

# **BACKGROUND PAPER FOR THE Bureau of Automotive Repair**

**Joint Oversight Hearing, Monday, March 5, 2018**

**Senate Committee on Business, Professions and Economic Development  
and  
Assembly Committee on Business and Professions**

## **BRIEF OVERVIEW OF THE Bureau of Automotive Repair**

The Bureau of Automotive Repair (BAR) was established in 1972 (SB 51, Beilenson, Chapter 1578, Statutes of 1971). This act created a statewide automotive consumer protection program, including the mandatory registration and regulation of Automotive Repair Dealers (ARDs) for the first time.

In 1984, pursuant to SB 33 (Presley, Chapter 892, Statutes of 1982) BAR implemented the Smog Check Program to license and regulate Smog Check stations and technicians. This program, seeks to reduce emissions through biennial inspections and repair of 1976 model-year and newer vehicles. In 2013, BAR implemented performance standards for Smog Check stations and inspectors as part of the STAR Program created by AB 2289 (Eng, Chapter 258, Statutes of 2010). Currently, the Smog Program is administered jointly by BAR, the Department of Motor Vehicles (DMV), and the Air Resources Board (ARB).

BAR issues eleven license, registration, and certificate types with a total licensee population of 78,311. As of FY 2016/17, BAR regulates 36,790 ARDs, 5,208 Smog Check Test-and-Repair Stations, 15,377 Smog Check Inspectors, 9,103 Smog Check Repair Technicians, and 4,510 STAR Stations, with the remaining licensee population spread among the remaining six license types.

- Automotive Repair Dealer – A person or entity who, for compensation, engages in the business of diagnosing or repairing malfunctions of motor vehicles
- Smog Check Test-and-Repair Station – A registered ARD that is licensed by the bureau to inspect, diagnose and repair vehicles in the Smog Check Program.
- Smog Check Test-Only Station – A registered ARD that is licensed by the bureau to inspect vehicles in the Smog Check Program.
- Smog Check Repair-Only Station – A registered ARD that is licensed by the bureau to diagnose and repair vehicles in the Smog Check Program.
- Brake Station – A registered ARD that is licensed by the bureau to test, inspect, adjust, and repair all brakes and brake systems on vehicles, as specified in Title 16, California Code of Regulations section 3320.

- Lamp Station - A registered ARD that is licensed by the bureau to test, inspect, adjust, and repair all lamps and related electrical systems on vehicles, as specified in Title 16, California Code of Regulations section 3315.
- Smog Check Inspector – An individual licensed by the bureau to inspect and certify the emissions control systems on vehicles subject to the Smog Check Program.
- Smog Check Repair Technician – An individual licensed by the bureau to diagnose and repair the emissions control systems on vehicles subject to the Smog Check Program.
- Brake Adjuster - An individual licensed by the bureau to test, inspect, adjust, and repair the brakes and brake systems on vehicles, as specified in Title 16, California Code of Regulations section 3310 (b).
- Lamp Adjuster – An individual licensed by the bureau to test, inspect, adjust, and repair the lamps and related electrical systems on all vehicles, as specified in Title 16, California Code of Regulations section 3310 (a).
- STAR Station – A registered ARD that is also either a licensed Smog Check test-and-repair station or test-only station that meets all requirements specified in Title 16, California Code of Regulations section 3392.3.1.

The Bureau’s current strategic goals include:

- **COMMUNICATION:** BAR communication efforts will inform, educate, and empower.
- **ENFORCEMENT:** BAR enforcement will continue to protect consumers from illegal and unethical practices.
- **EMISSIONS:** BAR will continue to implement innovative strategies for achieving the emissions-reduction goals of the Smog Check Program.
- **LICENSING:** BAR will continue to register businesses and license individuals in a timely and efficient manner.
- **ORGANIZATIONAL EFFECTIVENESS:** BAR will focus on leadership and staff development to improve morale and increase organizational productivity.

The current mission statement, as stated on BAR’s website, is as follows:

*Serve Californians through effective regulation of the automotive repair and Smog Check industry.*

### **Bureau Membership and Committees**

As a bureau, BAR does not have a governing board, but is led by a Chief, appointed by the Governor and confirmed by the State Senate. BAR does have the BAR Advisory Group (BAG) created to increase communication between BAR, industry, education providers, and consumers. BAG is comprised of 14 members. The BAG meets quarterly and all meetings are webcast and enable interested parties to electronically submit questions to meeting participants. There are currently two vacancies on the BAG. The following is a listing of the current members and their background:

Name and Short Bio	Appointment Date	Term Expiration Date	Appointing Authority	Type
Louis J. Anapolsky <i>Knox Lemmon, Anapolsky &amp; Schrimp, LLP</i>	1/12/04	N/A	BAR	Industry
Denny Bowen <i>Automotive Maintenance and Repair Association/Motorist Assurance Program</i>	10/20/16	N/A	BAR	Consumer/Industry
Johan Gallo <i>California Automotive Business Coalition</i>	5/7/09	N/A	BAR	Industry
Keith Going <i>Inter-Industry Conference on Auto Collision Repair</i>	1/19/17	N/A	BAR	Education/Industry
Vince Gregory <i>AAA Northern California</i>	4/21/15	N/A	BAR	Consumer/Industry
George Hritz <i>California Automotive Teachers</i>	10/20/03	N/A	BAR	Education/Industry
Joanna Johnson <i>Automotive Oil Change Association</i>	6/2/17	N/A	BAR	Industry
Brian Maas <i>California New Car Dealers Association</i>	4/20/14	N/A	BAR	Industry
Jon McConnel <i>Independent Automotive Professionals Association</i>	10/10/07	N/A	BAR	Industry
Megan McKernan <i>Automobile Club of Southern California</i>	4/20/17	N/A	BAR	Consumer/Industry
Jack Molodanof <i>California Auto Body Association</i>	7/25/03	N/A	BAR	Industry
Susan Monser Ward <i>California Emissions Testing Industries Association</i>	1/20/09	N/A	BAR	Industry
Ruben Parra <i>California Automotive Teachers</i>	4/20/17	N/A	BAR	Education/Industry
Tracy Renee <i>Automotive Service Councils of California</i>	10/20/14	N/A	BAR	Industry

BAR also has the Educational Advisory Group (EAG), established to discuss educational needs and make recommendations to BAR on training needs of licensed Smog Check Inspectors and Repair Technicians. The EAG is currently comprised of nine members: five educators, three shop owners, and one technician. The EAG meets one to two times per year based upon ongoing issues and needs of BAR.

