTEE NO. 4

## Agenda

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



Thursday, May 5, 2016  
9:30 a.m. or upon adjournment of session  
State Capitol - Room 2040

Consultant: Samantha Lui

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**ISSUES PROPOSED FOR VOTE-ONLY****1111 DEPARTMENT OF CONSUMER AFFAIRS**

The following items were discussed during the subcommittee's March 10, 2016, hearing.

**Issue 1: BCP, Board of Pharmacy – Sterile Compounding Facilities (SB 294)**

**Budget.** The Board of Pharmacy (Board) is requesting \$1.1 million (Pharmacy Board Contingent Fund, Professions and Vocations Fund) to transition 5.5 existing three-year limited-term positions to permanent in 2016-17, and ongoing, to execute statutorily mandated inspections, investigations, process license and renewal applications, handle enforcement related workload and provide support for the resident and non-resident sterile injectable compounding facilities.

**Staff Comment.** Historically, limited-term positions allow an individual to remain in a given position for up to two-years. In May 2015, the Administration submitted a letter to the Legislature, eliminating the use of limited-term positions to address short-term workload. Although the position authority is authorized until June 30, 2017, staff, under CalHR policy, would not be allowed to remain in the same position after two-years. As such, the Board is requesting to make permanent the positions to allow current staff to remain in their positions.

**Staff Recommendation.** Approve as budgeted.

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**Issue 2: BCP, Board of Pharmacy – Combatting Prescription Drug Abuse**

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**Budget.** The Board requests \$1.3 million (Pharmacy Board Contingent Fund, Professions and Vocations Fund) to transition eight existing three-year limited-term positions to permanent in 2016-17, and ongoing, to address prescription drug abuse.

**Staff Comment.** In May 2015, the Administration submitted a letter to the Legislature, eliminating the use of limited-term positions to address short-term workload. Although the position authority is authorized until June 30, 2017, staff, under CalHR policy, would not be allowed to remain in the same position after two-years. As such, the Board is requesting to make the positions permanent, allowing current staff to remain in the position, once their limited-term appointment expires.

Although the Board does not have a legislative mandate to evaluate coroner's reports, it has done so proactively and in response to media reports that found used a similar data set. The Board currently has focused its efforts in two counties to review 306 decedent's reports. Of the 16 citations the Board has issued, the Board has recovered only \$3,740 of the imposed \$15,400 amount in fines.

**Proposed Supplemental Reporting Language (SRL).** Given the Board's proactive use of coroner's reports as a means to identify possible pharmacies or pharmacists who over-prescribe medication, the subcommittee may wish to consider the following SRL to address concerns about (1) this activity not previously discussed in a policy forum; (2) learning additional information about whether this is an appropriate use of resources in respect to the number of cases that may actually be prosecuted using coroner's reports singularly.

No later than April 1, 2017, the Board of Pharmacy shall provide to the fiscal subcommittees of both houses a narrative description of the preceding year's activities related to combatting prescription drug abuse, including: the total amount of funding budgeted, allocated, and expended; the number of positions and their responsibilities; the number of cases and disposition of those cases referred to the Office of the Attorney General for prosecution that were a direct result from findings from a coroner's report; and the number of hours spent to combat prescription drug abuse, including separately identifying the total number hours spent reviewing coroner reports and submitting public records act requests for such information. The Legislature declares its intent to limit the Board's use of coroner reports to circumstances that occur within the course of an investigation related to specific pharmacies and/or pharmacists suspected of over-prescribing prescription drugs.

**Staff Recommendation.** Adopt proposal. Adopt supplemental reporting language, allowing for any technical modifications to be made in the drafting process but consistent with the intent and negotiated language.

**Issue 3: BCP + TBL, State Board of Optometry**

**Budget.** The Board requests 0.5 office technician - typing and a 0.6 special investigator (SI) to replace current services provided to the program by the Medical Board of California and Division of Investigation (DOI): Health Quality Investigation Unit (HQIU).

- The office technician will provide services, such as cashiering, receiving and mailing, and complaint processing.
- The special investigator will conduct desk investigations on complaints or other violations. The Board is not requesting additional expenditure authority to support these positions.

This request includes an offsetting reduction in position authority of a 0.5 office technician and funding of \$39,000 for the Medical Board, and a 0.6 SI and \$62,000 for DOI: HQIU.

The budget also provides trailer bill language to implement the provision of transitioning the Registered Dispensing Optician (RDO) program from the Medical Board to the Board of Optometry.

**Staff Comment.** During the March 10, 2016, hearing, the subcommittee questioned the department's oversight of boards and bureaus' fund health. The Registered Dispensing Optician Fund is projected to become insolvent by fiscal year 2017-18. The RDO notes that its authority to increase the statutory fee from \$75 to \$100 is not sufficient to address the structural deficit of the RDO fund. The Board is in the process of contracting out for a fee analysis to determine the appropriate fee levels, as they were last raised in 1999.

**Staff Recommendation.** Approve budget request as requested. Approve placeholder trailer bill that is consistent with intent but allows for any technical modifications in the drafting process.

**Issue 4: BCP, Naturopathic Medicine Committee**

**Budget.** The committee requests \$101,000 (Naturopathic Doctors Fund) in 2016-17, and ongoing, to convert one associate governmental program analyst (AGPA) position from three-year limited-term to permanent.

**Staff Comment.** In May 2015, the Administration submitted a letter to the Legislature, eliminating the use of limited-term positions to address short-term workload. Following the implementation of California Department of Human Resources (CalHR)'s policy, the committee is requesting to retain current staff in the position, once their limited-term appointment expires.

**Staff Recommendation.** Approve as requested.

**8940 MILITARY DEPARTMENT****Issue 1: SFL + Provisional Language - Support Fund Increase**

**Budget.** The department requests one-time increase in \$151,000 California Military Department Support Fund (CMDSF) expenditure authority to spend private donations and provisional language to authorize donated funds received throughout the year to augment the annual appropriation from the CMDSF.

**Background.** Existing law authorizes the department to solicit and accept funds and donations from private individuals and companies to support programs that benefit the soldiers, airmen, their families, and community and youth programs. In 2015, two organizations donated funds to the CMD. One organization donated \$10,000 to support the department's behavior health program. The department also received a \$141,000 donation from a probate estate.

**Staff Comment.** To determine the allocation of the \$151,000, the MDSF Board of Directors and the comptroller will evaluate requests for grants proposals, and proposals will undergo a legal review. The provisional language authorizes the department to use and disperse donations received by the department between budget cycles. The language also requires the Department of Finance to approve expenditures, no sooner than 30 days after Joint Legislative Budget Committee review. According to the department, possible project ideas include community and youth programs.

**Staff Recommendation.** Approve as requested. Adopt placeholder provisional language, allowing for any technical changes that arise in the drafting process.

**Issue 2: SFL - Active Duty Compensation Increase**

**Budget.** The department requests \$187,000 (\$104,000 federal funds, \$74,000 General Fund, \$5,000 Mental Health Services Fund, and \$4,000 reimbursements) to align pay of its state active duty (SAD) employees to the pay of service members in the U.S. Army, U.S. Air Force, and U.S. Navy. Approximate SAD payroll for the budget year is \$61.9 million.

**Background.** The federal government, in the annual National Defense Authorization Act (NDAA), sets compensation for service members of the United States Army, United States Air Force, and United States Navy. Existing state law authorizes the department to pay its SAD employees the same rate as service members of the federal armed forces. As part of the annual budget process, the department submits an estimate of the changes to SAD compensation, which is processed as a technical adjustment and included in the Governor's Budget. Because the NDAA is signed in December, the department waits until the spring process to revise the amounts proposed in the technical adjustment to match those amounts codified in the NDAA.

