

Report 2016-701

# Recommendations for the Legislature From Audits Issued During 2015 and 2016

COMMITMENT

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January 10, 2017

2016-701

Dear Governor and Legislative Leaders:

The California 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 the Legislature through statute or the budget process, or through requests 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 calendar years 2015 and 2016 for the Legislature to consider.

In this special report we include recommendations intended to improve access to higher education for California residents. For example, our audit of the University of California (university) found that, over the past several years, the university has failed to put the needs of residents first, and has made substantial efforts to enroll nonresidents who pay significantly more annual tuition and fees. In our report, we recommended that the Legislature consider amending state law to limit the percentage of non resident students that the university can enroll each year.

In some instances, we make recommendations intended to protect California's most vulnerable citizens, such as children in the foster care and child welfare systems. Our audit regarding the administration of psychotropic medications to foster children found that the fragmented structure of the State's child welfare system has resulted in a lack of a comprehensive plan to coordinate the various mechanisms currently in place to ensure that the foster children's health care providers prescribe these medications appropriately. To address this issue, we recommended that the Legislature require the California Department of Social Services to collaborate with county partners and other stakeholders to develop and implement a reasonable oversight structure.

The Appendix that starts on page 75 includes a listing of legislation chaptered or vetoed during the second year of the 2015–16 Regular Legislative Session that was related to the subject matter discussed in 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 Paul Navarro, Chief of Governmental and Legislative Affairs, at (916) 445-0255.

Respectfully submitted,



ELAINE M. HOWLE, CPA  
California State Auditor

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## Board of Registered Nursing

### Require Employers of Registered Nurses to Report Specified Employment Actions to the Board, Consider Transferring the Board's Enforcement Responsibilities, and Require the Board to Investigate Specified Complaints

#### Recommendations

1. The Legislature should amend state law to require the Board of Registered Nursing (BRN) to conduct investigations of complaints alleging substance abuse or mental illness against nurses who choose to enter the intervention program.

**Status:** Not implemented. (Note: Report Issued December 13, 2016)

2. To ensure that the BRN receives timely and consistent notification of nurses' violations of the Nursing Practice Act (Nursing Act), the Legislature should require the employers of registered nurses to report to BRN the suspension, termination, or resignation of any registered nurse due to alleged violations of the Nursing Act.

**Status:** Not implemented. (Note: Report Issued December 13, 2016)

3. If BRN does not develop and implement an action plan by March 1, 2017, to prioritize and resolve the deficiencies we identified, the Legislature should consider transferring BRN's enforcement responsibilities to the California Department of Consumer Affairs (Consumer Affairs).

**Status:** Not implemented. (Note: Report Issued December 13, 2016)

#### Background

BRN is a state regulatory entity that operates within Consumer Affairs and is responsible for implementing and enforcing the Nursing Act. The Nursing Act establishes the laws related to the licensure, practice, and discipline of nurses. According to state law, BRN's highest priority is the protection of the public while exercising its licensing, regulatory, and disciplinary functions. BRN aims to protect the health and safety of consumers by enforcing the laws and regulations governing the practice of nursing. Part of this effort includes BRN's enforcement process, through which BRN determines whether nurses have violated provisions of the Nursing Act.

BRN has the authority to discipline a registered nurse for violating the Nursing Act. BRN may take disciplinary action for a variety of reasons, including incompetence or gross negligence, practicing medicine without a license, and using any dangerous drug or alcohol to the extent that it is dangerous to the nurse or others. The disciplinary penalty is determined based on a number of factors, including how recent and severe the offense is, evidence of rehabilitation, any mitigating factors, and past disciplinary history. If drug use, alcohol abuse, or mental illness was involved in a violation, probation terms could include participating in a treatment or rehabilitation program, participating in an ongoing counseling program, physical and mental health examinations, and drug screenings.

State law requires BRN to close the investigation of complaints against a nurse primarily alleging substance abuse, and does not apply to allegations that involve actual or direct harm to the public, if and when the nurse is determined to be eligible for, and chooses to participate in, a voluntary intervention program as described above. The investigation remains closed unless the nurse exits the program early or he or she fails to successfully complete it. Additionally, although it has the authority to do so, BRN states that it does not investigate complaints alleging that a nurse is impaired due to mental illness, as long as the allegation does not involve actual or direct harm to the public, and the nurse chooses to enter and successfully complete the intervention program. As a result of the law's requirement and BRN's practice that it suspend the investigation during the nurse's participation in the intervention program, an investigation may not occur or be completed until several years after BRN receives the complaint, restricting BRN's ability to access evidence and potentially impose discipline when warranted.

Our audit also found that BRN's relationship and sharing of information with other entities involved in the enforcement of complaints against nurses could be improved. State law does not require employers of nurses to report complaints or discipline to BRN. For instance, current state law requires the employer of a licensed vocational nurse to report to the Board of Vocational Nursing and Psychiatric Technicians any licensed vocational nurse who resigns, is suspended, or is terminated for cause. BRN stated that it does not know why BRN was excluded from this law, but believes BRN would benefit greatly if employers were required to report to it nurses who violate the Nursing Act.

Finally, our audit determined that, historically, BRN has reportedly struggled to resolve consumer complaints in a timely manner, often allowing significant delays to occur throughout the various stages of the resolution process. Our review found that BRN continues to experience significant delays in processing complaints. Although state law does not specify a time frame within which BRN must resolve complaints, Consumer Affairs has set a goal for BRN to process complaints within 18 months. However, BRN has consistently failed to achieve this goal, in large part due to its ineffective oversight of the complaint resolution process and the lack of accurate data regarding complaint status. Such delays allow nurses to continue practicing who may have committed serious violations, and could potentially result in harm to patients.

## **Report**

*2016-046 Board of Registered Nursing: Significant Delays and Inadequate Oversight of the Complaint Resolution Process Have Allowed Some Nurses Who May Pose a Risk to Patient Safety to Continue Practicing* (December 2016)

# California Department of Consumer Affairs BreEZe System

## Require an Annual Report on the Status of the BreEZe Project

### Recommendations

To ensure that it receives timely and meaningful information regarding the status of the BreEZe project, the Legislature should enact legislation that requires the California Department of Consumer Affairs (Consumer Affairs) to submit a statutory report annually, beginning on October 1, 2015, that will include the following:

1. Consumer Affairs' plan for implementing BreEZe at those regulatory entities included in the project's third phase, including a timeline for the implementation.
2. The total estimated costs through implementation of the system at the remaining 19 regulatory entities and the results of any cost-benefit analysis it conducted for phase 3.
3. A description of whether and to what extent the system will achieve any operational efficiencies resulting from implementation by the regulatory entities.

**Status:** Not implemented.

**Note:** The following legislation addressing issues related to the audit was vetoed during the 2015–16 Regular Legislative Session:

Assembly Bill 522 (Burke) would have required the Director of Technology by January 1, 2017, to develop a standardized contractor performance assessment report system to evaluate the performance of a contractor on any information technology contract or project reportable to the California Department of Technology (Technology Department). This bill would also have required the Director of Technology to implement that evaluation system for all reportable information technology contracts and projects, and would have required that system to be used in addition to any other procurement procedures when evaluating or awarding those contracts or projects. In his veto message, the Governor stated that this bill is not necessary because it duplicates what the Technology Department is already doing.

### Background

Consumer Affairs encompasses 40 boards, bureaus, committees, and a commission (regulatory entities) that regulate and license professional and vocational occupations to protect the health, safety, and welfare of the people of California. Historically, the regulatory entities have used multiple computer systems to fulfill their required duties and meet their business needs. However, significant issues with these systems reportedly resulted in excessive turnaround times for licensing and enforcement activities, impeding the ability of the regulatory entities to meet their goals and objectives. In 2009, the Technology Department approved BreEZe—a system Consumer Affairs envisioned would support all of the primary functions and responsibilities of its regulatory entities.

However, our audit found that Consumer Affairs failed to adequately plan, staff, and manage the project for developing BreEZe. In fact, as of January 2015 only 10 regulatory entities had transitioned to BreEZe, eight more intended to transition in March 2016, and it was unknown if the remaining 19 regulatory entities would implement BreEZe. Although the director of Consumer Affairs maintains that the department intends to implement BreEZe at those 19 regulatory entities, it lacks a plan to do so. Furthermore, the director acknowledged that the department has not assessed the extent to which the business needs of the 19 regulatory entities will require changes to the system. Moreover, Consumer Affairs has not conducted a formal cost-benefit analysis to determine whether BreEZe is the most cost-beneficial solution for meeting those needs.

Finally, most of the executive officers of the 10 phase 1 regulatory entities are generally dissatisfied with their BreEZe experience because it has not met their expectations. We interviewed the executive officers of each of the regulatory entities that have implemented the system regarding various aspects of their experience with the project, and most executive officers reported that BreEZe has decreased their regulatory entity's operational efficiency.

### **Report**

**2014-116** *California Department of Consumer Affairs' BreEZe System: Inadequate Planning and Oversight Led to Implementation at Far Fewer Regulatory Entities at a Significantly Higher Cost* (February 2015)

## School Library Services

### Define the Minimum Level and Types of Library Services and Broaden the Authority of Regulatory Entities

#### Recommendations

1. To ensure that students receive a level of library services that better aligns with the model standards, the Legislature should consider defining the minimum level and types of library services that schools must provide.

**Status:** Not implemented. (Note: Report Issued in November 2016)

2. To ensure that students receive a level of library services that better aligns with the model standards, the Legislature should consider broadening the authority of Commission on Teacher Credentialing (Teacher Credentialing) and the county offices of education to address classified staff who perform duties that require a certification.

**Status:** Not implemented. (Note: Report Issued in November 2016)

#### Background

California's common core standards for K–12 schools state that students must be able to gather, comprehend, evaluate, synthesize, and summarize information and ideas effectively to be ready for college, workforce training, and life in a technological society. As a result, students must learn how to transform isolated bits of information into knowledge, evaluate sources, and think critically. State law authorizes teacher librarians—credentialed educators with specialized education—to teach students these skills in the subject known as information literacy, through instruction provided as part of schools' library services. In 2010 the State Board of Education adopted the Model School Library Standards for California Public Schools, Kindergarten Through Grade Twelve (model standards), which define educational goals for students at each grade level, including goals for information literacy.

State law requires school districts to provide library services, but it does not clearly define them, so districts may provide varying levels of service. For example, one school district may choose to provide its students and teachers only with access to library materials, whereas another school district may choose to also provide students with instruction in information literacy and research skills in accordance with the model standards.

In addition, neither the California Department of Education, Teacher Credentialing, nor county offices of education are responsible for ensuring that schools do not assign classified staff to perform the authorized duties of a teacher librarian. Many of the schools we visited provide library services using classified staff who are not certificated to perform specific duties reserved only for credentialed teacher librarians, such as selecting library materials. However, Teacher Credentialing and the county offices of education we visited stated that they did not identify this activity as an inappropriately staffed position, because they lack the authority to monitor the assignments of classified staff.

#### Report

*2016-112 School Library Services: Vague State Laws and a Lack of Monitoring Allow School Districts to Provide a Minimal Level of Library Services* (November 2016)

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## Student Mental Health Services

### Require the Department of Education to Annually Report Student Mental Health Outcomes and Require Local Plan Areas to Enter into Agreements With School Districts

#### Recommendations

1. The Legislature should amend state law to require the California Department of Education (Education) to report annually regarding the outcomes for students receiving mental health services relative to key performance indicators, such as graduation and dropout rates.

**Status:** Not implemented.

2. The Legislature should amend state law to require counties to enter into agreements with Special Education Local Plan Areas (SELPA) to allow SELPA and their local educational agencies (LEA) to access Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) funding through the county mental health programs by providing EPSDT mental health services.

**Status:** Not implemented. SB 1113 (Beall) would have authorized a county, or a qualified provider operating as part of the county mental health plan network, and an LEA to enter into a partnership for the provision of EPSDT mental health services. This bill was vetoed by the Governor.

#### Background

Federal law requires LEAs, which in California consist of school districts and some county offices of education and charter schools, to evaluate children in all areas of suspected disability to determine their eligibility for special education and related services and the nature of the student's educational needs. As the state's educational agency, the State Board of Education, through Education, oversees the special education program and is responsible for ensuring that LEAs comply with federal requirements regarding the provision of education to individuals with disabilities.

LEAs collect and report to Education outcome data for their students in special education so that Education can comply with federal reporting requirements. However, neither Education nor the LEAs we reviewed perform a thorough analysis of the educational outcomes on key performance indicators—such as graduation and dropout rates—for the subset of students who receive mental health services through IEPs. Without such an analysis, LEAs cannot know whether significant changes to student services, such as changes in providers, negatively affect their students.

As part of its responsibilities, Education distributes federal and state funds to SELPA, which are made up of individual LEAs or consortia of LEAs and are created by state law to provide special education and related services. Each LEA we reviewed uses multiple funding sources to pay for the mental health services they provide to students, including their unrestricted general fund and general special education funding.

LEAs can also use funding from the California Medical Assistance Program (Medi-Cal) for the mental health services by contracting with a county mental health department to provide EPSDT services to Medi-Cal eligible students. EPSDT is a program designed to ensure that children under 21 who are eligible for full-scope Medi-Cal receive early detection and care services, including mental health services. However, only one of the four LEAs we reviewed, Mt. Diablo Unified School District, contracts with the county mental health department to receive Medi-Cal funds as an EPSDT provider.

Although LEAs cannot access funding for EPSDT services unless they contract with their respective counties, such collaborations could financially benefit both counties and LEAs and increase the provision of services to children. Counties could benefit if the LEAs contributed a portion of the local match required for EPSDT reimbursements.

### **Report**

*2015-112 Student Mental Health Services: Some Students' Services Were Affected by a New State Law, and the State Needs to Analyze Student Outcomes and Track Service Costs (January 2016)*



# Inglewood Unified School District

## Require the Superintendent to Document the State Administrator Appointment Process

### Recommendation

To ensure a transparent and accountable process, any future state emergency funding for a school district appropriated by the Legislature should specifically require the State Superintendent of Public Instruction (state superintendent) to document the selection and appointment process of a state administrator, including the rationales for progressing certain candidates once screened or reasons that particular individuals were ultimately selected to serve as state administrator. Additionally, it should define the county superintendent's role in the appointment process for a state administrator.

