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Bureau of State Audits

## Recommendations for Legislative Consideration From Audits Issued During 2011 and 2012



December 2012 Report 2012-701

# SPECIAL REPORT

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# CALIFORNIA STATE AUDITOR

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December 18, 2012

2012-701

Dear Governor and Legislative Leaders:

As a resource to the State, the State Auditor's Office aims to provide oversight and to ensure the accountability of government operations. As such, my office conducts independent audits as mandated by statute or as directed by the Joint Legislative Audit Committee. While our recommendations are typically directed to the agencies we audit, we also make recommendations for the Legislature to consider in the interest of more efficient and effective government operations. This special report summarizes those recommendations we made during 2011 and 2012 for the Legislature to consider, or recommendations for the state agency to seek legislative changes.

In this special report, we include recommendations intended to enhance the safety of students enrolled in California's public schools. For example, to help keep students safe, we recommend the Legislature establish a mechanism to monitor classified employees who have separated from a school district by dismissal, resignation, or settlement during the course of an investigation of misconduct involving students, similar to the oversight provided by the Commission on Teacher Credentialing for certificated employees. If such a mechanism existed, school districts throughout the State could be notified before hiring these classified employees.

Additionally, in some instances, we make recommendations intended to increase state revenue or correct deficiencies. For example, we found that the California Department of Transportation sold five surplus residential properties for \$2.6 million below their total market value. We recommended that the Legislature consider amending state law regarding the sale of state-owned residential property. Furthermore, we estimate that the California Emergency Management Agency (Cal EMA) was overbilled nearly \$674,000 for mutual aid assistance by local agencies that inaccurately calculated average actual hourly rates. In this case, we recommended that Cal EMA audit a sample of invoices annually, including performing an analysis of the accuracy of the local agencies' average actual hourly rates.

The Appendix that starts on page 59 includes a listing of legislation chaptered or vetoed during the 2011-12 Regular Legislative Session based, at least in part, on recommendations from our audit reports.

If you would like more information or assistance regarding any of the recommendations or the background provided in this report, please contact Debbie Meador, Chief of Legislative Affairs, at (916) 445-0255, extension 292.

Respectfully submitted,



ELAINE M. HOWLE, CPA  
State Auditor

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## Department of Education

### Improve the Utility of the California Longitudinal Pupil Achievement Data System

#### Recommendation

To improve the utility of the California Longitudinal Pupil Achievement Data System (CALPADS) and fulfill the legislative intent of the system, the California Department of Education (department) should work with the Legislature, the State Board of Education, and the governor to identify priorities for building upon the system when funding is available. These priorities could include tracking student participation in dropout prevention programs or strategies to measure the effectiveness of those programs or strategies over time.

#### Background

In 2002 the Legislature authorized the department to develop and implement CALPADS to comply with the federal No Child Left Behind Act and to assess the long-term value of the State's educational investments and programs. The department designed CALPADS to gather student-level data from public schools statewide so that it could comply with state and federal reporting requirements and more accurately calculate graduation and dropout rates. CALPADS allows the department to track certain data, such as enrollment status, for individual students from the time they enter high school until they exit.

Although CALPADS represents a significant improvement in California's collection and reporting of graduation and dropout data, school districts still face challenges in implementing the system. Specifically, the State Auditor's Office noted inconsistencies in the school districts' processes for applying, confirming, and documenting the reasons students left high school. These inconsistencies may potentially affect graduation and dropout rates.

Furthermore, one of the goals of CALPADS is to provide a better means of evaluating the State's educational progress and the effectiveness of its investments over time. However, the department's primary objective during the initial development of the system was to ensure it could fulfill federal reporting requirements. Moreover, because the funding for CALPADS is primarily focused on meeting state and federal reporting requirements, the State may risk missing opportunities to be more innovative in using its longitudinal data.

#### Report

**2011-117** *High School Graduation and Dropout Data: California's New Database May Enable the State to Better Serve Its High School Students Who Are at Risk of Dropping Out* (March 2012)

Note: Senate Bill 1497 of the 2011–12 Regular Legislative Session, if enacted, would have prohibited a pupil from being included and reported more than once in data on pupil dropout rates produced by CALPADS and reported by the Superintendent of Public Instruction. The governor vetoed this bill on September 26, 2012.

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# Los Angeles Unified School District

## Monitor Classified Employees After Separation From a School District

### Recommendation

The Legislature should consider establishing a mechanism to monitor classified employees who have separated from a school district by dismissal, resignation, or settlement during the course of an investigation for misconduct involving students, similar to the oversight provided by the Commission on Teacher Credentialing (commission) for certificated employees. If such a mechanism existed, school districts throughout the State could be notified before hiring these classified employees.

### Background

The Los Angeles Unified School District (district) is the second largest school district in the nation and the largest in California in terms of student enrollment. The district employed approximately 27,000 certificated K-12 classroom teachers and more than 4,600 substitute teachers in the 2011–12 school year. Additionally, it employed more than 5,100 teacher assistants who do not hold a teaching certificate issued by the commission, as well as 30,400 classified employees in positions such as campus aide, food service worker, and clerk who are not required to have a teaching certificate.

In November 2012 the State Auditor's Office released an audit report that focused on employee misconduct involving students within the district. Because most students attending district schools are under the age of 18, employee misconduct against students generally entails child abuse, such as physical abuse and sexual abuse or exploitation. Additionally, state regulations require school districts to report to the commission within 30 days cases of a certificated employee's change of employment status, such as a dismissal or other termination, as a result of an allegation of misconduct or while an allegation of misconduct is pending. However, there is no statewide mechanism to communicate to other school districts when a classified employee at any district separates by dismissal, resignation, or settlement during the course of an investigation involving misconduct with students. Nor is there a system to track these employees. Without such a mechanism, school districts are at risk of hiring a classified employee without being made aware of any prior incidents of misconduct involving students.

### Report

**2012-103** *Los Angeles Unified School District: It Could Do More to Improve Its Handling of Child Abuse Allegations* (November 2012)

Note: Assembly Bill 2028 (as amended) of the 2011–12 Regular Legislative Session, if enacted, would have removed the prohibition on issuing dismissal or suspension notices between May 15 and September 15 in any year, and removed the prohibition on testimony at a certificated employee's dismissal or suspension hearing relating to matters that occurred more than four years before the date of the filing notice. This bill was held under submission in the Assembly Committee on Appropriations.

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# Office of Oil Spill Prevention and Response

## Clarify the Legislature's Intent Regarding the Administrator's Authority

### Recommendation

To eliminate confusion about the authority of the Office of Spill Prevention and Response (spill office) and its relationship with the Department of Fish and Game (Fish and Game), the Legislature should consider amending state law to clarify its intent regarding the authority of the Administrator of the Spill Office (administrator).

### Background

Following two significant oil spills affecting California's coast, the Legislature enacted the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act (act) in 1990. In enacting the law, the Legislature declared the State's need for enhanced response efforts through improved control and cleanup technology, improved response management, and coordination with federal agencies. The act also led to the creation of the spill office in 1991 within Fish and Game. The administrator of the spill office, who is appointed by the governor, is responsible for implementing the State's oil spill prevention and response activities. The administrator represents the State in any coordinated response efforts with the federal government, is required to have available for support fully trained personnel to adequately respond to an oil spill, and has the authority to hire and fire employees as necessary to fulfill the spill office's responsibilities. To provide public input and independent judgment of the actions of the administrator, the act also formed an Oil Spill Technical Advisory Committee (committee). In 2001 the Legislature amended provisions of law that became effective in 2002 that apply generally to Fish and Game to specify "notwithstanding any other provision of law," that all Fish and Game employees are responsible to the director of Fish and Game in carrying out their duties and responsibilities. Although the amendment provided that it was declaratory of existing law, the former administrator nonetheless believed that staff from the spill office may have been placed under the direct control of the director of Fish and Game as a result of this legislative change.

In an August 2008 audit report, the California State Auditor's Office concluded that Fish and Game's restructuring of certain spill office positions appeared to have caused friction between the spill office and Fish and Game management. Concerns regarding the spill office's relationship with Fish and Game persist. In its 2009–2010 Biennial Report to the governor and the Legislature, the committee stated that the programmatic, fiscal, and administrative relationship between the spill office and Fish and Game continues to be of concern. Specifically, the committee believes that Fish and Game has interpreted certain changes made to state law in 2002 in such a way as to affect the legal authority of the administrator to effectively perform the statutory responsibilities of that position. This report cited a provision of state law that has resulted in spill office employees reporting to non-spill office supervisors and described decisions made by Fish and Game's law enforcement division to remove or replace key staff during the response to the October 2009 Dubai Star oil spill in the San Francisco Bay without the advice or consent of the administrator. The committee believes

the administrator's lack of a direct line of authority over spill office staff is very troubling and it is concerned that the requirement to report to non-spill office supervisors will usurp the authority of the administrator and undermine the California program.

**Report**

**2011-123** *Oil Spill Prevention and Administration Fund: The Department of Fish and Game and the Office of Spill Prevention and Response Need to Improve Their Administration of the Spill Fund* (August 2012)

# Indian Gaming Special Distribution Fund

## Improve the Process for Awarding Indian Gaming Funds

### Recommendations

The Legislature should consider amending the law to prohibit projects that are unrelated to casino impacts or are not proportionally related to casino impacts. The amendment should require that counties forfeit equivalent amounts of future money from the Indian Gaming Special Distribution Fund (distribution fund) if their Indian Gaming Local Community Benefit Committees (benefit committees) approve grant applications that fail to provide evidence that projects are funded in proportion to casinos' impacts.

To make certain that the project eligibility, merit, and relevance are discussed in a public forum during project selection, the Legislature should also clarify that benefit committees should meet to consider applications before submitting them for tribal sponsorship. Alternatively, the Legislature could emphasize local priorities by amending the law to allow benefit committees to approve any applications that are submitted to them for public debate and committee approval before tribal sponsorship, regardless of the proportionality of a casino's impact.

To provide an incentive for benefit committees to award cities and counties the amounts that the Legislature has appropriated to them for mitigating casino impacts, the Legislature should require that grant funds allocated for each city and county according to the nexus test revert to the distribution fund if they are not awarded to that city or county.

The Legislature should amend the law for allocating distribution funds to counties to include provisions for prorating a county's distribution fund allocation based on the percentage of the year that each gaming device in the county is required to contribute to the fund. Such an amendment would ensure a more proportionate distribution when the number of contributing gaming devices changes during the course of the year.

### Background

Since the passage of Proposition 1A in 2000 and the signing of the initial tribal-state gaming compacts, Indian gaming has experienced extensive growth. During this time, additional compacts have been signed, existing compacts have been amended, and various court decisions have changed the landscape of Indian gaming. As of June 2010 Indian tribes operated almost 65,000 class III gaming devices, which include slot machines. According to the National Indian Gaming Commission, revenues from Indian gaming in California and Northern Nevada grew from \$2.9 billion in federal fiscal year 2001 to \$7 billion in federal fiscal year 2009.

The 1999-model compacts call for each tribe that operates more than 200 grandfathered devices, those in operation as of September 1, 1999, before the compacts were ratified, to deposit a percentage of its average net wins into the distribution fund that state law established in the State Treasury. Generally, the net win of a device is its gross revenue—the amount players pay

into the device—less the amount paid out to winners. The percentage of average net wins for grandfathered devices deposited into the distribution fund ranges from 7 percent to 13 percent, depending on how many devices the tribe operated on September 1, 1999.

State law creates, in each county in which Indian gaming occurs, a benefit committee that awards grants from the distribution fund. Each benefit committee is responsible for establishing procedures for local governments within the county to apply for grants and for selecting eligible applications for the distribution of grant funds. State law requires that 60 percent of the funds are allocated using a nexus test and the remainder are awarded as discretionary grants. These criteria are intended to provide a fair and proportionate system for awarding grants to local governments impacted by tribal gaming.

Benefit committees have had difficulty in complying with distribution fund grant requirements and with related laws. Our review of a sample of 20 grants awarded in seven counties in the State revealed that three were unrelated or not proportionally related to any adverse impacts that the respective Indian casinos may have on their surrounding areas. For 10 other grants, the grantees were unable to quantify or provide evidence of the casinos' impacts. Additionally, some counties failed to award local governmental entities within a certain geographical proximity to their respective casinos the minimum amounts that the law sets aside for those entities. One county awarded a distribution fund grant to an ineligible applicant, leaving fewer funds for distribution to eligible entities and projects.

These grants may have been approved because some county benefit committees obtained the tribes' sponsorship for the proposals before selecting them for funding. Requiring the benefit committee to select projects for grant funding before obtaining tribal sponsorship would have several inherent benefits. Not only does the consideration of each grant application by the benefit committee in a public meeting allow for discussion and public comment on each application's relative merits, but it also presents the opportunity for an applicant to provide additional information and clarification on the application.

