

Report 2017-701

# Recommendations for the Legislature From Audits Issued During 2016 and 2017

COMMITMENT

INTEGRITY

LEADERSHIP





**CALIFORNIA STATE AUDITOR**

621 Capitol Mall, Suite 1200 | Sacramento | CA | 95814



**916.445.0255** | TTY 916.445.0033



For complaints of state employee misconduct,  
contact us through the **Whistleblower Hotline:**

**1.800.952.5665**

Don't want to miss any of our reports? Subscribe to our email list at [auditor.ca.gov](https://auditor.ca.gov) 

For questions regarding the contents of this report, please contact Paul Navarro, Chief of Governmental and Legislative Affairs, at 916.445.0255

This report is also available online at [www.auditor.ca.gov](http://www.auditor.ca.gov) | Alternate format reports available upon request | Permission is granted to reproduce reports

January 16, 2018

2017-701

Dear Governor and Legislative Leaders:

The California State Auditor's Office provides oversight to help ensure the accountability of government operations. As such, my office conducts independent audits as mandated by the Legislature through statute, the budget process, or 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 in the interest of more efficient and effective government operations. This special report summarizes those recommendations we made during calendar years 2016 and 2017 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 college readiness of California's high school students found that less than half of high school students statewide completed the college preparatory coursework that would qualify them to gain admission to the University of California or California State University upon high school graduation. In our report, we recommend that the Legislature ensure grade nine students are ready for the rigors of such work by devoting additional resources or reallocating existing resources for educational efforts beginning in kindergarten and continuing through grade eight.

In some instances, we make recommendations intended to protect California's most vulnerable citizens, such as individuals residing in licensed care facilities. In part, our audit reviewed how well the California Department of Social Services (Social Services) and the California Department of Justice (Justice) fulfill their roles in the caregiver background check process. We found that Justice does not send Social Services sentencing information because state law does not explicitly require that it share this information. Additionally, Justice did not forward information about certain convictions because it believed it was not authorized to share that information. To address this concern, we recommend that the Legislature amend state law to require Justice to send Social Services all available sentencing information for all convictions.

The Appendix that starts on page 79 includes a listing of legislation chaptered or vetoed during the first year of the 2017-18 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  
State Auditor

Blank page inserted for reproduction purposes only.

# Contents—Report/Title/Recommendation

---

## Business and Professions

- 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)**—*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* 1

## Education

- 2016-141 Charter Schools: Some School Districts Improperly Authorized and Inadequately Monitored Out-of-District Charter Schools (October 2017)**—*Clarify Existing Law and Strengthen Requirements for Establishment of Out-of-District Charter Schools* 3
- 2016-136 School Violence Prevention: School Districts, County Offices of Education, and the State Must Do More to Ensure That School Safety Plans Help Protect Students and Staff During Emergencies (August 2017)**—*Require Safety Plans to Include Procedures Recommended by Federal and State Agencies, Require Education to Conduct an Annual Statewide Survey, Require Audits of Approved Safety Plans, and Require Education and Justice to Periodically Review Safety Plan Requirements* 7
- 2016-139 California Department of Education: It Has Not Ensured That School Food Authorities Comply With the Federal Buy American Requirement (July 2017)**—*Require Education to Track Foreign-Sourced Food Item Purchases and Request Congress to Direct the United States Department of Agriculture to Establish a Voluntary Food Product Certification Program* 9
- 2016-129 K-12 High Speed Network: Improved Budgeting, Greater Transparency, and Increased Oversight Are Needed to Ensure That the Network Is Providing Reliable Services at the Lowest Cost to the State (May 2017)**—*Limit Funds to the K–12 High Speed Network Program to an Appropriate Level for Fiscal Year 2017–18* 11
- 2016-114 College Readiness of California’s High School Students: The State Can Better Prepare Students for College by Adopting New Strategies and Increasing Oversight (February 2017)**—*Devote Resources to College Preparatory Coursework, Require School Districts to Analyze Access to Coursework, Require Coordination of Statewide Efforts, and Require County Offices of Education to Monitor School Districts’ Efforts to Provide Coursework* 13
- 2016-109 Uniform Complaint Procedures: The California Department of Education’s Inadequate Oversight Has Led to a Lack of Uniformity and Compliance in the Processing of Complaints and Appeals (January 2017)**—*Codify UCP Regulations to Provide Consistent Time Frames and Emphasize Use of Alternative Resolution Methods* 15
- 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)**—*Define the Minimum Levels and Types of Library Services and Broaden the Authority of Regulatory Entities* 17
- 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)**—*Require the Department of Education to Annually Report Student Mental Health Outcomes and Require Local Plan Areas to Enter Into Agreements With School Districts* 19

## Environmental Quality

**2016-127 Home-Generated Sharps and Pharmaceutical Waste: By Designating a Lead Agency, the State Could Increase Proper Disposal (May 2017)**—*Establish CalRecycle as the Lead State Agency, Provide Municipal Solid Waste Incinerators Limited Authority to Burn Waste, and Adopt Standard Requirements for Extended Producer Responsibility Programs* 21

## Governmental Organization

**2016-124 Department of General Services and California Department of Technology: Neither Entity Has Provided the Oversight Necessary to Ensure That State Agencies Consistently Use the Competitive Bidding Process (June 2017)**—*Require General Services and Technology to Submit an Annual Legislative Report on Noncompetitive Contract Requests* 23