Name	Appointment Date	Term Expiration Date	Appointing Authority	Type
Jim Custeau	5/8/2012	N/A	BAR	Educator
Phil Fournier	5/8/2012	N/A	BAR	Educator
Gary Houseman	5/8/2012	N/A	BAR	Technician
Craig Johnson	5/8/2012	N/A	BAR	Station Owner
Mike Morse	5/8/2012	N/A	BAR	Educator
Mike Palmer	5/8/2012	N/A	BAR	Station Owner
Bud Rice	5/8/2012	N/A	BAR	Station Owner
Kevin Rogers	5/8/2012	N/A	BAR	Educator
Steve Tomory	5/8/2012	N/A	BAR	Educator

### Staffing Levels

BAR's Chief is appointed by the Governor and confirmed by the State Senate. The current Chief, Patrick Dorais was appointed on November 2013 and previously served as BAR Deputy Chief of Smog Check Operations, Engineering, Research Administration and Consumer Assistance Division from 2007 to 2013.

For FY 2016/17, BAR has a staff of 611.9, with 378 dedicated to enforcement and 30 to licensing. BAR's average annual vacancy rate is under 10 percent. Historically, BAR does not experience high rates of turnover in staff, other than in entry-level clerical support classifications, primarily in CAP and the Licensing Unit. However, BAR has experienced an increase in retirements in the Program Representative series, which has resulted in increased vacancies. Recruitment and retention efforts by BAR include continuous online testing for various job classifications. This continuous online testing was developed in conjunction with DCA and CalHR.

### Fiscal and Fund Analysis

As a Special Fund agency, BAR receives no General Fund support, relying solely on Smog Check fees set by statute and collected from licensing and renewal fees. BAR does not project any deficits in the next four fiscal years. However the spending authorization for EFMS exceeds the \$1 registration fee collected. By Fiscal Year 2021/22, EFMP (vehicle retirement) will not be sustainable unless the \$1 fee is increased or spending is reduced. BAR's current revenues sources and their statutory authority are listed below:

- **Vehicle Inspection and Repair Fund (VIRF)**
  - SB 51, Beilenson, Chapter 1578, Statutes of 1971
  - Business and Professions Code section 9886
- **High Polluter Repair or Removal Account (HPRRA)**
  - SB 198, Kopp, Chapter 28, Statutes of 1994
  - Health and Safety Code section 44091
  - HPRRA is an account within the VIRF

- **Enhanced Fleet Modernization Subaccount (EFMS)**

- AB 118, Núñez, Chapter 750, Statutes of 2007
- Health and Safety Code section 44126
- EFMS is a sub-account within the HPRRA

**Vehicle Inspection and Repair Fund (VIRF)**

Approximately 91 percent of VIRF revenue is derived from an \$8.25 Smog Check certification fee, and a portion of the annual smog abatement fee charged to newer vehicles during their temporary exemption from Smog Check. License and registration fees generate about 8 percent of VIRF revenue, with the remainder coming from litigation pursued by BAR. The VIRF funds all BAR operations, except CAP and EFMP, which are funded by HPRRA and EFMS, respectively.

<b>Fund Condition (VIRF)<sup>1</sup></b>						
(Dollars in Thousands)	FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17	FY 2017/18 <sup>6</sup>	FY 2018/19 <sup>6</sup>
Beginning Balance <sup>2</sup>	\$76,195	\$53,699	\$38,709	\$96,007	\$99,147	\$93,528
Revenues and Transfers	\$78,628	\$104,358	\$175,554	\$126,802	\$127,607	\$128,880
<b>Total Revenue</b>	\$154,823	\$158,057	\$214,263	\$232,809	\$226,754	\$222,409
Budget Authority	\$114,783	\$115,191	\$107,858	\$108,300	\$110,291	\$112,497
Expenditures <sup>3</sup>	\$117,844	\$122,684	\$118,256	\$133,662	\$133,226	\$129,086
Loans to General Fund <sup>4</sup>	\$0	\$0	\$0	\$0	\$0	\$0
Accrued Interest, Loans to General Fund <sup>5</sup>	\$0	\$22	\$9,342	\$1,981	\$0	\$0
Loans Repaid From General Fund	\$0	\$0	\$39,000	\$10,000	\$0	\$0
<b>Fund Balance</b>	\$36,979	\$35,373	\$96,007	\$99,147	\$93,528	\$93,323
<b>Months in Reserve</b>	3.6	3.6	8.6	8.9	8.7	8.5

1 VIRF figures do not include HPRRA or EFMS funds.

2 Beginning balance includes prior year adjustments.

3 Expenditures include direct appropriations to State Controller’s Office (SCO), Fi\$Cal, and ARB.

4 Loans to General Fund are included in revenues and transfers.

5 Accrued interest from loans to General Fund is included in revenues and transfers.

6 FY 2017/18 and FY 2018/19 amounts are projected.

**High Polluter Repair or Removal Account (HPRRA)**

HPRRA funds all CAP activities. CAP is designed to provide financial assistance to qualified consumers for the voluntary repair or retirement of vehicles failing Smog Check. HPRRA revenue is derived from \$6.00 of the annual smog abatement fee in year one and \$4.00 in years two through six of the model-year exemption for newer vehicles. To a much lesser extent, HPRRA also is funded by a portion of revenue generated from the sale of vehicles impounded by local law enforcement agencies and temporary operating permits issued by the DMV.

<b>Fund Condition (HPRRA)<sup>1</sup></b>						
(Dollars in Thousands)	FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17	FY 2017/18 <sup>5</sup>	FY 2018/19 <sup>6</sup>
Beginning Balance <sup>2</sup>	\$17,036	\$23,631	\$28,902	\$37,825	\$47,879	\$52,224
Revenues and Transfers	\$35,304	\$37,856	\$44,449	\$47,471	\$44,873	\$45,184
<b>Total Revenue</b>	\$52,340	\$61,487	\$73,351	\$85,296	\$92,752	\$90,786
Budget Authority	\$41,467	\$40,684	\$40,207	\$40,792	\$40,119	\$40,119
Expenditures <sup>3</sup>	\$29,629	\$32,454	\$35,862	\$37,367	\$40,528	\$40,528
Loans to General Fund <sup>4</sup>	\$0	\$0	\$0	\$0	\$0	\$0
Accrued Interest, Loans to General Fund <sup>5</sup>	\$0	\$0	\$0	\$0	\$0	\$0
Loans Repaid From General Fund	\$0	\$0	\$0	\$0	\$0	\$0
<b>Fund Balance</b>	\$22,712	\$29,033	\$37,489	\$47,879	\$52,224	\$56,880
<b>Months in Reserve</b>	8.4	9.7	11	12.2	15.5	16.8

1 HPRRA figures do not include EFMS funds.

2 Beginning balance includes prior year adjustments.

3 Expenditures include direct appropriations to SCO, FiSCal, and ARB.

4 Loans to General Fund are included in revenues and transfers.

5 Accrued interest from loans to General Fund is included in revenues and transfers.

6 FY 2017/18 and FY 2018/19 amounts are projected.

### **Enhanced Fleet Modernization Subaccount (EFMS)**

EFMS augments the state's existing statewide vehicle retirement program. EFMS is currently funded by \$1.00 collected from each vehicle registration.