In reviewing the fiscal year 2008–09 allocation by the State Controller's Office (Controller) from the distribution fund to counties, we found that the Controller used the formula established in law. However, due to newly amended compacts, some tribes ceased making contributions to the distribution fund part way through fiscal year 2007–08—a situation that the law did not anticipate. Had the allocation taken into account the fact that these tribes did not contribute throughout the year, approximately \$2 million would have been distributed differently, providing some counties with more money and others with less.

## Report

**2010-036** *Indian Gaming Special Distribution Fund: Local Governments Continue to Have Difficulty Justifying Distribution Fund Grants* (February 2011)

Note: Chapter 704, Statutes of 2012 (Assembly Bill 2515), among other things, requires each application for grants from Individual Tribal Casino Accounts to clearly show how the grant will mitigate the impact of the casino on the grant applicant.



## Division of the State Architect

### Strengthen the Field Act and Provide Greater Enforcement Authority

#### Recommendation

To ensure public safety and provide public assurance that school districts construct projects in accordance with approved plans, the Department of General Services (department), in conjunction with the Division of the State Architect (division), should pursue legislative changes to the Field Act that would prohibit occupancy in cases in which the division has identified significant safety concerns. Further, the Legislature should consider implementing additional penalties for school districts that do not provide all required documents.

#### Background

The division, part of the department, supervises design and construction for K-12 schools and community colleges as required by a state law known as the Field Act. The Field Act was enacted in April 1933—one month after an earthquake damaged or destroyed almost 200 schools in Long Beach, California—to protect pupils, teachers, and the public. Among other things, the Field Act requires the department—which delegates its responsibilities to the division—to certify school construction projects when they comply with requirements in the Field Act and with the building standards in Title 24 of the California Code of Regulations (building standards). To accomplish this goal, the division reviews and approves plans for school construction projects, certifies project inspectors hired or contracted by school districts, and monitors construction projects through site visits and regular communication with inspectors. However, more than 2,000 projects, or about 23 percent of the projects that the division closed in fiscal years 2008–09 through 2010–11, remain uncertified. As of December 2010 the division estimated there were approximately 16,400 uncertified projects in the State.

The Field Act expressly allows school districts to occupy construction projects regardless of whether the division has certified them. A provision in the Field Act notes that *“nothing . . . shall prevent beneficial occupancy by a school district prior to the issuance of . . . certification.”* This means that the division cannot deny a school district the ability to use a project, even if the division is aware of a serious issue preventing certification. For example, the division’s records for one project we reviewed noted that the school district did not install a required fire hydrant for a multipurpose building by the end of construction in August 2007. Nevertheless, the district began using the building at that time and the division did not receive confirmation that the district had installed the hydrant until December 2009.

Further, the Field Act does not provide the division sufficient authority to penalize a school district for noncompliance. As a requirement for certification, the Field Act requires that school districts submit several documents, such as final verified reports from project inspectors, design professionals, and contractors. These documents provide additional assurance that districts have constructed projects in accordance with approved plans.

Despite the importance of these documents, the Field Act does not provide the division with express statutory authority to penalize districts that do not provide them, aside from authorizing the denial of certification.

The Field Act does grant the division certain limited tools it could use to encourage districts to pursue certification; however, the division has used these tools infrequently and inconsistently. For example, the division has inconsistently used its authority to order districts to stop work on projects in situations where the division has identified a potential threat to public safety.

### **Report**

**2011-116.1** *Department of General Services: The Division of the State Architect Lacks Enforcement Authority and Has Weak Oversight Procedures, Increasing the Risk That School Construction Projects May Be Unsafe* (December 2011)

Note: Senate Bill 1271 (as amended) of the 2011–12 Regular Legislative Session, if enacted, would have required the Department of General Services to convene a workgroup or continue to use an existing workgroup to develop and adopt standards regarding the seismic safety of schools, make recommendations to the Legislature on ways to amend the Field Act to make it more effective, and report the recommendations of the workgroup to the Senate Select Committee on Earthquake and Disaster Preparedness, Response, and Recovery by July 1, 2013. This bill was held in the Assembly Committee on Appropriations.

# Intellectual Property

## Develop a Statewide Intellectual Property Policy and Tracking System

### Recommendations

The Legislature and the governor should consider developing a statewide intellectual property policy that educates state agencies on their intellectual property rights without creating an administrative burden. Specifically, this policy should account for the following:

- Provide guidance to agencies that will give them the understanding necessary to identify when potential intellectual property may exist, including when contractors' work may result in intellectual property, and that will provide agencies with specific information on intellectual property protections.
- Recognize that not all agencies have the same needs and that a one-size-fits-all approach may not be feasible. An effective policy should provide agencies with flexibility regarding ownership of intellectual property rights.
- Have as one of its primary goals the promotion of the greatest possible public benefit from intellectual property the State creates or funds.
- Recognize that although additional revenue may be a potential benefit of the State's intellectual property, it is not the only benefit, nor should it be the driving force behind a state policy. However, the policy should provide guidance for identifying valuable intellectual property and how to commercialize it, if appropriate.
- Establish the minimum rights agencies should obtain for intellectual property developed by its contractors.

If the Legislature and governor believe it would be valuable to understand the amount of intellectual property the State holds on an ongoing basis, they should consider establishing a mechanism to track the State's intellectual property.

### Background

There are four primary types of intellectual property: copyrights, trademarks, patents, and trade secrets. Taken as a whole, federal, state, and common law provide intellectual property owners with an extensive legal tool bag to protect their property interests in the work they create. Owning intellectual property can result in benefits in addition to revenue from licensing it. For example:

- The California Department of Transportation reported that owning its intellectual property enables it to reduce its contract costs because it can allow its contractors to use the intellectual property at little or no cost, eliminating third-party fees contractors must otherwise pay.

- The California Energy Commission's 2010 annual report for the Public Interest Energy Research Program (PIER) states that PIER research has created new jobs because PIER contractors own the intellectual property funded by PIER. The PIER contractors can commercialize the intellectual property, which the annual report noted has led to the creation of new companies or new lines of business in existing companies.
- The Department of Health Care Services stated that much of its intellectual property, including various reports and data, which could be used for research purposes are made available to the public.

A report issued in November 2000 by the California State Auditor (state auditor) titled *State-Owned Intellectual Property: Opportunities Exist for the State to Improve Administration of Its Copyrights, Trademarks, Patents, and Trade Secrets*—report number 2000-110 included recommendations to the Legislature regarding the management and protection of intellectual property. The recommendations addressed the need for statewide guidance. By not providing guidance to state agencies, the State cannot be certain that each agency is identifying, managing, protecting, and maximizing any benefits from its state-owned intellectual property as necessary and appropriate. Since the issuance of that report, eight legislative proposals related to state management of intellectual property have not been enacted.

More than half of the state agencies responding to our survey expressed the need for this sort of guidance. By providing guidance to state agencies, the State can enable them to use their intellectual property in ways that best serve the public. We believe that statewide policy related to this issue should not be burdensome or inflexible. Rather, it should be informative and reflect certain characteristics. It may be that the State would be best served if its role is primarily to educate the agencies, allowing them to establish individual policies that fit within a broad framework of statewide guidelines. If the State does not act, it will be missing an opportunity to help agencies make informed, thoughtful decisions about their intellectual property.

Further, policymakers may find it valuable to understand on an ongoing basis the amount and types of intellectual property the State owns. The State does not track the amount of intellectual property it owns. We conducted a survey of state agencies and considered other sources of information to provide the summary of state-owned intellectual property included in the Appendix of the audit report.

### **Report**

**2011-106** *Intellectual Property: An Effective Policy Would Educate State Agencies and Take Into Account How Their Functions and Property Differ* (November 2011)

Note: Chapter 463, Statutes of 2012 (Assembly Bill 744), among other things, requires the Department of General Services to develop a database to track specified information about intellectual property created by state employees or with state funding, including a summary of state-owned intellectual property found in the state auditor's report on intellectual property, and develop sample agreements for state agencies to use to secure the rights of potentially patentable inventions.

## Mutual Aid System

### Seek Statutory Authority to Audit Hourly Rates Reported in Local Agencies' Salary Surveys

#### Recommendations

To make certain that local agencies correctly calculate their average actual hourly rates used to determine their reimbursement for personnel costs that are higher than the base rates for mutual aid provided under the California Fire Assistance Agreement (CFAA), the California Emergency Management Agency (Cal EMA) should audit a sample of invoices each year and include in the review an analysis of the accuracy of local agencies' average actual hourly rates. If Cal EMA does not believe that it has the statutory authority and resources to audit the average actual hourly rates reported by the local agencies, it should either undertake the necessary steps to obtain that authority and resources or obtain statutory authority to contract with the State Controller's Office to perform the audits.

#### Background

In 1970 the California State Legislature passed the California Emergency Services Act (Act) to ensure that the State and its political subdivisions, such as cities, counties, districts, and local governmental agencies, as well as the federal government, other states, and private agencies, coordinate their emergency services functions to deal with any emergency that may occur. In 2009 Cal EMA became the entity responsible for the State's emergency and disaster response services, including activities necessary to prevent, respond to, recover from, and mitigate the effects of emergencies and disasters to people and property. In 1994 the State established the Standardized Emergency Management System (SEMS), which Cal EMA manages, to standardize the responses to emergencies involving multiple jurisdictions or multiple agencies. When an emergency or disaster exceeds the resources of the jurisdiction in which the event occurs, the local agency may request mutual aid assistance through SEMS. State regulations define mutual aid as voluntary aid and assistance provided by one jurisdiction to another, consisting of the provision of services and facilities, including fire, police, medical and health, communication, transportation, and utilities. California's overall mutual aid system includes several specific mutual aid systems that are tailored to different emergency response disciplines.

Cal EMA handles the invoicing process for local agencies requesting reimbursement for resources provided during an emergency response. Cal EMA stated that the information in its invoicing system represents, for the most part, invoices for mutual aid provided under the CFAA—a memorandum of understanding between California and federal agencies for the provision of aid during severe wildfire conditions and other emergencies—or other specific agreements.

Despite the fact that Cal EMA provides local agencies with instructions for calculating average actual hourly rates for reimbursement, it does not take steps to ensure that the figures the agencies submit are accurate. As a result, many agencies may have submitted inaccurate average actual hourly rates used to determine their reimbursements. Our analysis of 718 transactions found that these inaccuracies may have resulted in some agencies

overbilling for personnel costs by nearly \$674,000, while other agencies were underbilling by nearly \$67,000. Cal EMA stated that, although it has contractual authority under the CFAA to conduct an audit, it does not have express authority under state law to conduct any audit function.

### **Report**

**2011-103** *California's Mutual Aid System: The California Emergency Management Agency Should Administer the Reimbursement Process More Effectively* (January 2012)

Note: Assembly Bill 1863 (as amended) of the 2011–12 Regular Legislative Session, if enacted, would have expanded the definition of public calamity and thereby would have expanded the types of costs for which local agencies could receive reimbursement for providing mutual aid assistance during a disaster. This bill was held in the Assembly Committee on Appropriations.

## FI\$Cal Project Status Letter

### Ensure Accurate Cost Reporting, Monitor Projected Benefits, and Require Annual Cost Reports

#### Recommendations

If the Legislature decides to approve funding for the Financial Information System for California (FI\$Cal) project, it should consider the following:

- To ensure that the cost to implement FI\$Cal accurately reflects the effort needed, the Legislature should require the project to track the cost of department subject matter expert staff and include this cost in the total cost for FI\$Cal.
- To monitor the benefits that FI\$Cal is projected to provide based on an October 2011 benchmarking study completed by The Hackett Group (Hackett), the Legislature should require the project to track projected benefits as they are achieved and to report annually on the total benefits achieved, any changes in total projected benefits, and actual and projected benefits as compared to actual and projected FI\$Cal costs.
- The Legislature should require the project to report annually on the cost and reasons for any significant customizations it makes to the software that were not anticipated at the onset of FI\$Cal implementation.

#### Background

The FI\$Cal project is a business transformation project for state government in the areas of budgeting, accounting, procurement, and cash management. State law requires the California State Auditor to independently monitor the FI\$Cal project throughout its development, as deemed appropriate by the state auditor. The April 2012 letter report provided an update on recent events related to the FI\$Cal project, including a review of its fourth Special Project Report (SPR) released on March 1, 2012. The fourth SPR updates information in prior SPRs regarding FI\$Cal's costs, schedule, benefits, and cost savings, and announces that the project is ready for implementation.