**2016-133 SAFE-BIDCO: At Risk of Insolvency, It Needs Increased Oversight if It Is to Receive State Funding and Continue to Help Small Businesses in California Gain Financing (April 2017)**—*Establish SAFE-BIDCO as a Program Within the State Treasurer's Office and Require an Annual Legislative Report on Revenues and Expenses* 25

**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)**—*Provide Authority for the Apprenticeship Division to Verify Appropriate Use of State Funds and Clarify the Role of the Community Colleges Chancellor's Office* 27

**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)**—*Implement a Funding Model That Would Allow the Licensing Program to Be Self-Sufficient* 29

**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)**—*Implement a Pilot Program for Job Order Contracting* 31

## Health and Human Services

**2016-126 California Department of Social Services: Its Caregiver Background Check Bureau Lacks Criminal History Information It Needs to Protect Vulnerable Populations in Licensed Care Facilities (March 2017)**—*Require the California Department of Justice to Provide Sentencing Information for All Convictions, Require Specified State Entities to Share Administrative Actions, and Expand the List of Nonexemptable Crimes* 33

**2016-128 In-Home Supportive Services: The State Could Do More to Help Providers Avoid Future Payment Delays (March 2017)**—*Statutorily Define the Pay Period for In-Home Supportive Services Program Providers* 35

**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)**—*Clarify Hourly Vendor Rates and Require the Department to Conduct an In-Depth Review of Rates* 37

**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)**—*Require Social Services to Develop and Implement an Oversight Structure for Psychotropic Medications Prescribed to Children in Foster Care* 39

**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)**—*Require the California Department of Social Services to Implement a Function to Identify Dually Involved Youth and Consistently Track Joint Assessment Hearing Information* 41

## Higher Education

**2016-125.1 The University of California Office of the President: It Has Not Adequately Ensured Compliance With Its Employee Displacement and Services Contract Policies (August 2017)**—*Specify the Conditions Under Which the University May Amend Contracts and Define Professional and Personal Services That May Be Exempt From Competitive Bidding* 43

**2016-122 California State University: Stronger Oversight Is Needed for Hiring and Compensating Management Personnel and for Monitoring Campus Budgets (April 2017)**—*Require CSU to Submit an Annual Report Regarding Student Success* 45

**2016-130 The University of California Office of the President: It Failed to Disclose Tens of Millions in Surplus Funds, and Its Budget Practices Are Misleading (April 2017)**—*Appropriate Funds Directly to the Office of the President and Require the Regents to Contract With an Independent Third Party to Monitor a Corrective Action Plan* 47

**2015-107 The University of California: Its Admissions and Financial Decisions Have Disadvantaged California Resident Students (March 2016)**—*Revise Admission Rate Calculation, Require the University to Prepare a Biennial Cost Study, and Limit the Percentage of Nonresident Student Enrollment* 49

## Insurance

**2017-103 Workers' Compensation Insurance: The State Needs to Strengthen Its Efforts to Reduce Fraud (December 2017)**—*Require Insurers to Periodically Provide Explanation of Benefits Statements to Injured Workers* 51

## Judiciary

**2015-047 The State Bar of California: Its Lack of Transparency Has Undermined Its Communications With Decision Makers and Stakeholders (May 2016)**—*Require Legislative Approval or Notification on Revenue Decisions and Disclosures Regarding Nonprofit Organizations* 53

## Local Government

**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)**—*Require Counties to Compare and Report on Differences in Compensation and Direct the State Controller to Obtain Information on the Gender of Public Employees* 55

## Natural Resources

**2016-132 Department of Water Resources: The Unexpected Complexity of the California WaterFix Project Has Resulted in Significant Cost Increases and Delays (October 2017)**—*Require Agencies to Report Significant Cost or Schedule Changes Made to Complex Infrastructure Projects* 59

## Public Safety

- 2017-101 Concealed Carry Weapon Licenses: Sheriffs Have Implemented Their Local Programs Inconsistently and Sometimes Inadequately (December 2017)**—*Clarify That Licensing Authorities Can Increase Fees for Applications, Renewals, and Modifications Under Specified Conditions* 61
- 2016-131 California Department of Corrections and Rehabilitation: It Must Increase Its Efforts to Prevent and Respond to Inmate Suicides (August 2017)**—*Require Corrections to Report to the Legislature Annually on Suicide Prevention and Response Efforts* 63
- 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)**—*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* 65

## Revenue & Taxation

- 2017-106 The Bradley-Burns Tax and Local Transportation Funds: Changing the Allocation Structure for the Bradley-Burns Tax Would Result in a More Equitable Distribution of Local Transportation Funding (November 2017)**—*Allocate Internet Sales Revenue Based on Destination of Sold Goods, Regularly Review and Evaluate Tax Expenditures, and Specify in Statute That Digital Goods Are Taxable* 69
- 2015-127 Corporate Income Tax Expenditures: The State's Regular Evaluation of Corporate Income Tax Expenditures Would Improve Their Efficiency and Effectiveness (April 2016)**—*Adopt Best Practices, Commission a Study to Evaluate Effectiveness of Tax Expenditures, and Modify Water's Edge and Low-Income Housing Credits* 71