**Status:** Not implemented.

### Background

The Inglewood Unified School District (district) began the process of placing itself under state control when its five-member school board (governing board) requested emergency funding from the State in July 2012. In September 2012, the governor signed Senate Bill 533 (Wright, Chapter 325, Statutes of 2012) that authorized up to \$55 million in emergency funding. This action also required the state superintendent to assume control of the district—through his appointed state administrator—until such time that both he and his state administrator conclude that the district can sustain the improvements made in its finances and operations to warrant its return to local control. Since assuming control just over three years ago, the state superintendent has appointed three individuals to serve as state administrator, not including an interim administrator, and the district has yet to demonstrate significant improvements to its finances or operations.

The state superintendent has great discretion on who he appoints as a state administrator. Our review noted that the state superintendent appointed qualified individuals to lead the district and took steps to advertise the state administrator position, attracting numerous candidates having prior experience as a superintendent at other school districts. However, our ability to fully evaluate the appointment process was limited since the California Education Code (education code) does not require the state superintendent to document the basis for his appointment decisions. The education code and SB 533 also require the state superintendent to consult with the Los Angeles County Superintendent of Schools (county superintendent) on the appointment of a state administrator. According to the county superintendent, the state superintendent called him regarding all three state administrator appointments. The county superintendent told us that he expressed some reservations about the appointment of the first state administrator, and that he did not know the two individuals who ultimately became the district's second and third administrators. Although the state superintendent spoke with the county superintendent about the three state administrators he appointed, it is unclear whether his efforts fully satisfied the Legislature's intent, because neither the education code nor SB 533 defines what the county superintendent's consultative role should entail.

### Report

*2015-101 Inglewood Unified School District: The State Superintendent of Public Instruction Needs to Better Communicate His Approach for Reforming the District* (November 2015)

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## Trade Apprenticeship Programs

### Provide Authority for the Apprenticeship Division to Verify Appropriate Use of State Funds and Clarify the Role of the Community Colleges Chancellor's Office

#### Recommendations

1. The Legislature should amend state law to provide the Division of Apprenticeship Standards (apprenticeship division) of the Department of Industrial Relations (Industrial Relations) with explicit authority to verify that as a condition of receiving future grant funds, apprenticeship programs are using state funds solely for training apprentices. In addition, if an apprenticeship program is unable to demonstrate how state funds are used or if it is found to be using funds for inappropriate purposes, the apprenticeship division should have the authority to deregister that particular program.

**Status:** Not implemented. (Note: Report Issued in November 2016)

2. To ensure accountability, the Legislature should amend state law to clarify that the California Community Colleges Chancellor's Office (Chancellor's Office) has the authority to provide accounting guidance to and conduct audits of the K–12 local educational agencies' (LEAs) oversight of apprenticeship training funds.

**Status:** Not implemented. (Note: Report Issued in November 2016)

#### Background

The Air Conditioning Trade Association (ACTA) is a nonprofit organization that provides apprenticeship training and education in the use of sheet metal for heating, ventilation, and air conditioning systems. The apprenticeship division has primary responsibility for overseeing apprenticeship programs. State law requires the apprenticeship division to foster, promote, and develop the welfare of the apprentices and the industry; to improve the working conditions of apprentices and advance their opportunities for profitable employment; to ensure that selection procedures are impartially administered to all applicants for apprenticeship; and to cooperate in the development of programs and audit them.

The Chancellor's Office and LEAs also provide funding to apprenticeship programs. The Chancellor's Office allocates apprenticeship instruction funding to specific LEAs, which act as fiscal agents for distributing the apprenticeship training funds to the apprenticeship programs. For this audit, we reviewed and assessed how well the apprenticeship division and the Chancellor's Office oversee ACTA, and to the extent possible, how well they oversee other apprenticeship programs throughout the State.

Our audit found that while the apprenticeship division is responsible for auditing its apprenticeship programs, it has not been conducting audits regularly. Audits are the means by which the apprenticeship division can ensure that apprenticeship programs are following State-approved apprenticeship standards. As part of the program audit, the apprenticeship division is authorized to

determine whether grant funds are being appropriately spent to train apprentices. However, until we inquired about whether it was confirming the appropriate use of grant funds, the apprenticeship division had not considered including that confirmation as part of its audit process.

Federal law governs the expenditures of apprenticeship training trust funds. Under the Employee Retirement Income Security Act of 1974 (ERISA), apprenticeship training trusts like ACTA's are subject to federal law as part of ERISA's general regulation of employee welfare benefit plans. Legal counsel for Industrial Relations acknowledged that during the course of an audit, the apprenticeship division can request that an apprenticeship program provide information—such as invoices, receipts, or cancelled checks—to demonstrate that it appropriately spent grant funds. However, in light of ERISA's regulation of the operation of apprenticeship trust funds, the legal counsel cautioned that ERISA prevents Industrial Relations from reviewing information that pertains to the conduct of a financial audit. The apprenticeship division's grant application states that apprenticeship programs are required to provide an accounting of grant funds previously received. However, legal counsel for Industrial Relations does not believe that the apprenticeship division has the authority to independently request verification of grant fund expenditures outside of a program audit. We agree that state law does not expressly provide the apprenticeship division with this independent authority, nor does it provide a remedy if state funds are used improperly. For the apprenticeship division to determine outside of a program audit that grant funds are being spent appropriately, the Legislature would need to amend state law in a manner consistent with ERISA.

Our audit also found that the Chancellor's Office does not provide guidance to K–12 LEAs to verify attendance hours, even though the Chancellor's Office expects all LEAs to do so. State law shifted the administrative responsibility to allocate apprenticeship instruction funding for K–12 LEAs from the State Department of Education (Education) to the Chancellor's Office in fiscal year 2013–14. However, neither Education nor the Chancellor's Office developed formalized guidelines, procedures, or other attendance-reporting requirements for K–12 LEAs to follow for verifying the attendance hours of its apprenticeship programs. Further, both Education and the Chancellor's Office confirmed that they do not independently audit the apprenticeship attendance hours that K–12 LEAs report to them. Despite the lack of guidance and oversight, a specialist in the Chancellor's Office's Workforce and Economic Development Division stated that the Chancellor's Office expects all K–12 LEAs to verify actual class attendance hours of apprentices before submitting those hours for reimbursement. However, until the Chancellor's Office provides specific guidance and begins actively monitoring K–12 LEAs, it will not have reasonable assurance that the K–12 LEAs are appropriately verifying apprenticeship class attendance and reimbursing their apprenticeship programs correctly.

## Report

**2016-110** *Trade Apprenticeship Programs: The State Needs to Better Oversee Apprenticeship Programs, Such as the Air Conditioning Trade Association's Sheet Metal Program* (November 2016)

# State Board of Equalization Tobacco Tax Enforcement

## Implement a Funding Model That Would Allow the Licensing Program to Be Self-Sufficient

### Recommendation

To make the licensing program of the State Board of Equalization (board) self-supporting, the Legislature should consider passing legislation to implement a funding model that would include a license fee increase or a combination of license fee increases, continued use of money from the Cigarette Tax Fund, and a cigarette tax increase similar to one of the proposed options outlined in the report.

**Status:** Not implemented.

### Background

Cigarettes and tobacco products are subject to various federal, state, and local taxes and fees, including excise taxes—taxes on the sale or consumption of these products—which provide funds for early childhood development, environmental, and other programs. The board administers the collection and enforcement of these excise taxes through its Cigarette and Tobacco Products Tax and Licensing Programs (tax and licensing programs). Since 2004 and 2005 the board has used a three-part approach involving licensing, an encrypted cigarette tax stamp, and inspections to enforce compliance with excise tax laws in California.

In addition to using an encrypted tax stamp, the requirement that retailers, distributors, wholesalers, manufacturers, and importers of cigarettes and tobacco products be licensed is a fundamental component of the board's enforcement efforts. However, the fees charged for the licenses do not cover all of the licensing program's costs. To make up the program's funding shortfall, the Legislature approved a budget change proposal in fiscal year 2006–07 to appropriate funds from the four funds that receive taxes from cigarette and tobacco products. The board splits the shortfall among these four tax funds in proportion to how much cigarette tax revenue they receive. The practical effect of using these four funds to offset the shortfall is that the administrators of those funds are not able to provide the level of services or activities that they otherwise would have, absent the need to make up the licensing program's funding gap. Although it is legally permissible to use tobacco taxes to fund the licensing program, options exist to make the program self-supporting. These options include a combination of retailer, wholesaler, and distributor license fee changes and increases, as well as a cigarette tax increase.

### Report

*2015-119 State Board of Equalization: Its Tobacco Tax Enforcement Efforts Are Effective and Properly Funded, but Other Funding Options and Cost Savings Are Possible* (February 2016)

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# Department of General Services Real Estate Services Division

## Implement a Pilot Program for Job Order Contracting

### Recommendation

To improve efficiencies and reduce some costs for less complex and easily repeatable projects, the Legislature should authorize the Real Estate Services Division (division) within the Department of General Services (General Services) to create and implement a pilot program for job order contracting for appropriate projects. The division should report to the Legislature on its progress within two years of implementing the pilot program, including, at a minimum, information regarding the time and cost savings the pilot program provided the State.

**Status:** Not implemented.

### Background

The division controls 58 buildings statewide. The division provides various real estate and property management services for most state departments and agencies, including maintaining state buildings, managing and designing various construction projects, performing construction inspections, and providing construction services deemed to be of an urgent nature. The division is composed of four branches—Asset Management, Project Management and Development, Building and Property Management, and Construction Services—each of which is responsible for a distinct array of the division's services. Our audit revealed that the division exceeded the initial time frames it established for the majority of the projects we reviewed.

During our audit we identified a contracting method, known as job order contracting, that we believe could ultimately reduce project time frames and costs for certain types of projects. Currently, the division must conduct competitive bidding for its construction contracts except under limited circumstances authorized by state law. When the division uses competition to award a contract, it must award it to the lowest responsible bidder. However, this may not be the most efficient option for the division's smaller, frequently repeated types of construction projects. Instead, for those types of projects, the division could benefit from job order contracting that would allow it to seek competitive bids for predetermined types of jobs to be performed in the future. According to several public educational entities in the State that use job order contracting—including the University of California Office of the President—this method has resulted in both time and cost savings.

### Report

*2015-117 California Department of General Services' Real Estate Services Division: To Better Serve Its Client Agencies, It Needs to Track and Analyze Project Data and Improve Its Management Practices* (March 2016)

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# High Risk: State Department Succession Planning

## Authorize an Agency to Provide Oversight to State Departments for Workforce and Succession Planning

### Recommendation

The Legislature should consider amending state law to expressly authorize the California Department of Human Resources (CalHR) to oversee efforts across state departments for workforce and succession planning, such as by monitoring the development and implementation of plans, and to compel departments to provide it with information concerning such planning. Further, the Legislature should consider requiring that CalHR update it on an annual basis, beginning in fiscal year 2016–17, on the status of the workforce and succession planning at state departments.

**Status:** Not implemented.

### Background

California state departments are not required to develop workforce and succession plans, and no state department has express statutory authority and responsibility for overseeing such planning across state government. Nevertheless, according to its website, CalHR works collaboratively with departments to develop and implement successful workforce planning and succession planning strategies. Although it does not have express statutory authority and responsibility for overseeing such planning across state government, CalHR has developed resources to aid state departments in their workforce and succession planning efforts and has taken some steps to work with departments to improve these efforts. However, CalHR can do more to help departments prepare for staff retirements and needs to better assess the value of the guidance it provides to departments.

### Report

*2015-608 High Risk: State Departments Need to Improve Their Workforce and Succession Planning Efforts to Mitigate the Risks of Increasing Retirements (May 2015)*

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# California State Government Website Accessibility Standards

## Maximize Usage and Maintain Standards for State Government Website Accessibility

### Recommendations

1. To maximize the accessibility of California's websites, the Legislature should amend state law to require that all state websites conform to Web Content Accessibility Guidelines (WCAG) 2.0 standards at compliance level AA in addition to Section 508 of the federal Rehabilitation Act of 1973 (Section 508) standards.

**Status:** Not implemented.

2. To help ensure that California's accessibility standards remain current, the Legislature should amend state law to require the California Department of Technology (technology department) to monitor commonly accepted accessibility standards and apprise the Legislature of any changes to those standards that California should adopt.

**Status:** Not implemented.

3. To ensure that state governmental entities have a clearly identified resource for web accessibility training, the Legislature should amend state law to name the technology department as the lead agency responsible for providing training to state governmental entities on web accessibility issues, in consultation with Rehabilitation and other state departments as it determines necessary.

**Status:** Not implemented.

4. To ensure that governmental entity personnel have the information and tools necessary to develop and maintain accessible websites, the Legislature should require governmental entities to provide or obtain web accessibility training at least once every three years for staff involved in the procurement or development of websites or web-based services.

**Status:** Not implemented.

5. To help ensure that all state governmental entities appropriately test their websites for accessibility, the Legislature should direct all state governmental entities to report every other year to the technology department regarding the frequency and method of their web accessibility testing and their efforts to resolve accessibility issues they identify. Such reporting should include signed certifications from the highest-ranking technology officer at the governmental entity and documentation that supports the claimed testing as well as the entity's effort to fix identified issues. Further, the Legislature should direct the technology department to assess the sufficiency of each governmental entity's testing and remediation approach and publicize the results of its review online.

**Status:** Not implemented.

## Background

To ensure access to online government services for persons with disabilities, California has adopted standards that address the needs of users who may have one or more of a range of disabilities, including those with visual impairments, hearing impairments, and impairments to mobility. Since January 2003 state law has required California websites to meet requirements stemming from Section 508. Subsequently, in July 2006, California added the World Wide Web Consortium's (W3C) WCAG version 1.0 as additional state web accessibility standards for departments that report to the governor and the state chief information officer.

The California State Auditor's Office reviewed the accessibility of key online services offered by four departments and found that, despite the growing use of government services online and the State's accessibility requirements, the websites reviewed are not fully accessible to persons with disabilities. Furthermore, some of the accessibility violations are so severe that, under certain circumstances, they may prevent persons with disabilities from accessing online services.