In its fourth SPR, the project significantly decreased the estimated cost of FI\$Cal from its November 2007 estimate of about \$1.6 billion to \$616.8 million. One of the four largest cost changes is in the category of program staff. For program staff—state department staff that the project plans to engage during implementation—the project has transitioned to a “subject matter expert” model whereby department staff will be engaged on a part-time basis as needed, rather than as full-time staff dedicated to the project, as it had previously planned. The project believes that it would have been difficult for departments to assign full-time staff to the project and that the subject matter expert model is a more efficient use of state staff resources. Moreover, if the project chose to reimburse departments for program staff, the project believes that the cost allocation plan it intends to use could create the potential for departments to subsidize each others' staff costs during the implementation phase. For these reasons, the project is no longer planning to reimburse any program staff,

and therefore such costs are not included in the total cost of the project. However, by not requiring departments to track and report the cost of subject matter expert staff, the project will underreport FI\$Cal's true cost. At an estimated \$264.4 million in the project's November 2007 cost estimate, this cost could be significant. We believe it is feasible that each department could establish a new program cost accounting code to track its staff's time spent on FI\$Cal-related activities and report these costs to the project.

FI\$Cal's fourth SPR also includes an estimate of expected benefits the State would achieve from FI\$Cal based on the 2011 Hackett benchmarking study. Hackett's study predicts that the project's cumulative expenditures will be offset by its benefits by fiscal year 2017–18 and that during each fiscal year thereafter, benefits will exceed annual maintenance costs for the system. By fiscal year 2020–21, Hackett estimates quantifiable annual benefits will stabilize at \$414.6 million from a reduction of labor costs through staff attrition and staff redeployment to other process areas, technology improvements achievable through the retirement of existing systems that FI\$Cal will replace, and procurement effectiveness improvement that would be realizable through better management of statewide procurement activities and the ability to increase strategic sourcing. Hackett indicates its benefit analysis presumes that the State is able to realize economies of scale relative to other states in the study's benchmark peer group and that by implementing FI\$Cal the State will be able to execute a comprehensive transformation program in terms of process redesign, technology enablement, and data standardization. If the State is unable to meet these assumptions, our information technology expert (IT expert) indicates that the actual benefits realized may be less than Hackett projected.

Additionally, one key assumption FI\$Cal presents in the fourth SPR is that the State minimizes the customization to the software that the system integrator will provide. The project has decided to use a commercial-off-the-shelf software package with minimal modifications, but our IT expert indicates that any significant modifications added during implementation could increase project and ongoing costs, as well as increase the implementation time.

## **Report**

**2012-039** *FI\$Cal Project Status Letter* (April 2012)



## Foster Family Home and Small Family Home Insurance Fund

### Consider Whether to Add Kin-GAP Families and FFA Certified Homes to the Insurance Fund and Modify State Law to Provide Claimants Access to Legal Remedies

#### Recommendations

If the Legislature desires that the Foster Family Home and Small Family Home Insurance Fund (insurance fund) provide coverage to the foster family agencies' (FFAs) certified homes and families participating in the Kinship Guardianship Assistance Payment (Kin-GAP) program, it should amend the pertinent statutes to expand the insurance fund's coverage to include them.

To ensure the expedient disposition of claims, the Legislature should consider amending state law to provide claimants the option of litigating against the insurance fund if the Department of General Services (General Services) does not approve or reject their claims within the 180-day deadline described in state law.

#### Background

The Department of Social Services (Social Services) is responsible for managing California's county-administered foster care program. Among other things, Social Services, or a county under contract with Social Services, issues licenses to the foster family homes and small family homes (licensed homes) in which the county welfare departments place foster children. Social Services also issues licenses to FFAs, which are organizations that recruit, certify, and train parents who provide foster family homes not licensed by the State (certified homes). The FFAs offer professional support such as crisis intervention and counseling to the foster parents with whom they work, and they find homes or other placements for children.

Since October 1, 1986, California has offered liability protection to licensed homes through the insurance fund. The insurance fund is liable to pay, on behalf of any licensed home, damages that result from valid claims of bodily injury or personal injury arising out of the activities of foster parents while foster children reside in their licensed homes. FFAs and their certified homes are not eligible for coverage under the insurance fund because the law establishing it contains specific definitions for the terms *licensed foster family home* and *licensed small family home*, the only types of homes the insurance fund covers.

Implemented in 2000, state law established the Kin-GAP program to provide financial assistance for children whom the courts place in legal guardianship with relatives. The process for establishing this type of legal guardianship involves dismissing the children's dependency or terminating their wardship with the State. As a result, Kin-GAP children are no longer part of the foster care system and the law precludes coverage from the insurance fund for Kin-GAP families. However, the State provides Kin-GAP guardians with assistance payments that are equal to the basic foster care rate for which the children would otherwise be eligible, as well as specialized care increments (if applicable) and clothing allowances.

According to Social Services, since October 1986 Social Services has entered into interagency agreements with General Services to manage the insurance fund's claims process. However, Social Services did not ensure that General Services timely approved or rejected claims filed against the insurance fund. In addition, General Services has not always processed claims in a way that is consistent with state law and its own procedures. Claims against the insurance fund are filed with General Services' Office of Risk and Insurance Management (ORIM). State law requires that Social Services or its contracted agency approve or reject these claims within 180 days of their receipt. Our review of the 118 claims filed against the insurance fund between July 1, 2005, and December 31, 2010, for which information was available revealed that, in many instances, ORIM appears to have met the state-mandated time frame. However, ORIM took between 182 and 415 days to approve or reject 16 of these claims. According to state law, "no person may bring a civil action against a foster parent for which the insurance fund is liable unless that person has first filed a claim against the insurance fund and the claim has been rejected, or the claim has been filed, approved, and paid, and damages in excess of the payment are claimed." Thus, claimants who prefer to seek a judicial remedy cannot do so until they receive notification from ORIM on the status of their claim.

**Report**

**2010-121** *Foster Family Home and Small Family Home Insurance Fund: Expanding Its Coverage Will Increase Costs and the Department of Social Services Needs to Improve Its Management of the Insurance Fund* (September 2011)

## Child Welfare Services

### Strengthen Laws Regarding Registered Sex Offenders and Encourage Internal Death Reviews

#### Recommendations

To help keep children safe, the Legislature should consider enacting the following:

- A general prohibition of registered sex offenders living or working in licensed children's facilities or child welfare services (CWS) placements.
- A requirement that all law enforcement staff overseeing sex offenders make sure that the addresses sex offenders submit for registration do not match a licensed facility for children or a foster home.
- A requirement that the Department of Social Services (Social Services) make available to law enforcement in an efficient manner the addresses of its children's facilities and foster homes.

Social Services should require county CWS agencies to file in the Child Welfare Services/Case Management System a detailed justification for any child placed with a foster family agency.

To encourage county CWS agencies to conduct formal internal death reviews, Social Services should revise its annual report on child deaths resulting from abuse or neglect to provide information on whether county CWS agencies conducted such a review of child deaths with prior CWS history. To obtain this information, Social Services should revise its regulations to require all county CWS agencies to not only report child deaths resulting from abuse or neglect but to also require a subsequent report indicating whether an internal child death review was completed.

#### Background

California has a system of laws and agencies designed to prevent and respond to child abuse and neglect. This system—often called child protective services—is part of a larger set of programs commonly referred to as child welfare services. Generally, the CWS system provides family preservation services, removes children from unsafe homes, provides for the temporary placement of these children with relatives or into foster and group homes, and facilitates legal guardianship or the adoption of these children into permanent families when appropriate. While state law requires Social Services to provide system oversight, county CWS agencies carry out required activities.

Despite a 2008 audit recommendation made by the California State Auditor's Office<sup>1</sup>, Social Services does not use the Department of Justice's Sex and Arson Registry (sex offender registry) to identify sex offenders who may be inappropriately living or working in its licensed facilities or in the homes of foster children. By comparing the addresses of individuals in the sex offender registry with addresses of Social Services' and counties' licensed facilities and foster homes, we found over 1,000 address matches, nearly 600 of which are considered to be high risk. We provided these address matches to Social Services and, after investigating, it found registered sex offenders inappropriately living or present in several foster homes and other licensed facilities.

All adults living or working in licensed facilities and other potential placements for children in the CWS system (for example, homes of relatives or prospective guardians) must submit to background checks and would be prohibited from living or working in these locations if they have been convicted of a registrable sex offense. If a background check reveals that a person has been convicted of a registrable sex offense, state laws, in effect, prohibit that person from receiving a foster child placement, receiving a license to operate a community care facility (for example, foster or group homes), living in a community care facility except as a client, and from being employed at a community care facility. Registered sex offenders are not expressly prohibited from living in children's facilities or CWS placements similar to the residency prohibitions in Jessica's Law. If a registered sex offender is found improperly residing or working in a licensed facility or CWS placement, the facility or homeowner is required to expel the person or face civil monetary penalties, misdemeanor criminal charges, or having the license or home approval revoked or suspended. However, the sex offender faces no consequences other than potential expulsion from the home or facility.

Although the payment rate of foster family agencies is more than double that of state- or county-licensed foster homes, Social Services' regulations do not require county CWS agencies to document their justification for placing children with the more expensive agencies. County agencies are generally responsible for the placement of children within the CWS system. As a condition of receiving federal funding, federal law generally requires these children to be placed in the least-restrictive, most family-like environment possible. To keep children in these environments, Social Services' regulations require agencies to attempt to place children in priority order, starting with the home of the child's noncustodial parent, relatives, or extended family members; licensed foster homes or homes certified by foster family agencies; group homes; and finally, specialized treatment facilities. For placements in group homes and specialized treatment facilities, Social Services requires a written justification in the child's case plan. Social Services' regulations place licensed foster homes and homes certified by foster family agencies on the same priority level and, even though the rate difference is dramatic, require no additional justification for placements with foster family agencies.

<sup>1</sup> *Sex Offender Placement: State Laws Are Not Always Clear, and No One Formally Assesses the Impact Sex Offender Placement Has on Local Communities*, Report 2007-115, April 2008.

CWS agencies are not legally required to formally conduct an internal evaluation of the services they delivered to a family prior to a child's death from abuse or neglect. When "death reviews" are not conducted, CWS agencies are missing opportunities to identify needed changes that may prevent similar future tragedies. None of the three counties in our review formally evaluated all such deaths that occurred between 2008 and 2010. In October 2007 the governor signed into law Senate Bill 39, which requires county CWS agencies to notify Social Services of all child fatalities that occur within their jurisdiction that resulted from abuse or neglect beginning on January 1, 2008. The law also requires Social Services to annually report on these fatalities and on any systemic issues or patterns revealed by this information. Social Services' most recent annual report—published in 2011 about child fatalities that occurred in 2009—provides high-level statistical information including each child's CWS history, age, gender, and ethnicity. Although the report provides statewide information, we believe it would be more useful if it included child death information by county, information over multiple years, a comparison of counties, and child deaths as a percentage of each county's total child population.

## Report

### **2011-101.1** *Child Welfare Services: California Can and Must Provide Better Protection and Support for Abused and Neglected Children* (October 2011)

Note: Assembly Bill 493 (as amended) of the 2011–12 Regular Legislative Session, if enacted, would have prohibited a person required to register as a sex offender from living, except as a client, working, or volunteering at licensed children's facilities or CWS placements, and would have required entities responsible for registering sex offenders to compare residence and employment addresses of persons required to register as sex offenders against the addresses of those specified facilities. This bill would have also required Social Services to provide the addresses of licensed facilities for children and CWS placements to entities responsible for registering sex offenders. This bill was held in the Senate Committee on Appropriations.

Note: Assembly Bill 1440 (as amended) of the 2011–12 Regular Legislative Session, if enacted, would have required counties to conduct death reviews when a child dies from abuse or neglect and would have expanded the reporting requirements for county child welfare services when a child dies due to abuse or neglect. This bill was held in the Assembly Committee on Appropriations.

Note: Assembly Bill 1697 (as amended) of the 2011–12 Regular Legislative Session, if enacted, would have required Social Services to designate a separate data entry field in the Child Welfare Services/Case Management System for county child welfare agencies to record reasons for placing a child with a foster family agency or group home and would have required a county welfare agency to file this information in the system when a placement is made. This bill was held in the Assembly Committee on Appropriations.

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## Nonprofit Hospitals

### Nonprofit Hospitals' Tax-Exempt Status, Community Benefits, and Community Benefit Plans

#### Recommendations

If the Legislature intends for nonprofit hospitals' tax-exempt status under state law to depend on the amount of community benefits they provide, it should consider amending state law to include such a requirement.

If it expects each nonprofit hospital to follow a standard methodology for calculating the community benefits it delivers, the Legislature should either define a methodology in state law or direct the Office of Statewide Health Planning and Development (Health Planning) to develop regulations that define such a methodology.

If the Legislature intends to ensure compliance of all hospitals required to submit community benefit plans to Health Planning, it should consider revising state law to allow Health Planning to assess a penalty on those hospitals that do not comply.