## Transportation

- 2016-121 Department of Motor Vehicles: Administrative and Statutory Changes Will Improve Its Ability to Detect and Deter Misuse of Disabled Person Parking Placards (April 2017)**—*Amend State Law to Enable DMV to Detect and Deter Misuse of Placards and Plates* 73
- 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)**—*Require the Maintenance Division to Develop and Implement a Budget Model for Field Maintenance* 75

## Utilities & Commerce

- 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)**—*Amend State Law Relating to Commission Proceedings, Ex Parte Communications, and Use of the Attorney General's Office* 77

## Appendix

- Legislation Chaptered or Vetoed in the 2017–18 Regular Legislative Session** 79

## 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:** Partially implemented. Senate Bill (SB) 799 (Hill, Chapter 520, Statutes of 2017) authorizes BRN to investigate at its discretion complaints against registered nurses participating in the intervention program and prohibits disciplinary action with regard to acts committed before or during participation in the intervention program, unless the registered nurse withdraws or is terminated from the intervention program.

2. To ensure that 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:** SB 799 requires the California Research Bureau to prepare and deliver a report to the Legislature by January 1, 2019, that evaluates to what extent employers voluntarily report disciplined nurses to BRN and that offers options for consistent and reasonable reporting mechanisms.

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.

#### 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)

## Charter Schools

### Clarify Existing Law and Strengthen Requirements for Establishment of Out-of-District Charter Schools

#### Recommendations

1. To ensure that districts obtain community support for charter schools that they authorize, the Legislature should amend state law to further clarify the conditions prospective charter schools must meet to qualify for the geographic exception. For example, the Legislature could clarify whether prospective charter schools qualify for the exception when their petitions indicate that they will serve primarily students residing outside the authorizing district's jurisdiction.

**Status:** Not implemented. (Note: Report issued in October 2017)

2. To ensure that districts obtain community support for charter schools that they authorize, the Legislature should amend state law to require any district that is considering authorizing an out-of-district charter school to notify the school's host district 30 days in advance of the board meeting at which the potential authorizing district is scheduled to make its authorization decision. The Legislature should also require the potential authorizing district to hold the public hearing within the host district's boundaries, notwithstanding restrictions in the State's Ralph M. Brown Act that would otherwise require the hearing to occur in the authorizing district.

**Status:** Not implemented. (Note: Report issued in October 2017)

3. To reduce the need for litigation between authorizing districts and host districts, the Legislature should establish an appeals process through which districts can resolve disputes related to establishing out-of-district charter schools.

**Status:** Not implemented. (Note: Report issued in October 2017)

4. To ensure charter school accountability, the Legislature should amend state law to require districts to strengthen their authorization processes by using the State Board of Education's (State Education Board) criteria for evaluating charter school petitions.

**Status:** Not implemented. (Note: Report issued in October 2017)

5. To ensure charter school accountability, the Legislature should amend state law to require charter schools to report annually all of their school locations—including school sites, resource centers, and administrative offices—to their authorizers and the California Department of Education (Education).

**Status:** Not implemented. (Note: Report issued in October 2017)

6. To remove the financial incentive for districts to authorize out-of-district charter schools, the Legislature should amend state law to prohibit districts from charging fees for additional services above the actual cost of services provided.

**Status:** Not implemented. (Note: Report issued in October 2017)

7. To ensure that authorizers have adequate tools and guidance for providing effective financial oversight, the Legislature should require the State Education Board and Education to work with representatives from county offices of education, representatives from districts, and subject-matter experts such as California's Financial Crisis and Management Assistance Team (FCMAT), to either establish a committee or work with an existing committee to report to the Legislature recommendations on establishing a minimum reserve requirement for charter schools, defining criteria that would allow authorizers to revoke or deny renewal of schools' charters for financial mismanagement despite increases in academic achievement, and developing a template that authorizers can use to provide their charter schools with annual feedback on their financial condition.

**Status:** Not implemented. (Note: Report issued in October 2017)

8. To ensure that districts are aware of significant issues that may impact the out-of-district charter schools they authorize, the Legislature should amend state law to require each district to place a district representative as a nonvoting member on each out-of-district charter school's governing board and allow such a representative to attend all meetings of the charter school's governing board.

**Status:** Not implemented. (Note: Report issued in October 2017)

9. To ensure that charter schools improve the educational outcomes of their students, the Legislature should amend state law to require authorizers to annually assess whether their charter schools are meeting the academic goals established in their charters.

**Status:** Not implemented. (Note: Report issued in October 2017)

## Background

The Charter Schools Act of 1992 (Charter Schools Act) allows teachers, parents, students, and community members to initiate the establishment of charter schools that operate independently of existing school district (district) structures. To grant charter schools autonomy and allow them to try innovative teaching methods, state law generally exempts charter schools from most requirements governing districts. However, charter schools must comply with select statutes and meet certain conditions for funding. Further, state law holds each charter school accountable to the authorizing entity (authorizer)—which could be a district, a county office of education, or the State Education Board—that approves its charter petition (petition). A petition must include a comprehensive description of the proposed charter school's educational program, measurable student outcomes, governance structure, and manner of conducting annual financial audits, among other things. To demonstrate community support, a petition must also include a minimum number of parent or teacher signatures. Once approved, a petition becomes an agreement—or charter—between the authorizer and the charter school. Later, if the authorizer's oversight activities indicate that the established charter school has not fulfilled the charter's agreements, the authorizer then has the authority to revoke or deny the renewal of the school's charter.