Updated standards are available that could help California make its websites more accessible. In 2008, shortly after California adopted WCAG 1.0, the W3C issued WCAG 2.0. When it did so, the W3C stated that the WCAG 2.0 standards apply more broadly to different types of web technologies and allow for more effective testing of websites' accessibility. However, California has not adopted these updated standards. Further, it is important for the technology department to monitor commonly accepted accessibility standards going forward to help ensure that California's standards do not again become outdated in the future.

Although best practice guidance suggests that departments provide specific training on web accessibility to staff involved in the procurement or development of websites and web-based services, there is no statewide requirement for web accessibility training. As the lead agency in California for matters related to information technology, the technology department could provide this training in consultation with other departments, such as the California Department of Rehabilitation. Further, because the departments we reviewed were not consistent in their approach to web accessibility testing, we believe it is important for the Legislature to direct all state government entities to report to the technology department about their web accessibility testing approach. The technology department would then assess each entity's approach, determine whether it is adequate, and publish the results of that assessment online.

## Report

**2014-131** *California State Government Websites: Departments Must Improve Website Accessibility So That Persons With Disabilities Have Comparable Access to State Services Online* (June 2015)

## High Risk Update—Information Security

### Mandate an Independent Security Assessment of Each Reporting Entity and Authorize the Redirection of Funds to Remediate Information Security Weaknesses

#### Recommendations

To improve reporting entities' level of compliance with the State's security standards, the Legislature should consider enacting the following statutory changes:

1. Mandate that the California Department of Technology (technology department) conduct, or require to be conducted, an independent security assessment of each reporting entity at least every two years. This assessment should include specific recommendations, priorities, and time frames within which the reporting entity must address any deficiencies. If a third party vendor conducts the independent security assessment, it should provide the results to the technology department and the reporting entity.

**Status:** Implemented. Assembly Bill 670 (Irwin, Chapter 518, Statutes of 2015) requires the technology department to conduct, or require to be conducted, no fewer than 35 independent security assessments of state agencies, departments or offices annually.

2. Authorize the technology department to require the redirection of a reporting entity's legally available funds, subject to the California Department of Finance's approval, for the remediation of information security weaknesses.

**Status:** Not implemented.

#### Background

The technology department is responsible for ensuring that state entities that are under the direct authority of the governor (reporting entities) maintain the confidentiality, integrity, and availability of their information systems and protect the privacy of the State's information. As part of its efforts to protect the State's information assets, the technology department requires reporting entities to comply with the information security and privacy policies, standards, and procedures in the *State Administrative Manual* (security standards). However, when we performed reviews at five reporting entities to determine their compliance with the security standards, we found deficiencies at each. Despite the pervasiveness and seriousness of the issues we identified, the technology department has failed to take sufficient action to ensure that reporting entities address these deficiencies. In fact, until our audit, it was not aware that many reporting entities had not complied with its requirements. Further, even when the technology department has known that reporting entities were not compliant with security standards, it failed to provide effective oversight of their information security and privacy controls.

As a result of the outstanding weaknesses in reporting entities' information system controls and the technology department's failure to provide effective oversight and assist noncompliant entities in meeting the security standards, we determined that some of the State's information, and its critical information systems, are potentially vulnerable and continue to pose an area of significant risk to the State.

**Report**

*2015-611 High Risk Update: Information Security: Many State Entities' Information Assets Are Potentially Vulnerable to Attack or Disruption (August 2015)*

## Department of Developmental Services

### Clarify Hourly Vendor Rates and Require the Department to Conduct an In-Depth Review of Rates

#### Recommendations

1. To ensure that the Department of Developmental Services (DDS) is paying reasonable and appropriate hourly rates to vendors for in-home respite services, the Legislature should clarify whether the rate freeze imposed by the 1998 legislation is still in effect despite the numerous legislative rate adjustments made since then. Further, the Legislature should clarify whether the 2003 legislation that imposed a cap on vendors' hourly payment rates constitutes only a ceiling on increases of in-home respite rates and require DDS to resume collecting cost statements and adjust the rates if appropriate.

**Status:** Not implemented. (Note: Report Issued in October 2016)

2. To ensure that vendors' in-home respite hourly payment rates are reasonable and appropriate, particularly when compared to their administrative costs and the hourly wages they pay to respite workers, the Legislature should require DDS to conduct an in-depth review of its in-home respite rates by November 1, 2017. In conducting this review, the Legislature should require DDS to perform the following:

- Obtain and analyze all vendors' cost statements to determine their costs of providing services and whether vendors' administrative costs are reasonable.
- Obtain information from vendors on the hourly wages they pay to respite workers and analyze this information to determine whether vendors' hourly rates are reasonable.
- Using information from the cost statements, identify whether vendors' temporary hourly rates should be converted to permanent hourly rates.
- Submit a report to the Legislature on the results of its review, including a proposal on the extent to which legislative changes are needed to ensure that in-home hourly respite rates are appropriate.

**Status:** Not implemented. (Note: Report Issued in October 2016)

#### Background

DDS is charged with overseeing the in-home respite services program (in-home respite services) for Californians with qualifying developmental disabilities; however, DDS has not recently assessed the appropriateness of the hourly rates it pays to the vendors of these services and it provides limited monitoring of the program. State law has established in-home respite services to provide intermittent or regularly scheduled temporary assistance to families of developmentally disabled individuals (consumers) who are able to reside in their own homes in the care of family. Eligible consumers may obtain in-home respite services through California's network of 21 regional centers, which purchase in-home respite services from a variety of private providers, referred to as *vendors*.

DDS has chosen not to obtain and review information that could verify whether its hourly vendor payment rates for in-home respite services are appropriate. Our review found that DDS changed its approach to calculating payment rates because of its interpretation of changes in state law that occurred between 13 and 18 years ago. Depending on when vendors began providing services, DDS currently pays them one of two types of rates: a temporary or a permanent hourly rate. The majority of the vendors we reviewed at five regional centers receive a temporary hourly rate that is generally less than the permanent hourly rate other vendors receive.

Additionally, DDS performs limited monitoring of regional centers' compliance with state and federal requirements applicable to in-home respite services. In fact, its current monitoring efforts consist solely of fiscal audits it is required to conduct every two years. However, DDS has fallen short of meeting this requirement, and for fiscal years 2013–14 and 2014–15, it completed only 14 of the 21 required regional center audits. Further, for those audits it did conduct, the review of in-home respite services was minimal, if it occurred at all. Other than these audits, DDS performs no monitoring of in-home respite services. Without effective monitoring, DDS has little assurance that the regional centers are complying with applicable requirements and consumers are receiving the intended in-home respite services.

## **Report**

*2016-108 Department of Developmental Services: It Cannot Verify That Vendor Rates for In-Home Respite Services Are Appropriate and That Regional Centers and Vendors Meet Applicable Requirements (October 2016)*



## Foster Children—Psychotropic Medications

### Require Social Services to Develop and Implement an Oversight Structure for Psychotropic Medications Prescribed to Foster Children

#### Recommendations

1. The Legislature should require the California Department of Social Services (Social Services) to collaborate with its county partners and other relevant stakeholders to develop and implement a reasonable oversight structure that addresses, at a minimum, the insufficiencies in oversight and monitoring of psychotropic medications prescribed to children in foster care (foster children) highlighted in this report.

**Status:** Not implemented. (Note: Report Issued in August 2016)

2. To improve the State's oversight of physicians who prescribe psychotropic medications to foster children, the Legislature should require the Medical Board of California (Medical Board) to analyze the California Department of Health Care Services' (Health Care Services) and Social Services' data in order to identify physicians who may have inappropriately prescribed psychotropic medications to foster children. If this initial analysis successfully identifies such physicians, the Legislature should require the Medical Board to periodically perform the same or similar analyses in the future. Further, the Legislature should require Health Care Services and Social Services to provide periodically to the Medical Board the data necessary to perform these analyses.

**Status:** Not implemented. (Note: Report Issued in August 2016)

#### Background

In the last decade, both public and private entities have expressed concerns about the higher prescription rates for psychotropic medications for foster children than for nonfoster children. In the context of foster care, state law defines psychotropic medications as those medications administered for the purpose of affecting the central nervous system to treat psychiatric disorders or illnesses.

To examine the oversight of psychotropic medications prescribed to foster children, we reviewed case files for a total of 80 foster children in Los Angeles, Madera, Riverside, and Sonoma counties and analyzed available statewide data. We found that many foster children had been authorized to receive psychotropic medications in amounts and dosages that exceeded the State's recommended guidelines. We also found that, in violation of state law, counties did not always obtain required court or parental approval before foster children received prescriptions for psychotropic medications.

Further, the fragmented structure of the State's child welfare system contributed both to the specific problems we identified in our review of the 80 case files and to larger oversight deficiencies that we noted statewide. Specifically, oversight of the administration of psychotropic medications to foster children is spread among different levels and branches of government, leaving us unable to identify a comprehensive plan that coordinates the various mechanisms currently in place to ensure that the

foster children's health care providers prescribe these medications appropriately. The two state entities most directly involved in overseeing foster children's mental health care are Social Services and the Health Care Services.

**Report**

*2015-131 California's Foster Care System: The State and Counties Have Failed to Adequately Oversee the Prescription of Psychotropic Medications to Children in Foster Care (August 2016)*

## Dually Involved Youth

### Require the California Department of Social Services to Implement a Function to Identify Dually Involved Youth and Consistently Track Joint Assessment Hearing Information

#### Recommendations

1. To ensure that county child welfare service (CWS) and probation agencies are able to identify youth in their jurisdictions who are involved in both the child welfare system and the juvenile justice system (dually involved youth), the Legislature should require the California Department of Social Services (Social Services) to do the following:

- Implement a function within the State's Child Welfare Services/Case Management System (statewide case management system) that will enable county CWS and probation agencies to identify dually involved youth.
- Issue guidance to the counties on how to use the statewide case management system to track joint assessment hearing information completely and consistently for these youth.

**Status:** Implemented. AB 1911 (Eggman, Chapter 637, Statutes of 2016) requires Social Services, on or before January 1, 2019, to implement a function within the applicable case management system that will enable county child welfare agencies and county probation departments to identify dually involved youth who are within their counties, and to issue instructions to all counties on the manner in which to completely and consistently track the involvement of these youth in both the child welfare system and the juvenile justice system.

2. To better understand and serve the dually involved youth population, the Legislature should require the Judicial Council of California (Judicial Council) to work with county CWS and probation agencies and state representatives to establish a committee or work with an existing committee to do the following:

- Develop a common identifier counties can use to reconcile data across CWS and probation data systems statewide.
- Develop standardized definitions for terms related to the populations of youth involved in both the CWS and probation systems, such as dually involved, crossover, and dual status youth.
- Identify and define outcomes for counties to track for dually involved youth, such as outcomes related to recidivism and education.
- Establish baselines and goals for those outcomes.
- Share this information with the Legislature, so it can consider whether to require counties to utilize and track these elements.

- If the State enacts data-related requirements, it should require the Judicial Council's committee to compile and publish county data two years after the start of county data collection requirements.

**Status:** Implemented. AB 1911 (Eggman, Chapter 637, Statutes of 2016) requires the Judicial Council to convene a committee comprised of stakeholders involved in serving the needs of dependents or wards of the juvenile court, and requires the committee, by January 1, 2018, to develop and report to the Legislature its recommendations to facilitate and enhance comprehensive data and outcome tracking for the State's dually involved youth, including standardized definitions related to these youth.

## Background

State-level agencies have provided limited guidance to county agencies regarding dually involved youth because state law does not require them to do so. As a result, counties have used their own discretion in determining the degree to which they track the population and outcomes of these youth. While the State does not mandate such tracking, various national best practice models suggest that agencies start by designing and implementing uniform data collection and reporting systems, identifying their population of dually involved youth, and then beginning to track certain attributes and outcomes.

Since January 2005, state law grants counties the option of developing local dual status protocols that designate certain youth as both dependents and wards of the court in order to maximize support for these children. Since the initial implementation of dual status protocols, however, state agencies have provided the counties with only limited guidance related to tracking dually involved youth. Specifically, the State has not defined key terms or established outcomes to track related to dually involved youth, thus it cannot monitor the outcomes for this population statewide.

State law initially required the Judicial Council, which is responsible for creating rules of court that litigants in juvenile court must follow, to collect data and prepare an evaluation of the counties' implementation of dual status protocols. However, this data collection requirement only applied to the two years following the State's first dual status case in 2005. Currently, counties are no longer required to submit their protocols to the Judicial Council, and the Judicial Council is no longer required to review them or to assess whether counties have appropriately addressed the need for data collection within their dual status protocols. Nevertheless, the Judicial Council established, by rule of court, a Family and Juvenile Law Advisory Committee that makes recommendations for improving the administration of justice in all cases involving marriage, family, or children, including issues specific to dually involved youth. Therefore, we believe that the Judicial Council is best positioned to facilitate discussions between state and county-level stakeholders.

Furthermore, in order to facilitate county tracking of dually involved youth, the State could require Social Services to improve the functionality of the statewide case management system. Social Services provided CWS agencies with some guidance pertaining to dually involved youth in 2006, stating that it would provide instructions at a later date on documenting dual status cases within the statewide case management system. Although Social Services updated the system in 2010 to allow probation agencies to access the statewide case management system, it never provided instructions for documenting dual status cases.

## Report

*2015-115 Dually Involved Youth: The State Cannot Determine the Effectiveness of Efforts to Serve Youth Who Are Involved in Both the Child Welfare and Juvenile Justice Systems* (February 2016)

# California Department of Public Health Diabetes Programs

## Provide State Funding for Diabetes Programs

### Recommendation

If state lawmakers desire the California Department of Public Health (Public Health) to increase its efforts to address diabetes, they should consider providing state funding to aid in those efforts. For instance, the Legislature could provide funding to establish a grants specialist position to identify and apply for federal and other grants.

**Status:** Not implemented.

### Background

Public Health, whose mission is to optimize the health and well-being of Californians, is responsible for administering the State's diabetes prevention programs. Through grants, the Centers for Disease Control and Prevention (CDC)—a federal agency focused on reducing health problems in America— has funded all of Public Health's diabetes prevention efforts to date. However, Public Health's spending on diabetes prevention has declined over time due to reductions in its federal funding. In fiscal year 2013–14, its federal funding for diabetes prevention decreased from more than \$1 million in previous fiscal years to \$817,000. In fact, in fiscal year 2012–13—the most recent year for which nationwide data is available—California had the lowest per capita funding for diabetes prevention in the nation. One reason for this is that California does not provide any state funding for diabetes prevention. Furthermore, Public Health does not have a process to proactively search for diabetes-related grant opportunities nor does it have staff dedicated to doing so—the audit identified two grants worth up to \$500,000 each for which Public Health was eligible to apply but did not.