The differences between the proposed increases for pay, housing (BAH), and subsistence (BAS) allowances and those authorized in the NDAA are below:

	Pay Increase	BAH	BAS
Projected/Requested	1.3%	1.5%	3.4%
Actual/DAA	1.3%	3.4%	0.1%
Variance	--	1.9%	-3.3%

The net effect of the changes reflects an overall compensation increase of \$187,000 (all funds).

**Staff Comment.** This request appears consistent with statewide policy to pay SAD personnel at the same rate as service members of the federal armed forces.

**Staff Recommendation.** Approve as requested.

### Issue 3: SFL, Cap Outlay – ChalleNGe Academy Dining Facility

**Budget.** The department requests \$2.6 million (Armory Fund) to construct a dining facility at the Army National Guard Base in Lathrop. The proposed project will utilize the design-build procurement method to construct a 9,800 square foot dining facility that will serve 200 cadets enrolled in the new National Guard Youth ChalleNGe Program, the Army National Guard units on the base, and soldiers stationed at the nearby Stockton Airfield. The project will include: food storage, refrigeration, bathrooms, a commercially-equipped kitchen, and a seating area.

Total project costs are \$2.6 million (\$295,000 for performance criteria and \$2.3 million for the design-build phase). In 2014-15, the budget approved annual operations funding for \$6 million (\$1.5 million General Fund, \$4.5 million in federal matching funds).

**Background.** The National Guard Youth ChalleNGe Program mentors youth who are at-risk for substance abuse, delinquency, and criminal activity. California has two existing ChalleNGe programs in Los Alamitos and San Luis Obispo.

In May 2015, the federal Department of Defense granted the California National Guard a 58-acre parcel of land with several existing structures to develop an Army National Guard base. CMD is currently renovating existing buildings for use as barracks and classrooms for the 200 resident students during the first six-month term of the new National Guard Youth ChalleNGe Program, scheduled to begin in January 2017. Construction of the barracks will be completed in the summer of 2016; renovation of the classrooms by November 2016; and the anticipated completion date of the dining facility is June 2017.

**Staff Recommendation.** Approve as requested.

**8955 VETERANS AFFAIRS****Issue 1: BCP – Veterans Homes: West Los Angeles Memory Care Unit**

**Budget.** The department requests \$3.3 million General Fund and 32 positions in the budget year (\$4 million General Fund ongoing and 40 positions in ongoing) to staff the last skilled nursing facility-memory care (SNF-MC) unit in the West Los Angeles home (VHC-WLA).

**Background.** The 2010 Budget Act provided funding for the VHC-West Los Angeles, including 84 RCFE beds, 252 SNF beds, and 30 SNF-MC beds. However, due to a miscalculation, funding for staffing the remaining 30 beds was omitted. Although this error was discovered after the 2010-11 appropriations, the department notes, “A decision was made not to commit further General Fund in advance of needing it to fill the unit.” Lack of funding for staffing this unit prevents the second SNF-MC unit from opening. In 2015-16, VHC-WLA received 122 applications to be admitted to the SNF-MC unit, and there is an 80-person waiting list.

**Staff Comment.** The proposal makes consistent the level of staff, at a relief factor of 1.77, in this new SNF-MC unit to the 40 positions in the existing SNF-MC unit. Staff notes that the remainder of the WLA units are budgeted at the 1.7 relief factor, not the 1.77 relief factor, common in the older homes, such as Yountville, Chula Vista, and Barstow. The department notes that the 1.7 relief factor is more appropriate for newer homes that have budgeting flexibility to hire and staff up, while older homes have more concrete budget needs.

CalVet anticipates filling the beds at eight veterans per month, and anticipates receiving around 172 applications in 2017-18 for the SNF-MC.

**Staff Recommendation.** Approve as budgeted.



**Issue 2: BCP – Veterans Homes: Fresno and Redding Food Services**

**Budget.** The budget includes \$592,000 in the budget year, \$585,000 ongoing, for nine cook specialist positions to address food service delivery changes in the Redding and Fresno homes. Specifically, the department requests 3.1 cook specialists and 6.2 cook specialists in Redding and Fresno, respectively.

**Background.** In addition to a large main kitchen, VHC-Redding (150 beds) and VHC-Fresno (300 beds) have satellite kitchens for each neighborhood, so that food could be cooked in the main kitchen but staged and reheated in the satellite kitchen. On March 19, 2015, the California Department of Public Health (CDPH) surveyed the VHC-Redding kitchen and noted the SNF kitchen must function independently of the RCFE kitchen, a change to the original design of the home and staffing plan; because in case of emergency, the satellite kitchen must serve as a standalone kitchen. In addition, CDPH requires CalVet to have dedicated staff to the SNF kitchen, instead of the staffing model where cooks in the main kitchen can cover both SNF and RCHFE kitchens.

**Staff Comment.** The VHC-Fresno has the same design (satellite kitchens) as VHC-Redding, but CDPH has not made the same request of VHC-Fresno. As such, the department anticipates similar staffing requirements for VHC-Fresno.

**Staff Recommendation.** Approve as requested.

**Issue 3: SFL, Cap Outlay – Yountville Home: Chilled Water Distributions System Renovation Construction**

**Budget.** The department requests \$5.4 million to be re-appropriated to the construction phase of the Yountville Home's Chilled Water Distribution System Renovation project. As a result of design and contracting delays, the completion of the working drawings phase is scheduled for August 2016; construction to begin January 2017; and project completion for April 2018. Total estimated project costs are \$6.4 million.

**Background.** The Yountville home is equipped with two chillers. When the outside air temperature exceeds 96°F, the chilled water system does not keep the water at proper temperature, resulting in patient areas exceeding mandated temperatures by the state Department of Public Health. A November 2007 study pointed out other shortfalls in the system: (1) insufficient capacity of chillers; (2) undersized existing towers; and (3) a wing of the Holderman Building has problems with the chilled water supply during peak demand. The project was first approved in the Budget Act of 2011.

**Staff Recommendation.** Approve, as the amount was previously approved (\$1.7 million in 2015 in lease-revenue bonds, and \$3.7 million federal funds in 2013) and unencumbered.

<b>Issue 4: SFL + BCP – Residential Nursing Care and Technical Adjustment</b>
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**Governor’s Budget.** The budget requests \$2.9 million General Fund in the budget year, and \$2.7 million General Fund ongoing, for 32 positions to address nursing care shortages in the Yountville (\$1.8 million General Fund), Barstow (\$369,000 General Fund), and Chula Vista (\$686,000 General Fund) Veterans Homes. Specifically, the department would like to update its nursing relief factor from 1.7 to 1.77. The net impact of nursing staff by home is as follows:

Home	CNA	LVN	RN	Total
Yountville	11	3	5	19
Barstow	3	0	1	4
Chula Vista	7	2	0	9
Total	21	5	6	32

**Spring Finance Letter.** The department requests a decrease of \$1.3 million General Fund and 14 positions to correct an error in projecting costs.

**Adjusted Request.** With the adjustment, the request is for \$1.6 million General Fund in the budget year, and \$1.49 million General Fund ongoing, for 18 positions.

**Background.** Long-term care facilities use hours-per-patient-days to determine nursing staff ratios. However, due to fatigue and stress of the 24/7 operations on nursing staff, the department has high rates of medical-related leave under the Family and Medical Leave Act (FMLA) and worker’s compensation claims. As a result, the department has mandated double-shifts to cover patients’ needs.

**Staff Comment.** This item was discussed during the subcommittee’s March 10, 2016, hearing. The proposal attempts to address three of the contributing factors to nursing staff issues – (1) eliminating use of overtime and nurse registries with additional staff; (2) ongoing challenged caused by FMLA or worker’s compensation claims; and (3) and the use of a more appropriate nursing relief factor.

**Staff Recommendation.** Approve technical adjustment to modify the Governor’s budget proposal and relief factor of 1.77.