Although state law sets some requirements related to districts' authorizations of charter schools outside their geographical boundaries, many of these requirements are vague and ineffective. Specifically, state law requires charter schools to be located within the geographical boundaries of the districts that authorize them unless the schools are unable to locate sites or facilities in the area in which the school chooses to locate or unless the site is for temporary use during construction.

However, the districts we visited authorized charter schools outside of their districts that, in effect, expanded the districts' reach into neighboring communities. Additionally, we found that districts that authorize out-of-district charter schools are not accountable to the communities in which the schools are located (host districts) because residents in host districts cannot vote for an authorizing district's school board. Further, we found that authorizing districts can significantly increase their enrollments and revenue by authorizing out-of-district schools.

Moreover, we found that the State is unable to determine how many out-of-district charter school locations exist. Because state law does not require charter schools to report all their school locations— including school sites, resource centers, and administrative offices— some charter schools that operate multiple sites report only their in-district addresses to Education. When we analyzed data from multiple sources, we found that 165 of the State's 1,246 charter schools operated at least one of their school locations outside their respective authorizing districts' geographic boundaries in fiscal year 2016–17. These 165 charter schools operated in a total of 495 out-of-district locations statewide. However, complete data are not available, and additional out-of-district charter school locations may exist.

Further, the three districts we visited—Acton-Agua Dulce Unified, Antelope Valley Union High School District, and New Jerusalem—did not have written procedures for reviewing their charter schools' financial information. State law requires districts to monitor the financial conditions of the charter schools they authorize, but it does little to address what effective oversight should entail beyond requiring the districts to perform school site visits and to obtain financial reports. Regardless of whether charter schools operated inside or outside their authorizing districts' jurisdictions, the level of financial oversight conducted by the districts we visited varied significantly. These inconsistencies likely occurred because state law is vague; thus, authorizers may have interpreted their responsibilities differently. Although state law directs authorizers to monitor the financial conditions of charter schools under their authority, it does not specify what procedures authorizers should perform to fulfill this oversight responsibility. We believe that school districts could improve their financial oversight by combining best practices, such as those that FCMAT recommends, with their current processes.

The authorizing districts we visited also provided inconsistent levels of academic oversight to charter schools because state law does not identify specific oversight activities that districts must perform. Although state law requires authorizers to conduct annual site visits at their charter schools, it does not clearly define the minimum level of oversight that authorizer's must provide with any specificity. In addition, state law only requires authorizers to assess a charter school's academic performance once every five years, when the school seeks to renew its charter. Although each of the districts we visited established requirements for academic oversight that exceed those in state law, the districts did not always perform the academic monitoring identified in their agreements with their charter schools. As a result, none of the districts held their charter schools accountable for measurable student outcomes outside the process of revoking a school's charter.

## Report

**2016-141** *Charter Schools: Some School Districts Improperly Authorized and Inadequately Monitored Out-of-District Charter Schools* (October 2017)

Blank page inserted for reproduction purposes only.

## California Department of Education

### Require Safety Plans to Include Procedures Recommended by Federal and State Agencies, Require Education to Conduct an Annual Statewide Survey, Require Audits of Approved Safety Plans, and Require Education and Justice to Periodically Review Safety Plan Requirements

#### Recommendations

1. To ensure that students and staff are prepared to respond to violent incidents on or near school sites, the Legislature should require that comprehensive school safety plans (safety plans) include procedures, such as lockdowns, recommended by federal and state agencies. The Legislature should also require schools to hold periodic training and drills on these procedures.

**Status:** Not implemented. (Note: Report issued in August 2017)

2. To ensure that school districts (districts) and county offices of education (county offices) are complying with state law each year, the Legislature should require the California Department of Education (Education) to conduct an annual statewide survey to determine whether schools have submitted plans and whether those plans have been reviewed and approved by their respective district or county office. The Legislature should also require Education to issue an annual report detailing the survey's results.

**Status:** Not implemented. (Note: Report issued in August 2017)

3. To ensure that districts and county offices are complying with state laws related to safety plans, the Legislature should add a requirement to the Education Audit Appeals Panel (EAAP) audit guide for districts and county offices to receive audits of their approval of safety plans.

**Status:** Not implemented. (Note: Report issued in August 2017)

4. The Legislature should require that the partnership between Education and the California Department of Justice (Justice) periodically review safety plan requirements to ensure that the plans keep pace with evolving school environments and updated educational research.

**Status:** Not implemented. (Note: Report issued in August 2017)

#### Background

Our review of data obtained from the Federal Bureau of Investigation found that active shooter incidents became more common between 2000 and 2015, and that kindergarten through grade 12 facilities and institutions of higher education have been the second most common location for those shootings to occur, both nationally and within California. However, state law does not require schools to include procedures for responding to active shooter events in their safety plans, a collection of procedures schools use in the event of emergencies and to promote a safe learning environment. State law could improve safety plans by requiring that they include procedures for responding to violent incidents, such as active shooters.

Additionally, we found that Education is not providing sufficient guidance to districts or county offices to help them ensure that their schools comply with safety plan requirements. Although Education has provided some guidance to districts and county offices related to safety plans, given the number of errors we identified in our review and the responses we received to our interview and survey questions, its guidance appears to be insufficient.