### Report

*2014-113 California Department of Public Health: Even With a Recent Increase in Federal Funding, Its Efforts to Prevent Diabetes Are Focused on a Limited Number of Counties (January 2015)*

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# California Department of Developmental Services— Parental Fees

## Require Fee Determinations to Be Based Upon Consistent Information

### Recommendation

To help ensure that fees under the California Department of Developmental Services' (Developmental Services) Parental Fee Program are fair, the Legislature should require that the department's initial fee assessments, redeterminations, and its appeal-related evaluations be based upon the same information, and should require that parents have the opportunity to challenge Developmental Services' previous calculations for accuracy and completeness on appeal, and that any adjusted fee should be based on the approved fee schedule and not simply on the judgment of department staff. Before enacting this legislation, state lawmakers should verify that Developmental Services has reviewed and revised its initial fee assessment and redetermination process to clarify what expenses will be considered when determining whether parents qualify for fee reductions.

**Status:** Implemented. Assembly Bill 564 (Chapter 500, Statutes of 2015), effective July 1, 2016, calculates monthly parental fees based on a percentage of the parents' annual income and authorizes a credit of the equivalent of one day of the monthly parental fee for each day a child spends six or more consecutive hours in a 24-hour period on a home visit. The statute also specifies that appeals of a parental fee may be made only to dispute the family income used and the denial or amount of a credit. The statute further requires, for parents of children placed in 24-hour out-of-home care prior to July 1, 2016, the monthly parental fee to be calculated at the time of the parents' annual fee recalculation or within 60 days of a parental request for review by the department and receipt of the family's completed family financial statement.

### Background

Developmental Services is responsible for administering the Parental Fee Program, which assesses a fee to parents of children under the age of 18 who receive 24-hour out-of-home care. Developmental Services assesses parental fees based upon a fee schedule that takes into account adjusted gross income, family size, and the age of the child in placement. Although Developmental Services includes a requirement to submit documentation for all income and expenses in its initial letter to parents, parents do not always provide this information, and the department often does not enforce this requirement. In addition, the process used by Developmental Services to assess the parental fee is riddled with unnecessary delays, lack of documentation, incorrect calculations, and inconsistent staff interpretations. Further, Developmental Services staff do not use any sort of standardized fee schedule to guide the subsequent reassessment of the fee – the reassessment is based on the judgment of a four-member committee. As a result, parents with similar financial circumstances may be assessed substantially different levels of fees.

### Report

*2014-118 California Department of Developmental Services: Its Process for Assessing Fees Paid by Parents of Children Living in Residential Facilities Is Woefully Inefficient and Inconsistent* (January 2015)

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# Follow-Up: California Department of Social Services Oversight of CalWORKs and CalFresh Programs

## Require Social Services to Annually Report on the Statewide Fingerprint Imaging System and Determine the Cost-Effectiveness of Any Proposed Alternative

### Recommendations

1. Because the California Department of Social Services (Social Services) will not implement our recommendation to gauge the cost-effectiveness of the Statewide Fingerprint Imaging System (SFIS), the Legislature should require Social Services to annually report on the cost of SFIS and the fraud that it helps detect. Specifically, the Legislature should require Social Services to annually report to the Legislature the following metrics:

- The annual cost to maintain and operate SFIS.
- The total instances of duplicate-aid fraud that counties detect as a result of SFIS and the total amount of overpayments that they recover.
- The total backlog of unprocessed SFIS matches as of December 31 of each year.

**Status:** Not implemented.

2. The Legislature should require Social Services to determine the cost-effectiveness of any proposed alternative to SFIS in advance of Social Services adopting any such alternative method or tool to detect and prevent duplicate-aid fraud.

**Status:** Not implemented.

### Background

In November 2009, the California State Auditor released an audit report titled *Department of Social Services: For the CalWORKs and Food Stamp Programs, It Lacks Assessments of Cost-Effectiveness and Misses Opportunities to Improve Counties' Antifraud Efforts*, Report 2009-101. The audit recommended that Social Services identify cost-effective antifraud practices and replicate these practices among all counties. In addition, the audit recommended that Social Services gauge the cost-effectiveness of the Statewide Fingerprint Imaging System (SFIS).

Despite the 2009 audit findings and recommendations to improve Social Services' oversight of counties' antifraud efforts, this follow-up found that more than five years later Social Services has fully implemented only one of the 15 recommendations, and that it either has not fully implemented, taken no action, or will not implement the other 14 recommendations. For example, Social Services still has not developed a formula that enables it to analyze the cost-effectiveness of counties' antifraud efforts and to subsequently work to replicate the most cost-effective practices among all the counties. Social Services also has not determined whether SFIS is cost-effective, despite the fact that SFIS cost \$12 million to maintain in 2014 and resulted in only 57 instances of fraud being found.

**Report**

*2015-503 Follow-Up—California Department of Social Services: It Has Not Corrected Previously Recognized Deficiencies in Its Oversight of Counties' Antifraud Efforts for the CalWORKs and CalFresh Programs (June 2015)*

# Follow-Up: California Department of Developmental Services Regional Centers

## Strengthen Cost-Containment Measures in Current Law

### Recommendations

1. If the Legislature wishes to better guard against future cost increases under the Lanterman Developmental Disabilities Services Act (Lanterman Act), it should amend existing law to require that planning teams document, and that regional centers retain documentation of, vendor cost considerations when they offer comparable services that meet the consumer's needs. Specifically, for consumer needs that the planning team decides will be addressed by a vendor, the Legislature should require the planning team to document the following:

- Whether multiple vendors offer comparable services needed by the particular consumer.
- Whether any particular vendor was deemed unacceptable by the planning team and why.
- Whether the least costly vendor offering comparable services was ultimately selected, and if not, why.

**Status:** Not implemented.

2. To further ensure that the planning team consistently chooses the least costly vendor when required under state law, the Legislature should direct the Department of Developmental Services (Developmental Services) to audit compliance with the documentation requirements suggested in the previous recommendation.

**Status:** Not implemented.

3. To ensure that regional centers and their planning teams are using consistent criteria when determining whether multiple vendors offer comparable services, the Legislature should define the phrase "comparable service" for the purpose of the 2009 amendment to the Lanterman Act. One way the Legislature could do this would be to define "comparable service" as a service of the type required in the consumer's treatment plan and that the planning team has reviewed and found as meeting the needs of the consumer.

**Status:** Not implemented.

### Background

During the State's fiscal crisis, the Legislature enacted cost-containment measures in several state programs to help balance the State's annual budgets. Among the numerous cost-containing measures adopted, the Legislature and the governor focused on reducing costs under the Lanterman Act by enacting an indefinite rate freeze and adjustable rate ceilings, which became effective in February 2008, on what regional centers could pay vendors. They also subsequently required in July 2009 that regional centers procure services from the least costly vendor of comparable service

that can meet the needs of the consumer. However, neither the July 2009 Lanterman Act amendment nor other state law or regulation defines comparable service for use in the vendor selection process. In 2010 the California State Auditor (State Auditor) issued a report titled *Department of Developmental Services: A More Uniform and Transparent Procurement and Rate-Setting Process Would Improve the Cost-Effectiveness of Regional Centers*, Report 2009-118, which found that neither state law nor Developmental Services required planning teams to document their cost analyses when selecting among multiple vendors. As a result, the 2010 audit noted there is no way to determine whether planning teams are selecting the lowest cost vendor when state law requires that they do so. The State Auditor recommended that Developmental Services require regional centers and their planning teams to document how they chose the least costly vendor, when required under state law, and then review a sample of this documentation as a part of the department's biennial audits of the State's regional centers. Developmental Services declined to implement these recommendations, stating it believes that it does not have the authority to do so.

**Report**

*2015-501 Follow-Up—California Department of Developmental Services: It Can Do More to Ensure That Regional Centers Comply With the Legislature's Cost-Containment Measures Under the Lanterman Act ( July 2015)*

## California Department of Health Care Services

### Allow Reimbursement Claims to Be Directly Submitted to Health Care Services and Require an Annual Report for the Administrative Activities Program

#### Recommendations

1. To streamline the organizational structure of the Department of Health Care Services' (Health Care Services) School-Based Medi-Cal Administrative Activities program (administrative activities program) and to improve the program's cost-effectiveness, the Legislature should amend state law to allow claiming units to submit reimbursement claims directly to Health Care Services.

**Status:** Not implemented.

2. To help improve and maximize the benefits of the administrative activities program, as well as to provide enhanced transparency to stakeholders, the Legislature should enact legislation as soon as possible that requires Health Care Services to prepare a report annually for the administrative activities program similar to the annual report state law requires for the Local Educational Agency Medi-Cal Billing Option Program (billing option program).

**Status:** Not implemented.

#### Background

Health Care Services is the single state agency responsible for administering Medi-Cal—the State's Medicaid program, which is a jointly funded federal-state health insurance program for low-income and needy individuals. Health Care Services provides Medi-Cal services in school settings through school-based Medi-Cal programs, which provide direct medical services through its billing option program and which perform program-related administrative activities through its administrative activities program. Through this latter program, Health Care Services allows claiming units to file claims for federal reimbursement for 50 percent of the cost for certain types of administrative activities.

Local educational consortia and local governmental agencies contract with Health Care Services to review administrative activities program claims that claiming units submit and, if the claims meet the established criteria, they forward the claims to Health Care Services for final review and payment. The audit identified weaknesses in the contracts between the local educational consortia or local governmental agencies and their claiming units that effective Health Care Services' oversight should have prevented. In addition, some contracts between local educational consortia or local governmental agencies and their claiming units contain provisions whereby the local educational consortia or local governmental agencies retain a percentage of the approved reimbursement amounts as payment. Such payment provisions may create an unnecessary incentive for local educational consortia and local governmental agencies to approve otherwise unallowable claims to increase their revenues.

Furthermore, Health Care Services has not filed a required annual report for the billing option program, thus failing to provide the Legislature and other stakeholders with timely and relevant information regarding program successes and barriers. These legislative reports present information useful to stakeholders and reporting similar information for the administrative activities program is important.

### **Report**

**2014-130** *California Department of Health Care Services: It Should Improve Its Administration and Oversight of School-Based Medi-Cal Programs* (August 2015)

# University of California

## Revise Admission Rate Calculation, Require the University to Prepare a Biennial Cost Study, and Limit the Percentage of Nonresident Student Enrollment

### Recommendations

1. To ensure that the University of California (university) meets its commitment to residents and to bring transparency and accountability to admission outcomes, the Legislature should consider excluding the students who the university places in the referral pool and who do not ultimately enroll at the referral campus when calculating the university's Master Plan for Higher Education in California (Master Plan) admission rate until the percentage of students who enroll through the referral process more closely aligns with the admission percentages of the other campuses.

**Status:** Not implemented.

2. To ensure that it has accurate information upon which to make funding decisions, the Legislature should consider amending the state law that requires the university to prepare a biennial cost study. The amendment should include requirements for the university to differentiate costs by student academic levels and discipline and to base the amounts it reports on publicly available financial information.

**Status:** Not implemented.

3. To ensure that the university does not base future admission decisions on the revenue that students generate and to make the university more accessible to California residents, the Legislature should consider amending state law to limit the percentage of nonresidents that the university can enroll each year. For example, it could limit nonresident undergraduate enrollment to 5 percent of total undergraduate enrollment. Moreover, the Legislature should consider basing the university's annual appropriations upon its enrollment of agreed-upon percentages of residents and nonresidents.

**Status:** Not implemented.

### Background

The university is one of the premier public university systems in the nation, enrolling more than 252,000 students at its 10 campuses as of the fall of 2014. As a public institution, the university should serve primarily those who provide for its financial and civic support—California residents. However, over the past several years, the university has failed to put the needs of residents first, and has made substantial efforts to enroll nonresidents who pay significantly more annual tuition and fees. In fact, total nonresident enrollment increased by 82 percent, or 18,000 students, while resident enrollment decreased by 1 percent, or 2,200 students.

The decision to increase nonresident enrollment has had profound repercussions for residents who apply for admission. According to the Master Plan, the university should select for admission from the top 12.5 percent of the State's high school graduating class. The Master Plan recommends that

nonresidents possess academic qualifications that are equivalent to those of the upper half of residents who are eligible for admission. That is, nonresidents should demonstrate higher qualifications than the median for residents. However, in 2011 the university modified its admission standard to state that nonresidents need only to “compare favorably” to residents. During a three-year period after this change, the university admitted nearly 16,000 nonresidents whose academic scores fell below the median for admitted residents at the same campus on every grade point average and admission test score we evaluated. By admitting nonresidents with lower academic qualifications on these key indicators than the median for residents it admitted, the university essentially deprived admittance to highly qualified residents.

Over the past 10 years, in reaction to state funding reductions, the university has doubled resident mandatory fees—base tuition and the student services fee. We found that the university has not conducted a usable study to determine the actual costs to educate students, thereby limiting its ability to appropriately justify tuition increases. Although the university produced a legislatively required report on the total costs of education, the university cautioned that decision makers should not use the report as a solid rationale for policy decisions or resource allocations because the university used many assumptions, estimates, and proxies to calculate the costs it included in the report. That cost study is also problematic because the source of the data it uses does not tie to readily available public financial data, such as its audited annual financial report.

Further, to increase tuition revenue in the face of state funding shortfalls, the university implemented two key procedural changes that encouraged campuses to maximize nonresident enrollment. In 2008 the university began allowing the campuses to retain the nonresident supplemental tuition revenue they generated rather than remitting these funds to the Office of the President, which resulted in campuses focusing resources on enrolling additional nonresidents. Also in 2008, the Office of the President began establishing separate enrollment targets—systemwide targets for the number of students each campus should strive to enroll each year—for nonresidents and residents, and it allowed each campus to establish its own separate enrollment targets.