#### Background

State law provides that entities organized and operated for nonprofit purposes can be exempt from paying the State's corporation income taxes (corporation taxes) and property taxes. The Legislature has declared that in exchange for favorable tax treatment by the government, nonprofit hospitals assume a social obligation to provide community benefits in the public interest. State law defines community benefits as a hospital's activities that are intended to address community needs and priorities, primarily through disease prevention and improvement of health status. These activities can include health care services rendered to vulnerable populations for which hospitals do not receive full compensation (costs of uncompensated care), such as charity care, which is the portion of a patient's bill that is uncollectible due to the inability to pay. Community benefits can also include the unreimbursed cost of other types of services, such as child care, adult day care, medical research and education, and nursing and other professional training. State law requires certain tax-exempt hospitals to prepare annual community benefit plans that describe the activities that the hospitals have undertaken to address community needs and that report the amount of community benefits that the hospitals provided during the year. Health Planning is responsible for collecting information that hospitals are required to provide and making that information available to the public.

Though the Legislature expects nonprofit hospitals to provide such community benefits as free or reduced-cost medical care to the poor in exchange for the State's favorable tax treatment, state law clearly states that state agencies cannot use a community benefit plan to justify the tax-exempt status of a nonprofit hospital. The Internal Revenue Service requires nonprofit hospitals to provide additional information on their tax returns regarding the activities,

policies, and practices of each hospital operated during the tax year. Nevertheless, federal law, like state law, does not require nonprofit hospitals to deliver specific amounts of community benefits for the hospitals to qualify for tax exemptions.

Because there are no statutory standards or methodology for calculating the costs of uncompensated care, hospitals use various methods to determine the cost of uncompensated care. In reviewing four nonprofit hospitals, each hospital had its own method of calculating its costs of uncompensated care. All four followed guidance from Catholic Health Association (CHA) of the United States, a national nonprofit organization representing Catholic institutions and other health care organizations. Using CHA guidance, none of the four hospitals considered as a component of their respective overall community benefits the hospital's expenses pertaining to bad debt. One of the four hospitals used its cost-accounting system to help quantify the amount of community benefits it provided. Other hospitals estimated these amounts using a ratio that converted the charges for health care services to their actual costs.

Though state law requires certain nonprofit hospitals to submit a community benefit plan to Health Planning no later than 150 days after the hospital's fiscal year ends, as of March 2012, Health Planning identified that 15 of the 218 hospitals had not submitted their community benefit plans for the 2010 reporting year. Because state law does not allow Health Planning to penalize hospitals that are delinquent in their submission of community benefit plans, it does not pursue delinquent hospitals other than contacting them via email.

### **Report**

**2011-126** *Nonprofit Hospitals: Statute Prevents State Agencies From Considering Community Benefits When Granting Tax-Exempt Status, While the Effects of Purchases and Consolidations on Prices of Care Are Uncertain* (August 2012)



# Departments of Public Health and Social Services

## Public Health's Administration of the Kids' Plates Program

### Recommendation

To determine whether the appropriation to administer the Kids' Plates Program is sufficient, the Department of Public Health (Public Health) should continue its plans to evaluate the costs of the regional grants request for applications (RFA) process and its monitoring of the awards for fiscal year 2012–13. If Public Health determines that the appropriation is insufficient, it should seek an amendment to state law.

### Background

The Legislature established the Child Health and Safety Fund (health and safety fund) in 1992 to support the State's childcare regulatory functions, child abuse prevention programs, and child injury prevention programs. While the Department of Social Services (Social Services) is the designated administrator of the health and safety fund, Public Health is responsible for managing the part of the fund known as the Kids' Plates Program, an unintentional childhood injury prevention program. The Kids' Plates Program receives its revenue in part from the sale of *Have a Heart, Be a Star, Help Our Kids* specialized license plates. The program's main mission is to distribute grants from the health and safety fund to community-based organizations throughout the State to build capacity for childhood injury prevention.

From 1998 through 2010, Public Health contracted with the San Diego State University Research Foundation (research foundation) to administer the Kids' Plates Program. Since it stopped contracting with the research foundation, Public Health has struggled to effectively administer the Kids' Plates Program, in part because the Legislature did not award it funding for administrative costs until fiscal year 2012–13, roughly two years after the expiration of the contract with the research foundation.

The 2012 Budget Act states that Public Health may use no more than 5 percent of the total amount appropriated to it from the health and safety fund to administer the Kids' Plates Program. As a result, for fiscal year 2012–13, Public Health received a \$25,000 appropriation to administer the program. The Legislature directed Public Health to use its local assistance appropriation of \$469,000 to create a regional grant program. Public Health has stated that it is unsure whether the \$25,000 appropriation will be sufficient to cover the costs of administering the RFAs for the regional grant program and monitoring awards. Public Health plans to assess its process and the staff costs for fiscal year 2012–13 to identify its actual costs.

### Report

**2012-105** *Departments of Public Health and Social Services: Weaknesses in the Administration of the Child Health and Safety Fund and State Children's Trust Fund Limit Their Effectiveness* (November 2012)

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# California Housing Finance Agency

## Expand the Expertise of Board Membership

### Recommendation

To ensure that the California Housing Finance Agency's (CalHFA) business plans and strategies are thoroughly vetted by an experienced and knowledgeable board, the Legislature should consider amending the statute that specifies the composition of CalHFA's board to include appointees with specific knowledge of housing finance agencies, single-family mortgage lending, bonds and related financial instruments, interest-rate swaps, and risk management.

### Background

CalHFA is a state agency responsible for financing affordable housing. Using proceeds from the sale of bonds, CalHFA funds loans for single-family and multifamily housing for low and moderate income Californians. CalHFA is entirely self-supporting, and the State is not liable for the financial obligations of CalHFA deriving from bonds that it has issued or loans that it has insured. Although profitable for many years, CalHFA suffered losses of \$146 million and \$189 million in fiscal years 2008–09 and 2009–10, respectively. The underlying conditions that contributed to these losses—high delinquency rates on CalHFA's single-family loans and the risks and costs associated with its high levels of variable-rate debt—resulted in lower credit ratings for CalHFA, which, taken together with its losses, raised questions about its future solvency.

CalHFA is overseen by a 14-member board, with each member appointed by the governor, Legislature, or as otherwise specified by statute. State law designates the state treasurer, director of the Department of Housing and Community Development, secretary of the Business, Transportation and Housing Agency, director of the Department of Finance (nonvoting), director of the Governor's Office of Planning and Research (nonvoting), and the executive director of CalHFA (nonvoting) as members of the board. The governor appoints six members of the CalHFA board, subject to Senate confirmation. State law requires that four of these appointees have experience in areas that include (1) an elected official of a city or county engaged in housing programs, (2) residential real estate or mortgage and commercial banking, (3) residential construction, (4) organized labor in the residential construction industry, (5) management of lower-income rental or cooperation housing, and (6) manufactured housing finance and development. The two legislative appointments are considered members of the board representing the public.

While state law requires the governor's appointees to the CalHFA board to include members with certain types of experience, it does not appear to call for the kind of sophisticated financial expertise that would have been valuable in determining whether CalHFA should launch into variable-rate bond debt and interest-rate swaps to the degree that it did. Although a board with more financial expertise that was more engaged in questioning CalHFA staff

about new initiatives may not have changed the decisions that CalHFA ultimately made, its recent financial difficulties created in part by these decisions provides an opportunity to examine the statutory makeup of the board and how the board provides oversight.

### **Report**

**2010-123** *California Housing Finance Agency: Most Indicators Point to Continued Solvency Despite Its Financial Difficulties Created, in Part, by Its Past Decisions* (February 2011)

Note: Chapter 408, Statutes of 2011 (Assembly Bill 1222), allows individuals affiliated with the housing, banking, insurance, and other specified industries to serve on the CalHFA board, even though they may have a conflict-of-interest, provided they publicly disclose the interest and do not attempt to influence or participate in the decision in which they have an interest.

## Workforce Investment Board

### Establish a Statutory Deadline for the Strategic Workforce Plan

#### Recommendations

To ensure that the California Workforce Investment Board (state board) promptly develops a strategic workforce plan, the Legislature should consider amending the pertinent statutes to establish a due date for the plan.

To comply with the federal Workforce Investment Act of 1998 (WIA) requirements for state boards, the Legislature should consider amending the pertinent statutes to clarify the roles and responsibilities of the state board and the Employment Development Department (EDD).

#### Background

The federal government enacted WIA to, among other things, consolidate, coordinate, and improve employment, training, literacy, and vocational rehabilitation programs in the United States. WIA and state law require the state board to assist the governor in developing and continuously improving the statewide workforce investment system that the one-stop delivery system provides by developing links to assure coordination and nonduplication among workforce programs and activities. Further, WIA requires each state's governor to establish a state workforce investment board, to submit a state workforce investment plan (WIA state plan), to designate local workforce investment areas within the State, to oversee the creation of local workforce investment boards (local boards), and once every two years, to certify one local board for each local area in the State. WIA and state law also requires the state board to review plans of the local boards. In California, the state board and EDD within the Labor and Workforce Development Agency play key roles in implementing WIA.

The primary role of the state board, which serves as an advisory body, is to assist the governor. Although it adopts workforce-related policies, it has no authority to direct the activities of EDD. The state board intends to require the local boards to submit their future plans directly to the state board so that it can perform a more substantive review. Until roles and responsibilities of the state board and EDD are clarified, either through the approval of the strategic workforce plan or clarifying legislation, the state board runs the risk of prolonging its failure to fulfill the WIA requirements for state boards, such as assuring nonduplication among workforce programs and activities as part of its review of local board plans.

In addition, state law enacted in 2006 requires the state board, in collaboration with state and local partners, to develop a strategic workforce plan to serve as a framework for the development of public policy, fiscal investment, and operation of all state labor exchange, workforce education, and training programs in order to address California's economic, demographic, and workforce needs. Although state law does not establish a due date for the state board to develop the initial strategic workforce plan, more than five years later, a plan still does not exist. Without this plan, the State cannot ensure that its workforce

investment system provides lifelong learning for all Californians, promotes self-sufficiency, links education and training to economic development, and prepares California to compete successfully in the global economy.

**Report**

**2011-111** *Federal Workforce Investment Act: More Effective State Planning and Oversight Is Necessary to Better Help California's Job Seekers Find Employment* (March 2012)

## Salinas Valley Memorial Healthcare System

### Require Written Employment Contracts for Chief Executive Officers

#### Recommendation

To ensure that the terms of its chief executive officer's (CEO) employment and compensation are clear, and to aid the board of directors (board) in its oversight role, the Salinas Valley Memorial Healthcare System (Health Care System) should engage its next permanent CEO with a written employment contract.

#### Background

The Health Care System is an independent special health care district with an elected five-member board that governs its activities. At the core of the Health Care System is the Salinas Valley Memorial Hospital, which employed more than 1,700 employees as of June 30, 2011, and maintains 269 beds. Although as a public agency the Health Care System's decisions regarding compensation for its top executives should be transparent, this has not been the case for such board decisions. Even though compensation policies are very common in the health care industry and can support the transparency of an organization's compensation decisions, the Health Care System does not have a formal policy for compensating its CEO and other executives.

According to two board members, they did not clearly understand at times what compensation the former CEO had received or was entitled to because of changes in board membership during the former CEO's tenure and the enactment of various compensation agreements and retirement plans over the years. One reason the board was unsure about the former CEO's compensation was that it did not have anything in writing, such as a written employment contract, that detailed all of the compensation, including retirement benefits, to which the former CEO was entitled. While state law allows local health care districts to enter into a renewable employment contract of up to four years with a hospital administrator, it does not specify that such contracts be in writing.

#### Report

2011-113 *Salinas Valley Memorial Healthcare System: Increased Transparency and Stronger Controls Are Necessary as It Focuses on Improving Its Financial Situation* (March 2012)

Note: Assembly Bill 2115 of the 2011–12 Regular Legislative Session, if enacted, would have required, rather than permitted, local health care districts to enter into written employment agreements not to exceed four years when hiring a hospital administrator or CEO. The governor vetoed this bill on September 13, 2012.

Note: Chapter 322, Statutes of 2012 (Assembly Bill 2180), requires that a written employment agreement entered into with a hospital administrator by a local health care district include all material terms and conditions regarding compensation and benefits agreed to by the district and the hospital administrator.

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## Conduit Bond Issuers

### Clarify the Compensation Model for Private Consultants and Increase Transparency of Bond Issuer's Activities

#### Recommendations

If the Legislature believes that the compensation model, whereby the private firms that employ consultants are paid a percentage of the fees associated with bond issuances is appropriate, the Legislature should enact legislation that creates a clearly stated exemption from conflict-of-interest laws under California Government Code, Section 1090 (Section 1090). On the other hand, if the Legislature believes that this compensation model is not appropriate, it should enact legislation that clearly proscribes, or limits, such a model.

To ensure that all issuers of conduit revenue bonds make their activities sufficiently transparent to the public, the Legislature should consider amending state law to provide deadlines for issuers to post the information required by Senate Bill 99 (Chapter 557, Statutes of 2009)(SB 99) on their Web sites and to specify how long issuers must keep this information posted.