Further, Education has never conducted any oversight activities, such as audits, to ensure that districts and county offices are appropriately approving safety plans that their schools submit. State law requires county offices and districts to notify Education annually of schools that have failed to comply with safety plan requirements. However, Education stated that it has not received one notification of noncompliance since the Legislature implemented the requirement in 1997. If Education had conducted a survey or audit similar to the work we performed for this report, it would have found that districts' and county offices' schools were failing to submit safety plans. We believe the State could use a separate oversight process, such as the audit process guided by the EAAP, to ensure that districts and county offices review and approve safety plans annually. Until the State takes steps to increase oversight of districts' and county offices' compliance with state laws related to safety plans, it will not know whether these entities need to do more to safeguard students and staff at California's schools.

Finally, Education and Justice failed to maintain the activities of the school–law enforcement partnership (partnership). Established by state law, this partnership requires Education and Justice to provide safety plan training and guidance to districts and county offices, including holding regional conferences and conducting assessments. Even though only two of the partnership's activities were contingent upon appropriations from the Legislature, Education and Justice staff stated that they ceased conducting these functions due to budget cuts. Because neither entity actively participates in the partnership, none of these important activities have taken place in recent years.

## **Report**

**2016-136** *School Violence Prevention: School Districts, County Offices of Education, and the State Must Do More to Ensure That School Safety Plans Help Protect Students and Staff During Emergencies* (August 2017)

## California Department of Education

### Require Education to Track Foreign-Sourced Food Item Purchases and Request Congress to Direct the United States Department of Agriculture to Establish a Voluntary Food Product Certification Program

#### Recommendations

1. To ensure effective oversight of the meal programs and to increase public transparency, the Legislature should require the California Department of Education (Education) to track school food authorities' purchases of foreign-sourced food items and post this information to its website.

**Status:** Not implemented.

**Note:** Senate Bill 730 (Pan, Chapter 571, Statutes of 2017) requires Education to distribute to school food authorities guidance or regulations from the United States Department of Agriculture (USDA) for Buy American requirements for the school meal program; make requirements, resources, and best practices for the Buy American provision available on its Internet website; and fulfill its obligations in accordance with federal regulations for monitoring school food authorities' compliance with the Buy American provision.

2. To address the challenges food labels present to ensuring that California's school food authorities purchase domestic food items, the Legislature should work with the California congressional delegation and request that Congress direct the USDA to establish a voluntary certification program through which the USDA could certify that food products are compliant with the Buy American requirement. This certification program should include an indicator, such as a certification logo, that would identify that products comply with the requirement.

**Status:** Not implemented.

#### Background

As a result of federal law authorizing grant funding to states in support of the School Breakfast and National School Lunch programs (meal programs), California receives nearly \$2 billion each year to provide meals to children throughout the State. In 1998 Congress amended federal law to include the Buy American requirement in the meal programs, which requires school districts and other entities that participate in the meal programs—known as school food authorities—to purchase, to the maximum extent practicable, domestic commodities or domestic products. Domestic commodities are agricultural goods that are produced in the United States. Domestic products are foods that are processed in the United States substantially using agricultural commodities produced in the United States.

Because California has the largest agricultural economy in the country, compliance with the Buy American requirement offers the State significant benefits. However, despite these benefits, Education has not taken adequate steps to ensure that California's school food authorities comply with the Buy American requirement. For example, until recently, Education did not monitor school food authorities' compliance with the Buy American requirement when it assessed their compliance with other federal requirements related to the meal programs.

Further, Education's current efforts do not allow it to identify all foreign-sourced food that school food authorities purchase annually. Education would need to go beyond the USDA's minimum requirements to identify the magnitude of the foreign-sourced food items that school food authorities are procuring. This information is potentially valuable to different stakeholders. For example, it could provide local food producers opportunities to market to school food authorities. It could also provide information for policymakers to consider when making decisions regarding food policy. Finally, it could better allow parents to make informed choices regarding the food their children eat while at school.

Moreover, federal food labeling laws do not always mandate that the country of origin for food items or their ingredients be included on their labels; in fact, we found that 241 of the 375 food items we reviewed at the six school districts we reviewed had labels that did not clearly identify country of origin for those items or their ingredients. Instead, these products were often labeled with information about where a product was distributed from or the location of the distributing company. This language does not provide sufficient information about whether the items or their ingredients are domestic commodities or products, making it difficult to determine compliance with the Buy American requirement.

California's economy stands to gain from increased compliance with the Buy American requirement; accordingly, resolving the challenges created by these federal requirements is in the State's best interest. California lawmakers could work with their counterparts in the California congressional delegation to petition Congress for changes that would add clarity about the origins of food products that school food authorities purchase. For example, Congress could direct the USDA to develop a certification program that would indicate whether food products were compliant with the Buy American requirement.

## **Report**

**2016-139** *California Department of Education: It Has Not Ensured That School Food Authorities Comply With the Federal Buy American Requirement* (July 2017)

## K-12 High Speed Network

### Limit Funds to the K-12 High Speed Network Program to an Appropriate Level for Fiscal Year 2017-18

#### Recommendation

To help ensure continuous network operations while preserving state resources, the Legislature should appropriate to the California K-12 High Speed Network (K12HSN) program an amount that does not exceed \$10.4 million for fiscal year 2017-18. If the Legislature wishes to appropriate a lower amount for the program, it should direct the Imperial County Office of Education (ICOE) to modify one or more of the planned network upgrades highlighted in the audit report, either by delaying the upgrade to a subsequent fiscal year or by pursuing a less expensive option.