**0890 SECRETARY OF STATE****Issue 1: SFL – Business Connect**

**Budget.** The department requests \$2.6 million (\$2 million Business Programs Modernization Fund, \$605,000 Secretary of State Business Fees Fund), in the budget year, for the California Business Connect project. This request is to enter into a contract for business process analysis services, project management services, independent project oversight, independent verification and validation (IV&V), temporary help to backfill redirected staff, and other operating expenses related to the project.

**Background.** The CalBusiness Connect project is envisioned to automate paper-based processes, allowing business to file and request copies of records online and to process fee payments within one business day. Currently, the department relies on manual sorting through different automation systems and paper databases, including three inch by five inch index cards.

On April 1, 2011, the SOS was approved to solicit a system integration contractor for the California Business Connect. On January 10, 2014, the systems integration contract was awarded to Bodhtree Solutions, Inc; and on August 14, 2015, the SOS and Bodhtree Solutions, Inc. mutually agreed to terminate the contra for \$8.9 million. At the time of contract termination, the project was in the design phase (specifically, requirements specification and technical architecture planning). A Special Project Report (SPR) #2 was submitted to the Department of Technology on December 28, 2015 and proposed: (1) changing the project scope to focus on the largest annual volume filings and reducing the complexity of the project; (2) changing the schedule to a phased implementation approach; and (3) changing the project's budget.

**Staff Comment.** A fee increase is not required to support the California Business Connect project because the money to support the project exists through the fees currently paid by businesses for filings and services. Anticipated timeline is below:

Major Milestones	Estimated Completion Date
Release of RFP	8/01/2017
Contract Award	9/01/2018
Vendor On-board	11/1/2018
Phase 1: LLC & LP Deployment	8/31/2019
Phase 2: Corporations Deployment	2/29/2020
Phase 3: Uniform Commercial Code Deployment	8/31/2020
Phase 4: Trademarks Deployment	1/31/2021
First Year Contract Maintenance and Operations	1/31/2022
PIER	1/31/2022

**Staff Recommendation.** Approve as proposed.

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**Issue 2: BCP – Business Programs Division Filings Process**


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**Budget.** The SOS requests \$5.5 million (Business Fees Fund) for the budget year and 2017-18, for 52 temporary help positions (appointments of retired annuitants, permanent intermittent, seasonal) to assist in processing business filings and statements of information until CalBusiness Connect is implemented in 2020-21.

**Background.** The Budget Act of 2013 provided \$7.8 million in combined funding and 56 limited-term positions to reduce processing times to an average of five business days. The five-business day average was achieved in October 2013. In 2014-15 and the current year, the spending authority was reduced to an annual allocation of \$6.2 million and 54 limited-term positions to maintain the average five business day turnaround times for both business formations and statements of information.

**Backlog History**

<b>Fiscal Year</b>	<b>Year-End Formations in Process</b>	<b>Formations Processing Times during FY (low and high)</b>	<b>Year-End Statements of Information in Process</b>	<b>Statements of Information Processing Times during FY (low and high)</b>
FY 2010-11	11,681	21-45 days	120,288	48-84 days
FY 2011-12	5,631	19-53 days	100,279	71-95 days
FY 2012-13	7,788	9-45 days	67,221	30-74 days
FY 2013-14	2,848	4-13 days	10,164	3-38 days
FY 2014-15	3,982	4-5 days	10,878	3-5 days

	<b>1/31/2016 Formations in Process</b>	<b>Formations Processing Times during 1/2016 (low and high)</b>	<b>1/31/2016 Statements of Information in Process</b>	<b>Statements of Information Processing Times during 1/2016 (low and high)</b>
End of 1/2016*	4,329	5-7 days	12,905	5-8 days

\*These numbers reflect the documents in process at the end of January 2016. January is a peak processing month; therefore, January work in process is higher than is typical at fiscal year-end in June.

There are no statutorily required timelines for processing business formation filings (BF) or statements of information (SI). However, Assembly Bill 113 (Committee on Budget), Chapter 3, Statutes of 2013, provided an additional \$1.6 million to reduce processing times for BFs and SIs. The SOS and the Legislature agreed to reach an average five-business day turnaround for these two items.

**Staff Comment.** This issue was discussed during the March 30, 2016, hearing. During this hearing, the subcommittee asked the department to explain its use of temporary help while CalBusiness Connect is being phased-in. Given the history of the project, the subcommittee may wish to request quarterly legislative briefings.

**Staff Recommendation.** Approve as requested.

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**PROPOSED FOR DISCUSSION/VOTE****8940 MILITARY DEPARTMENT****Issue 1: SFL – Armory Fund, Santa Barbara**

**Budget.** The department requests one-time \$100,000 Armory Fund for the Department of General Services' Asset Management Branch to hire a consultant to prepare an economic land-use study for the armory.

**Background.** Senate Bill 536 (Roth), Chapter 355 Statutes of 2015, authorizes the department to divest the Santa Barbara Armory, which is located on one four-acre city block in downtown Santa Barbara, with proceeds from the sale to be deposited into the Armory Fund.

**Staff Comment.** Following conversations with DGS' Real Estate Division, the department believes the economic study will maximize development potential of the site, in its current residential zoning designation, and achieve a higher selling price. Staff notes the department's careful deliberation of the sale.

The subcommittee may wish to discuss how this proposal interacts with legislation that provides the City of Santa Barbara or the Santa Barbara Unified School District the right of first refusal for the property.

**Staff Recommendation.** Approve as requested.

**Issue 2: SFL, Cap Outlay – San Bernardino Armory Renovation**

**Budget.** The department requests \$4.8 million (\$2.4 million General Fund and \$2.4 million federal matching funds) for the construction and equipment phase of the project.

**Background.** The San Bernardino Armory was built in 1969 and is 26,274 square feet on 4.27 acres. This site has been vacant for the past five years, and requires extensive renovations due to damage by vandals who removed the plumbing, electrical, and HVAC components from the building.

The original scope of the project submitted in 2015-16 contemplated a two-phase project. The first phase would have renovated HVAC, electrical, plumbing, lead and asbestos abatement, energy efficient window installation, and reroof, among others. Phase two would have converted existing spaces into a training room and equipment storage facility. Now, the department believes it more efficient and cost-effective to complete the armory renovation project in one phase.

**Staff Comment.** The existing authority for preliminary plans, working drawings, and construction reverted in March 2016 due to project manager errors.

**Staff Recommendation.** Approve as requested.

**0845 DEPARTMENT OF INSURANCE****Issue 1: SFL – Warner Chilcott Settlement**

**Budget.** The department requests \$6.2 million General Fund, over a span of five years until 2020-21, support up to ten positions by 2020-21. The five-year breakdown is as follows:

<b>Fiscal Year</b>	<b>General Fund, in thousands</b>	<b>Positions Requested</b>
2016-17	\$1,567	7 SI* 1 supervising SI
2017-18	\$1,268	1 attorney III
2018-19	\$1,116	No new positions requested
2019-20	\$1,258	1 attorney
2020-21	\$992	No new positions requested
<b>Total</b>	<b>\$6,201</b>	<b>10 positions</b>

\*SI = special investigator

- **Investigation Division.** The proposed five special investigators would investigate unassigned or closed life and annuity cases, which, typically, impact seniors; and two special investigators – located in Northern and Southern California – would conduct outreach and education to seniors on how CDI can assist fraud victims and to educate them on how to avoid becoming victims. One supervising special investigator would oversee the investigators.

Also, the request also includes \$200,000 General Fund for the budget year and 2017-18, and \$55,000 for 2018-19 through 2020-21, to support educational material, travel costs, and statewide anti-fraud advertisements.

- **Fraud Division.** The department's request includes \$450,000 in FY 2016-17 for the planning of a software-as-a-service solution for enhanced fraud investigation and prevention efforts.
- **Legal Branch.** The department requests one attorney III in 2017-18, and one attorney in 2019-20, to work the anticipated additional life and annuity fraud cases to be referred to the legal branch for administrative enforcement actions.