<b>Fund Condition (EFMS)</b>						
(Dollars in Thousands)	FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17	FY 2017/18 <sup>5</sup>	FY 2018/19 <sup>5</sup>
Beginning Balance <sup>1</sup>	\$17,348	\$12,260	\$13,775	\$30,185	\$28,135	\$20,591
Revenues and Transfers	\$31,186	\$41,794	\$53,175	\$42,852	\$33,181	\$33,512
<b>Total Revenue</b>	\$48,534	\$54,054	\$66,950	\$73,037	\$61,316	\$54,103
Budget Authority	\$44,399	\$40,633	\$37,861	\$37,774	\$37,787	\$37,787
Expenditures <sup>2</sup>	\$36,477	\$40,445	\$36,765	\$45,222	\$40,725	\$40,667
Loans to General Fund <sup>3</sup>	\$0	\$0	\$0	\$0	\$0	\$0
Accrued Interest, Loans to General Fund <sup>4</sup>	\$0	\$225	\$544	\$320	\$0	\$0
Loans Repaid From General Fund	\$0	\$10,000	\$20,000	\$10,000	\$0	\$0
<b>Fund Balance</b>	\$12,057	\$13,609	\$30,185	\$28,135	\$20,591	\$13,452
<b>Months in Reserve</b>	3.6	4.4	8	8.3	6	4

1 Beginning balance includes prior year adjustments.

2 Expenditures include direct appropriations to SCO, FiSCal, and ARB.

3 Loans to General Fund are included in revenues and transfers.

4 Accrued interest from loans to General Fund is included in revenues and transfers.

5 FY 2017/18 and FY 2018/19 amounts are projected.

Smog check inspector and repair technician licenses are renewed biennially, brake and lamp adjuster licenses are renewed every four years, while all other BAR licenses are renewed annually.

Fee Schedule and Revenue: Bureau of Automotive Repair							
Fee	Current Fee Amount	Statutory Limit	FY 2013/14 Revenue	FY 2014/15 Revenue	FY 2015/16 Revenue	FY 2016/17 Revenue	% of Total Revenue
Automotive Repair Dealer (Initial)	\$200	\$200	\$831,550	\$816,900	\$800,500	\$850,750	9.48%
Automotive Repair Dealer (Renewal)	\$200	\$200	\$6,824,825	\$6,834,480	\$6,894,725	\$7,024,792	78.27%
Smog Check Test-and-Repair Station (Initial)	\$100	\$100	\$57,700	\$72,800	\$59,700	\$59,200	0.66%
Smog Check Test-and-Repair Station (Renewal)	\$100	\$100	\$463,200	\$471,400	\$488,200	\$504,000	5.62%
Smog Check Test-Only Station (Initial)	\$100	\$100	\$41,800	\$44,800	\$43,000	\$40,800	0.45%
Smog Check Test-Only Station (Renewal)	\$100	\$100	\$197,500	\$192,200	\$192,400	\$179,500	2.00%
Smog Check Repair-Only Station (Initial)	\$100	\$100	\$3,200	\$3,100	\$2,100	\$2,000	0.02%
Smog Check Repair-Only Station (Renewal)	\$100	\$100	\$3,000	\$4,300	\$5,900	\$6,900	0.08%
Brake and Lamp Station (Initial)	\$10	\$10	\$2,800	\$3,690	\$3,585	\$4,100	0.05%
Brake and Lamp Station (Renewal)	\$5	\$5	\$9,680	\$9,825	\$9,905	\$9,705	0.11%
Smog Check Inspector (Initial)	\$20	\$20	\$44,251	\$46,724	\$43,844	\$42,806	0.48%
Smog Check Inspector (Renewal)	\$20	\$20	\$79,186	\$126,547	\$136,471	\$139,072	1.55%
Smog Check Repair Technician (Initial)	\$20	\$20	\$7,809	\$8,636	\$9,236	\$13,444	0.15%
Smog Check Repair Technician (Renewal)	\$20	\$20	\$56,174	\$90,515	\$89,474	\$82,028	0.91%
Brake and Lamp Adjuster (Initial) <sup>1</sup>	\$10	\$10	\$17,850	\$16,710	\$17,870	\$16,120	0.18%

There is no statutory reserve level for BAR.

**Expenditures by Program Component** – Expenditures vary by each BAR fund. For the largest of these, VIRF, BAR expended approximately 53% on enforcement, 2% on licensing, and 44% on administration.

Table 3. Expenditures by Program Component												
Expenditures by Program Component <sup>1</sup>												
VIRF	FY 2013/14			FY 2014/15			FY 2015/16			FY 2016/17 <sup>2</sup>		
	Personnel Services	OE&E	%	Personnel Services	OE&E	%	Personnel Services	OE&E	%	Personnel Services	OE&E	%
Administration <sup>3</sup>	\$12,537,999	\$35,284,287	49%	\$13,602,886	\$35,973,784	50%	\$11,733,680	\$28,949,725	44%	\$14,622,657	\$28,402,001	44%
Licensing	\$2,039,159	\$250,550	2%	\$1,976,213	\$143,863	2%	\$2,153,724	\$172,952	3%	\$2,218,662	\$194,383	2%
Enforcement	\$34,252,215	\$13,123,913	49%	\$34,714,810	\$13,895,618	48%	\$35,621,399	\$13,395,136	53%	\$35,292,791	\$16,741,273	53%
DCA Pro Rata <sup>4</sup>		\$15,140,278			\$15,697,628			\$12,291,842			\$11,981,860	
Total PS & OE&E		\$97,488,123			\$100,307,174			\$92,026,616			\$97,471,767	
<b>TOTALS</b>	<b>\$48,829,373</b>	<b>\$48,658,750</b>	<b>100%</b>	<b>\$50,293,909</b>	<b>\$50,013,265</b>	<b>100%</b>	<b>\$49,508,803</b>	<b>\$42,517,813</b>	<b>100%</b>	<b>\$52,134,110</b>	<b>\$45,337,657</b>	<b>100%</b>

1 Collected reimbursements are not included in expenditures.

2 Based on FM 13 CALSTARS reports.

3 Administration includes costs for executive staff, board, administrative support, and fiscal services.

4 DCA Pro Rata included in OE&E (Operating Expense and Equipment).

Expenditures by Program Component												
HPRRA	FY 2013/14			FY 2014/15			FY 2015/16			FY 2016/17 <sup>1</sup>		
	Personnel Services	OE&E	%	Personnel Services	OE&E	%	Personnel Services	OE&E	%	Personnel Services	OE&E	%
Program	\$4,582,267	\$23,913,183	100%	\$3,993,442	\$28,274,555	100%	\$3,814,252	\$30,536,028	100%	\$4,634,797	\$32,731,931	100%
DCA Pro Rata <sup>2</sup>		\$1,567,552			\$1,571,777			\$1,231,899			\$1,487,150	
Total PS & OE&E		\$28,495,450			\$32,267,997			\$34,350,280			\$37,366,728	
<b>TOTALS</b>	<b>\$4,582,267</b>	<b>\$23,913,183</b>		<b>\$3,993,442</b>	<b>\$28,274,555</b>		<b>\$3,814,252</b>	<b>\$30,536,028</b>		<b>\$4,634,797</b>	<b>\$32,731,931</b>	