**Status:** Implemented. Assembly Bill (AB) 97 (Assembly Budget Committee, Chapter 14, Statutes of 2017)—The Budget Act of 2017—provides no additional funding for the K12HSN program but instead directs ICOE to support the program's operations through a combination of \$2.5 million in reserve funds and \$8 million in state grant moneys already allocated to K12HSN in a prior year. In addition, AB 99 (Assembly Budget Committee, Chapter 15, Statutes of 2017)—The Education Omnibus Trailer Bill—adopts several of the audit recommendations made to ICOE for improving the efficiency and transparency of the K12HSN program.

#### Background

The K12HSN is a state-funded program that was established to enrich pupil educational experiences and improve academic performance by providing high-speed, high-capacity Internet connectivity to California's public school system. Until 2000 California's kindergarten through 12th-grade (K-12) schools, school districts, and county offices of education were individually responsible for obtaining access to the Internet and for connecting with other educational entities and resources as needed. In 2000 the program that would later be known as K12HSN was established to connect the State's public school system to the high-speed network created for use by California's universities and community colleges. Between fiscal year 2000-01 and 2003-04, the University of California (UC) received more than \$93 million in state appropriations to expand the universities' network infrastructure to K-12 schools and county offices of education for K12HSN.

In July 2004, the Legislature shifted funding from UC to the California Department of Education (Education). It also required that a lead county office of education be selected to administer the K12HSN program. Subsequently, in September 2004, Education selected ICOE via a grant application process to administer the program on the State's behalf.

The annual expenditures ICOE incurred for the K12HSN program have historically been considerably lower than the amount of the state appropriation for the program, which led to the program's accumulating large operating reserves. According to ICOE's fiscal year 2015-16 audited financial statements, the amount of its state appropriation that ICOE spent annually averaged about \$7 million from fiscal years 2010-11 through 2014-15, while the state appropriation remained steady at about \$8.3 million per fiscal year—the amount that ICOE continued to request despite accumulating a substantial reserve. For fiscal year 2015-16, the State withheld the appropriation to the program

because of this large reserve. As a result, ICOE used most of its reserve to operate the program. At the end of fiscal year 2015–16, ICOE’s operating reserve for the program totaled approximately \$5.7 million. Our analysis indicates that to avoid program deficits, ICOE will require an increase in the State’s historical appropriation in fiscal year 2017–18. We estimated that with an \$8 million appropriation, the program would begin the 2017–18 fiscal year with an operating reserve of nearly \$600,000 and end the year with a deficit of \$2.2 million. In contrast, with a \$10.4 million appropriation, the program would end the year with a reserve of slightly more than \$200,000.

**Report**

**2016-129** *K-12 High Speed Network: Improved Budgeting, Greater Transparency, and Increased Oversight Are Needed to Ensure That the Network Is Providing Reliable Services at the Lowest Cost to the State* (May 2017)

## College Readiness of California's High School Students

### Devote Resources to College Preparatory Coursework, Require School Districts to Analyze Access to Coursework, Require Coordination of Statewide Efforts, and Require County Offices of Education to Monitor School Districts' Efforts to Provide Coursework

#### Recommendations

1. If the Legislature wishes to further prioritize students' completion of college preparatory coursework, it should ensure grade nine students are ready for the rigors of such work by devoting additional resources or reallocating existing resources for educational efforts beginning in kindergarten and continuing through grade eight.

**Status:** Not implemented.

2. To ensure that school districts throughout the State comply with existing law, the Legislature should require districts to conduct analyses to verify that all high school students receive acceptable levels of access to the full range of college preparatory coursework. If the Legislature decides to require these analyses, it should also consider whether additional funding may be necessary to support the districts' associated administrative costs. If implemented, the analyses should require the districts to report the results of their analyses to the California Department of Education (Education), and require Education to issue an annual report to the Legislature detailing all districts with high schools that have failed to demonstrate sufficient access.

**Status:** Not implemented.

3. To increase college preparatory completion rates, the Legislature should require Education or another state entity to coordinate statewide college readiness efforts focusing on increasing college preparatory completion rates.

**Status:** Not implemented.

4. To ensure that high school graduates are eligible for admission to the State's public university systems, the Legislature should require county offices of education (county offices) to monitor districts to determine whether they offer students adequate access to college preparatory coursework.

**Status:** Not implemented.

5. To ensure districts' accountability plans are accurate and informative, the Legislature should require county offices to review districts' accountability plans and monitor the actions the districts take to implement the goals in those plans.

**Status:** Not implemented.

## Background

In recent years, California's state and local educational agencies have increasingly focused on the importance of preparing the State's students for college. The Public Policy Institute of California projects that 38 percent of California's jobs will require at least a bachelor's degree by 2030, while population and education trends suggest that only 33 percent of working-age adults in California will have a bachelor's degree at that time—a shortfall of 1.1 million college graduates. To fill this gap, the State will need to significantly increase the number of college-ready students who graduate from its high schools each year. One measure of college readiness is a high school student's completion of the college preparatory courses necessary for admission to the University of California (UC) and California State University (CSU). In 2014–15 less than half of high school students statewide completed the college preparatory coursework that would qualify them to enroll in a UC or CSU school upon high school graduation.