**Background.** On December 18, 2015, Insurance Commissioner Jones announced a \$23.2 million settlement with pharmaceutical company Warner Chilcott, resolving a lawsuit alleging drug marketing fraud. The settlement payment was divided between the whistle-blowers and the state, and the state's share was \$11.8 million to the General Fund for enhanced fraud investigation and prevention efforts.

The CDI Enforcement Branch is comprised of two divisions – (1) investigation and (2) fraud. The investigation branch investigates criminal and regulatory violations, suspected insurance fraud against consumers, and investigates complaints against agents, brokers, public adjusters,

bail agents, and others. The fraud division detects, investigates, and arrests insurance fraud offenders across five fraud programs: (1) automobile insurance fraud program, (2) organized automobile Fraud Activity Interdiction Program, (3) disability and healthcare fraud program, (4) workers' compensation insurance fraud program, and (5) Property, Life and Casualty Fraud Program. These programs are funded through a combination of annual insurer general assessments and insurance policy assessments. The fraud division receives approximately 33,000 suspected insurance fraud referrals a year.

*Life and Annuity/Senior Unassigned Cases.* The department estimates around 8,494 hours to work 49 open, unassigned cases and the 13 cases, which were closed due to insufficient resources. Over the last four fiscal years, ID has closed an average of 20 cases per year due to insufficient resources.

*Legal Branch.* Cases tend to be complex, and hearing times range from three days to several weeks. The department projects approximately 104 additional cases per year will be opened as a result of the outreach efforts.

*Fraud Data Analytics.* While investigating a case, investigators use materials provided by consumers, insurance companies, reports from the department's "Fraud Investigation Database" (FIDB), and manual research of external data sources. Cases are assigned based on county. Currently, there is no way to determine if networks of fraud operate across several counties or are linked to a single case.

**Staff Comment.** The department's request reflects a five-year proposal, until 2020-21, with the exception of the first year of the IT project, which the department plans to return next year for additional funding after it receives approval for the Stage 2 Alternatives Analysis.

The subcommittee may wish to ask the department how it intends to use the remainder of the settlement funds (this request reflects \$6.2 million General Fund of the \$11.8 million General Fund) will be used.

**Staff Recommendation.** Approve as requested with opportunity to review and conduct oversight during the annual budget process in the out-years.



<b>Issue 2: SFL – Fraud Litigation Software</b>
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**Budget.** The department requests \$626,000 General Fund in the budget year, and \$184,000 General Fund in 2017-18, to purchase and maintain a computer litigation software program, which will be used to handle documentation, research, and analysis. The cost breakdown is below:

**Civil Litigation Software Proposed Cost Breakdown**

Item	FY 2016-17	FY 2017-18
<b>Consulting &amp; Professional Services - External</b>		
<ul style="list-style-type: none"> <li>• Project Manager</li> <li>• Business Analyst</li> <li>• Application Training for FLB staff</li> </ul>	\$112,000	
Data Center Services – Network Bandwidth	\$58,000	\$54,000
<b>Information Technology</b>		
Hardware	\$264,000	
Software	\$192,000	\$130,000
<b>Total</b>	<b>\$626,000</b>	<b>\$184,000</b>

**Background.** On November 4, 2013, Commissioner Jones announced a \$46 million settlement with Sutter Health to settle a 2011 whistle-blower lawsuit. The state's share of the settlement was \$20.6 million, which was paid to the General Fund. To date, the Legislature has approved a total of \$19.9 million General Fund to CDI, including in 2014-15, \$18.3 million (\$4.6 million annually for four years) for enhanced fraud investigation and prevention; and in 2015-16, \$1.5 million General Fund for the CDI Menu Modernization Project Year 2. The remaining balance available for appropriation from this settlement is approximately \$2.0 million General Fund.

**Staff Comment.** According to the department, it is currently monitoring 66 whistle-blower cases, wherein each case can “easily involve two million to five million documents or more.” The department alleges that the legal branch’s:

“...current content management system is incapable of handling large documentation and lacks the ability to conduct pattern searches through millions of documents thus manual processes are used to analyze data and evidence.”

The department requests an additional \$626,000 General Fund in the budget year, and \$184,000 General Fund next year, on top of the existing \$2 million General Fund remaining from the settlement, to fund this software, because the department strictly interprets that settlement funds can only be used for “enhanced fraud investigation and prevention efforts.” The subcommittee may wish to ask why the department does not interpret the purchase of litigation software, which provides an enhanced monitoring function than is currently available and allows counsel to review documents in a less labor-intensive manner, is not considered an enhanced fraud effort.

**Staff Recommendation.** Approve as requested.



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**Issue 3: SFL – Health Network Adequacy**

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**Budget.** The department requests \$424,000 (Insurance Fund) in the budget year, and \$367,000 (Insurance Fund) ongoing, to support one attorney III and funding for health network adequacy reviews and a cloud-based analytics software to analyze health network adequacy reports. The attorney will evaluate waiver requests, provide written objections to waivers, negotiate with insurers over network issues and compliance, and manage the IT issues with the analytics vendor and negotiate vendor services.

**Background.** Assembly Bill 2179 (Cohn), Chapter 797, Statutes of 2002, requires the department to issue a network adequacy regulation to ensure insureds timely access to health services. Existing law also requires the department to periodically review its network adequacy regulations. During 2014, the department reviewed its regulations, and determined, due to industry responses to the new requirements of the Affordable Care Act, the regulation did not ensure that consumers had access to healthcare services in a timely manner. For example, according to the department, “Health insurers reduced provider networks and/or shifted to offering Exclusive Provider Organization (EPO) health insurance products with no out-of-network benefits, except for emergency room visits.” As a result, consumers had difficulty obtaining appointments and traveled long distances to receive in-network medical care. To address this problem, CDI revised its network adequacy regulation on an emergency basis in January 2015. As a result of the revised regulation, health insurers, now, must submit annual network adequacy reports and raw data files of all providers and facilities.

The department requests support for a cloud-based software-as-a-service (SaaS) to analyze files to audit compliance with current requirements and detect network adequacy issues. An analytics vendor will pull the network adequacy data from the National Association of Insurance Commissioners (NAIC). In FY 2014-15, 17 network filings were submitted. The department estimates approximately 90 annual network reports may generate \$72,000 in additional revenue (\$990 per each network adequacy submission). CDI expects to use the same software tool utilized by the Department of Managed Health Care.

**Staff Comment.** The department submitted a Stage 1 business analysis to the Department of Technology (CDT) on July 20, 2015, and CDT delegated the project back to the department for oversight and implementation. The CDI is still completely its Stage 2 Alternative Analysis. The subcommittee may wish to clarify why this project was referred back to the department.

For timeline purposes, the department anticipates the SaaS contract will be finalized by August 2016. By September 2016, all network reports submitted by the June 1, 2016 deadline will have undergone networks analytics.

**Staff Recommendation.** Approve as requested with request for updated information through the vendor procurement process.

**0890 SECRETARY OF STATE****Issue 1: CAL-ACCESS Replacement Project**

**Budget.** The department requests a one-time \$757,000 (Political Disclosure, Accountability, Transparency, and Access Fund) [PDATA Fund] in the budget year, to procure contracted services to complete system and business requirements, market research, project management documents, and other deliverable required in the Stage 2 Alternatives Analysis phase of the project approval lifecycle.

Another request seeks \$13.5 million General Fund to develop the CAL-ACCESS system.

**Background.** The earliest stages of CAL-ACCESS, which is the the state's campaign disclosure and lobbying financial activity portal, were developed and deployed in 1999. Since then, the department estimates processing more than 1.2 million filings. The current CAL-ACCESS system is a conglomeration of component applications developed at different times using multiple, now-obsolete, coding languages, platforms, and technologies. The campaign finance and lobbying activity process is a paper/File Transfer Protocol (FTP)/online hybrid model that results in inefficient processes, duplicate efforts, sub-optimal data quality, and public disclosure reporting that does not meet the needs of stakeholders.