Moreover, the university began denying admission to an increasing number of residents to the campuses of their choice. If residents are eligible for admission to the university and are not offered admission to the campuses of their choice, the university offers them spots at an alternative campus through what it calls a referral process. According to the university, the *referral process* is critical to it meeting its Master Plan commitment to admit the top 12.5 percent of residents. However, few of the residents whom the university admits and refers to an alternate campus ultimately enroll. In academic year 2014–15 for example, 55 percent of residents to whom the university offered admission to one of the campuses to which they applied enrolled, while only 2 percent of the 10,700 residents placed in the referral pool enrolled. According to the university, it estimated that it admitted the top 14.9 percent of the eligible California high school graduating class in academic year 2014–15, which included the residents in the referral pool. If we exclude the residents placed in the referral pool and who did not ultimately enroll at the referral campus, the university actually admitted 12.4 percent of the California high school graduating class—less than the 12.5 percent Master Plan commitment.

## Report

2015-107 *The University of California: Its Admissions and Financial Decisions Have Disadvantaged California Resident Students* (March 2016)



# Post-Secondary Educational Institutions Campus Crime Reporting

## Require the Department of Justice to Provide Guidance on Campus Crime Reporting

### Recommendation

The Legislature should require the California Department of Justice (Justice) to provide guidance to California's public and private institutions and systemwide offices regarding compliance with the requirements of the federal Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) and the Violence Against Women Reauthorization Act of 2013 (Reauthorization Act).

**Status:** Not implemented.

**Note:** The following legislation addressing issues related to the audit was vetoed during the 2015–16 Regular Legislative Session:

Assembly Bill 340 (Weber) would have required the California Community Colleges Board of Governors (board) and the California State University Trustees (trustees), and encourage the University of California Regents (UC Regents), to each generate a report once every biennium of the legislative session, beginning with the 2017–2018 Regular Session that would have included, but not be limited to, new and recent administrative efforts intended to affect campus climate; recent campus program developments that impact campus climate related to specified demographics; and specified crime data. In his veto message, the Governor stated that he believes the leaders of these institutions are committed to providing updates on current and future developments and codifying the biennial report is unnecessary.

Assembly Bill 1653 (Weber) would have required the California State University board, the California Community Colleges trustees and the governing body of each independent institution of higher education, and encouraged each University of California (UC) campus, to each generate a report once every biennium of the legislative session that included specified information related to the respective institution's campus climate, post the report on the respective institution's website and submit the report to the Governor, the Attorney General, and the appropriate policy committees of the Legislature. This bill would also have required the board, the trustees and the governing body of each independent institution of higher education, and would have encouraged the UC Regents, to create, review every two years thereafter, and, as necessary, update protocols, policies, and procedures regarding compliance with the Clery Act and the Reauthorization Act. This bill was vetoed by the Governor.

### Background

The Clery Act requires postsecondary educational institutions (institutions) that participate in certain federal financial aid programs to publish annual security reports that disclose specified campus crime statistics and campus security policies. Crimes reportable under the Clery Act include assaults, arsons, robberies, and sex offenses occurring in certain locations. The Reauthorization Act,

which took effect in March 2014, added specific policy statements that institutions must include in their annual security reports. If institutions do not make all required disclosures, students and other stakeholders may not have the information necessary to make informed decisions about their personal security, for example, regarding the prevention of crime and the actions they should take in the event of emergencies. None of the six California institutions reviewed in the audit completely complied with all of the federal reporting requirements. In fact, five of the institutions inaccurately reported crime statistics, and only one institution disclosed all of the campus policies in its annual security report—the most frequently incomplete or missing disclosures were for policies related to the Reauthorization Act.

The California State Auditor (State Auditor) is statutorily required to audit compliance with the Clery Act and has conducted five audits of a selection of California's institutions. Because all of the State Auditor's reviews have identified similar issues, we believe that compliance with the Clery Act could improve with additional guidance from the systemwide offices for the State's public institutions and from a state entity that provides guidance to all institutions. Justice is well positioned to advise institutions on which California criminal statutes align with what must be reported under the Clery Act, and could therefore provide additional guidance on the Clery Act to all institutions.

## **Report**

**2015-032** *California's Postsecondary Educational Institutions: More Guidance Is Needed to Increase Compliance With Federal Crime Reporting Requirements* (July 2015)

## State Bar of California

### Require Legislative Approval or Notification on Revenue Decisions and Disclosure Regarding Nonprofit Organizations

#### Recommendations

1. To make certain that the Legislature is not limited in its ability to set member fees, the Legislature should require the State Bar of California (State Bar) to notify or seek its approval when the State Bar plans to pledge its revenue for a period that exceeds 12 months or that overlaps fiscal years.

**Status:** Not Implemented

2. To improve its oversight of the State Bar's financial affairs, the Legislature should require the State Bar to disclose the creation of and use of nonprofit organizations, including the nonprofits' annual budgets and reports on their financial conditions explaining the sources and uses of the nonprofits' funding.

**Status:** Not Implemented

#### Background

State law requires that every person licensed to practice law in California belong to the State Bar, a public corporation within the State's judicial branch. Supported primarily by member fees, the State Bar's duties include regulating the conduct of attorneys through its attorney discipline system as well as administering the California Bar exam. State law requires the State Bar to provide its stakeholders with various reports detailing its financial situation. However, in recent years, the State Bar's financial reports have contained errors and lacked transparency, and these weaknesses have limited stakeholders' ability to understand the State Bar's operations and the Legislature's ability to ensure the appropriateness of the State Bar's fees.

Our audit found that in March 2016 the State Bar executed a bank loan agreement approved by its board that contractually required the State Bar to allocate its unrestricted future revenue first to the payment of loan principal and interest. By negotiating these loan terms, the State Bar obligated its future revenue in a way that might have limited the Legislature's ability to lower fees. According to state law, whenever the board pledges revenue from membership fees, the "Legislature shall not reduce the maximum membership fee below the maximum in effect at the time such obligation is created or incurred..." After we raised concerns about the structure of its loan agreements, the State Bar modified loan provisions that might have limited the Legislature's ability to lower membership fees for several years.

Our audit further found that in the absence of oversight, the State Bar has made some questionable or inappropriate financial decisions. For example, in 2013 the State Bar created a nonprofit foundation to purportedly collect money from donors and to administer activities benefiting two of its programs. Although state law allows the State Bar to create nonprofit organizations for the purpose of generating revenue for its operations, about \$22,000 of the \$33,000 in expenses the State Bar recorded in the foundation's fund from 2013 through 2015 were for purposes unrelated to the two programs the foundation was established to support.

**Report**

*2015-047 The State Bar of California: Its Lack of Transparency Has Undermined Its Communications With Decision Makers and Stakeholders (May 2016)*

## Judicial Branch of California

### Redirect Compensation Savings to Trial Courts, Define Differences in Expenditures, and Require an Annual Independent Financial Audit

#### Recommendations

1. Once the Administrative Office of the Courts (AOC) has identified savings related to its compensation and business practices, the Legislature should consider ways to transfer this savings to the trial courts.

**Status:** Not implemented.

2. To determine the cost to the State of providing support to the trial courts, the Legislature should take steps to clearly define the difference between local assistance expenditures and state operations expenditures. One method of accomplishing this would be to make the necessary statutory changes to classify as local assistance only those appropriations that the AOC passes directly to the trial courts or that the AOC expends on behalf of the trial courts with their explicit authorization. All other appropriations would be classified as state operations.

**Status:** Not implemented.

3. To bring more transparency to the AOC's spending activities and to ensure that the AOC spends funds prudently, the Legislature should require an annual independent financial audit of the AOC. This audit should examine the appropriateness of the AOC's spending of any local assistance funds.

**Status:** Not implemented.

#### Background

California's judicial branch is the largest of its kind in the nation. Consisting of the State's courts and other judicial entities, its appropriations in fiscal years 2010–11 through 2012–13 totaled more than \$11.8 billion. The Judicial Council of California (Judicial Council) has policy and rule-making authority over the judicial branch and holds the ultimate responsibility to ensure it spends public funds in prudent ways. The California State Auditor's review of funds administered by the Judicial Council and the AOC, the Judicial Council's staff agency, found that Judicial Council did not adequately oversee the AOC in managing the judicial branch budget, which allowed the AOC to engage in questionable compensation and business practices. Of equal concern is the fact that the AOC has few policies, procedures, or controls in place to ensure that its employees expend funds appropriately, or for how they should charge expenditures to appropriations. Specifically, over the past four fiscal years, the AOC made about \$386 million in payments on behalf of trial courts using the trial courts' local assistance appropriations. We believe the AOC could have paid a portion of those payments from its own state operations appropriations instead. Furthermore, unlike the executive branch, the judicial branch is not subject to financial audit requirements; thus, the Judicial Council has never required the AOC to undergo an independent financial audit.

#### Report

*2014-107 Judicial Branch of California: Because of Questionable Fiscal and Operational Decisions, the Judicial Council and the Administrative Office of the Courts Have Not Maximized the Funds Available for the Courts* (January 2015)

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## State Bar of California—Disciplinary System

### Determine Cases to Include in Backlog, Limit Fund Balances, and Enact a Biennial Membership Fee Approval Process

#### Recommendations

1. To ensure that it consistently counts and reports its backlog of disciplinary cases, the State Bar of California (State Bar) and the Legislature should work together to determine what cases the State Bar should include in its backlog. For example, one method of calculating the backlog would be to include every case that affects public protection that the State Bar does not resolve within six months from the time it receives a complaint. The Legislature should then amend the state law that currently defines how the State Bar should present the backlog in its discipline report.

**Status:** Implemented. Senate Bill 387 (Jackson, Chapter 537, Statutes of 2015) provides that, in addition to written complaints received by the State Bar, its Annual Discipline Report on backlog of cases must include other matters opened in the Office of the Chief Trial Counsel and pending beyond six months after receipt without the filing of notices of disciplinary charges, or the initiation of other disciplinary proceedings in the State Bar Court for the purpose of seeking the imposition of discipline against a member of the State Bar. The bill also requires the State Bar's Annual Discipline Report to include the number, average pending time, and other specified information related to disciplinary cases and complaints.

2. To ensure that the State Bar's fund balances do not exceed reasonable thresholds, the Legislature should consider putting a restriction in place to limit its fund balances. For example, the Legislature could limit the State Bar's fund balances to the equivalent of two months of the State Bar's average annual expenditures.

**Status:** Not implemented.

3. To provide the State Bar with the opportunity to ensure that its revenues align with its operating costs, the Legislature should consider amending state law to, for example, require a biennial approval process for the State Bar's membership fees rather than the current annual process.

**Status:** Not implemented.

#### Background

The State Bar is a public corporation within the judicial branch of California which regulates the professional and ethical conduct of its 226,000 members through an attorney discipline system. The State Bar's Office of the Chief Trial Counsel receives complaints, investigates attorneys, and prepares cases for prosecution, while the State Bar Court adjudicates disciplinary and regulatory matters involving attorneys in the State.

The State Bar has struggled historically to promptly resolve all the complaints it receives, potentially delaying the timely discipline of attorneys who engage in misconduct. One of the primary measurements of the effectiveness of the State Bar's discipline system is the number of complaints it fails to resolve within six months of their receipt, which it refers to as its backlog. State law defines the backlog as the number of cases within the discipline system, including, but not limited to, the number of unresolved complaints as of December 31 that the State Bar had received more than six months earlier. However, even though the State Bar has met the law's minimum requirements related to reporting its backlog, it continues to report fewer cases than the law permits. Because state law defines the State Bar's highest priority as protecting the public, we believe the appropriate method of calculating the State Bar's backlog would be to include every case that affects public protection—a method that the State Bar does not currently use.

The audit also found that the State Bar's fund balances over the last six years indicate that the revenues from annual membership fees exceed the State Bar's operational costs. Although the purchase of a new building in Los Angeles in 2012 decreased the State Bar's available fund balances, the audit found that they are again beginning to increase. Maintaining a reasonable fund balance would allow the State Bar to ensure that it charges its members appropriately for the services that they receive. We believe the State Bar needs to evaluate the revenue it receives and the services it provides. For example, the State Bar could work with the Legislature to reassess its annual membership fee to better align with the State Bar's actual operating costs so that the fund balances do not continue to increase.

Furthermore, the State Bar needs to conduct a thorough analysis of its revenues, operating costs, and future operational needs to support its belief that it does not have excess available revenue, even though our analysis suggests otherwise. Because the Legislature must authorize the State Bar to collect membership fees on an annual basis, every year the State Bar risks losing its ability to collect the revenue that will fund more than one-half of its general operating activities, which makes long-term planning difficult. Thus, a funding cycle that gives the State Bar greater certainty—for example, a biennial funding cycle—might enhance the State Bar's ability to engage in long-term planning.

## **Report**

*2015-030 State Bar of California: It Has Not Consistently Protected the Public Through Its Attorney Discipline Process and Lacks Accountability* (Release Date: June 2015)



## County Pay Practices

### Require Counties to Compare and Report on Differences in Compensation and Direct the State Controller to Obtain Information on the Gender of Public Employees

#### Recommendations

1. To ensure that counties consistently monitor pay disparities between male employees and female employees and to ensure that counties perform these reviews and publicly report their findings, the Legislature should amend state law to do the following:

- Require counties to periodically compare, by specific job classification, the differences in total average compensation between male employees and female employees.
- Require counties to publicly report to local decision makers those classifications for which the differences in total compensation are significant, further indicating which county pay policy or policies contributed to the variances and whether any modifications are needed to reduce the disparities.

**Status:** Not implemented.

2. If the Legislature desires that counties be able to demonstrate that their hiring decisions for civil service positions are based on objective and job-related criteria, it should amend the state law to require that each county document the reasons why it chose the selected candidate over others from the certified eligibility list.

**Status:** Not implemented.

3. To ensure that the general public and legislative decision makers have readily available data on male and female employees' compensation by specific classification and public employer, the Legislature should direct the State Controller's Office (Controller) to obtain information on the sex of each public employee reported on the Government Compensation in California website.