#### Background

Federal and state laws authorize public agencies to issue conduit revenue bonds (issuers) on behalf of private businesses or nonprofit organizations (borrowers). Once investors purchase the bonds, borrowers use the resulting proceeds to fund projects that provide public benefits, which includes hospitals, affordable housing, and pollution control facilities. Because these projects further public purposes, the interest that bond investors receive is generally exempt from state and federal income tax. The issuers are not responsible for paying the investors back; rather, they merely serve as a conduit connecting borrowers to investors. In return for serving that purpose, the agencies charge the borrowers fees that vary depending on the size and the nature of the projects. We evaluated whether significant policies and practices of three issuers—the California Health Facilities Financing Authority (Health Financing Authority), the California Statewide Communities Development Authority (California Communities), and the California Municipal Finance Authority (Municipal Finance)—comply with applicable laws and other requirements. The Health Financing Authority is a state entity within the State Treasurer's Office, while California Communities and Municipal Finance are joint powers authorities.

The financial arrangements between the joint powers authorities and their consulting firms raises a concern under Section 1090, a state law that prohibits officers and employees of public agencies from being financially interested in any contract they enter into in their official capacity. Because a revenue bond is generally considered to be a contract for purposes of Section 1090, we believe that the consultants' role in the bond-approval process constitutes participation in the "making of a contract" for the purposes of Section 1090. As to whether the consultants are financially interested in bond transactions, each time they recommend bond transactions that the joint powers authority approves, their private employer becomes eligible to receive a percentage of the fees associated with the face value of the bonds in accordance

with their contract with the joint powers authority. Consequently, this compensation structure could be found as serving as an incentive to recommend bonds for approval, which is the kind of conflict Section 1090 is designed to prevent. However, no reported judicial decision squarely addresses this issue. While some of the prior cases that have analyzed whether a Section 1090 violation existed have broadly applied this prohibition, a recent appellate court decision appears to cast some doubt on whether this compensation model would be found to violate Section 1090.

Effective January 1, 2010, SB 99 created requirements designed to ensure that all conduit bond issuers make their activities transparent and accountable to the public. This law requires that issuers post key information on their Web sites including full staff reports, board meeting minutes, and financial audits. However, the law does not specify when issuers must post certain information on their Web sites, nor does it state how long issuers must keep that information posted. The Health Financing Authority did not post the list of applications its board approved for conduit financing until approximately nine months after fiscal year 2010–11 ended. Further, California Communities may not have met several SB 99 requirements in the recent two fiscal years because it only maintains board meeting agendas and minutes on its Web site for six months. Moreover, its Web site only includes its most recent financial audit.

### **Report**

**2011-118/2011-613** *Conduit Bond Issuers: Issuers Complied With Key Bond Requirements, but Two Joint Powers Authorities' Compensation Models Raise Conflict-of-Interest Concerns* (August 2012)

## Probationers' Domestic Violence Payments

### Clarify Statutes Regarding Consistent Assessment, Collection, and Allocation of Domestic Violence Payments

#### Recommendations

To ensure consistent assessment, collection, and allocation of domestic violence payments, the Legislature should consider clarifying the following:

- Whether it intends for the domestic violence payment to be a fine or a fee and, similarly, whether collections entities should allocate the domestic violence payment to the payment priority category known as *finer and penalty assessments* or whether the payments belong in the *other reimbursable costs* category.
- Whether collections that belong in the *other reimbursable costs* category should be prorated among all assessments in that category.
- Whether collections entities have the authority to continue pursuing collection of domestic violence payments once an individual's term of probation expires.
- Whether allowable administrative costs apply to all funds in a county's special fund.
- How counties should calculate allowable administrative costs. Specifically, the Legislature should indicate whether counties should base their calculations on the balance of the special fund or deposits into that fund.

The Legislature should consider clarifying whether it intends for collections entities to base the percentage of domestic violence payment revenue distributed to the State and county on statutes in effect at the time of sentencing or at the time the probationer makes a payment.

#### Background

To address a growing need to develop innovative strategies and services to reduce the trauma of domestic violence, in 1994 the Legislature established a funding stream derived from payments made by individuals convicted of crimes of domestic violence and sentenced to probation (probationers). Although state law refers to the domestic violence payment as a fee in one instance, the courts we reviewed during the audit differ in their understanding of whether the payment is a fine or a fee. For example, the executive officer in one court pointed to a court case that he believed indicated the payment was punitive for certain purposes, which is consistent with an interpretation that the payment is a fine. In the world of criminal justice, a fine is designed to be punitive, and in many cases the amount imposed by the court corresponds to the seriousness of the offense. In contrast, courts do not consider a fee punitive or punishing.

Varying interpretations of state law also exist as to how entities responsible for collections (collections entities) should allocate installment payments. Although state law allows defendants to pay court-ordered debt in installments according to certain payment categories,<sup>1</sup> the law does not explicitly state whether the domestic violence payment falls in the category of fines and penalty assessments or whether collections entities are to allocate payments proportionally within the category of other reimbursable costs. In addition, although state law explicitly requires prorating installment payments only for the category of fines and penalty assessments, most of the collections entities reviewed during the audit indicated they apply payments proportionally regardless of the payment category. By applying payments proportionally, collections entities ensure that recipients of the different fund categories receive an equitable share of any partial payments. In contrast, by paying off and closing each individual fine or fee before moving to the next fine or fee on the list, entities do not ensure the same equitable application of the payments. For example, if the first item in the other reimbursable costs category was a citation processing fee and the second item was the domestic violence payment, a court using this method would allocate all revenue to the citation processing fee and only allocate revenue to the domestic violence payment once the citation processing fee has been fully satisfied.

Although state law specifies that the domestic violence payment is a term and condition of probation, collections entities have different opinions about whether the expiration of probation limits further collections efforts. By restricting collections efforts when probation expires, counties may have lost out on revenue that would have otherwise benefitted domestic violence programs, such as local shelters. Thus, legislative clarification may also be beneficial in this area so that local shelters receive more funds to assist victims of domestic violence.

County practices related to claiming administrative costs can also affect the amount of funds available to distribute to local shelters. State law requires that counties not spend more than 8 percent of the funds to pay for the administrative costs associated with their special fund. A strict reading of the law's provisions suggests that only 8 percent of the marriage license fee portion of the special fund—as opposed to 8 percent of the entire fund—can be used for administrative costs. Under this reading, the law would not permit counties to base their administrative costs on the revenues from the domestic violence payments deposited in the special fund. Despite this somewhat technical interpretation, the Legislature may have intended the allowable administrative costs to apply to all funds and not just to the marriage license fees. Moreover, the two counties we reviewed that claimed administrative costs differed in the types of balances they used in their computations, one using estimated revenues, or deposits for its special fund, and the other using the cash balance available in its special fund.

Finally, we noted differences in the methods that the collections entities used for calculating the distribution percentages. One collections entity bases its percentages on the statutes in effect on the dates the probationer receives his or her sentence. Conversely, the collections entities in the other three counties base their distributions on the date the probationer

<sup>1</sup> State law requires counties to apply domestic violence payments to the following categories appearing in order of priority: victim restitution, state surcharge, fines and penalty assessments, and other reimbursable costs.

actually makes a payment. Whether collections entities use the statutes in effect at the date of sentencing or the date a payment is made matters when the distribution percentages change in state law, as they have in the past. Thus, the Legislature may want to clarify its intent.

**Report**

**2011-121** *Probationers' Domestic Violence Payments: Improved Processes for Managing and Distributing These Payments Could Increase Support for Local Shelters* (September 2012)

Note: Chapter 511, Statutes of 2012 (Assembly Bill 2094), among other things, increases the minimum payment for persons placed on probation for a domestic violence offense from \$400 to \$500 and, if the court reduces or waives the payment at its discretion, requires the court to state the reason on record.

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## State Lands Commission

### Permit Monetary Penalties to Enforce Insurance Requirements on Lessees

#### Recommendations

If the State Lands Commission (commission) believes that assessing a monetary penalty will be effective in encouraging lessees to obtain surety bonds or liability insurance, it should seek legislation to provide this authority.

To better demonstrate its need for additional staff, the commission should conduct a workload analysis to identify a reasonable workload for its staff and use this analysis to quantify the need for additional staff.

#### Background

The commission is responsible for managing the lands that the State acquired from the federal government at statehood, including the beds of navigable rivers and lakes, submerged land along the State's coast, and school lands granted to the State for the benefit of public education. The commission's management of these lands provides the State with revenues from leases and from the State's share of net profits derived from activities conducted on state lands. However, the commission has not always managed its more than 4,000 leases in the State's best interest. As a result, it has missed opportunities to generate millions of dollars in revenues for the State's General Fund—estimated to be as much as \$8.2 million for just some of the leases in the sample of 35 we reviewed. The leases managed by the commission include 85 oil and gas, geothermal, and mineral leases; 900 agricultural, commercial, industrial, right-of-way, and recreational leases; and 3,200 rent-free leases.

Further, the commission is not consistently ensuring that lessees maintain a surety bond and liability insurance to mitigate a potential financial claim resulting from an accident occurring on state land. State law requires that lessees maintain a surety bond and liability insurance for all oil and gas pipeline leases, and according to the chief of land management, most of the commission's other leases contain a provision requiring lessees to acquire and maintain surety bonds and liability insurance. However, according to the chief of land management, the commission does not proactively ensure that lessees have a current surety bond and liability insurance. In fact, for 21 of the 35 leases we reviewed, either the surety bond or the liability insurance or both had expired.

In 2000 the commission created the State Land Compliance Program (compliance program), in part to ensure that lessees maintain a current surety bond and liability insurance. The commission explains, in its description of the compliance program, that failure to have adequate liability insurance and bonds places the State at risk of financial loss resulting from claims of personal injuries or property damage caused by accidents on its lands. Further, damages and injury awards could be extremely high and therefore, adequate liability coverage for each lease is of paramount importance. However, despite identifying that some of its pipeline leases did not have current liability insurance and surety bonds, the commission ended the compliance program in 2006.

Although the commission can terminate a lease if the insurance or bond has lapsed, the chief of land management noted that it has not been the commission's practice to do so, because by evicting the lessee the State is solely liable for any accidents that occur on its lands. Further, although it would like to, the commission believes that it does not have the statutory authority to impose monetary penalties on lessees when they fail to maintain a surety bond or liability insurance. Up to this point the commission has not obtained legislative authority to assess penalties, nor has it shown an inclination to take any punitive actions against these lessees.

The commission attributes its inability to perform many of its duties to a series of staff reductions it has experienced since 1990. In particular, the commission's Land Management and Mineral Resources Management divisions—the divisions with the most responsibility for managing its leases—have experienced staffing reductions of 50 percent and 32 percent, respectively. Although the commission has made attempts to replace these lost positions, it has not taken sufficient steps to quantify its need for additional staff. Furthermore, the commission has not performed workload analyses for several of its key functions. Without such analyses, it is difficult for the commission to accurately quantify the number of staff it needs to meet its obligations.

### **Report**

**2010-125** *State Lands Commission: Because It Has Not Managed Public Lands Effectively, the State Has Lost Millions in Revenue for the General Fund* (August 2011)

Note: Chapter 206, Statutes of 2012 (Assembly Bill 2620), among other things, requires the commission, on or before September 1, 2013, to prepare a workload analysis that summarizes the resources necessary for the commission to fulfill its oversight responsibilities related to legislatively granted public trust lands.



## Sex Offender Commitment Program

### Streamline the Evaluation Process and Comply with Existing Reporting Requirements

#### Recommendations

To reduce costs for unnecessary evaluations, the Department of Mental Health (Mental Health) should either issue a regulation or seek a statutory amendment to clarify that when resolving a difference of opinion between the two initial evaluators of an offender, Mental Health must seek the opinion of a fourth evaluator only when a third evaluator concludes that the offender meets sexually violent predator (SVP) criteria.

To ensure that the Legislature can provide effective oversight of the program, Mental Health should complete and submit as soon as possible its reports to the Legislature about Mental Health's efforts to hire state employees to conduct evaluations and about the impact of Jessica's Law on the program.

#### Background

The Legislature created the Sex Offender Commitment Program (program) in 1996 to target a small but extremely dangerous subset of sex offenders (offenders) who present a continuing threat to society because their diagnosed mental disorders predispose them to engage in sexually violent criminal behavior. State law designates these offenders as sexually violent predators. The Sexually Violent Predator Act (Act) lists crimes that qualify as sexually violent offenses and defines predatory to mean acts against strangers, persons of casual acquaintance, or persons with whom the offender established relationships primarily for the purposes of victimization. The Act also requires that SVPs have diagnosed mental disorders that make them likely to engage in future sexually violent behavior if they do not receive appropriate treatment and custody. Determining whether offenders are SVPs and committing them for treatment is a civil rather than criminal process. Thus, crimes that offenders committed before passage of the Act can contribute to offenders' commitment as SVPs.