1 Based on FM 13 CALSTARS reports.

2 DCA Pro Rata included in OE&E.

Expenditures by Program Component												
EFMS	FY 2013/14			FY 2014/15			FY 2015/16			FY 2016/17 <sup>1</sup>		
	Personnel Services	OE&E	%	Personnel Services	OE&E	%	Personnel Services	OE&E	%	Personnel Services	OE&E	%
Program	\$343,593	\$33,322,058	100%	\$397,706	\$39,579,167	100%	\$428,019	\$32,119,482	100%	\$505,225	\$37,095,376	100%
DCA Pro Rata <sup>2</sup>		\$220,816			\$308,871			\$156,815			\$161,212	
Total PS & OE&E		\$33,665,651			\$39,976,873			\$32,547,501			\$37,600,601	
<b>TOTALS</b>	<b>\$343,593</b>	<b>\$33,322,058</b>		<b>\$397,706</b>	<b>\$39,579,167</b>		<b>\$428,019</b>	<b>\$32,119,482</b>		<b>\$505,225</b>	<b>\$37,095,376</b>	

1 Based on FM 13 CALSTARS reports.

2 DCA Pro Rata included in OE&E.

BAR seeks cost recovery by sending collection notices and if unsuccessful, by referring outstanding accounts to the Franchise Tax Board (FTB) for collection.

## Licensing

As of FY 2016/17 BAR regulates 36,790 ARDs, 5,208 Smog Check Test-and-Repair Stations, 15,377 Smog Check Inspectors, 9,103 Smog Check Repair Technicians, and 4,510 STAR Stations, with the remaining licensee population spread among the remaining six license types.

The Licensing Program of BAR provides public protection by ensuring licenses or registrations are issued only to applicants who meet the minimum requirements of current statutes and regulations and who have not committed acts that would be grounds for denial.

The Bureau's established internal performance expectations are that all applications are processed within 30 days from receipt of a complete application, and BAR reports that it is meeting this goal. Upon approval of the application and supporting documents, a license is issued.

BAR currently processes complete applications below processing times established in California Code of Regulations, Title 16, Section 3303.2. BAR does not have a licensing backlog.

BAR's licensing population is as follows:



Licensee Population					
License Type		FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17
Automotive Repair Dealer <sup>1</sup>	Active	36,559	36,689	36,788	36,790
	Out-of-State	0	0	0	0
	Out-of-Country	0	0	0	0
	Delinquent	3,257	3,127	2,732	3,997
Smog Test-and-Repair Station	Active	5,001	5,237	5,306	5,208
	Out-of-State	0	0	0	0
	Out-of-Country	0	0	0	0
	Delinquent	351	365	344	475
Smog Test-Only Station	Active	2,199	2,158	2,146	2,141
	Out-of-State	0	0	0	0
	Out-of-Country	0	0	0	0
	Delinquent	275	265	210	210
Smog Repair-Only Station	Active	58	41	42	46
	Out-of-State	0	0	0	0
	Out-of-Country	0	0	0	0
	Delinquent	2	7	8	8
Brake and Lamp Station	Active	2,128	2,157	2,096	2,079
	Out-of-State	0	0	0	0
	Out-of-Country	0	0	0	0
	Delinquent	177	193	218	254
Smog Check Inspector	Active	15,357	15,909	15,552	15,377
	Out-of-State	0	0	0	0
	Out-of-Country	0	0	0	0
	Delinquent	5	1,219	2,629	3,664
Smog Check Repair Technician	Active	12,063	11,268	9,889	9,103
	Out-of-State	0	0	0	0
	Out-of-Country	0	0	0	0
	Delinquent	2	1,593	3,245	4,261
Brake and Lamp Adjuster	Active	3,148	3,114	3,131	3,057
	Out-of-State	0	0	0	0
	Out-of-Country	0	0	0	0
	Delinquent	0	0	0	0
STAR Station <sup>2</sup>	Active	4,190	4,600	4,557	4,510
	Out-of-State	0	0	0	0
	Out-of-Country	0	0	0	0
	Delinquent	0	0	0	0

1 Registration

2 Certification

Applicants for licensure and registration are required to submit all instances of administrative discipline and prior criminal convictions, including Smog Check citations, to BAR as part of the application process. While a conviction is not grounds for license denial, BAR will request additional details on any convictions and refers such applications to BAR’s Enforcement Operation Branch (EOB) for evaluation and determination of whether the application should be approved.

BAR does not have authority to fingerprint applicants.

### **Continuing Education**

BAR has not changed requirements for continuing education (CE) since the last sunset review. Requirements are listed below.

<b>License</b>	<b>CE/Competency Requirement</b>	<b>Provider</b>	<b>Renewal Cycle</b>
Smog Check Inspector	4-hour online training	BAR	2 years
Smog Check Repair Technician	16 hours of training	BAR-certified schools	2 years
Brake Adjuster A	examination retest	PSI	4 years
Brake Adjuster B	examination retest	PSI	4 years
Brake Adjuster C	examination retest	PSI	4 years
Lamp Adjuster	examination retest	PSI	4 years

BAR certifies both training institutions and instructors. Prior to BAR certification of an institution, BPPE approval or exemption is required. Smog Check instructors submit course content to BAR for approval. BAR staff reviews the content of each course, and the instructor’s qualifications, and issues approval, and may consult with an outside expert for course approval issues.

### **Enforcement**

BAR’s Enforcement Division conducts investigations, often in response to consumer complaints, disciplines licensees who do not comply with statute or regulations, and pursues unlicensed activity. The mandate of the Enforcement Division, according to BAR’s most recent strategic plan, is below:

- Collaborate with field staff to foster consistency, improve enforcement operations, and encourage innovation.
- Balance support of Consumer Protection Operations (CPO) and Inspection and Maintenance (I/M) to maximize the effectiveness of enforcement efforts.
- Evaluate internal case management processes to improve efficiency and effectiveness.
- Modernize enforcement tools, equipment, and training to more effectively monitor industry compliance.
- Update regulations to improve clarity, increase compliance, and eliminate inconsistencies and loopholes.

- Explore new partnerships with external organizations to build relationships that improve enforcement processes.