At each of three districts whose efforts to improve college preparedness we reviewed—San Francisco Unified School District, Stockton Unified School District, and Coachella Valley Unified School District—we found that of the students who fell off track for completing the necessary coursework, up to 80 percent did so during grade nine, indicating that districts should ensure that students enroll in and complete college preparatory coursework beginning in their first year of high school. Furthermore, an average of only 9 percent of the students who fell off track in grade nine in the three districts we reviewed graduated with the coursework necessary to gain admission to the State's public university systems.

Although our analysis suggests that the schools we selected were able to provide students with sufficient access to college preparatory coursework during certain of the years that we reviewed, we encountered significant barriers to assessing students' levels of access for all years because of the limited data the districts maintained. Moreover, the districts we reviewed do not conduct analyses that demonstrate that they provided all students access to college preparatory coursework. Our analysis suggests that students attending school districts that establish higher student expectations, coupled with relevant tools and student support, are more likely to meet those expectations.

Further, Education and county offices could provide additional oversight, support, and guidance to districts to ensure they provide sufficient access to college preparatory coursework and adequately assist their students in completing those courses. Although each of the three districts we visited stressed the importance of college preparatory coursework completion, no clear statewide framework exists for ensuring that districts meet that goal. State law requires the superintendent of public instruction, who heads Education, to assist districts to ensure that all public high school students have access to a core curriculum that meets the admission requirements of UC and CSU. However, Education currently provides only minimal assistance to districts: over the last four years, the only guidance it has offered was one letter.

## Report

**2016-114** *College Readiness of California's High School Students: The State Can Better Prepare Students for College by Adopting New Strategies and Increasing Oversight* (February 2017)

## California Department of Education

### Codify UCP Regulations to Provide Consistent Time Frames and Emphasize Use of Alternative Resolution Methods

#### Recommendations

1. To ensure the requirements of the Uniform Complaint Procedures (UCP) are consistent for complaints and appeals the California Department of Education (Education) handles, the Legislature should codify the UCP regulations to, among other things, do the following:

a) Prescribe consistent time frames for completing all investigations of complaints and reviews of appeals by Education.

b) Identify a consistent time limit for filing UCP complaints.

**Status:** Not implemented.

2. To make the provisions for extending investigations consistent between Education and local educational agencies (LEAs) when codifying the UCP regulations, the Legislature should allow LEAs to extend investigations. Specifically, in the absence of an agreement from the complainant, allow LEAs to extend an investigation under exceptional circumstances that constitute good cause if the LEAs document and support with evidence the reasons for the extensions.

**Status:** Not implemented.

3. To emphasize LEAs' ability to use alternative methods to resolve complaints, including mediation, alternative dispute resolution, or restorative practices, when codifying the UCP regulations, the Legislature should specify these as possible methods for resolving complaints.

**Status:** Not implemented.

#### Background

In 1990 Education proposed new regulations to establish a UCP for its then-existing educational programs that required complaint procedures—the Special Education and Consolidated Categorical Aid programs—as well as for numerous other programs. The UCP became effective in September 1991 and provides a formal system for processing complaints from individuals, public agencies, or organizations alleging violations of state or federal laws that govern specified educational programs.

Under the UCP, LEAs—which are primarily school districts and county offices of education—are responsible for investigating most complaints, while Education is responsible for processing any appeals of LEA investigation results. In addition, to comply with federal requirements, Education directly investigates complaints related to two programs—Special Education and Nutrition Services—and in certain instances, it may intervene to investigate other complaints as well.

State regulations require that LEAs have policies and procedures for the investigation and resolution of UCP complaints. However, the regulations do not include such a requirement for Education's divisions. When we asked Education's chief deputy why Education has not required its divisions to have UCP

policies and procedures, she responded that Education follows specific guidelines set forth for handling appeals in its regulations. However, Education's divisions are not always following the regulations, and the regulations do not always specify time frames for completing reviews of appeals.

Further, all three of the LEAs we reviewed—Los Angeles Unified School District (Los Angeles Unified), San Juan Unified School District, and San Diego Unified School District—had instances when they did not meet the requirement that they complete investigations within 60 days of receiving complaints. Additionally, the LEAs did not always secure agreements from complainants before extending investigations as required by UCP regulations. Los Angeles Unified staff told us that complainants often do not respond when the LEA requests an extension. However, the UCP regulations do not allow an LEA to extend the investigation timeline without first obtaining a written extension agreement from complainants.

To better understand how well the UCP process works, we surveyed 98 LEAs throughout the State and received responses from 84 of those surveyed. Using enrollment data available on Education's website, we selected the largest LEA from each of the 58 counties in California. We also selected another 40 LEAs to ensure a mix of large, medium, and small LEAs from various parts of the State. Of the 84 LEAs that responded to our survey, 77 indicated that they attempt to informally resolve complaints. In addition to informally resolving complaints, two of the LEAs that responded to our survey indicated that they were aware of other complaint process models that might serve the State more effectively than the UCP. One suggested alternative dispute resolution, which its assistant superintendent described as a structured process in which the parties involved in a dispute agree to meet and work together to resolve the issues with an uninvolved third party who mediates and gives each party an opportunity to speak and share their side of the dispute. She also explained that the mediator then helps the parties brainstorm ideas to resolve the issues, which often requires compromises by both parties. She further explained that if the parties are unable to reach an agreement, they discuss what the next steps would be, for example, filing a UCP complaint.