State law requires Mental Health's evaluators to determine whether the offender meets the criteria for the SVP designation (criteria). If the first two evaluators agree that the offender meets the criteria, Mental Health must request a petition for civil commitment. If the first two evaluators disagree, the law requires that Mental Health arrange for two additional evaluators to perform evaluations. If the third evaluator believes the offender is not an SVP, state law generally would not allow Mental Health to recommend the offender for commitment even if the fourth evaluator concludes that the offender meets the necessary criteria. According to Mental Health's own analysis, the average cost of an evaluation completed by a contractor for fiscal year 2009–10 was \$3,300; therefore, cost savings could be achieved if the department avoids the unnecessary fourth evaluation.

Mental Health has not submitted required reports about its efforts to hire qualified state employees to conduct evaluations of potential SVPs and about the impact of Jessica's Law on the program. State law requires Mental Health to report semiannually to the Legislature on its progress in hiring qualified state employees to complete evaluations. Although the first of these reports was due by July 10, 2009, Mental Health has yet to submit any reports. In addition, state law required Mental Health to provide a report to the Legislature by January 2, 2010, on the effect of Jessica's Law on the program's costs and on the number of offenders evaluated and committed for treatment. However, Mental Health also failed to submit this report. In May 2011 Mental Health's external audit coordinator stated that the reports were under development or review. Mental Health did not explain why the reports were late or specify a time frame for completion. Without the reports, the Legislature may not have the information necessary to provide oversight and make informed decisions.

**Report**

**2010-116** *Sex Offender Commitment Program: Streamlining the Process for Identifying Potential Sexually Violent Predators Would Reduce Unnecessary or Duplicative Work* (July 2011)

# California Department of Corrections and Rehabilitation

## Suspend the Use of COMPAS Until Its Effectiveness Can Be Measured

### Recommendation

To ensure that the State does not spend additional resources on the Correctional Offender Management Profiling for Alternative Sanctions (COMPAS) system while its usefulness is uncertain, the Department of Corrections and Rehabilitation (Corrections) should suspend its use of the COMPAS core and reentry assessments until it has, among other things, demonstrated to the Legislature that it has a plan to measure and report COMPAS's effect on reducing recidivism. Such a plan could consider whether inmates enrolled in a rehabilitative program based on a COMPAS assessment had lower recidivism rates than those provided rehabilitative programming as a result of non-COMPAS factors.

### Background

Although Corrections has been conducting COMPAS assessments as part of the preparole planning process for inmates since 2006 and for inmates entering prison since 2007, the benefits of these assessments are unclear. This is mainly due to the limited opportunities for inmates to participate in Corrections' existing in-prison rehabilitative programs, because factors other than COMPAS assessments—such as security and available bed space—take priority in determining where inmates are assigned for housing and, by extension, the rehabilitative programs they might receive at these facilities. Also, Corrections generally has limited capacity in its rehabilitative programs. Even in the only rehabilitative program area where COMPAS plays a role in determining admission—substance abuse treatment—a limited number of inmates with COMPAS-identified needs receive treatment. In addition, Corrections does not have a plan to evaluate whether COMPAS will help it reach its ultimate goal of reducing prison overcrowding and recidivism.

In the 2006 Budget Act, the Legislature directed Corrections to contract with correctional program experts (Expert Panel) to complete an assessment of California's adult prison and parole programs designed to reduce recidivism. An Expert Panel convened by Corrections issued its report in June 2007, and recommended that Corrections select and use a tool that would identify an offender's criminal risk factors—attributes directly linked to criminal behavior—so that rehabilitative programs could be identified to treat such factors. Chapter 7, Statutes of 2007 (Assembly Bill 900 (AB 900)), amended state law to require Corrections to conduct assessments of all inmates and to place them in programs that will aid in their reentry to society and that will most likely reduce chances of reoffending. Citing AB 900 and the Expert Panel's report, Corrections initiated a plan to implement the COMPAS assessments for identifying the criminal risk factors of inmates entering the prison system and those approaching their parole dates.

### Report

*2010-124 Department of Corrections and Rehabilitation: The Benefits of Its Correctional Offender Management Profiling for Alternative Sanctions Program Are Uncertain* (September 2011)

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## Juvenile Justice Realignment

### Goals of Juvenile Justice Realignment, Block Grant Funding Formula, and Performance Outcome and Expenditure Reporting

#### Recommendations

The Legislature should consider revising state law to specify the intended goals of juvenile justice realignment, which is the transfer of all nonviolent juvenile offenders to county facilities. To assist the Legislature in this effort, the Board of State and Community Corrections (board) should work with stakeholders to propose performance outcome goals to use to measure the success of realignment.

To offset potential disincentives and provide counties with a more consistent level of funding from year to year, the Legislature should consider amending the Youthful Offender Block Grant (block grant) funding formula. For example, the formula could be adjusted to use the average number of felony dispositions over the past several fiscal years instead of using only annual data.

To ensure that it has the information necessary to meaningfully assess the outcomes of juvenile justice realignment, the Legislature should consider amending state law to require counties to collect and report countywide performance outcomes and expenditures related to juvenile justice as a condition of receiving block grant funds. In addition, the Legislature should require the board to collect and report these data in its annual reports, rather than outcomes and expenditures solely for the block grant.

#### Background

The Department of Corrections and Rehabilitation's (Corrections) Division of Juvenile Justice (Juvenile Justice) has historically operated secure detention facilities for many of California's juvenile offenders. However, in 2007 the Legislature enacted a law that required the State to transfer all nonviolent juvenile offenders to county facilities, a process referred to as realignment in this report. As a result, the number of juvenile offenders under Juvenile Justice's supervision decreased from about 5,400 in June 2007 to nearly 2,500 in June 2011. To compensate counties for the increased costs related to detaining and providing services to these realigned juvenile offenders, state law established the block grant. According to the board, counties can use their share of the approximately \$90 million annual allocation for nearly any activity related to their juvenile justice systems. To determine each county's share, state law established a block grant funding formula that weighs equally the number of juveniles and the number of juvenile felony court dispositions within the county.

State law does not provide clear goals for realignment, nor does it require the board to define or assess the outcomes of realignment. Rather, the law asserts that local juvenile justice programs are better suited to provide rehabilitative services than state-operated facilities. The Legislature noted that a projected impact of the law would be to decrease the number of juvenile offenders housed in Juvenile Justice. However, these goals are both vague and nonspecific. Without clear goals, measuring whether realignment has been successful

is challenging. The board has not developed goals or a definition of success because state law does not require it to do so. However, as the only state administering body referenced in the law that realigned juvenile offenders, the board is best positioned to propose the goals of realignment and the elements of success in meeting those goals, in the absence of legal or other authoritative criteria. Without clear goals and specific ways to consistently measure those goals, determining the success or failure of realignment with certainty is not possible.

Moreover, by weighing equally the number of juveniles and the number of juvenile felony dispositions within a county, the funding formula may create an inherent disincentive for counties to reduce the number of juvenile felony dispositions because their block grant funds decrease to the extent that felony dispositions decrease. For example, counties receive more money if they have more felony dispositions and receive less funding when they are successful in reducing felony dispositions. To offset the instability in the formula and to counteract the disincentives it creates, one of the chief probation officers suggested averaging the number of felony dispositions over a three- or four-year period to prevent sharp fluctuations in funding.

Despite the significant potential human consequences and financial impact of the State's decision to shift the care of thousands of juvenile offenders from Juvenile Justice to the counties, very limited data exist to measure whether this realignment has been successful. Although state law requires the board to submit an annual report to the Legislature that contains block grant performance outcomes and county expenditure data, the board currently collects and reports county data that may not accurately represent the outcomes related to either the block grant or realignment as a whole. These reports are based on a flawed methodology and could lead decision makers to draw misleading conclusions about the effectiveness of realignment. For example, the board's reports focus primarily on the counties' use of block grant funds even though outcomes for juvenile offenders cannot always be directly correlated to the block grant using the board's current methodology. The usefulness of the reports is further eroded because the board does not give adequate guidance to counties and does not adequately verify the accuracy of the information it collects from them. As a result, decision makers should not use the reports to assess the success or failure of either realignment or the block grant.

## **Report**

*2011-129 Juvenile Justice Realignment: Limited Information Prevents a Meaningful Assessment of Realignment's Effectiveness* (September 2012)

# California Department of Transportation: Capital Outlay Support Program

## Increase Accountability Through Improved Budgeting and Reporting

### Recommendations

To ensure that it receives more complete information on the Capital Outlay Support Program (support program), the Legislature should require the California Department of Transportation (Caltrans) to include in its annual report an expanded methodology for reporting support-to-capital ratios to include, in addition to a support-to-cost ratio analysis based on costs incurred up to the award of the construction contract of State Transportation Improvement Program (STIP) projects, a separate support-to-capital-ratio analysis for STIP projects that have completed construction. Further, the Legislature should require Caltrans to report on similar ratios for State Highway Operation and Protection Program (SHOPP) projects based on costs incurred up to the award of the construction contract and for those projects that completed construction.

To increase accountability for budget overruns of support costs, the Legislature should consider legislation that would expressly require the California Transportation Commission (commission) to review and approve project construction support costs when they differ from the amount budgeted by 20 percent or more.

To improve accountability internally and with the public, Caltrans should do the following:

- Create and incorporate an analysis of support cost budget variances in its quarterly report to the agency and in its annual report to the Legislature and the governor. The analysis should report on the number of completed projects with budget variances and on the number of open projects for which the estimates at completion predict budget variances. Further, the analysis should report on the overrun and underrun ratios for those projects, and the portions of the variances due to rates and hours.
- Establish budgets for those STIP projects programmed before the passage of Senate Bill 45 (2009) so that overruns may be reported in the quarterly report to the agency and in the annual report to the Legislature and the governor.
- Develop a system to report on the total budgets of support program projects—including initial project support budgets—of projects that have been divided into multiple projects or combined into a larger project.

To ensure that Caltrans does not hire permanent state staff beyond its need for such staff, the Legislature should consider appropriating funding for consultants to address temporary increases in Caltrans' workloads when Caltrans requests such funding.

## Background

Caltrans is responsible for the design, construction, maintenance, and operation of the California State Highway System, as well as that portion of the Interstate Highway System within the boundaries of the State. The support program provides the funding and resources necessary to develop and deliver the projects to construction, as well as to administer and oversee the projects once they are under construction. Support program functions include engineering, design, environmental studies, right-of-way acquisition, and construction management of state highway projects. The 2010 Budget Act allocated \$1.8 billion to Caltrans for the support program for activities associated with about 2,500 capital outlay projects and about 9,300 positions within Caltrans and its 12 districts.

Capital improvement projects that increase the capacity of the State's transportation infrastructure are partially funded through the STIP, and projects that rehabilitate or preserve existing infrastructure are funded through the SHOPP. The SHOPP is a four-year plan of projects, while the STIP is a five-year plan, and both programs are approved by the commission every two years.

Despite a stated goal to reduce overruns in its project budgets, Caltrans has done little analysis to determine the frequency or magnitude of support cost budget overruns. Further, although opportunities exist to inform stakeholders of the extent of these overruns, Caltrans has not done so, limiting valuable information on the efficiency and effectiveness of the support program. Our review of Caltrans data revealed that 62 percent of the projects that completed construction in fiscal years 2007–08 through 2009–10 had support costs that exceeded their respective budgets. These overruns totaled more than \$305 million of the \$1.4 billion in support cost expenditures for the projects that completed construction during these fiscal years.

Although Caltrans recently sought to hire consultants rather than hire permanent employees to address a temporary increase in workload, it was not successful in doing so. According to the chief of Caltrans' Project Delivery Management Support Office, requests for additional consultants historically have been revised during the legislative budget process to align with a staffing ratio of 10 percent consultants to 90 percent state staff. Caltrans believes its best resource for addressing short-term workload demands is the consultant community, which includes firms that already perform Caltrans' work and understand its requirements. To the extent increases in workload are temporary in nature, it may be more fiscally prudent for Caltrans to address this workload with consultants rather than with permanent state employees.

## Report

**2010-122** *California Department of Transportation: Its Capital Outlay Support Program Should Strengthen Budgeting Practices, Refine Its Performance Measures, and Improve Internal Controls* (April 2011)



Note: Chapter 6, Statutes of 2011 (Assembly Bill 105), among other things, requires new mandatory report language related to the support program.

Note: Chapter 38, Statutes of 2011 (Assembly Bill 115), among other things, revises existing reporting requirements for the support program to make the reports more useful.

Note: Chapter 272, Statutes of 2012 (Senate Bill 1102), among other things, requires Caltrans, no later than November 15, 2014, and annually thereafter, to report the difference between the original allocation made by the commission and the actual construction capital and support costs at project close for all state transportation improvement program projects completed during the previous fiscal year.

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## High-Speed Rail Authority

### Establish an Independent Ridership Review Group and Conduct a Procurement Audit

#### Recommendations

To assure independence and instill public confidence in the process regarding the High-Speed Rail Authority's (Authority) ridership model, the Legislature should consider establishing an independent ridership review group. For example, the Legislature could use a similar process to the one used to establish the independent peer review panel that the law requires to assess the Authority's business plans.