Though the enforcement program is a large operation, with facilities spread across the state BAR consistently meets enforcement timelines with the exception of formal disciplinary cases which are conducted in collaboration with the Attorney General’s office and an Administrative Law Judge (ALJ). BAR indicates that this increase, from 673 days in FY 2014/15 to 721 days in FY 2016/17 is directly correlated to an increased workload from new Smog Check enforcement efforts related to the implementation of BAR-Onboard Inspection System (BAR-OIS) testing.

BAR-OIS testing allows BAR to better identify inspections using improper testing platforms as well as fraudulent efforts through “clean-plugging,” a technique which involves utilizing computer tools to circumvent smog testing. This has made collecting data much more efficient, leading to more enforcement cases being created. To help assist the Attorney General’s office with enforcement timelines, BAR has begun to utilize “certificate blocking,” which allows them to instantly prevent the issuance of fraudulent certificates and thereby bypass the step of the Interim Suspension Orders (ISO’s) that were previously issued by the Attorney General’s office. The increased workload has led to longer times for formal disciplinary cases, an issue discussed in the “current issues” section below.

The tables below show the timeframes and caseloads for BAR’s enforcement efforts.

<b>Enforcement Statistics</b>			
	FY 2014/15	FY 2015/16	FY 2016/17
<b>COMPLAINT</b>			
Intake			
Received	19,793	19,549	18,395
Closed	18,413	18,960	18,455
Referred to Investigation	19,095	18,996	18,102
Average Time to Close	38	43	45
Pending (close of FY)	146	197	188
Source of Complaint			
Public	14,897	14,562	14,110
Licensee/Professional Groups	16	16	15
Governmental Agencies	6	2	4
Internal/Other	4,874	4,969	4,266
Conviction / Arrest			
Conviction Received	N/A	N/A	N/A
Conviction Closed	N/A	N/A	N/A
Average Time to Close	N/A	N/A	N/A
Conviction Pending (close of FY)	N/A	N/A	N/A
<b>LICENSE DENIAL</b>			
License Applications Denied	106	125	139
Statements of Issues (SOIs) Filed	40	43	20
SOIs Withdrawn	19	16	9
SOIs Dismissed	0	0	0
SOIs Declined	0	0	0

Average Days SOI	448	651	701
<b>ACCUSATION</b>			
Accusations Filed <sup>1</sup>	187	232	242
Accusations Withdrawn	3	2	7
Accusations Dismissed	2	3	3
Accusations Declined	1	0	0
Average Days Accusations <sup>2</sup>	138	185	208
<b>DISCIPLINE</b>			
Disciplinary Actions			
Proposed/Default Decisions	79	86	71
Stipulations	108	118	86
Average Days to Complete	673	736	721
AG Cases Initiated	285	342	737
AG Cases Pending (close of FY)	428	561	863
Disciplinary Outcomes			
Revocation	275	266	317
Voluntary Surrender	0	0	0
Suspension	0	1	2
Probation with Suspension	98	61	84
Probation	60	83	86
Probationary License Issued	0	0	5
Other	15	50	28
<b>PROBATION</b>			
New Probationers	167	152	186
Probations Successfully Completed	127	160	144
Probationers (close of FY)	355	347	389
Petitions to Revoke Probation	19	8	15
Probations Revoked	8	2	1
Probations Modified	3	2	0
Probations Extended	9	4	0

## PRIOR SUNSET REVIEWS: CHANGES AND IMPROVEMENTS

The Bureau was last reviewed in 2014. During the previous sunset review, the Committee staff raised 16 issues and provided recommendations. Below, are actions which have been taken to address the issues. For those which were not addressed and which may still be of concern, they are addressed and more fully discussed under the *Current Sunset Review Issues for the Bureau of Automotive Repair* section.

**Recommendation 1.** The Bureau should advise the Committees about the roles that ARB and BAR play in the Smog Check Program, and in establishing Smog Check policies. In what ways do ARB and BAR work together to establish policies which protect California consumers?

**Bureau Response:** *BAR and ARB have established staff work groups that meet weekly to develop and implement various programs and studies. The two agencies also coordinate an annual evaluation of the Smog Check Program.*

*Additionally, BAR and ARB executive management meet quarterly to discuss program issues relating to both agencies.*

*BAR helps ensure that vehicle emissions standards set by the ARB are met on a biennial basis as a condition of vehicle registration. BAR and ARB have worked to protect California consumers through joint programs such outreach and management of the Enhanced Fleet Modernization Program (EFMP) that helps income-eligible consumers retire or replace their vehicles. The two agencies also collaborated on a study of On-Board Diagnostic (OBD) vehicles with pattern failures that in some cases resulted in manufacturer emissions recalls.*

**Recommendation 2.** The Bureau should inform the Committees of the impact that the General Fund loans have had on the Bureau's operations. What is the current status of the outstanding General Fund loans, and what are the plans to repay them to the Special Funds administered by BAR?

**Bureau Response:** *DCA, working in conjunction with the Department of Finance, continues to adjust BAR's fund condition based on loan repayments.*

**Recommendation 3.** The Bureau should advise the Committees about the bases upon which pro rata is calculated, and how it is determined how the pro rata charged will be paid from among three funds under the Bureau's jurisdiction.

**Bureau Response:** *DCA, in consultation with BAR, annually determines pro rata. The pro rata calculation is dependent upon the service; some services are distributed based on staffing levels at BAR and some are service-level based.*

**Recommendation 4.** The Bureau should inform the Committees on how it verifies whether or not an applicant has been convicted of any crimes which are substantially related to the licensed practice. Does the Bureau feel that it would be helpful in its consumer protection efforts to fingerprint applicants, and existing licensees and registrants?

**Bureau Response:** *Applicants are required to disclose all prior criminal convictions and administrative discipline, including Smog Check citations, as part of the application process. If the application indicates a criminal conviction, BAR's Licensing Unit requests additional details before referring the application to BAR's Enforcement Operations Branch (EOB). EOB reviews prior disciplinary and/or criminal history provided by the applicant to determine if the initial or renewal license should be granted.*

**Recommendation 5.** The Bureau should update the Committees on the current status of the CE program for Smog Check Inspectors and Smog Check Repair Technicians. What is the current status of the Bureau's efforts to implement technology changes which give BAR the ability to track the CE failure rate for licensees?

**Bureau Response:** *In 2014, BAR implemented an online database known as the California Automotive Resource Center (ARC) to maintain records of successful completion of required training, which is verified by BAR upon application to renew the license. In 2015, BAR developed and began providing Smog Check Inspector training online to ensure that course material is current and relevant. Smog Check Repair Technicians receive training from BAR-certified schools and passing results are reported through the online database at [www.californiaarc.org](http://www.californiaarc.org). Typically, if a licensee wants to*

*continue practicing in a trade, they will retake training until they are able to demonstrate competency. Therefore, tracking failure rates is no longer necessary.*

**Recommendation 6.** Should facilities that offer services that have been considered exempt areas of practice such as replacing spark plugs, batteries, fan belts and with tire pressure monitoring systems be required to register as automotive repair dealers? The Bureau should discuss this issue with the Committees. What is the Bureau doing to appropriately protect consumers in this area? Is the Bureau considering regulatory changes to better protect consumers? Is BAR's regulatory authority sufficient in these areas? Does BAR recommend legislative changes to better enhance or clarify its regulatory authority in these areas?