The department identifies three major stakeholder concerns: (1) the system does not support accurate or efficient online filings because the current system requires manual entry; (2) inability to find staff or vendor support to sustain the processes; and (3) the system does not provide base reports and there is limited ability to aggregate and report data.

In September of 2012, Senate Bill 1001 (Yee), Chapter 506, Statutes of 2012, established the PDATA Fund to collect fees imposed on campaign committees and lobbying entities. The funds are earmarked for the maintenance, repair, and improvement of CAL-ACCESS. A total of \$2.0 million has been collected, and the fund contains approximately \$1.6 million. PDATA funds are generated by an annual filing fee of \$50.00 per year garnered from qualified campaign recipient committees; a \$50 per year statutory lobby registration fee; and any fines collected for failure to pay annual fees by mandated deadlines. Approximately \$450,000 is collected annually.

Proposed project timelines are below:

Milestone	Target Completion Date
Contract for Project Support	07/01/2016 – 09/15/2016
Complete Stage 2 Alternatives Analysis	10/15/2016
Refine Business Requirements and initiate project management and procurement plans (data governance; communications; issue/risk management; project; and contract management)	09/16/2016 – 03/15/2017
Develop Request for Proposal	11/01/2016 – 05/01/2017
Confidential bidder discussions	06/01/2017 – 10/15/2017
Evaluate final RFP responses	10/15/2017-12/15/2017
Issue Intent to Award	1/15/2018
Develop Special Project Report	1/15/2018 – 02/28/2018
Award Contract	03/31/2018
Requirements Definition	03/31/2018 – 08/31/2018
Design and Development	08/31/2018 – 06/28/2019
Testing	03/01/2019 – 07/15/2019
Implementation	08/30/2019
First Year Operation and Closeout	08/30/2020

**Staff Comment.** Two recent bills, one in 2013 and in 2014, expressed legislative intent and required the SOS to develop a new system to replace CAL-ACCESS. However, both of these bills were vetoed, citing the Governor’s desire to consult with the Fair Political Practices Commission and the SOS to improve campaign disclosure.

Senate Bill 1349 (Hertzberg), which would require the SOS with the FPPC’s consultation, to develop an online filing and disclosure system for campaign statements and reports is currently pending in the Senate Appropriations Suspense File. According to the bill’s analysis, the SOS would incur one-time costs of \$11.6 million and ongoing annual costs of \$2.8 million to create the online filing and disclosure system. Increased staff (\$2.2 million) and software customization (\$6 million) comprise the majority of the one-time costs. Ongoing costs related to increased staff would total \$1.3 million annually. In addition, the Fair Political Practices Commission (FPPC) would incur first-year costs of \$131,000, and ongoing costs of \$124,000 annually to assist SOS in documenting its business requirements and implementation of the system as it relates to its duties and mission. Additionally, FPPC would need to update forms and modify regulations to reflect the new IT system. Typically, as the budget is an annual process, department requests funding for one year of costs.

The subcommittee may wish to clarify whether the department may provide legislative briefings on this project, and the department’s other IT automation projects, for oversight purposes.

**Staff Recommendation.** Hold open.

**1111 DEPARTMENT OF CONSUMER AFFAIRS**

Some of the DCA's 19 health care and healing arts boards have taken three years or longer to investigate, or take disciplinary action, on licensees when discipline is warranted. In January 2010, the DCA created the Consumer Protection Enforcement Initiative (CPEI) to reduce the average length of time for health care boards to take formal disciplinary action, from three years to 12 to 18 months. Key components of CPEI include: administrative changes, sufficient staffing for boards and bureaus' enforcement programs; adequate technology to conduct regulatory functions, and performance targets. Since 2011, the Legislature has authorized 220 additional enforcement staff, approved funding for the BreEZe project, and established performance measures for the OAH – nearly all of these efforts have been within the context of supporting CPEI.<sup>1</sup>

The following two budget requests are related to CPEI, and are companion proposals to those submitted by the Department of Justice (DOJ). The DOJ budget is heard in Senate Budget Subcommittee No. 5 on Corrections, Public Safety, and the Judiciary, and any final action will have a concurring vote in both subcommittees.

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<sup>1</sup> For more information about CPEI, please see the department's overview on their website:  
[http://dca.ca.gov/about\\_dca/cpei/overview.pdf](http://dca.ca.gov/about_dca/cpei/overview.pdf)

**Issue 1: BCP – Department of Justice (SB 467)**

**Budget.** The department requests \$1.3 million (special funds) in state operations in the budget year, and ongoing, to support the Department of Justice’s budget for increased staffing needs to implement Senate Bill 467 (Hill), Chapter of 656, Statutes of 2015. The request provides the boards and bureaus the budget authority to reimburse DOJ for the cost to implement this reporting requirement. Approximately \$1.3 million will be collected from the following boards and bureaus, in specified amounts, detailed below:

<b>Program Name</b>	<b>Amount (in thousands)</b>
Board of Accountancy	\$31
Board of Behavioral Science	\$37
Board of Barbering and Cosmetology	\$28
Acupuncture Board	\$7
Physical Therapy Board of CA	\$27
Physician Assistant Board	\$14
Board of Psychology	\$29
Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board	\$6
CA Board of Occupational Therapy	\$4
State Board of Optometry	\$8
CA State Board of Pharmacy	\$75
Bureau of Real Estate Appraisers	\$12
Professional Fiduciaries Bureau	\$1
CA Architects Board	\$1
Landscape Architects Committee	\$1
State Athletic Commission	\$3
Contractors’ State License Board	\$120
Medical Board of CA	\$577
Osteopathic Medical Board	\$13
Board for Professional Engineers and Land Surveyors	\$25
Geology and Geophysicists Program	\$1
Vocational Nurses Program	\$68
Psychiatric Tech. Program	\$17
Private Investigators Program	\$2
Electronic and Appliance Repair	\$2
Automotive Repair and Smog Check Programs	\$151
Cemetery Program	\$2
Funeral Directors and Embalmers Program	\$22
<b>Total</b>	<b>\$1,284</b>

This request is a companion to the corresponding Department of Justice (DOJ) request for \$1.3 million (Legal Services Revolving Fund) in the budget year, and ongoing, for ten senior legal analyst positions.

**Background.** Generally, the enforcement process includes three steps: intake, investigation, and formal discipline. First, at intake, the board of bureau receives a complaint and assigns the case to an investigator. At the investigation step, at the DCA, investigations are typically conducted by the DCA employees. Once the investigation is completed, cases that warrant formal disciplinary action are forwarded to the Office of the Attorney General (AG) for prosecution. The AG must use the Office of Administrative Hearings (OAH) to schedule and conduct the disciplinary hearings.

The DCA's enforcement performance measures are an important tool for management and oversight. In response to the lack of data regarding major milestones in prosecutions or length of investigations that result in prosecutions, SB 467 requires the Department of Justice (DOJ) to submit an annual report, with specified information, to the DCA, the Governor, other policy committees, beginning January 1, 2017. The report would include the following information, among others: actions taken by the Attorney General related to consumer complaints against a person whose profession or vocation is licensed by the DCA, the average number of days from when the AG receives an accusation to when an accusation is filed; the number of days to prepare an accusation for a case; the average number of days from filing an accusation to a stipulated settlement; the average number of days from an agency transmitting a default decisions; the average number of days from filing an accusation to requesting a hearing date from the OAH; and the average number of days from receipt of a hearing date to the commencement of a hearing date.

**Staff Comment.** According to the DCA, the affected programs' budgets (see table above) would be increased, effective July 1, 2016; and, absent this proposal, programs would absorb costs from other critical program activities and postpone enforcement actions. According to the DOJ, the department anticipates opening at least 5,262 matters for the licensing section this year and also, is expecting to adjudicate 1,765 cases in the health quality enforcement section.