To ensure that the Authority is complying with state contracting rules and is following the guidelines of the *State Contracting Manual*, the Department of General Services should conduct a procurement audit of the Authority by January 1, 2013.

#### Background

Since 1996 state law has charged the Authority with the development and implementation of intercity, high-speed rail service. As a result, when voters approved the Safe, Reliable High-Speed Passenger Train Bond Act for the 21<sup>st</sup> Century (Proposition 1A) in November 2008, the Authority became responsible for managing the \$9 billion provided by Proposition 1A for the construction of a high-speed rail network (program). The largest part of the Authority's role in administering the program is managing contracts.

In 2010 the California State Auditor (state auditor) issued a report on the Authority's readiness to administer these funds that, among other things, concluded that the Authority's 2009 business plan, which is a key document that describes the Authority's vision for the program, lacked details regarding how it proposed to finance the program and that the program risked significant delays if the Authority did not develop a strategy for obtaining or replacing federal funds. The audit also concluded that the Authority's processes for monitoring the performance and accountability of its contractors were inadequate.

In the nearly two years since the issuance of the first report, significant concerns about funding and contract management persist. Specifically, in a follow-up report, issued January 2012, the state auditor found that the program's overall financial situation has become increasingly risky, in part because the Authority had not provided viable funding alternatives in the event that its planned funding does not materialize. The Authority's 2012 draft business plan more than doubled its cost estimates for phase one of the program to between \$98.1 billion and \$117.6 billion, of which only approximately \$12.5 billion has been secured.

The program's success relies on the accuracy of the Authority's ridership model, which is fundamental to the Authority's revenue projections and thus to private investor interest in the program. The Authority used its ridership model to estimate the program's expected operating and maintenance costs, revenues, and net operating profits as well as to project the number of jobs the program will create and the overall economic benefits that will result. However,

the independent nature of the ridership review group's assessment of these projections may be questionable since the group's members were handpicked by the Authority's former chief executive officer. Additionally, the Authority's process for overseeing the development of the ridership model lacked transparency, which may raise investor concern about the model's credibility.

In addition to concerns about the ridership model, the audit found that the Authority's processes for monitoring the performance and accountability of its contractors were inadequate. As of August 2011 the Authority had less than 24 employees to oversee the multibillion-dollar program. In fact, the Authority's current organizational structure places the largest portion of the program's planning, construction, and oversight in the hands of contractors who may not have the best interests of the State as their primary motivation. Without sufficient staffing, the Authority has struggled to oversee its contractors and subcontractors, who outnumber its employees by about 25 to one. As a consequence of its staffing shortages, the Authority has ceded significant control over the program to its program manager, the primary contractor with whom it works. Furthermore, the Authority has poorly managed its information technology contracts, resulting in at least one instance in which it failed to follow the policies outlined in the *State Contracting Manual*. The nature of the problems we discovered suggests that the Authority needs to significantly improve its internal controls to ensure that it effectively manages its contracts.

### Report

**2011-504** *High-Speed Rail Authority Follow-Up: Although the Authority Addressed Some of Our Prior Concerns, Its Funding Situation Has Become Increasingly Risky and the Authority's Weak Oversight Persists* (January 2012)

Note: Assembly Bill 1206 (as amended) of the 2011–12 Regular Legislative Session, if enacted, would have required the Authority to adopt a small business enterprise program for construction contracts and required the state auditor to review the expenditures associated with the program. The bill would also have required the Authority to report annually to the Department of General Services and the Legislature on the program. This bill was held in the Assembly Committee of Appropriations.

## Office of Traffic Safety

### Verification of Law Enforcements' Compliance With Sobriety Checkpoint Guidelines

#### Recommendation

If the Legislature desires to receive periodic information on whether law enforcement agencies comply with existing checkpoint guidelines across the State, it should consider amending state law to require the Office of Traffic Safety (OTS) to evaluate and include this information in its annual report. Such an amendment should also require OTS to recommend statutory changes if it identifies widespread problems at checkpoints.

#### Background

The mission of OTS is to effectively and efficiently administer traffic safety grant funds to reduce traffic deaths, injuries, and economic losses. OTS primarily uses federal funding provided by the United States Department of Transportation (U.S. DOT) to administer the traffic safety program by making grants available to local and state agencies for programs to enforce traffic laws and educate the public about traffic safety. Examples of OTS-funded grant activities include conducting sobriety checkpoints and serving warrants on drivers with multiple driving under the influence of drugs or alcohol offenses.

While neither state law nor federal regulation expressly requires that sobriety checkpoint data be included in the OTS Annual Performance Report (annual report) to the Legislature and the U.S. DOT, the report does include information on various traffic safety statistics, including fatality statistics on passengers not using seat belts and fatalities from alcohol-impaired driving. OTS also aggregates some data on OTS-funded sobriety checkpoints in its annual report, such as the number of vehicles passing through checkpoints, the number of drivers screened, and the number of arrests for drug- and alcohol-related offenses.

Further, no federal or state statute or regulation governs the operation of sobriety checkpoints. However, a set of guidelines resulted from the California Supreme Court's decision in *Ingersoll v. Palmer*, which, in 1987, upheld the validity of sobriety checkpoints because of specific characteristics that minimized its intrusiveness. Characteristics that validated the checkpoints included using a neutral formula for screening vehicles so that drivers would not be subject to the unrestricted discretion of the officers operating the checkpoint and considering the safety of motorists and law enforcement in setting up the roadblock.

While OTS does not explicitly refer to the Ingersoll guidelines in agreements with its grantees, it does perform some limited and informal monitoring of grantee compliance with these guidelines. According to OTS, the results of its monitoring visits and a survey of law

enforcement suggest that the court's checkpoint guidelines are being followed. In fact, the audit found that each checkpoint reviewed during the audit could reasonably demonstrate compliance with the Ingersoll guidelines.

**Report**

**2011-110** *Office of Traffic Safety: Although It Exercises Limited Oversight of Sobriety Checkpoints, Law Enforcement Agencies Have Complied With Applicable Standards*  
(February 2012)

# California Department of Transportation: State Route 710 Properties

## Effective Management of SR 710 Properties

### Recommendations

To pursue alternatives to the State's management of the State Route (SR) 710 properties that would preserve its access to the right-of-way needed for the SR 710 extension project, to the extent that the California Department of Transportation (Caltrans) has determined it to be cost-beneficial to do so, the Legislature should consider establishing a joint powers authority (JPA) that would allow Caltrans and the affected cities to jointly manage the SR 710 extension project parcels and property units (SR 710 properties).

To ensure that the State properly manages its resources, the Legislature should consider amending the state law known as the Roberti Bill (Chapter 1116, Statutes of 1979, Senate Bill 86) to allow Caltrans to sell SR 710 properties that have a high market value at fair market prices.

### Background

Caltrans is responsible for constructing, operating, administering, and maintaining the State's comprehensive transportation system. Caltrans has 12 district offices throughout the State, each with a right-of-way division responsible for appraising and purchasing property for transportation purposes and managing all property held for future transportation projects. For decades, Caltrans has proposed the SR 710 extension project to close a roughly 4.5-mile unconstructed gap in the freeway just north of SR 10 in Los Angeles to SR 210 in Pasadena. This gap affects the cities of Alhambra, Pasadena, South Pasadena, and a portion of Los Angeles. The project has been in the planning stage since 1953 for a variety of reasons related to the federal environmental review process. Caltrans is currently considering several options for moving forward, and hopes to have identified how it intends to proceed by 2014. Meanwhile, the right-of-way division of Caltrans' District 7 office in the city of Los Angeles is responsible for managing the hundreds of SR 710 properties, ranging from residential to commercial properties to vacant land, that it purchased beginning in 1954 for use as land on which to build the project.

The California State Auditor's review of Caltrans' management of state property along the proposed SR 710 extension project highlighted concerns, such as its poor management of rental properties. While Caltrans is determining whether it will proceed with the SR 710 extension project, the State could consider certain alternatives that would allow it to retain access to the SR 710 properties for right-of-way purposes while eliminating its need to directly manage the properties. One option the Legislature could consider would be the establishment of a JPA that would include Caltrans and the cities of Pasadena, South Pasadena, and Los Angeles to manage the SR 710 properties. This option would allow the affected cities an opportunity to have an equal voice in the management of the properties.

However, there is a possibility that Caltrans will not build the SR 710 extension project as originally planned, and the State at some point may have to dispose of the SR 710 properties. Once Caltrans declares that a property is surplus residential property and no longer needed for a project, it can sell the property only in accordance with the Roberti Bill, which was enacted in 1979. The Roberti Bill may require the State to offer the properties at significantly reduced prices to any current tenants who have low or moderate incomes and have not owned real property in the three years prior to the sale. For example, the audit found that since 2000 the State sold five residential properties under the Roberti Bill for \$2.6 million below their market values. Moreover, state-owned properties are not subject to property taxes. As a result, SR 710 properties sold under the Roberti Bill would generate only a fraction of the property tax revenues that they would otherwise generate if the State sold them at fair market value.

### **Report**

*2011-120 California Department of Transportation: Its Poor Management of State Route 710 Extension Project Properties Costs the State Millions of Dollars Annually, Yet State Law Limits the Potential Income From Selling the Properties (August 2012)*

Note: Senate Bill 204, if enacted, would have required the California Transportation Commission and Caltrans to declare as excess certain state properties acquired for the SR 710 surface freeway extension and required Caltrans to expeditiously release those properties for sale, with the tenants of those properties being offered the first right of refusal to purchase the properties at fair market value. The governor vetoed this bill on September 30, 2012.



## Metropolitan Transportation Commission

### Use of Toll Revenues and Separation Between the Metropolitan Transportation Commission and the Bay Area Toll Authority

#### Recommendations

If the Legislature believes state law provides the Bay Area Toll Authority (toll authority) with too much discretion over its use of toll revenues, it should consider amending state law to more narrowly define how toll revenues that are not immediately needed for bridge maintenance or debt service may be spent or invested. For example, the Legislature might consider imposing specific limitations or prohibitions on the use of toll revenues to acquire real estate for administrative or investment purposes.

If the Legislature desires greater separation between the Metropolitan Transportation Commission (transportation commission) and the toll authority, it should consider amending state law to require that each entity have its own key executive management staff, such as its own chief executive officer, chief financial officer, and general counsel.

#### Background

The transportation commission is the comprehensive transportation planning agency for the San Francisco Bay Area (Bay Area). It is responsible for developing and updating the regional transportation plan—a comprehensive blueprint for mass transit, the state and federal highway systems, and the transbay bridges. The toll authority manages and administers toll revenues from seven state-owned toll bridges in the Bay Area. Although state law established the toll authority as a legal entity separate from the transportation commission, it also requires that the two be governed by the same board. Moreover, the toll authority is part of the transportation commission's operations and is administered by the transportation commission's key executive management.

State law requires that tolls collected from state-owned bridges be used for specific purposes, such as to pay the costs for bridge construction, maintenance, and seismic retrofit projects. Furthermore, state law authorizes the toll authority to issue bonds—to be repaid with toll revenues—for these purposes. In October 2011 the Bay Area Headquarters Authority—a joint powers authority created by the transportation commission and the toll authority—purchased a building with toll revenues from the seven state-owned bridges in the Bay Area. The building purchase was the culmination of nearly two years of planning among the transportation commission, the toll authority, the Bay Area Air Quality Management District, and the Association of Bay Area Governments to co-locate, and the building is intended to serve as their regional headquarters. However, at the time it was purchased, the building exceeded the combined space needs of the entities seeking to co-locate, and the toll authority's decision to contribute toll revenues to acquire a larger-than-necessary building has been controversial. Members of the Legislature questioned the appropriateness of using public funds to essentially enter into the commercial real estate business.

Although the California State Auditor's (state auditor) report concludes that it likely was legally permissible for the toll authority to use toll revenues to purchase a headquarters building, the lack of a clear distinction between the toll authority and the transportation commission may have caused some to question whether adequate separation between them existed during the process of deciding to purchase a new headquarters building.

### **Report**

**2011-127** *Metropolitan Transportation Commission: The Use of Toll Revenues to Purchase a New Headquarters Building Is Likely Legal, but the Transaction Exposes Toll Payers to Undisclosed Financial Risk* (August 2012)

Note: Senate Bill 1149 (as amended) of the 2011–12 Regular Legislative Session, if enacted, would have, among other things, required that toll revenues managed by the toll authority be used only to acquire, construct, manage, maintain, lease, operate, or construct facilities required for the management of state-owned toll bridges within its jurisdiction, for improvements to toll bridges within its jurisdiction, or for associated transportation projects. The bill would also have required that no more than 5 percent of the toll revenues could be used for administration and planning of the transportation system that is served by the toll bridges. This bill was held in committee by the author.