**Bureau Response:** *During the 2015/16 legislative session, AB 873 (Jones) and SB 778 (Allen) were introduced to impose oil change notification requirements and revise the definition of "repair of motor vehicles" by deleting the list of services exempt from the definition and enabled the Director, through regulation, to determine any exempted services. AB 873 was signed by the Governor. However, enactment of AB 873 was contingent upon the enactment of SB 778, which was vetoed by the Governor. Therefore, neither bill was enacted into law. SB 778 would have, among other provisions, established a new registration type under BAR for Automotive Maintenance Providers, which was defined as a person, who for compensation, engages in the business of the preventive automotive maintenance services associated with fluid and filter changes, fluid treatments, and belt and windshield wiper blade replacement. The Governor's veto message indicated, "This bill creates a new registration category for oil change stations under the Bureau of Automotive Repair. I believe that, before a new registration program is enacted, a more comprehensive review is needed. AB 873, which I signed, provides just that process."*

**Bureau Recommendation:** *BAR should continue to study and discuss this issue with industry representatives and the public. At a public workshop on July 20, 2017, BAR proposed regulatory changes to clarify the list of exempted services, including its non-application to the removal of propulsion batteries for electric and hybrid vehicles and the removal and installation of tires with tire pressure monitoring systems. In addition, the proposal aims to expand the list of exempted services to include services that do not require mechanical expertise, have not given rise to a high incidence of fraud or deceptive practices, and do not involve a part of the vehicle essential to its safe operation, as provided by statute. Based on public feedback from the workshop, BAR is in the process of finalizing the text and will soon file regulations with OAL to begin formal comment on the proposal.*

**Recommendation 7.** The Bureau should advise the Committees about where it believes the bottlenecks are in its investigation processes and disciplinary actions. What does the Bureau think are the causes of the delays? In the Bureau's opinion, what are viable solutions to the extensive timeframes in its enforcement processes?

**Bureau Response:** *BAR consistently meets its internal goal of 180 days for completion of investigations for disciplinary cases. Since the last sunset review, BAR has partnered with the Office of the Attorney General to reduce case cycle times. However, the introduction of BAR-OIS testing into the Smog Check Program led to a temporary increase in citations, formal disciplinary actions, and Interim Suspension Orders (ISOs), which has contributed to an overall increase in case adjudication processing times. The workload for the Office of the Attorney General associated with ISOs is substantial. To mitigate and manage this workload, BAR implemented "certificate blocking" in Spring*

2017, pursuant to Health and Safety Code section 44036(b)(3)(K). This enables BAR to block the certification of vehicles immediately upon the capture of sufficient evidence to support an accusation against stations and technicians engaging in fraudulent inspections. Certificate blocking will result in a significant workload reduction at the Office of the Attorney General by substantially reducing the need for ISOs.

**Bureau Recommendation:** *BAR recommends monitoring and analyzing the effect of its certificate blocking efforts to determine if further measures are needed to address enforcement timeframes.*

**Recommendation 8.** BAR should report to the Committee on the status of implementing the recommendations of the administrative and enforcement monitor. Are there recommendations that still have not been implemented? Why have they not been implemented? Does BAR recommend that the legislative changes proposed by the monitor should be made?

**Bureau Response:** *Since the last sunset review, BAR has completed the remaining administrative recommendations of the enforcement monitor with the adoption of regulations updating BAR's Disciplinary Guidelines and providing technical reviews of shop management software upon industry request. BAR does not recommend further action on the recommendations requiring legislation.*

**Recommendation 9.** BAR should update the Committees on the current status of updating the disciplinary guidelines.

**Bureau Response:** *In July 2016, BAR adopted the new disciplinary guidelines and other regulations related to the disciplinary process.*

**Recommendation 10.** The Bureau should advise the Committees of the manner in which it finds out about pending criminal charges against licensees. Are there any impediments to the Bureau making requests under PC § 23? Why are there so few PC § 23 requests made by the Bureau? Are there ways the Bureau could more effectively use consumer protection tool available through the Courts?

**Bureau Response:** *BAR learns about criminal charges against licensees from District Attorneys, the Attorney General, law enforcement, other government agencies, and tips from the public and industry. A Penal Code section 23 action is contingent upon the District Attorney accepting BAR's request. BAR also petitions through the Office of the Attorney General for an Interim Suspension Order (ISO) when the criminal activity is substantially related to the duties of the license. The ISO achieves the same result of suspending a licensee from practice until the disciplinary action is adjudicated.*

**Recommendation 11.** BAR should update the Committees on the current status of its ability to issue citations and fines. Are the confidential undercover operators being used for enforcement activities relating to unlicensed or for licensed persons? Have the number of citations and fines increased or decreased as a result?

**Bureau Response:** *BAR issues citations to obtain compliance from delinquent Automotive Repair Dealers (ARDs) and unregistered automotive repair providers. Citations also are an effective enforcement tool for progressive discipline in Smog Check. Confidential undercover operators are utilized for the enforcement of laws pertaining to both unlicensed and licensed individuals. Since the last sunset review, the number of citations issued and total dollar amount of fines for unlicensed activity and Smog Check violations have increased.*

**Recommendation 12.** BAR should give the Committees its assessment of the current efforts to collect cost recovery amounts that are due to the Bureau. Are there additional steps that could be taken? Has BAR found instances of issues of a licensee who has been revoked applying for a new license under another name or different ownership in order to avoid paying costs?

**Bureau Response:** *BAR sends demand letters to businesses and individuals in default of administrative decisions with cost recovery orders. Upon exhaustion of all reasonable collection efforts, BAR reports the debt to the Franchise Tax Board Intercept Program and a contracted debt collection agency. BAR also places a hold on the license renewal. BAR has worked with the Office of the Attorney General to include language in decisions ordering payment prior to the end of the probationary period. Probation can be revoked for failure to pay as ordered.*

*Licensees who attempt to reapply under a different name or ownership to avoid penalties associated with formal disciplinary actions may have applications denied by BAR. BAR denies the application until payment is made in full or takes administrative action to revoke the license.*

**Recommendation 13.** Bureau should update the Committees on the status of regulations which seek to fight unlicensed activity by requiring specified automotive repair dealers to publish their BAR registration number in advertisements.