During last year's legislative session, the bill's estimated fiscal impact was projected around \$1.45 million in 2015-16 (\$537,000 GF and \$911,000 Legal Services Revolving Fund - LSRF), and ongoing costs of \$1.8 million (\$268,000 GF and \$1.534 million LSRF) for the AG to compile data and develop, design, and prepare the required report.

Given that the DCA must use the AG as its attorney, the subcommittee may wish to clarify the cost estimate methodology for the proposal. It is unclear why the DCA, as the AG's client, could not otherwise receive this information without cost.

**Staff Recommendation.** Hold open.

<b>Issue 2: BCP – Attorney General Staffing</b>
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**Budget.** The department requests \$1.4 million (special funds) in the budget year, and ongoing, to support the increased staffing at the Department of Justice. The amounts, by program, are listed below:

Program Name	Amount (in thousands)
Board of Accountancy	\$71
Board of Behavioral Science	\$86
Board of Barbering and Cosmetology	\$64
Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board	\$6
CA Board of Occupational Therapy	\$10
State Board of Optometry	\$18
CA State Board of Pharmacy	\$175
Bureau of Real Estate Appraisers	\$28
Professional Fiduciaries Bureau	\$3
CA Architects Board	\$3
Landscape Architects Committee	\$3
State Athletic Commission	\$7
Contractors' State License Board	\$265
Board for Professional Engineers and Land Surveyors	\$57
Geology and Geophysicists Program	\$2
Vocational Nurses Program	\$157
Psychiatric Tech. Program	\$38
Private Investigators Program	\$4
Electronic and Appliance Repair	\$6
Automotive Repair and Smog Check Programs	\$312
Cemetery Program	\$5
Funeral Directors and Embalmers Program	\$53
<b>Total</b>	<b>\$1,373</b>

This is a companion request to the corresponding Department of Justice (DOJ) request for \$1.4 million (Legal Services Revolving Fund) in the budget year, and ongoing, for seven positions (two legal secretaries and five deputy attorneys) in the licensing section to reduce average case processing time to meeting the Consumer Protection Enforcement Initiative.

**Background.** According to the DOJ, the average case processing time for formal discipline matters has increased over the past five fiscal years due to a large increase in the volume of referrals of new cases. The increased volume of referrals caused the average days to adjudication of formal discipline cases to increase from 319 days in 2010-11, to 384 days in 2014-15, longer than the goal of 274 days (9 months). In addition, staffing levels between FY 2010-11 and FY 2015-16 have only increased by 14 percent, and cannot support the required reduction in case processing time.

The chart below shows that historically, the licensing section's case closing rate is 5,158 cases per year. According to DOJ, with less volume in 2010-11, the licensing section resolved cases



more quickly, around 319 days on average. With increasing volume over the past five years, the “benchmark of 274 days is not attainable with existing staff levels.” Further, the increase in volume has caused case-aging.

Workload Measure (Grey scale shows projected)	PY – 4 FY10-11 97 Pos.	PY – 3 FY11-12 102 Pos.	PY – 2 FY12-13 103 Pos.	PY – 1 FY13-14 104 Pos.	PY FY14-15 108 Pos.	CY FY15-16 117 Pos.
Starting Caseload	4,034	5,125	5,704	5,926	6,190	5,660
Cases Opened	4,703	4,610	4,815	5,142	4,628	4,780
Total Cases	8,737	9,735	10,519	10,968	10,818	10,440
Cases Closed	3,612	4,031	4,693	4,778	5,158	5,850
Hours Per Case*	42	37	32	33	32	32
Average Days to Adjudication of Formal Discipline Cases	319	352	355	362	384	384
Average Days Goal	274	274	274	274	274	274
Number of Days Beyond Goal	45	78	81	88	110	110
Percentage Beyond Goal	25.8%	28.5%	29.5%	32%	40%	40%
**“Hours Per Case”: Total Billable Hours for fiscal year divided by number of cases closed.						

**Prior Budget Investments.** To implement CPEI, the DCA obtained 107.0 positions and \$12.8 million in 2010-11; 138.5 positions and \$14.2 million in 2011-12. The Office of Administrative Hearings, which is an integral part in the adjudication of license discipline matters, received 14 administrative law judges (ALJs) in 2014-15.<sup>2</sup> In 2015-16, the budget included \$2.8 million (Legal Services Revolving Fund) and nine deputy attorney general in the civil law division, and six legal secretary positions to address increased workload related to formal discipline. The Civil Law Division of the Attorney General’s Office received nine positions, effective July 1, 2015. According to the DOJ, these positions were intended to address general workload related CPEI, though not directly related to reduce time to adjudicate a case.

**Staff Comment.** The DOJ anticipates the additional resources will help the department meet the case processing time goals and projects the following outcomes:

Projected Outcome: With Additional Positions

Workload Measure (Grey scale shows projected)	CY FY 15-16 117 Pos.	BY FY 16-17 122 Pos.	BY +1 FY 17-18 122 Pos.	BY +2 FY 18-19 122 Pos.	BY +3 FY 19-20 122 Pos.	BY +4 FY 20-21 122 Pos.
Cases Closed	5,850	5,850	5,850	5,580	5,580	5,580
Hours Per Case	32	32	32	32	32	32
Average Days to Adjudication of Formal Discipline Cases	384	362	362	362	362	362
Average Days Goal	274	274	274	274	274	274
Number of Days Beyond Goal	110	88	88	88	88	88
Percentage Beyond Goal	40%	24%	24%	24%	24%	24%
*Referral of new cases is expected to continue to increase, with a growth rate in referrals projected at 2% per year for this analysis.						

<sup>2</sup> Budget Act of 2014 Budget Act, Chapter 25, Statutes of 2014.



The DOJ states the goal is to reduce case processing time to 9 months (274 days), so that agency clients can meet their goals under CPEI. However, it is unclear how the 274 day benchmark was first established.

Over six years have passed since CPEI was first announced in January 2010. According to the LAO, many boards and bureaus have not been meeting the 18-month target. For example, roughly two-thirds of boards and bureaus exceeded the target in 2013–14. Of this amount, roughly 58 percent exceeded the target by more than 200 days. The subcommittee may wish to ask both the DCA and the DOJ for an update on the implementation of CPEI. Aside from DCA and OAH staffing needs, the subcommittee may wish to ask the AG why it did not allocate any of its requested nine attorneys for CPEI efforts and whether any additional staff has been provided to the licensing section to comply with CPEI, aside from this proposal.

#### **LAO Comments and Recommendation.**

- **Average days to adjudication would likely decline without additional positions.** In 2014–15, DOJ received fewer cases than it adjudicated, allowing DOJ to begin to reduce the total number of unresolved cases, which may have led to a reduction in average days to adjudication. Also, the number of cases received annually appears relatively constant. Assuming that DOJ attorneys each handle the same number of cases, the additional positions provided in 2015–16 should allow DOJ to adjudicate more cases.
- **Issues unrelated to staffing could be responsible for delaying overall enforcement process.** Some DCA boards indicated that difficulties in obtaining information necessary to complete investigations often caused delays in completing the second step of the enforcement process in a timely manner. Departments involved in the process also noted that DOJ sometimes receives incomplete cases from DCA and that there are often delays regarding the scheduling of hearings by OAH, both of which impact the average time it takes to complete the formal discipline step.
- **Reject Governor’s proposal. Create report to identify causes of delays and strategies to address delays.**

**Staff Recommendation.** Hold open.

**Issue 3: SFL – Bureau of Private Postsecondary Education, Student Tuition Recovery Fund Administrative Costs**

**Budget.** The bureau requests to transfer \$183,000 from the Private Postsecondary Education Administration Fund (Admin Fund) to the Student Tuition Recovery Fund (STRF) to fund two existing positions: one staff services analyst and one associate governmental analyst. This proposal represents a net-zero cost to the bureau and General Fund.