Note: Senate Bill 1545 (as amended) of the 2011–12 Regular Legislative Session, if enacted, would have required the transportation commission and the toll authority to bring an action to determine the validity of the purchase of an office building at 390 Main Street in San Francisco using toll revenues for the purchase, unless the state auditor found that the transportation commission and toll authority clearly had the authority to use the toll revenues for that purpose. The bill would have also prohibited toll moneys from being used for the validation action and prohibited additional contracts from being entered into with respect to the office building until the validation action was complete. This bill failed passage in the Assembly Committee on Transportation.

## Appendix

### Legislation Chaptered or Vetoed During the 2011–12 Regular Legislative Session

The table below briefly describes bills that were chaptered or vetoed during the 2011–12 Regular Legislative Session and were based, at least in part, on recommendations from a California State Auditor’s (state auditor) report or the analysis of the bill relied in part on a state auditor’s report.

**Table**  
**Legislation Chaptered or Vetoed in the 2011–12 Regular Session**

BILL NUMBER/CHAPTER	REPORT (ABBREVIATED TITLE)	LEGISLATION CHAPTERED OR VETOED
<b>Education</b>		
AB 1594 VETOED	<i>2010-104 California’s Charter Schools (October 2010)</i>	If enacted, would have required charter schools, except those that offer only nonclassroom-based or online instruction, to provide each needy pupil with one nutritionally adequate free or reduced-price meal during each school day.
SB 81 Ch. 2, Stats 2012	<i>2006-109 Home-to-School Transportation Program (March 2007)</i>	Among other things, effective February 2012, restores funding for home-to-school transportation for the 2011–12 fiscal year.
SB 1108 Ch. 434, Stats 2012	<i>2005-137 California Public Schools (October 2006)</i>	Requires the Department of Education to review and analyze the criteria, policies and practices used by school districts to reclassify English learners as English proficient and report to the Legislature on its findings, research, analysis, recommendations, and best practices by January 1, 2014.
SB 1497 VETOED	<i>2011-117 High School Graduation and Dropout Data (March 2012)</i>	If enacted, would have prohibited a pupil from being included and reported more than once in data on pupil dropout rates produced by the California Longitudinal Pupil Achievement Data System and reported by the Superintendent of Public Instruction.
<b>Governmental Organization</b>		
AB 740 Ch. 684, Stats 2011	<i>2009-103 Departments of Health Care Services and Public Health (September 2009)</i>	Among other things, requires a state agency to immediately discontinue a contract that the State Personnel Board disapproves and prohibits the agency from entering into another contract for the same or similar services.
AB 744 Ch. 463, Stats 2012	<i>2011-106 Intellectual Property (November 2011)</i>	Among other things, requires the Department of General Services to develop a database to track specified information about intellectual property created by state employees or with state funding, including a summary of state-owned intellectual property found in the California State Auditor’s (state auditor) report on intellectual property, and develop sample agreements for state agencies to use to secure the rights of potentially patentable inventions.
AB 898 Ch. 358, Stats 2011	<i>2008-113 Victims Compensation and Government Claims Board (December 2008)</i>	Starting January 1, 2012, increases the minimum restitution fine for a felony conviction from \$200 to \$300 and for a misdemeanor conviction from \$100 to \$150 over a three-year period.
AB 2442 VETOED	<i>2008-502 Management of Surplus Property Follow-Up Review (March 2009)</i>	If enacted, would have established the California Hope Public Trust to manage state-owned properties with the goal of increasing the value of underutilized state property and earning revenue for the California State University, California Community Colleges, and University of California systems.
AB 2508 Ch. 824, Stats 2012	<i>2004-115 The State’s Offshore Contracting (January 2005)</i>	Requires state agencies authorized to enter into contracts relating to public benefit programs to only contract for services provided by a call center that directly serves applicants for, recipients of, or enrollees in those public benefits programs and certifies that its services will be provided solely by workers employed in California.

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BILL NUMBER/CHAPTER	REPORT (ABBREVIATED TITLE)	LEGISLATION CHAPERED OR VETOED
AB 2515 Ch. 704, Stats 2012	2010-036 Indian Gaming Special Distribution Fund (February 2011)	Among other things, requires each application for grants from Individual Tribal Casino Accounts or County Tribal Casino Accounts to clearly show how the grant will mitigate the impact of the casino on the grant applicant.
SB 78* Ch. 10, Stats 2011	2010-102 Administrative Office of the Courts (February 2011)	Public safety budget trailer bill. Requires the state auditor to assess compliance with the new California Judicial Branch Contract Law, which includes conducting regular audits of contracting processes of the judicial branch entities.
SB 663 Ch. 217, Stats 2012	2009-108 California Department of Veterans Affairs (October 2009)	Requires the Department of Veterans Affairs to include in its strategic plan specified information about homeless veterans.
SB 807 Ch. 355, Stats 2012	2005-136 California Military Department (June 2006)	Specifies that the state active duty force consists of service members in active state military service when ordered by the governor, specifies and revises the criteria for ordering a service member to state active duty, and revises the ranks and duties of the officers in the Office of the Adjutant General.
SB 1021 Ch. 41, Stats 2012	2010-102 Administrative Office of the Courts (February 2011)	Public safety budget trailer bill. In part, prohibits the Judicial Council from spending specified funds on the Court Case Management System without consent from the Legislature, except for maintenance and operation of Version 2 and Version 3 of the existing system.
<b>Health and Human Services</b>		
AB 6 Ch. 501, Stats 2011	2009-101 Department of Social Services (November 2009)	Among other things, eliminates the Statewide Fingerprint Imaging System requirement for the federal Supplemental Nutrition Assistance Program known as CalFresh.
AB 102 Ch. 29, Stats 2011	2004-033 Pharmaceuticals (May 2005)	Health care budget trailer bill. Establishes the use of an "Average Acquisition Cost" for drug ingredients, which means the average weighted cost determined by the Department of Health Care Services as specified.
AB 641 Ch. 729, Stats 2011	2010-108 Department of Public Health (June 2010)	Among other things, eliminates the citation review conference from the citation appeals process for long-term care facilities and allows fines to be levied from both state and federal agencies when an incident violates both state and federal laws.
AB 862 VETOED	2009-118 Department of Developmental Services (August 2010)	Would have added items to an existing list of disclosures posted on the Web site for each of California's 21 nonprofit regional centers.
AB 1464 Ch. 21, Stats 2012	2012-105 Child Health and Safety Fund and State Children's Trust Fund (November 2012)	Appropriates \$25,000 from the Child Health and Safety Fund to Public Health to administer the Kids' Plates Program, and provides that the amount used for administrative costs shall not be more than 5% of the total amount of funds appropriated for the program.
AB 2115 VETOED	2011-113 Salinas Valley Healthcare System (March 2012)	If enacted, would have required, rather than permitted, local health care districts to enter into written employment agreements not to exceed four years when hiring a hospital administrator or chief executive officer.
AB 2180 Ch. 322, Stats 2012	2011-113 Salinas Valley Healthcare System (March 2012)	Requires that a written employment agreement entered into with a hospital administrator by a local health care district include all material terms and conditions regarding compensation and benefits agreed to by the district and the hospital administrator.
SB 74 Ch. 9, Stats 2011	2009-118 Department of Developmental Services (August 2010)	Department of Developmental Services budget trailer bill. Requires regional centers to timely disclose requests for proposals, contract awards, and payment rates for service providers on their Web sites.
SB 804 Ch. 684, Stats 2012	2011-126 Nonprofit Hospitals (August 2012)	Adds a requirement that health care districts include the appraised fair market value of any asset transferred to a nonprofit corporation in an agreement transferring more than 50% of the health care district's assets in order for the transfer to be deemed as benefitting the communities served by the district. The appraisal must be performed within six months prior to the date on which the district approves the transfer.
<b>Higher Education</b>		
SB 8 Ch. 247, Stats 2011	2007-102.1 California State University (November 2007)	Modifies the California Public Records Act to include foundations at the University of California and auxiliary organizations of the California State University, the Board of Governors of the California Community Colleges, and governing boards of community college districts.

BILL NUMBER/CHAPTER	REPORT (ABBREVIATED TITLE)	LEGISLATION CHAPERED OR VETOED
SB 1052 Ch. 621, Stats 2012	2007-116 Affordability of College Textbooks (August 2008)	Establishes the California Open Education Resources Council, which is responsible for, among other things, developing a list of 50 courses for affordable digital open source textbooks and creating and administering a standardized review and approval process for open source textbooks and materials.
SB 1053 Ch. 622, Stats 2012	2007-116 Affordability of College Textbooks (August 2008)	Establishes the California Digital Open Source Library to house open source materials while providing a Web-based method for students, faculty, and staff to easily find, adopt, utilize, or modify course materials for little or no cost.
SB 1539 Ch. 151, Stats 2012	2007-116 Affordability of College Textbooks (August 2008)	Requires textbook publishers to provide a prospective purchaser specified data, including a list of all products offered for sale by the publisher related to the purchaser's subject area of interest; the wholesale or retail price of the product; and, for each new edition of a product, a list of substantial content differences or changes between the new and previous edition.

**Housing and Community Development**

AB 1222 Ch. 408, Stats 2011	2010-123 California Housing Finance Agency (February 2011)	Allows individuals affiliated with the housing, banking, insurance, and other specified industries to serve on the California Housing Finance Agency board, even though they may have a conflict of interest, provided they publicly disclose the interest and do not attempt to influence or participate in the decision in which they have an interest.
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**Labor and Employment**

AB 119 Ch. 31, Stats 2011	2010-112 Employment Development Department (March 2011)	General government budget trailer bill. Among other things, makes changes related to implementing the Alternate Base Period program.
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**Local Government**

AB 2094 Ch. 511, Stats 2012	2011-121 Probationers' Domestic Violence Payments (September 2012)	Among other things, increases the minimum payment for persons placed on probation for a domestic violence offense from \$400 to \$500 and, if the court reduces or waives the payment at its discretion, requires the court to state the reason on record.
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**Natural Resources**

AB 2082 Ch. 247, Stats 2012	2010-125 State Lands Commission (August 2011)	Among other things, provides that any person who constructs, places, maintains, owns, uses, or possesses a structure or facility on land under the jurisdiction of the State Lands Commission and owned by the State without first obtaining the proper authorization will be subject to a specified penalty.
AB 2620 Ch. 206, Stats 2012	2010-125 State Lands Commission (August 2011)	Among other things, requires the State Lands Commission, on or before September 1, 2013, to prepare a workload analysis that summarizes the resources necessary for the commission to fulfill its oversight responsibilities related to legislatively granted public trust lands.

**Public Safety**

SB 608 Ch. 307, Stats 2011	2010-118 California Prison Industry Authority (May 2011)	Authorizes the Prison Industry Authority to offer their goods and services for sale to nonprofit organizations to be provided to public school students at no cost.
SB 760 Ch. 790, Stats 2012	2010-116 Sex Offender Commitment Program (July 2011)	Adds to the definition of "no longer available to testify during a sex offender civil commitment hearing" cases where an expert evaluator of an alleged sexually violent predator has resigned or retired and has not entered into a new contract to continue as an evaluator on the case.
SB 1121 Ch. 761, Stats 2012	2010-124 Department of Corrections and Rehabilitation (September 2011)	Requires a credentialed teacher, vice principal, or principal to provide input on the academic or vocational education placement of an inmate.

**Transportation**

AB 105 Ch. 6, Stats 2011	2010-122 California Department of Transportation (April 2011)	Transportation budget trailer bill. Among other things, requires new mandatory report language related to the Capital Outlay Support Program.
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BILL NUMBER/CHAPTER	REPORT (ABBREVIATED TITLE)	LEGISLATION CHAPERED OR VETOED
AB 105 Ch. 6, Stats 2011	2009-106 High-Speed Rail Authority (April 2010)	Among other things, requires the High-Speed Rail Authority to report by February 14, 2011, on community outreach, its strategic plan as required by the <i>State Administrative Manual</i> , the performance of the program-manager contractor, and the Authority's actions related to the state auditor's report.
AB 115 Ch. 38, Stats 2011	2010-122 California Department of Transportation (April 2011)	Transportation budget trailer bill. Among other things, revises existing reporting requirements for the Capital Outlay Support Program to make the reports more useful.
SB 204 VETOED	2011-120 California Department of Transportation (August 2012)	If enacted, would have required the California Transportation Commission and the California Department of Transportation (Caltrans) to declare as excess certain state properties acquired for the State Route 710 surface freeway extension and required Caltrans to expeditiously release those properties for sale, with the tenants of those properties being offered the first right of refusal to purchase the properties at fair market value.
SB 1102 Ch. 272, Stats 2012	2010-122 California Department of Transportation (April 2011)	Among other things, requires Caltrans, no later than November 15, 2014, and annually thereafter, to report the difference between the original allocation made by the California Transportation Commission and the actual construction capital and support costs at project close for all state transportation improvement program projects completed during the previous fiscal year.

\* Senate Bill 92 (Ch. 36, Stats 2011) and Assembly Bill 116 (Ch. 136, Stats 2011) made clarifying changes related to the implementation of the audit requirements in Senate Bill 78.