**Bureau Response:** *Traditional brick and mortar automotive repair facilities are required to post their registration certificate in each place of business. Since ARDs with mobile operations do not interface with customers at facilities subject to signage requirements, and they typically solicit customers on websites, BAR recently adopted regulations requiring mobile ARDs to include their registration numbers on their vehicles and in all online advertisements. Consumers will now be educated by BAR on how to verify the registration and check for prior disciplinary history on BAR's website.*

Bureau Recommendation: *BAR will begin an educational campaign aimed at reaching out to mobile automotive repair businesses to ensure compliance with the advertising requirements of the new regulations, as well as inform consumers on the importance of verifying a business registration, especially in the case of mobile automotive repair transactions.*

**Recommendation 14.** BAR should update the Committee about the current status of its implementation of BreEZe. What have been the challenges to implementing this new system? What are the costs of implementing this system? Is the cost of BreEZe consistent with what the Bureau was told the project would cost?

**Bureau Response:** *BAR plans to perform a detailed analysis of its current business processes and needs prior to planning a technology response. In June 2017, BAR met with the DCA Chief Information Officer (CIO) and Executive Office and agreed on a phased-in approach beginning with an inventory and documentation of existing licensing and enforcement business processes. Outputs from this analysis will serve as key inputs to the Project Approval Lifecycle (PAL) process. BAR will work with DCA and the California Department of Technology (CDT) to evaluate all alternatives prior to selecting the best technology response. This strategy is consistent with DCA's Business Modernization Strategic Plan for all Release 3 boards and bureaus. Although no "bridge system" is being utilized, several workarounds are currently being used to satisfy program requirements or needs that cannot be met by current legacy systems.*



*In September 2017, BAR completed an inventory of all licensing and enforcement business processes with the assistance of DCA SOLID staff. BAR plans to pursue a contract in early 2018 to assist with detailed documentation of the business processes.*

**Recommendation 15.** BAR should update the Committees on the development of the Automotive Resource Center Web site. What is the current status of this project? When will the Web site be complete? What benefits does BAR believe the development of the Web site will bring?

**Bureau Response:** *The ARC was completed in September 2014. BAR and Smog Check professionals also now can track and verify completion of training requirements for licensure at [www.californiaarc.org](http://www.californiaarc.org).*

**Recommendation 16.** BAR should work with Committee staff to identify cleanup amendments for the Business and Professions Code and the Health and Safety Code provisions relating to the Bureau.

**Bureau Response:** *There are several terms, dates, and programs that are no longer relevant to BAR or its programs. DCA and BAR stand ready to develop recommendations for technical cleanup and look forward to working with the appropriate legislative committees on these issues.*

#### **Major changes:**

- Since the last Sunset Review, BAR has three new Deputy Chiefs, one in an acting capacity.
  - Patty Wohl, Acting Deputy Chief  
Licensing, Administration and Consumer Assistance Division  
Appointed January 3, 2017
  - Tim Corcoran, Deputy Chief  
Field Operations and Enforcement Division  
Appointed February 1, 2017, Departed BAR February 2018
  - Clay Leek, Deputy Chief  
Smog Check Operations, Engineering and Information Services Division  
Appointed March 6, 2017

### **CURRENT SUNSET REVIEW ISSUES FOR THE BUREAU OF AUTOMOTIVE REPAIR**

The following are unresolved issues pertaining to the Bureau, or those which were not previously addressed by the Committees, and other areas of concern for the Committees to consider along with background information concerning the particular issue. There are also recommendations the Committee staff have made regarding particular issues or problem areas which need to be addressed. The Bureau and other interested parties, including the professions, have been provided with this *Background Paper* and can respond to the issues presented and the recommendations of staff.

#### **BUDGET ISSUES**

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**ISSUE #1: *What is the status of the long term fund condition?***

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**Background:** The BAR is funded by three special funds comprised of the Vehicle Inspection and Repair Fund (VIRF), High Polluter Repair or Removal Account (HPRRA), and the Enhanced Fleet Modernization Subaccount (EFMS). Of these funds, VIRF and HPRRA have been stable or increased for the three most recent financial years and only EFMS projections show a significant decrease in reserve balance, from 6 to 4 months. BAR indicates that the current spending authorization for EFMS exceeds the funds replenishment and that the current \$1 fee must be increased or spending reduced. Despite this, overall, BAR does not predict any deficits in the next four fiscal years.

**Staff Recommendation:** *The Bureau should advise the committee of its current fund conditions and indicate whether it is feasible to decrease EFMS spending or if fees must need to be increased to support operations.*

**LICENSING ISSUES**

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**ISSUE #2: *Are BAR licensing exams sufficient tools for evaluation?***

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**Background:** BAR utilizes six different exams for licensing, these include: Smog Check Inspector, Smog Check Repair Technician, Brake Adjuster (A), Brake Adjuster (B), Brake Adjuster (C), and Lamp Adjuster. These examinations are developed by BAR in consultation with DCA's Office of Professional Examination Services (OPES). BAR does not use a national exam and offers its examinations via computer in English. There are no other languages available for testing.

It is common for other boards and bureaus under DCA to report first time vs. retake pass rates. Without this data readily available, it is unclear how BAR and OPES evaluate the efficacy of its exams. Additionally, it is unclear whether offering these exams solely in English is sufficient for maintaining access to the professions, especially in light of the diverse licensing population in California.

**Staff Recommendation:** *BAR should advise the Committees of whether it feels that access is being limited to the auto repair profession by the sole availability of testing in English. Does BAR feel that the exams continue to be an accurate assessment of the skills and knowledge necessary to practice in this field? Additionally, without pass data, how does BAR track the utility of the exams?*

**ENFORCEMENT ISSUES**

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**ISSUE #3: *Will enforcement workloads stabilize?***

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**Background:** In 2015 BAR began requiring BAR-OIS testing for most model year 2000 and newer gasoline vehicles, most model year 1998 and newer diesel vehicles, and all hybrids. This shift led to a spike in citations and cases initiated with the office of the Attorney General. After the initial switch, BAR found that several hundred inspections a month were being conducted using the improper testing equipment and issued a large quantity of citations to correct the improper inspections. Additionally,

BAR has been able to utilize the BAR-OIS testing to identify fraudulent testing activity conducted via “clean-plugging,” a technique that involves mimicking a passing vehicle using software or hardware and issuing a false certificate.

These two shifts in enforcement have led to a tremendous increase in both citations and cases referred to the Attorney General. In the case of the latter, total cases referred increased from 342 cases in FY 2015/16 to 737 in FY 2016/17.

BAR believes that workload will decrease now that it has addressed the bulk of inappropriate testing procedures resulting from the transition to BAR-OIS testing.

***Staff Recommendation:*** *BAR should advise the committees of any other potential enforcement case increases and if so, what steps are being taken to prevent future surges in workload. Additionally, BAR should report the current caseload of cases still being pursued by the Attorney General and the timeliness of investigation completion in such cases.*

#### **ISSUE #4: Is certificate blocking a sufficient deterrent to illegal activity?**

**Background:** In Spring 2017 BAR implemented “certificate blocking” to immediately stop the issuing of certificates by an inspection station engaged in “clean plugging” activities. This electronic intervention is only taken upon the collection of sufficient information to support an action against the stations and technicians involved. Notably, certificate blocking does not prevent the conducting of proper and accurate Smog inspections and only prevents fraudulent testing.