**Status:** Not implemented.

#### Background

Congress has passed various laws to protect employees from discrimination based on their sex. For example, Congress passed the Equal Pay Act of 1963 (Federal Pay Act), which prohibits sex-based wage discrimination among employees. The Federal Pay Act generally mandates that, except under certain conditions, employers provide their employees with equal pay for equal work in classifications that require equal skill, effort, and responsibility, and that are performed under similar working conditions. These provisions have been interpreted via federal regulations to mean that the jobs need not be identical, but they must be substantially similar. After reviewing employee compensation data from four counties—Fresno, Los Angeles, Orange, and Santa Clara—our audit found that, in the aggregate, female county employees earned between 73 percent and 88 percent of what male

county employees earned from fiscal year 2010–11 through fiscal year 2014–15. In fact, the data show that this gender wage gap has slightly widened at each of the four counties over the five-year period we reviewed.

The counties' compensation data also show that female employees were more likely to occupy classifications that provided relatively low- to mid-levels of average total compensation, whereas their male counterparts tended to be concentrated in mid-level to highly compensated county classifications. With women more often occupying classifications that pay at the mid- to lower-end of the salary strata we reviewed, the aggregate wage gap in the four counties we reviewed appears to be influenced by the types of job classifications women occupy.

We also reviewed groups of county employees working within the same classifications and county departments (regardless of the employees' full-time status) to understand why differences in salaries existed. Although we found no evidence of gender discrimination, our review revealed a multitude of factors that can result in differences in pay among employees working within the same job classification. These factors include the starting salary for each employee in his or her current county job, which can often be influenced by prior pay in a previous county job; the length of time spent by the employee in his or her current job; and whether the employee worked full-time or part-time during the entire fiscal year.

We found that the counties we visited often did not keep records documenting why a particular candidate was ultimately selected for employment over other qualified candidates. Consequently, we could not always determine whether counties were using valid job-related criteria when deciding whether to employ particular male or female candidates. Applicable civil service rules do not require that counties document their hiring rationales; instead, counties are to focus on establishing rules and maintaining supporting documents covering the events leading up to actual hiring decisions.

Nevertheless, the State has an opportunity to ensure that counties not only document the bases for their hiring decisions but also actively prevent and monitor pay disparities and then report their findings to the public and local officials. State law requires the California Department of Human Resources (CalHR) to periodically perform audits of counties' hiring and compensation practices under the State's mandated civil service rules. The Legislature could amend state law to establish the expectation that counties must be capable of objectively explaining, at the time of hire, why candidates who were interviewed were or were not selected for employment. CalHR's audits could then evaluate and report on whether the stated hiring decisions were, in fact, objective and job-related. Further, the Legislature could require counties to periodically evaluate, by job classification, the differences in men's and women's compensation and to determine which county pay policies have contributed to any significant variances identified and whether such policies require modification to eliminate or reduce gender-based pay disparities. Finally, counties should share these analyses with local leaders, such as locally elected boards of supervisors, so that the committee leaders and the public can have an ongoing discussion and understanding of where significant pay disparities exist and the pay policies that contribute to them.

Additionally, both the public and county employees could benefit from better data collected by the Controller. The Controller currently collects public employee compensation data by employer and classification on its Government Compensation in California website, but it is not currently required

to collect information on the gender of those employees. To enhance transparency and accountability regarding gender pay equity, the Legislature should amend state law to require public employers to report gender information when submitting the employee-specific data to the Controller.

**Report**

*2015-132 County Pay Practices: Although the Counties We Visited Have Rules in Place to Ensure Fairness, Data Show That a Gender Wage Gap Still Exists (May 2016)*

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## Central Basin Water District

### Preserve the District as an Independent Entity, but Modify the Governance Structure

#### Recommendation

To ensure the efficient and effective delivery of imported and recycled water in southeastern Los Angeles County, the Legislature should pass special legislation to preserve the Central Basin Municipal Water District (district) as an independent entity but modify the district's governance structure. In doing so, the Legislature should consider a governance structure that ensures the district remains accountable to those it serves; for example, by changing the district's board of directors (board) from one elected by the public at large to one appointed by the district's customers.

**Status:** Implemented. AB 1794 (Chapter 401, Statutes of 2016) requires the board of directors of the Central Basin Municipal Water District to be composed of eight directors until the directors elected at the November 8, 2022, election take office. At that time, the board shall be composed of seven directors, three of which shall be appointed by the water purveyors of the district and the remaining four shall be elected by the voters for each division established by law. Each of the four elected directors shall be a resident of the division from which he or she is elected.

#### Background

The district wholesales imported water from the Metropolitan Water District of Southern California to cities, other water districts, mutual water companies, investor-owned utilities, and private companies in southeast Los Angeles County. In addition, it operates a system for obtaining and distributing recycled water. A publicly elected board of five directors governs the district. The board appoints a general manager who oversees the district's day-to-day operations and its staff.

In recent years, the district's actions have called into question the efficiency and effectiveness of its operations. News reports have focused public attention on a number of issues at the district. Because of these issues and others, the County of Los Angeles Department of Public Works published a report in October 2014 that outlined the concerns it identified with the district's operations. As a result of these concerns, the report explored the steps necessary to dissolve the district and transfer its work elsewhere. However, the report stopped short of making such a recommendation and instead recommended this audit. Our audit found that the board's poor leadership has impeded the district's ability to effectively meet its responsibilities.

#### Report

*2015-102 Central Basin Municipal Water District: Its Board of Directors Has Failed to Provide the Leadership Necessary for It to Effectively Fulfill Its Responsibilities* (December 2015)

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# California's Alternative Energy and Efficiency Initiatives

## Determine Whether to Continue Funding the Thermal Program and Require the Air Resources Board to Assess the Effectiveness of the Decal Program

### Recommendations

1. Because the California Solar Initiative Thermal Program (thermal program) has not been successful in meeting the goals outlined in state law, the Legislature should consider whether it wants to continue authorizing the collection of ratepayers' money to fund the program.

**Status:** Not implemented.

2. To learn whether the Clean Air Vehicle Decal Program (decal program) helps to reduce the State's air pollution, the Legislature should require the California Air Resources Board (Air Resources Board) to research whether there is a relationship between decal usage and a change in the State's air quality.

**Status:** Not implemented.

### Background

In 2006 Senate Bill 1 (Chapter 132, Statutes of 2006) established requirements for the California Solar Initiative (solar initiative) as part of a larger statewide effort to support the installation of solar energy systems that generate solar electricity. The California Public Utilities Commission (CPUC) oversees the solar initiative, but six program administrators administer it within the service areas of four investor-owned utilities. Customers of these utilities fund the program through a surcharge on ratepayers' bills. One of the solar initiatives' five programs is the thermal program, which provides incentives for installing solar water-heating systems. The CPUC found that the thermal program will not accomplish any of its goals due to low participation, which it attributes to falling natural gas prices and the high installation costs for solar water-heating systems.

The Legislature established the decal program to encourage Californians to drive clean air vehicles by allowing certain low-emission vehicles to travel in carpool lanes with just one occupant. State law divides the responsibility for administering the program among the California Department of Motor Vehicles, the Air Resources Board, the California Department of Transportation, and the California Highway Patrol. State law does not require any of these agencies to monitor the goals and objectives of the decal program and none perform such an analysis. Furthermore, the Air Resources Board has not studied the effect, if any, of the decal program on air quality nor is it required to do so. However, our review of available data found that some of the counties with the highest concentration of decals tend to be in areas that have poor air quality and in areas that possess a significant number of carpool lanes.

### Report

*2014-124 California's Alternative Energy and Efficiency Initiatives: Two Programs Are Meeting Some Goals, but Several Improvements Are Needed* (February 2015)

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## CalGang Criminal Intelligence System

### Establish Requirements in State Law for Shared Gang Databases and Require the Databases to Comply with Federal Regulations and Important Safeguards in the State Guidelines

#### Recommendations

1. To ensure that CalGang, or any equivalent statewide shared gang database, has an oversight structure that supports accountability for proper database use and for protecting individuals' rights, the Legislature should do the following:
  - Designate the California Department of Justice (Justice) as the state agency responsible for administering and overseeing CalGang or any equivalent statewide shared gang database.
  - Require that CalGang, or any equivalent statewide shared gang database adhere to federal regulations and relevant safeguards in the state guidelines.
  - Specify that Justice's oversight responsibilities include developing and implementing standardized periodic training as well as conducting—or hiring an external entity to conduct—periodic audits of CalGang or any equivalent statewide shared gang database.

**Status:** Not implemented. (Note: Report Issued in August 2016)

2. To promote public participation in key issues that may affect California's citizens and help ensure consistency in the use of any shared gang database, the Legislature should require Justice to interpret and implement shared gang database requirements through the regulatory process. This process should include public hearings and should address the following:
  - Adopting requirements for entering and reviewing gang designations.
  - Specifying how user agencies will operate any statewide shared gang database, including requiring the agencies to implement supervisory review procedures and regular record reviews.
  - Standardizing practices for user agencies to adhere to the State's juvenile notification requirements, including guidelines for documenting and communicating the bases for juveniles' gang designations.

**Status:** Not implemented. (Note: Report Issued in August 2016)

3. To ensure transparency, the Legislature should require Justice to publish an annual report with key shared gang database statistics—such as the number of individuals added to and removed from the database—and summary results from periodic audits conducted by Justice or an external entity. Further, the Legislature should require Justice to invite and assess public comments following the report's release. Subsequent annual reports should summarize any public comments Justice received and actions it took in response.

**Status:** Not implemented. (Note: Report Issued in August 2016)

4. To help ensure that Justice has the technical information it needs to make certain that CalGang or any equivalent shared gang database remains an important law enforcement tool, the Legislature should establish a technical advisory committee to advise Justice about database use, database needs, database protection, and any necessary updates to policies and procedures.

**Status:** Not implemented.

**Note:** AB 2298 (Weber, Chapter 752, Statutes of 2016):

1. Requires a shared gang database to comply with federal requirements regarding record retention for information in the database.
2. Requires local law enforcement, commencing January 15, 2018, and every January 15 thereafter to submit specified data pertaining to the database to the Department of Justice.
3. Requires Justice, commencing February 15, 2018, and every February 15 thereafter, to post that information on its website.
4. Establishes a procedure for a person designated in a shared gang database who has contested that designation with the local law enforcement agency, and whose challenge has been denied, to appeal to the superior court.

In the Governor's signing message, he cited the California State Auditor's findings as a reason for enacting the bill.

## Background

CalGang is a shared criminal intelligence system that law enforcement agencies (user agencies) throughout the State use voluntarily. User agencies enter information into CalGang on suspected gang members, including their names, associated gangs, and the information that led law enforcement officers to suspect they were gang members. CalGang's current oversight structure does not ensure that user agencies collect and maintain criminal intelligence in a manner that preserves individuals' privacy rights. Specifically, although Justice funds a contract to maintain CalGang, the system is not established in state statute and consequently receives no state oversight. Instead, CalGang's user agencies elect their peers to serve as members of two entities—the CalGang Executive Board (board) and its technical subcommittee called the California Gang Node Advisory Committee (committee)—that oversee CalGang. These oversight entities function independently from the State and without transparency or meaningful opportunities for public engagement.

Because of its potential to enhance public safety, CalGang needs an oversight structure that better ensures that the information entered into it is reliable and that its users adhere to requirements that protect individuals' rights. To this end, we believe the Legislature should adopt state law that specifies that CalGang, or any equivalent statewide shared gang database, must operate under defined requirements that include the federal regulations and

key safeguards from the state guidelines, such as supervisory and periodic record reviews. Further, we believe the Legislature should assign Justice the responsibility for overseeing CalGang and for ensuring that the law enforcement agencies that use CalGang comply with the requirements. Establishing Justice as a centralized oversight entity responsible for determining best practices and holding user agencies accountable for implementing such practices will help ensure CalGang's accuracy and safeguard individuals' privacy protection. Moreover, we recommend that the Legislature create a technical advisory committee to provide Justice with information about database best practices, usage, and needs to ensure that CalGang remains a useful law enforcement tool.

### **Report**

**2015-130** *The CalGang Criminal Intelligence System: As the Result of Its Weak Oversight Structure, It Contains Questionable Information That May Violate Individuals' Privacy Rights* (August 2016)

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# California Department of State Hospitals

## Allow State Hospitals Flexibility in Evaluating Whether an Offender Meets the Criteria of a Sexually Violent Predator

### Recommendation

To promote efficiency, the Legislature should change state law to allow the Department of State Hospitals (State Hospitals) the flexibility to stop an evaluation once the evaluator determines that the sex offender (offender) does not meet one of the sexually violent predator (SVP) criteria.

**Status:** Not implemented.

### Background

The Legislature created the Sex Offender Commitment Program (program) in 1996 to target a small but extremely dangerous subset of sexually violent offenders who present a continuing threat to society because their diagnosed mental disorders predispose them to engage in sexually violent criminal behavior. Through this program, the California Department of Corrections and Rehabilitation (Corrections) refers certain offenders to State Hospitals for psychological evaluations when those offenders are nearing their scheduled release dates.

State law requires State Hospitals' evaluators to determine whether an offender that Corrections refers to it meets the criteria for the SVP designation. If State Hospitals determines that an offender meets the SVP criteria, it requests the county counsels to petition for the offender's commitment to a state hospital. State Hospitals uses the following criteria in state law to determine whether an offender meets the criteria of an SVP: the offender has been convicted of a sexually violent predatory offense against one or more victims; the offender suffers from a diagnosed mental disorder; and, the diagnosed mental disorder makes the person likely to engage in sexually violent, predatory criminal behavior in the future without treatment and custody.

Our audit found that evaluators did not always consider all three criteria for determining whether offenders might be recommended for commitment; however, this decision created some efficiency. Specifically, in three evaluations we reviewed, the evaluators noted that they did not diagnose a mental disorder—the second of three criteria that must be met for commitment—and therefore chose not to evaluate the third criterion, which is whether the diagnosed mental disorder makes the offenders likely to engage in sexually violent, predatory criminal behavior in the future without treatment and custody. State Hospitals has directed evaluators to complete evaluation of all three criteria regardless of the outcome of one. However, if the evaluator determines that an offender will not meet the criteria, we believe stopping the evaluations is both appropriate and efficient.

### Report

**2014-125** *California Department of State Hospitals: It Could Increase the Consistency of Its Evaluations of Sex Offenders by Improving Its Assessment Protocol and Training* (March 2015)

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# Follow-Up: California Department of Justice Armed Prohibited Persons System

## Require Completion of an Initial Case Review Within Seven Days

### Recommendation

To ensure that the Department of Justice (Justice) fairly balances competing responsibilities and avoids redirecting the Armed Prohibited Persons System (APPS) unit staff to conduct Dealers' Record of Sale background checks, the Legislature should require Justice to complete an initial review of cases in the daily queue within seven days and periodically reassess whether Justice can complete these reviews more quickly.