**Background.** The Private Postsecondary Education Act of 2009 (Chapter 310, Statutes of 2009) requires the bureau to provide oversight and regulation of California's private postsecondary educational institutions, including licensing institutions, conducting compliance inspections, and investigating and acting upon complaints received against private postsecondary institutions. Currently, the bureau regulates approximately 1,100 main locations, 400 branch locations, and 379 satellite locations.

The bureau administers two funds:

- **Admin Fund.** The Admin Fund provides general operational support for the bureau to administer STRF awards. Revenues are derived from license and other regulatory fees. Revenues are projected to be approximately \$9.7 million in 2016-17. However, the bureau notes that these revenues are generally expended on licensing and enforcement activities. As of July 1, 2015, the fund balance was \$9.45 million, and is structurally imbalanced because expenditures are outpacing revenues. The bureau significantly increased its staff in the last three years to address its enforcement and licensing backlogs. If projected expenditures and revenues fully materialize, the Bureau's fund will become insolvent in FY 2017-18. Please see chart below:

Fiscal Year	Fund Balance (in thousands)	Months In Reserve**
2013-14	\$ 11,462	12.1
2014-15	\$ 9,466	7.3
2015-16	\$3,550	2.7
2016-17	\$213	0.2
2017-18	-\$5,944	-4.4

\* Dollars in Thousands

\*\* Ed Code 94930 (b) - Statutory Fund Balance not to exceed 6.0 months in reserve

- **STRF.** The STRF was created as a fund to reimburse students in the event of an untimely school closure. Every Californian student enrolled in a private postsecondary institution must pay a STRF assessment fee, based upon the student's tuition paid quarterly. Upon a school's closure, a student may file a claim with the bureau for reimbursement from the STRF. To qualify for a STRF reimbursement, applicants must be a California resident and must have resided in California at the time the enrollment agreement was signed. The STRF has a fund reserve of approximately \$28.3 million, which exceeds the \$25 million

statutory cap. As a result, the Bureau has temporarily suspended the STRF assessment fee until the fund balance decreases below the statutory cap.

**Staff Comment.** According to the bureau, the STRF is a “more appropriate funding source for STRF administration costs than the Admin Fund because expending license and other regulatory fees for purposes other than license and enforcement activities of licensees is inconsistent with other boards and bureaus within DCA.” In addition, the bureau notes existing staff, in receiving 300-400 STRF claims per year, supports students directly (e.g., review and decide on claim) and indirectly (e.g, respond to student inquiries about the STRF). However, no other board or bureau has a fund similar to the STRF, in which students pay directly into the fund and are eligible for reimbursements from the fund, in case of a school closure. Given recent for-profit school closures, the subcommittee may wish to consider whether it is appropriate to use the STRF to fund these positions since the intent of the STRF is to reimburse students, not support administration of STRF claims.

In addition, there remain broader questions about the bureau’s predicted Admin Fund imbalance and whether the current assessment level on private schools is appropriate. Since the bureau was re-constituted in 2009-10, fees have not been changed. When asked about the bureau’s plans to address the Fund’s insolvency, the bureau responded that it is “tightly monitoring its spending and has begun a fee audit with an independent third-party accounting firm to reassess the Bureau’s fee structure. The fee audit is anticipated to be completed in early May and presented at the Bureau’s May Advisory Committee meeting on May 17, 2016.” The subcommittee may wish to consider holding the item open until the Bureau meets after this date.

**Staff Recommendation.** Hold open.

**8955 VETERANS AFFAIRS****Issue 1: SFL – Vets Services Division Support**

**Budget.** The department requests \$1.7 million General Fund in the budget year, and ongoing, to fund 16 positions; the reclassification of one associate governmental program analyst (AGPA) to associate management auditor (AMA); and the reclassification of the three district office managers from staff services manager (SSM) I to SSM II, due to the increase in personnel reporting to them. All of these positions are within existing position authority. Of those resources, 15 positions and three reclassified positions will be located in CalVet's three district offices, commensurate to the workload in the respective district offices:

Location	Currently Projected 2016-17 Position Funding	Requested 2016-17 Funding in this Proposal	Total 2016-17 and ongoing Positions if Proposal is Approved
Los Angeles	1 Staff Services Manager (SSM) I 4 Associate Governmental Program Analysts (AGPA) 1 Office Technician, Typing (OT(T))	Reclassify SSM I to SSM II 5 AGPAs	1 SSM II 9 AGPAs 1 OT(T)
Oakland	1 SSM I 5 AGPAs 1 OT(T)	Reclassify SSM I to SSM II 7 AGPAs	1 SSM II 12 AGPAs 1 OT(T)
San Diego	1 SSM I 2 AGPAs 1 OT(T)	Reclassify SSM I to SSM II 3 AGPAs	1 SSM II 5 AGPAs 1 OT(T)

Responsibilities include: developing and filing veterans claims for completeness and accuracy; ongoing training for county veteran services offices (CVSOs); review of the initial United States Department of Veterans Affairs (USDVA) decision; representation in the appeals process if the veteran disagrees with the decision; and other supports to assist veterans in obtaining benefits.

**Background.** The CalVet manages three District Offices throughout the state, which are co-located within the United States Department of Veterans Affairs (USDVA) regional offices in Los Angeles, Oakland, and San Diego. When a veteran or family member chooses to provide the CalVet with power of attorney (POA) over a claim, one of the three CalVet district offices will represent the veteran or family member in the submission and appellate process for a USDVA benefit claim. Due to a backlog of initial claims, the Budget Act of 2013 provided to the department \$3 million General Fund and 36.0 limited-term positions to initiate the Joint Claims Initiative, a partnership between the USDVA and CalVet, to create a 12-person "Strike Team " in each of the three District Offices to reduce the backlog of pending initial entitlement claims. The Budget Act of 2015 made permanent the 36.0 limited-term positions; however, associated funding is set to expire June 30, 2016. This proposal requests funding for 16.0 out of the 36.0 positions, as well as funding to reclassify four existing positions.

Strike teams are comprised of Veterans Claims Representative (VCR) I and VCR II classifications. The department believes the positions' analytical requirements align as an AGPA. In addition, current district office managers must be reclassified in compliance with the Department of Human Resource's allocation guidelines, which require a SSM I to manage between three and five staff, and a SSM II to manage six to twelve staff.

This proposal requests to reclassify an AGPA to an AMA to complete the CVSO's auditing functions. A July 2015 State Auditor's Report 2015-15 states, "[The department] does not adequately audit data used to determine the CVSOs funding, and it lacks procedures for conducting these audits." To ensure state funding to CVSOs is consistent with actual workloads, the State Auditor recommended the department develop and implement procedures to review the accuracy of the data in CVSO's workload activity reports. According to the department, it is unable to fulfill audit responsibilities for the CVSO subvention program, nor implement the recommendations, due to having only one CalVet analyst audit 57 counties for both claims activities and the College Fee Waiver for Veteran Dependents program, twice each year. Although staff is able to ensure workload units claimed by CVSOs are not double counted, the staff is only able to perform sample audits on approximately three to six counties each year (depending on their size) because of other required auditing duties. During the sample audit process, the CalVet requests additional feedback and a conference call to discuss any quality issues seen of CVSO workload activity. At this rate, the department estimates all 57 counties would have a sample audit performed every 10 years. Adding a full time AMA position may enable sample audits on an estimated 15 additional counties each year.

**Staff Comment.** According to the department, the additional staff allows full representation at USDVA claims appeal hearings, and all CVSOs would have a sample audit performed every two to three years instead of every ten years. In addition, CalVet has 48 hours to review USDVA rating decisions for each claim, prior to it being promulgated. If the rating is not commensurate to the veteran's claim, CalVet responds to the USDVA and can work to avoid the claim from entering the appeals process if a discrepancy or error is found at a later date.