BAR writes that the implementation of certificate blocking will result in a significant decrease in workload at the Office of the Attorney General, a positive development since implementation of BAR-OIS testing has resulted in an 88 percent increase in total cases since the last sunset review.

***Staff Recommendation:*** *BAR should advise the committees if certificate blocking has been determined to be a sufficient and reliable tool for countering illegal Smog activity or whether additional tools are necessary to effectively address this issue.*

#### **ISSUE #5: Should BAR require license numbers to be displayed in all advertising?**

**Background:** According to BAR, the online advertisement of unlicensed auto repair is a persistent issue, particularly by those that offer mobile repair services. This is particularly concerning in that consumers may unwittingly contract with an unlicensed individual who in addition to visiting their home, may cause harm to their vehicle. Without the appropriate oversight by BAR, these repair services may put consumers at risk without any checks and balances and the easy availability of online advertising makes it challenging for BAR to track and intervene in these circumstances.

To address this, BAR implemented regulations that require mobile automotive repair dealers to display their license number in all forms of advertising. BAR believes that this will allow them to more easily identify unlicensed activity as well.

**Staff Recommendation:** *BAR should advise the committees if these regulations have proven sufficient to address the problem of unlicensed mobile repairs. Additionally, BAR should advise whether it is necessary to apply this provision across all licensees and if a statutory fix is necessary to permanently address the issue.*

**ISSUE #6: What has been the impact of new disciplinary guidelines?**

**Background:** In July 2016 BAR adopted new disciplinary guidelines through the regulatory process. However, it is not clear from the report if these guidelines have been sufficient or require further development before the next sunset review.

**Staff Recommendation:** *BAR should advise the committees if the new disciplinary guidelines adopted in 2016 are working effectively and if there will be need for additional updates in the near future.*

**TECHNOLOGY ISSUES**

**ISSUE #7: What is the status of BReEZe implementation by the Bureau?**

**Background:** In 2009, the Department of Consumer Affairs (DCA) began an IT project to replace multiple antiquated standalone information technology systems used by the boards, bureaus, and committees within its jurisdiction, with one fully integrated system. In 2011, the DCA awarded a contract to Accenture LLC to develop and implement the IT system, commonly referred to as BreEZe.

The original project plan called for the BreEZe system to be implemented into three releases beginning in July of 2012. The Bureau was scheduled to be a part of the third release, along with 19 other boards and bureaus. However, numerous technical delays and problems with the project forced the delay of both the first and second releases of the system; and subsequently eliminated the project for those boards and bureaus scheduled for release three, including BAR. Instead, DCA reported its intentions to conduct a cost-benefit analysis for Release 3 boards after the completion of release two in early 2016.

Despite not receiving or utilizing the BreEZe system, BAR contributes annually to BreEZe costs, including a projected \$317,000 in FY 2017/18.

<b>BreEZe Costs</b>				
<b>FY 2013/14</b>	<b>FY 2014/15</b>	<b>FY 2015/16</b>	<b>FY 2016/17</b>	<b>FY 2017/18<sup>1</sup></b>
\$286,561	\$149,949	\$146,192	\$368,216	\$317,000

**Staff Recommendation:** *BAR should update the Committee about the current status of its implementation of alternative IT solutions to BreEze and whether current technology solutions are sufficient to fulfill the role of BAR. Is the cost of BreEZe consistent with what the Bureau was told the project would cost? How will the Bureau pursue technology solutions to fill the role of BreEze in the future?*

## ADMINISTRATIVE ISSUES

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### **ISSUE #8: *What is the status of the minor services exemption?***

**Background:** According to Business and Professions Code section 9880.1(e) “repair of motor vehicles” excludes “minor services,” those that do not require mechanical expertise or do not affect a part of the vehicle necessary for its safe operation. Historically this exemption allowed for quick, mostly non-mechanical service like tire, oil, and battery changes to be done without requiring oversight and licensing. The statute also provides the Director with the regulatory authority to expand the list of exempted services based on a standard that the services are “customarily performed by gasoline service stations.”

As the gasoline service station model has gradually been replaced by gasoline station convenience stores, it would seem that the statute requires some modernization. Additionally, as cars have increased in technological sophistication, some services that traditionally fell under the “minor services” exemption now require specialized training.

Since the previous sunset review BAR worked along with the legislature to address this issue. During the 2015/16 legislative session, AB 873 (Jones) and SB 778 (Allen) were introduced to impose oil change notification requirements and revise the definition of “repair of motor vehicles” by deleting the list of services exempt from the definition and enabled the Director, through regulation, to determine any exempted services. AB 873 was signed by Governor Brown but failed to take effect as SB 778, conjoined with AB 873, was vetoed, citing the creation of a new registration category and urging “more comprehensive review.”

BAR has also taken action to address this issue through regulation and on July 20, 2017 proposed regulatory changes to provide clarification to “minor services,” including its non-application to technologically sophisticated services that may have been previously interpreted as exempted, like the swapping of hybrid battery packs or tire changes involving electronic sensor packages. The proposed regulatory package also expands the list of other minor services. BAR has been holding public workshops on this topic and is in the process of filing with the Office of Administrative Law to begin the comment process.

**Staff Recommendation:** *BAR should advise the Committees of the current status of its regulatory package related to the “minor services exemption.” BAR should also advise whether current statutory authority is sufficient to address this issue or if it requires an expansion of authority to address emerging technologies between sunset reviews.*

## TECHNICAL CLEANUP

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### **ISSUE #9: *Is there a need for technical cleanup?***

**Background:** BAR has indicated in its *2017 Sunset Review Report* that there may be a number of changes to its statutory authority that would assist in the better implementation of its mandate.

**Staff Recommendation:** *The Bureau should recommend cleanup amendments for BPC § 9880 et seq. to the Committees.*

**CONTINUED REGULATION OF THE PROFESSION BY THE  
BUREAU OF AUTOMOTIVE REPAIR**

**ISSUE #10:** *Should the State continue to license and regulate automotive repair under the current Bureau?*

**Background:** The health, safety and welfare of consumers are protected by the presence of a strong licensing and regulatory Bureau with oversight over the automobile repair industry.

The BAR has demonstrated a commitment to preventing illegal activity within its jurisdiction and working collaboratively with the legislature and stakeholders to do so.

BAR should be continued with a 4-year extension of its sunset date so that the Legislature may once again review whether the issues and recommendations in this Background Paper have been addressed.

**Staff Recommendation:** *Recommend that the licensing and regulation of the automotive repair industry continue to be regulated by the California Bureau of Automotive Repair in order to protect the interests of the public and be reviewed once again in four years.*