**Status:** Implemented. AB 1999 (Chapter 638, Statutes of 2016) requires Justice to complete an initial review of a match, as defined, in the daily queue of APPS within seven days of the match being placed in the queue and to periodically reassess whether the Justice can complete those reviews more efficiently.

### Background

In October 2013 the California State Auditor issued a report titled *Armed Persons With Mental Illness: Insufficient Outreach From the Department of Justice and Poor Reporting From Superior Courts Limit the Identification of Armed Persons With Mental Illness*, Report 2013-103, that included recommendations aimed at ensuring Justice accurately and promptly identifies firearm owners in the State who are prohibited from owning or possessing a firearm due to a mental health-related event in their life. This follow-up audit focused on certain recommendations we made to Justice related to the accurate and timely identification of armed prohibited persons as well as its process for reaching out to courts and mental health facilities, and we found that Justice has not fully implemented certain recommendations from our initial report.

One of the findings in our previous report noted that Justice had backlogs in its two processing queues: a daily queue and a historical queue. During late 2012 and early 2013, Justice had a backlog of more than 1,200 matches pending initial review in its daily queue - the queue that contains the daily events from courts and mental health facilities that indicate a match and may trigger a prohibition for an individual to own a firearm. Because a backlog in this queue means that Justice is not reviewing these daily events promptly, we recommended that Justice establish a goal of no more than 400 to 600 cases in the daily queue. However, during this follow-up audit, we found that Justice's daily queue during the first quarter of 2015 was over 3,600 cases; this is six times higher than its revised goal of no more than 600 cases. Just as it did during the previous audit, Justice continues to cite its need to redirect staff to conduct Dealers' Record of Sale background checks, which has a statutory deadline, as the reason for this backlog. We believe that, if Justice had a statutory deadline on the initial processing of the matches in the APPS database, it would encourage Justice to avoid redirecting APPS unit staff. The chief of the Bureau of Firearms believes that seven days would be a reasonable time frame to complete an initial review of matches.

**Report**

*2015-504 Follow-Up—California Department of Justice: Delays in Fully Implementing Recommendations Prevent It From Accurately and Promptly Identifying All Armed Persons With Mental Illness, Resulting in Continued Risk to Public Safety (July 2015)*



## Corporate Tax Expenditures

### Adopt Best Practices and Commission a Study to Evaluate Effectiveness of Tax Expenditures and Modify Water's Edge and Low-Income Housing Credits

#### Recommendations

1. To increase oversight of existing and future corporate income tax expenditures, the Legislature should consider adopting best practices that other states use to evaluate their tax expenditures' effectiveness.

**Status:** Not implemented.

2. The Legislature should consider commissioning studies to evaluate the cost-effectiveness of the research and development (R&D) credit and franchise exemption and whether these tax expenditures are meeting their policy objectives.

**Status:** Not implemented.

3. To improve their effectiveness, the Legislature should consider modifications to the water's edge election and the low-income housing credit. Specifically, it should include income from offshore tax havens within the State's water's edge election, and remove negative tax implications from the low-income housing credit.

**Status:** Not implemented.

#### Background

Corporate income tax expenditures (tax expenditures), which are tax benefits for qualifying corporations, cost the State more than \$5 billion in forgone tax revenue in fiscal year 2012–13, the most recent year that complete tax data were available. Tax expenditures include exemptions from certain taxes, deductions from taxable income, credits that reduce total tax liability, exclusions that do not tax certain income, and elections that allow a choice in how taxes are calculated. In each case, the State forgoes tax revenue that it would otherwise collect, which results in reduced funding available for government activities. We reviewed how other states oversee their tax expenditures and identified some best practices that are not consistently followed in California. Adopting oversight methods used by other states would improve the effectiveness of the State's current and future tax expenditures, providing the Legislature with more information and a better accounting of the effectiveness and impact of these tax expenditures.

We reviewed six of the largest California state-only tax expenditures for the most recent three years for which complete tax data were available. We selected these tax expenditures from the Department of Finance's tax expenditure reports and found that insufficient evidence and oversight of the R&D

credit and the minimum franchise tax exemption make it unclear if they are fulfilling their purposes. The water's edge election, the low-income housing credit, and the film and television credit appear to be achieving their respective purposes, but improvements would make them more effective.

**Report**

*2015-127 Corporate Income Tax Expenditures: The State's Regular Evaluation of Corporate Income Tax Expenditures Would Improve Their Efficiency and Effectiveness (April 2016)*

# Department of Transportation Maintenance Division

## Require the Division to Develop and Implement a Budget Model for Field Maintenance

### Recommendation

To better align the allocations of the California Department of Transportation (Caltrans) division of maintenance (division) with the maintenance needs of the districts, the Legislature should include language in the Budget Act that requires the maintenance division to develop and implement a budget model for field maintenance by June 30, 2017, that takes into account key indicators of maintenance need, such as traffic volume, climate, service scores, and any other factors the maintenance division deems necessary to ensure that the model adequately considers field maintenance need. Once the model is developed, Caltrans should use it to inform appropriate allocations to the districts.

**Status:** Not implemented.

### Background

Caltrans is responsible for constructing, improving, and maintaining California's highway system, including maintenance activities. *Maintenance* is defined by state law as the preservation and upkeep of roadway structures in the safe and usable condition to which they have been improved or constructed. Caltrans' maintenance division administers the maintenance program, which focuses on preventative work to correct small problems before they grow to require more costly repairs. The maintenance program consists of two types of work: highway maintenance and field maintenance. Although we reviewed the maintenance division's processes for both highway maintenance and field maintenance, the concerns we identified relate primarily to field maintenance.

Although it developed a logical approach for addressing field maintenance needs, the maintenance division abandoned the approach. Specifically, the maintenance division never implemented a budget model (model) that it paid \$250,000 to develop in 2009. Use of that model would have allowed the maintenance division to identify the resources needed to maintain highways with similar conditions at a similar level of maintenance performance. Although the maintenance division never implemented its model, the division has been reporting to the Legislature that it is using this sophisticated model to allocate field maintenance funding to its districts that takes into account key maintenance need indicators, such as traffic volume and climate. However, the maintenance division informed us that instead of using the model, it has actually been distributing funding based on a simple historical average of each district's spending. In fact, we found the districts' allocations remained largely unchanged from fiscal years 2010–11 through 2014–15. As a result, the Legislature and other decision makers may have believed that headquarters was using a more robust approach to allocate funding to the districts than it actually was, causing those decision makers to be less likely to question the allocations.

### Report

**2015-120 California Department of Transportation: Its Maintenance Division's Allocations and Spending for Field Maintenance Do Not Match Key Indicators of Need** (March 2016)

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# California Public Utilities Commission

## Amend State Law Relating to Commission Proceedings, Ex Parte Communications, and Use of the Attorney General's Office

### Recommendations

1. The Legislature should amend state law to direct the California Public Utilities Commission (CPUC) to adopt a standard that requires commissioners to recuse themselves from proceedings if a person who is aware of the facts may reasonably question whether a commissioner is able to act impartially.

**Status:** Not implemented.

2. The Legislature should amend state law to direct the CPUC to adopt rules for ex parte communications between CPUC commissioners and interested parties that include the following:
  - A requirement for CPUC commissioners to disclose any ex parte communications in which they participate, in addition to the existing requirement for interested party disclosure. This disclosure should occur within the same time frame as the interested party disclosure.
  - A requirement that commissioners' disclosures include a description of the commissioners' communications and their contents.

**Status:** Not implemented.

3. The Legislature should amend Public Utilities Code (PUC) Section 632 to clarify that its provisions related to the Office of the Attorney General (Attorney General) apply to the CPUC regardless of Government Code (GC) Section 11041 and PUC Section 307.

**Status:** Not implemented.

**Note:** SB 215 (Chapter 807, Statutes of 2016):

1. Requires the CPUC to adopt procedures for the disqualification of Commissioners due to bias or prejudice.
2. Requires a Commissioner or Administrative Law Judge (ALJ) to be disqualified from rate-setting or adjudicatory proceedings for bias or prejudice based on specified criteria.
3. Prohibits CPUC procedures from authorizing a Commissioner or ALJ to rule on a motion to disqualify oneself from presiding over a proceeding.
4. Recasts and revises laws relating to ex parte communications with regard to CPUC proceedings including requiring CPUC to explicitly ban "one-way" ex parte communications from a decision-maker to an interested person.

5. Authorizes the Attorney General to bring an enforcement action in Superior Court against a decision maker or employee of the CPUC for knowingly and willfully violating or failing to comply with the ex parte communication requirements.

### **Background**

The mission of the CPUC is to serve the public interest by protecting consumers and ensuring the provision of safe, reliable utility service and infrastructure at reasonable rates, with a commitment to enhancing the environment and promoting a healthy California economy. The CPUC is subject to the contracting requirements in state law and the *State Contracting Manual*. In addition to entering into its own contracts, it has the authority to direct the utility companies it regulates to enter into contracts. For this audit, we reviewed the CPUC's actions related to both its own contracting and the energy utility contracting that it oversaw from 2010 through 2015.

In addition to directing contracts, the CPUC also approves contracts that utilities propose. We found that the CPUC can improve its rules concerning when its commissioners can participate in those approval decisions. The CPUC standard for recusal of a commissioner from a proceeding requires more than the appearance of bias. Instead of considering whether there is an appearance of bias, the CPUC considers whether the evidence clearly and convincingly shows that a commissioner has an unalterably closed state of mind regarding the matter the CPUC is considering. The CPUC standard is a more difficult standard for parties to challenge than the standards used by other states' public utilities commissions, and it does not demonstrate a commitment by the CPUC to avoid apparent bias. For example, the standards of conduct for commissioners of the Public Utility Commission of Texas state that a commissioner must remove himself or herself from a proceeding if the commissioner's impartiality has been *reasonably questioned*.

Furthermore, CPUC rules do not require commissioners to report private communications with parties to CPUC proceedings. These rules do not align with best practices and have resulted in conversations concerning a critical CPUC proceeding to go unreported. CPUC disclosure rules are not aligned with best practices because they do not require CPUC decision makers to take responsibility for disclosing ex parte communications. If the CPUC had disclosure requirements similar to those of other agencies, ex parte communications would be disclosed comprehensively, and the CPUC's decision-making process would be more transparent and its decision makers would be more accountable.

Finally, our review found that the CPUC has not consistently contacted the Attorney General before it has contracted for outside legal assistance. To enhance the overall efficiency and economy of state government, state law generally requires agencies to employ the Attorney General as legal counsel or to obtain the Attorney General's written consent to employ other legal counsel. The CPUC did not contact the Attorney General in most cases we reviewed because it believes that state law exempts it from the requirement to use the Attorney General. An assistant general counsel at the CPUC explained that the CPUC believes that state law, specifically GC Section 11041, exempts it from having to use the Attorney General for all legal needs. This section of law does list selected agencies, including the CPUC, and states that they are exempt from the requirement to employ the Attorney General as legal counsel.

However, PUC Section 632 states that the requirement to use the Attorney General applies to the CPUC for consultant or advisory services contracts, which include contracts for legal services, *except* when the CPUC makes a finding that extraordinary circumstances justify expedited contracting. In response to our questions about these two statutes, the general counsel at the CPUC stated that the CPUC believes that GC Section 11041 clearly exempts the CPUC from obtaining legal services from the Attorney General. However, after reviewing the legislative history of PUC Section 632, including legislative committee analyses, we concluded that the Legislature intended to limit the CPUC's exemption from using the Attorney General in cases where the CPUC decides to contract for legal services. Further, the general counsel stated that PUC Section 307 gives the CPUC the authority to represent the people of California in all matters relating to the Public Utilities Code and to any act or order of the CPUC.

### **Report**

**2016-104** *California Public Utilities Commission: It Should Reform Its Rules to Increase Transparency and Accountability, and Its Contracting Practices Do Not Align With Requirements or Best Practices* (September 2016)

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# California Public Utilities Commission

## Authorize the Commission to Collect VoIP Customer Information From Telephone Service Providers

### Recommendation

To ensure that the California Public Utilities Commission (CPUC) has the information it needs to better report on Voice over Internet Protocol (VoIP) -related complaints, the Legislature should give the commission the authority to collect information from providers regarding their VoIP customers and require VoIP providers to furnish this information to the CPUC.

**Status:** Not implemented.

### Background

The telecommunications industry has undergone a profound transformation in recent years with the advent of new technologies such as cable-based VoIP telephone services. While federal law specifies that the Federal Communications Commission maintains regulatory jurisdiction over interstate and international telecommunications, it generally gives the states jurisdiction over their intrastate telecommunications. With certain restrictions, California has designated responsibility for regulating its intrastate telecommunication services to the CPUC.

In part, the CPUC is responsible for helping consumers resolve issues with the industries it regulates, and its Consumer Affairs Branch (branch) helps consumers resolve disputes or informal complaints with certain utilities. The branch also provides the CPUC and other entities, such as the Legislature, with information about the complaints it receives from consumers regarding utilities.

The audit found that the CPUC's ability to identify VoIP complaints is limited because state law is ambiguous about whether VoIP providers must provide information to the CPUC that would assist it in responding informally to VoIP complaints. Not all VoIP providers are required to register with the CPUC and report information regarding their VoIP customers, and the CPUC staff do not believe they have the legal authority to compel VoIP providers to report this information.

### Report

*2014-120 California Public Utilities Commission: It Needs to Improve the Quality of Its Consumer Complaint Data and the Controls Over Its Information Systems* (April 2015)

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## Appendix

### Legislation Chaptered or Vetoed During the 2015–16 Regular Legislative Session

The table below briefly describes bills that were chaptered or vetoed during the second year of the 2015–16 Regular Legislative Session and relate to the subject of a report by the California State Auditor (State Auditor), were based in part on recommendations in a State Auditor’s report, or the analysis of the bill relied in part on a State Auditor’s report.