To the extent that the subcommittee deems it appropriate to repurpose the existing positions into these new responsibilities, as identified by the department, the request appears appropriate given the strike teams success and necessary review and compliance of other district office needs, such as CVSO oversight. Further, the department has identified a multi-prong approach to tackle the claims and appeals backlog, by improving fully developed claims upfront and by providing review to within the critical 48-hour window to the USDVA to prevent an appeals process.

During the subcommittee's March 10, 2016, hearing, the department presented its monitoring and engagement of CVSOs, in light of criticism that the percentage of veterans served by CVSOs appeared inconsistent throughout the state, despite consistent state support. This request appears to acknowledge this discussion, and the subcommittee may wish to discuss the role of the one AMA, intended to be a CVSO auditor, and its duties to "plan, design, and carry out audit services for semi-annual reports for veterans claims and College Fee Waivers for Dependents; develop recommendations to improve Medi-Cal cost avoidance; and coordinate with the vendor to improve outreach," and determine whether this one individual could provide the proper oversight of state subvention funding, with the necessary prioritization from departmental leadership. The subcommittee may wish to ask the department its intention with the remainder of the existing but unfunded 16 strike team positions.

**Staff Recommendation.** Hold open.

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**Issue 2: SFL – Administrative Support Services**

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**Budget.** The department requests \$1.7 million (\$1.6 million General Fund and \$103,000 Farm and Home Building Fund of 1943 [F&H Fund]) in the budget year, and \$1.7 million (\$1.6 million General Fund and \$99,000 F&H Fund) in 2017-18, and ongoing, to support 15 positions in information services, contracts, performance management, and new federal payroll-based-journal (PBJ) reporting requirements. The requested positions are in the following areas:

**Information Services Division (ISD).** The Helpdesk provides support services to all CalVet locations. Helpdesk staff is located in Sacramento and all of the eight homes, and manages service requests for all onsite technology needs. The budget requests positions to help restructure the PC support to a 24/7 tiered system for staff working second and third shifts in the Homes:

- One assistant information system analysts (AISA) for first-tier support on off-shift.
- One staff information system analysts (SISA) for second-tier support on off-shift.

**Contracts.** Currently, the department has one manager to oversee eight contract analysts— four in Sacramento, and one located in each Yountville, Chula Vista, Redding, and Fresno Homes. This current structure does not allow for direct supervision or review of contracts prior to the bidding process or contract execution. The budget requests positions for standardized contract scopes of work, rates, general terms and conditions, and streamlined bid and contract award processes. The current contract analysts at the homes will be restructured to become contract liaisons.

- One staff services manager I (SSM I)
- Three associate governmental program analysts (AGPA)
- One office assistant general (OA)

**Human Resources Division (HRD).** With the recent growth in Homes and staffing, the department has experience an increase in preventative and corrective memoranda, adverse and non-punitive actions, rejections during probation, absence without leave, and other employee performance issues. The department relies on two labor relationship specialists to draft and review adverse actions and provide managers with guidance on employee performance issues. The budget requests the following positions to improve initial and ongoing assistance and training for personnel and performance management. In addition, around \$9,000 is included in the request for travel to the eight homes.

- One SSM I
- Three associate personnel analysts (APA)

**Legal Division.** Currently, the department has seven staff attorneys to handle all litigation. When the homes in West Los Angeles, Lancaster, and Ventura were opened, the division was not provided an additional position to handle increased workload. The budget requests one position to provide training to the performance management unit on personnel actions, hearing processes, writing legally sufficient declarations. The position



will also be assigned litigation arising out of the West Los Angeles, Lancaster, and Ventura Homes, and will be assigned regulatory review to update the department's regulations. In addition, \$27,000 is included for travel for investigations, litigations, and training.

- One attorney III

**Reasonable Accommodation (RA).** The department has two equal employment opportunity (EEO) officers and one officer/manger to assist with processing RA requests in the homes and to manage the discrimination complaint process. The EEO Officer/Manager ensures that all CalVet supervisory personnel receive training in the RA process to ensure responses to accommodation requests follow state and departmental policy and federal Americans with Disabilities Act. With the unanticipated volume of complaints in the Redding and Fresno homes and increased number of RAs as the homes come to capacity, some RAs were not managed timely. Three issues were elevated to internal discrimination complaints and appeals to the State Personnel Board, and are still being addressed.

The budget requests one SSM I (Specialist) to facilitate communication, manage the volume of RA requests, and provide guidance and direction and training to supervisory staff. In addition, the budget includes \$3,000 for travel for quarterly visits and training at the veterans' homes.

- One SSM I

**PBJ Reports.** To remain in compliance with federal regulations and eligibility for Medicare funding,<sup>3</sup> the department must have a system for implementing PBJ reporting by June 30, 2016. Specifically, long-term care (LTC) facilities that participate in Medicare and/or Medicaid/Medi-Cal must submit electronically in a uniform format, direct care staffing information based on payroll and other verifiable and auditable data. PBJ will require the VHCs to submit information on 1) staff turnover and tenure, including start and termination dates, 2) exempt and nonexempt staff and contract staff, and 3) number of hours each staff member is paid to deliver direct care service to residents in certified beds for each day worked. PBJ requires submission of monthly census data, including number of residents whose primary payer is Medicaid/Medi-Cal, number of residents whose primary payer is Medicare, and other - number of residents whose primary payer is neither Medicaid/Medi-Cal nor Medicare. PBJ also requires that each employee have a unique employee number assigned for tracking and reporting purposes.

PBJ distinguishes hours paid and hours worked, recorded with other compensation such as compensating time off. However, in California, bargaining unit contracts allow time to be worked that is not paid directly. The VHCs will be required to report hours paid for services performed onsite for the residents of the facility, with the exception of paid time off (e.g., vacation, sick leave, etc.). In addition, an employee may perform different roles

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<sup>3</sup> In 2014-15, the CalVet drew down \$6.3 million in Medicare funding and \$7.0 million in Medi-Cal funding

or duties throughout the day. This new process is occurring at the same time as several other federal mandates. To implement PBJ, the CalVet requests two AGPA in Yountville and Fresno Homes, and will support the remaining veterans homes in complying with the federal requirements that impact over 1,000 residents in the six Homes with SNF/ICF levels of care.

- Two AGPAs

**Staff Recommendation.** Hold open.

### **Questions**

1. Please describe the transition of existing contract analysts to contract liaisons. When would this transition occur? How would the job responsibilities change?
2. Please describe how the department plans to incorporate more training for RAs.
3. Please describe how the department plans to meet the new federal mandates, including PBJ.



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**Issue 3: SFL, Cap Outlay –Yountville Home: Steam Distribution System Renovation, Working Drawings and Construction**

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**Budget.** The department requests to reappropriate \$6.9 million of the unencumbered balances of the working drawings and construction phases of the Yountville Home’s Steam Distribution System Renovation project. As a result of design and contracting delays, completion of preliminary plans is scheduled for March 2017, working drawings are scheduled for completion by April 2018, and construction is scheduled to begin in October 2018. Project completion is scheduled for September 2020. Total estimated project costs for working drawings and construction are \$6,903,000 (\$2,808,000 lease-revenue bond funds, \$4,095,000 federal funds).

**Background.** This project will: (1) renovate the underground steam distribution system and replace the underground lines; (2) replace the asbestos-containing insulating material; (3) add ten American with Disabilities Act accessible parking spots to the Section A residence. This residence currently houses 90 members, but only has 12 existing parking spaces.

**Staff Comment.** Total project costs are estimated to be \$7.5 million. The request seeks to reappropriate \$535,000 (originally approved in 2015) for the working drawings phase and \$6.4 million (\$2.3 million lease-revenue first approved in 2011, \$4.1 million federal funds first approved in 2013) for the construction phase. The subcommittee may wish to ask the department to clarify the delays in the project and why the amounts continue to remain unexpended.

**Staff Recommendation.** Hold open.