**Table A**  
 Legislation Chaptered or Vetoed in the 2016 Regular Session

BILL NUMBER (CHAPTERED OR VETOED)	REPORT (ABBREVIATED TITLE)	SUMMARY OF LEGISLATION
<b>Education</b>		
<b>SB 884</b> Ch. 835, Stats 2016	2015-112 <i>Student Mental Health Services</i> (January 2016)	Requires the audit guide developed by the State Controller and other specified entities for purposes of audits for local educational agencies (LEA) to include audit procedures to review whether specified funding for educationally related mental health services was used for its intended purpose in the 2016–17 fiscal year, and requires these audit procedures to be included in future fiscal years if recommended by the State Controller. Requires the State Department of Education (Education) to submit a report relating to the provision of mental health services to pupils through an individualized education program to the appropriate legislative fiscal and policy committees by June 30, 2017.
<b>SB 1113</b> VETOED	2015-112 <i>Student Mental Health Services</i> (January 2016)	Would have specifically authorized a county, or a qualified provider operating as part of the county mental health plan network, and an LEA to enter into a partnership that includes, among other things, an agreement to provide mental health services to specified pupils. The bill would also have created the County and Local Educational Agency Partnership Fund in the State Treasury, which would have been available, upon appropriation by the Legislature, to Education for the purpose of funding these partnerships, and would have required Education to fund these partnerships through a competitive grant program.
<b>Governmental Organization</b>		
<b>AB 2623</b> Ch. 389, Stats 2016	2015-611 <i>High Risk Update: Information Security</i> (August 2015)	Requires each state agency and certain designated state entities to annually report to the Department of Technology, beginning on or before January 1, 2018, a summary of its actual and projected information security costs.
<b>Health and Human Services</b>		
<b>AB 1911</b> Ch. 637, Stats 2016	2015-115 <i>Dually Involved Youth</i> (February 2016)	Requires the Judicial Council to convene a committee comprised of stakeholders involved in serving the needs of dependents or wards of the juvenile court and requires the committee, by January 1, 2018, to develop and report to the Legislature its recommendations to facilitate and enhance comprehensive data and outcome tracking for the state’s youth involved in both the child welfare system and the juvenile justice system. Requires the California Department of Social Services (Social Services), on or before January 1, 2019, to implement a function within the applicable case management system that will enable county child welfare agencies and county probation departments to identify youth involved in both the child welfare system and the juvenile justice system who are within their counties, and to issue instruction to all counties on the manner in which to completely and consistently track the involvement of these youth in both the child welfare system and the juvenile justice system.

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BILL NUMBER (CHAPTERED OR VETOED)	REPORT (ABBREVIATED TITLE)	SUMMARY OF LEGISLATION
AB 2207 Ch. 613, Stats 2016	2013-125 <i>California Department of Health Care Services: Medi-Cal Dental Program</i> (December 2014)	In part, requires the Department of Health Care Services (Health Care Services) to undertake specified activities to improve the Medi-Cal Dental Program, such as expediting provider enrollment and monitoring dental service access and utilization, and requires a Medi-Cal managed care health plan to provide dental health screenings for eligible beneficiaries and refer them to appropriate Medi-Cal dental providers; these provisions would be implemented only to the extent that Health Care Services obtains necessary federal approvals and federal matching funds. Requires Health Care Services, no sooner than July 1, 2019, to annually publish specified utilization data for both the dental fee-for-service and dental managed care programs from the preceding calendar year and to make this information available on its Internet website.
AB 2813 Ch. 646, Stats 2016	2014-118 <i>Dually Involved Youth</i> (February 2016)	Prohibits a probation officer, when deciding whether to detain a minor who is currently a dependent of the juvenile court or the subject of a petition to declare him or her a dependent of the juvenile court, and who has been removed from the custody of his or her parent or guardian by the juvenile court, from considering specified information, including, among others, the minor's status as a dependent of the juvenile court or as the subject of a petition to declare him or her a dependent of the juvenile court. Requires a probation officer to immediately release that minor to the custody of the child welfare services department or his or her current foster parent or other caregiver, unless one of the specified conditions is met.
SB 253 VETOED	2015-131 <i>California's Foster Care System: Psychotropic Medications</i> (August 2016)	Would have, commencing January 1, 2018: 1) required an order authorizing the administration of psychotropic medications to a dependent child or a delinquent child in foster care be granted only upon the court's determination that it is in the best interest of the child and that specified requirements have been met; 2) prohibited the court, in certain circumstances, from authorizing the administration of psychotropic medications to a child under those provisions unless a preauthorization review is obtained from a child psychiatrist or behavioral pediatrician; 3) required the child's social worker to submit a report to the court prior to any review hearing that includes information from the child, the child's caregiver, the public health nurse, and the court-appointed special advocate; 4) required court authorization to be sought as soon as practical, but in no case more than two court days after emergency administration of the psychotropic medication; and, 5) required the Judicial Council to adopt rules of court and develop appropriate forms to implement these provisions by January 1, 2018.
SB 1098 Ch. 630, Stats 2016	2013-125 <i>California Department of Health Care Services: Medi-Cal Dental Program</i> (December 2014)	Requires Health Care Services to report to the Legislature, by October 1, 2017, on progress towards the goal of raising the Denti-Cal utilization rate among eligible child beneficiaries to 60 percent or greater and identify a date by which the department projects this utilization goal will be met. Authorizes the department to include in the report recommendations for legislative consideration that would assist the department to meet the goal by the specified date. This statute will sunset on January 1, 2021.
SB 1174 Ch. 840, Stats 2016	2015-131 <i>California's Foster Care System: Psychotropic Medications</i> (August 2016)	Requires Health Care Services and Social Services, until January 1, 2027, pursuant to a specified data-sharing agreement, to provide the Medical Board of California (board) with information regarding Medi-Cal physicians and their prescribing patterns of psychotropic medications and related services for specified children and minors placed in foster care using data provided by Health Care Services and Social Services. Requires: 1) data concerning psychotropic medications and related services be drawn from existing data sources maintained by the departments and shared pursuant to a data-sharing agreement; 2) the board, Health Care Services and Social Services consult and revise the methodology, if determined to be necessary every five years; 3) the board to contract for consulting services from, if available, a psychiatrist who has expertise and specializes in pediatric care for the purpose of reviewing the data provided to the board; 4) the board, commencing July 1, 2017, to report annually to the Legislature, Health Care Services and Social Services the results of the analysis of the data; 5) the board to review the data in order to determine if any potential violations of law or excessive prescribing of psychotropic medications inconsistent with the standard of care exist, and conduct an investigation and take disciplinary action, if warranted; 6) the board, on or before January 1, 2022, to conduct an internal review of those activities and to revise procedures relating to those activities, if determined to be necessary; and, 7) Health Care Services to disseminate treatment guidelines on an annual basis.

BILL NUMBER (CHAPTERED OR VETOED)	REPORT (ABBREVIATED TITLE)	SUMMARY OF LEGISLATION
SB 1291 Ch. 844, Stats 2016	2015-131 <i>California's Foster Care System: Psychotropic Medications</i> (August 2016)	Requires annual mental health plan reviews to be conducted by an external quality review organization and, commencing July 1, 2018, would require those reviews to include specific data for Medi-Cal eligible minor and nonminor dependents in foster care, including the number of Medi-Cal eligible minor and nonminor dependents in foster care served each year. Requires Health Care Services to share data with county boards of supervisors, including data that will assist in the development of mental health service plans and performance outcome system data and metrics.
<b>Higher Education</b>		
AB 969 VETOED	2015-032 <i>Campus Crime Reporting</i> (July 2015)	Would have required, until January 1, 2022, in order to receive state funds for student financial assistance, the governing board of each community college district, the Trustees of the California State University, the Regents of the University of California, and the governing board of each independent postsecondary institution to report, on or before October 1, 2018, and on an annual basis thereafter, specified data relating to cases of alleged sexual assault, domestic violence, dating violence, and stalking. The bill would have also required that report to be posted on the respective institution's Internet website in a manner easily accessible to students.
AB 1653 VETOED	2015-032 <i>Campus Crime Reporting</i> (July 2015)	Would have required the Trustees of the California State University (trustees) and Board of Governors at the California Community Colleges (board) and the governing body of each independent institution of higher education, and encouraged each University of California (UC) campus, to each generate a report once every biennium of the legislative session that included specified information related to the respective institution's campus climate, post the report on the respective institution's website and submit the report to the Governor, the Attorney General, and the appropriate policy committees of the Legislature. This bill would also have required the board, the trustees and the governing body of each independent institution of higher education, and would have encouraged the UC regents, to create, review every two years thereafter, and, as necessary, update protocols, policies, and procedures regarding compliance with the federal Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act and the Violence Against Women Reauthorization Act of 2013.
AB 1654 Ch. 623, Stats 2016	2015-032 <i>Campus Crime Reporting</i> (July 2015)	Requires the State Auditor to include in its mandated audit regarding compliance with campus crime reporting requirements by postsecondary institutions an evaluation of the institutions' compliance with state law governing crime reporting and the development and implementation of student safety policies and procedures.
AB 1778 VETOED	2013-124 <i>California Universities: Sexual Harassment and Sexual Violence</i> (June 2014)	Would have, commencing January 1, 2018, required the governing boards of each community college district, the Trustees of the California State University, the UC Regents, and the governing boards of independent postsecondary institutions, in order to receive state funds for student financial assistance, to conduct annual training of their respective employees on the employee's obligations in responding to and reporting incidents of sexual assault, domestic violence, dating violence, and stalking involving students.
<b>Local Government</b>		
AB 1676 Ch. 856, Stats 2016	2015-132 <i>County Pay Practices</i> (May 2016)	Specifies that prior salary cannot, by itself, justify any disparity in compensation between men and women under the bona fide factor exception, which includes factors such as education, training, or experience.
AB 1794 Ch. 401, Stats 2016	2015-102 <i>Central Basin Municipal Water District</i> (December 2015)	Requires the board of directors of the Central Basin Municipal Water District to be composed of eight directors, until the directors elected at the November 8, 2022, election take office. At that time, the board will be composed of seven directors, three of which shall be appointed by the water purveyors of the district and the remaining four shall be elected by the voters for each division established by law. This statute requires that each of the four elected directors shall be a resident of the division from which he or she is elected.
SB 953 Ch. 426, Stats 2016	2015-102 <i>Central Basin Municipal Water District</i> (December 2015)	Requires that no ordinance, motion, or resolution relating to the ethics, compensation, or benefits of the members of the Central Basin Municipal Water District board of directors be passed or become effective without the affirmative votes of 2/3 of the members of the board, and makes legislative findings and declarations as to the necessity of a special statute for the district.

BILL NUMBER (CHAPTERED OR VETOED)	REPORT (ABBREVIATED TITLE)	SUMMARY OF LEGISLATION
<b>Public Safety</b>		
<b>AB 1999</b> Ch. 638, Stats 2016	2015-504 <i>Follow-Up—California Department of Justice: Armed Prohibited Persons System</i> (July 2015)	Requires the Department of Justice (Justice) to complete an initial review of a match, as defined, in the daily queue of the Armed Prohibited Persons System within seven days of the match being placed in the queue and to periodically reassess whether Justice can complete those reviews more efficiently.
<b>AB 2298</b> Ch. 752, Stats 2016	2015-130 <i>CalGang Criminal Intelligence System</i> (August 2016)	Requires: 1) a shared gang database to comply with federal requirements regarding record retention for information in the database; 2) local law enforcement, commencing January 15, 2018, and every January 15 thereafter to submit specified data pertaining to the database to Justice; and, 3) Justice, commencing February 15, 2018, and every February 15 thereafter, to post that information on its website. Establishes a procedure for a person designated in a shared gang database who has contested that designation with the local law enforcement agency and whose challenge has been denied to appeal to the Superior Court.
<b>AB 2499</b> Ch. 884, Stats 2016	2014-109 <i>Sexual Assault Evidence Kits</i> (October 2014)	Requires Justice, on or before July 1, 2018, and in consultation with law enforcement agencies and crime victims groups, to establish a process by which victims of sexual assault may inquire about the location and information regarding their sexual assault evidence kits.
<b>Utilities and Commerce</b>		
<b>AB 1651</b> Ch. 815, Stats 2016	2016-104 <i>California Public Utilities Commission: Contracting Practices</i> (September 2016)	Requires the California Public Utilities Commission (CPUC) to make available on its website free of charge a copy of each contract that it enters into and specified information about the contract and contracting parties, and requires this information to be published no less frequently than once a year. This statute also requires the commission to make available on its Internet website audits conducted by the Department of General Services of the commission's contracting practices.
<b>AB 2168</b> Ch. 805, Stats 2016	2013-109 <i>California Public Utilities Commission: Balancing Accounts</i> (March 2014)	Deletes the requirement that reports of the inspections and audits and other pertinent information be furnished to the State Board of Equalization for use in the assessment of the public utilities and instead requires the CPUC to post reports of the inspections and audits and other pertinent information on its Internet website. This statute also: 1) renames the reserve accounts "balancing accounts"; 2) requires CPUC to develop a risk-based approach for reviewing those balancing accounts periodically to ensure that the transactions recorded in the balancing accounts are for allowable purposes and are supported by appropriate documentation; 3) requires CPUC to maintain an inventory of the balancing accounts; 4) requires CPUC to require public utilities to include all related costs and revenues in their balancing accounts; and, 5) requires CPUC to adopt balancing account review procedures that prioritize the review of balancing accounts with specified attributes.
<b>SB 215</b> Ch. 807, Stats 2016	2016-104 <i>California Public Utilities Commission: Contracting Practices</i> (September 2016)	In part: 1) requires CPUC to adopt procedures for the disqualification of Commissioners due to bias or prejudice; 2) requires a Commissioner or Administrative Law Judge (ALJ) to be disqualified from rate-setting or adjudicatory proceedings for bias or prejudice based on specified criteria; 3) prohibits CPUC procedures from authorizing a Commissioner or ALJ to rule on a motion to disqualify oneself from presiding over a proceeding; 4) recasts and revises laws relating to ex parte communications with regard to CPUC proceedings including requiring CPUC to explicitly ban "one-way" ex parte communications from a decision-maker to an interested person; and, 5) authorizes the Attorney General to bring an enforcement action in Superior Court against a decision maker or employee of the CPUC for knowingly and willfully violating or failing to comply with the ex parte communication requirements.