The other district suggested restorative practices or mediation. The district's superintendent explained that this process is one in which the parties involved acknowledge a wrongdoing and meet to restore the situation or relationship. She also explained that in relation to the UCP, the restorative practice would be an informal first step to resolve an issue or complaint before a formal UCP complaint is filed. Under UCP regulations, LEAs have the ability to use alternative methods to resolve complaints, including mediation.

## **Report**

**2016-109** *Uniform Complaint Procedures: The California Department of Education's Inadequate Oversight Has Led to a Lack of Uniformity and Compliance in the Processing of Complaints and Appeals* (January 2017)

## School Library Services

### Define the Minimum Levels 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 School Library Standards for California Public Schools* (model standards), the Legislature should consider defining the minimum level and types of library services that schools must provide.

**Status:** Not Implemented.

**Note:** Senate Bill 390 (Mendoza) would have added consideration of the model standards, including how libraries and certificated teacher librarians can help improve the critical thinking, research skills, and digital citizenship of pupils, to the state priority areas that local educational agencies are required to address in their Local Control and Accountability Plans. This bill was vetoed by the Governor.

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 the Commission on Teacher Credentialing (Teacher Credentialing) and county offices of education to address classified staff who perform duties that require a certification.

**Status:** Not implemented.

#### 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 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)

## 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 (LEAs) 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.

**Note:** Senate Bill 191 (Beall) would authorize an LEA to enter into a partnership with a county or qualified mental health service provider to create a program for providing mental health services to students. The bill would also create the County and Local Educational Agency Partnership Fund, from which funding could be provided to support such programs. This bill was held in Senate Appropriations Committee.

#### 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 individualized education programs. 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)

## Home-Generated Sharps and Pharmaceutical Waste

### Establish CalRecycle as the Lead State Agency, Provide Municipal Solid Waste Incinerators Limited Authority to Burn Waste, and Adopt Standard Requirements for Extended Producer Responsibility Programs

#### Recommendations

1. To foster consumers' proper disposal of sharps and pharmaceutical waste, the Legislature should provide the California Department of Resources Recycling and Recovery (CalRecycle) statutory oversight responsibility for home-generated sharps and pharmaceutical waste disposal and provide CalRecycle additional resources to the extent that it can justify the need.

**Status:** Not implemented.

2. To increase in-state options for processing California's home-generated pharmaceutical waste, the Legislature should expressly authorize municipal solid waste incinerators to burn limited quantities of home-generated pharmaceutical waste, but only after considering environmental impacts.

**Status:** Not implemented.

3. To ensure consistency throughout the State, the Legislature should adopt standard requirements for counties to follow when implementing extended producer responsibility programs (EPR programs). These requirements should limit any additional costs the programs may impose on consumers.

**Status:** Not implemented.

#### Background

When consumers improperly dispose of home-generated sharps and pharmaceutical waste, the waste can pose an unnecessary risk to others and to the environment. Sharps waste—which consists of used needles, lancets, and other medical devices with sharp points or edges—can potentially result in disease transmission. On the other hand, pharmaceutical waste—which consists of prescription and over-the-counter medications—can harm water quality or be misused. Agencies that provide advice offer consumers different, and sometimes conflicting, guidance about how and where to dispose of these types of waste.

Conflicting guidance regarding the disposal of sharps and pharmaceutical waste is in part the result of the fact that the State has not assigned oversight of this issue to a specific state agency. Rather, a number of different agencies have related responsibilities depending on how the waste is collected and processed. Specifically, CalRecycle, the California Department of Public Health, the California State Board of Pharmacy, and the Department of Toxic Substances Control all play roles related to the processing of this waste. By placing oversight responsibility with a single agency, the State could ensure the creation of a unified educational campaign promoting consistent and proper disposal methods. We believe CalRecycle may be best-positioned to oversee household pharmaceutical and sharps waste because it already provides oversight for all state-managed solid waste-handling programs.

California has more than sufficient capacity to process all of the State's home-generated sharps and pharmaceutical waste; however, laws and regulations discourage processing pharmaceutical waste within the State. In California, sharps are generally sterilized at one of the State's 18 medical waste facilities and then deposited in landfills. Home-generated sharps waste represents less than 1 percent of the available capacity of these facilities. If pharmaceutical waste includes controlled substances, the federal Drug Enforcement Agency requires collectors to ensure that such waste is rendered irretrievable, which usually means some form of incineration. Although three incinerators operate in the State that could dispose of pharmaceutical waste, government recommendations and legal requirements discourage these in-state incinerators from accepting pharmaceutical waste. Consequently, collection programs dispose of pharmaceutical waste by hauling it to out-of-state incinerators. Both the out-of-state and in-state incinerators have more than sufficient capacity to handle any future increases in the amount of the State's home-generated pharmaceutical waste.

Additionally, California could improve its collection and disposal of home-generated sharps and pharmaceutical waste by adopting programs and practices that other states and countries use. For example, the state of New York requires all pharmacies to display that state's approved pharmaceutical disposal methods and requires all hospitals to accept household sharps for disposal. Canada uses EPR programs to assign the cost for disposal of pharmaceutical and sharps waste to the producers or manufacturers of the products, although in California these costs could ultimately be transferred to consumers through price increases. Several California counties have also begun implementing EPR programs but have encountered delays, mainly due to the resistance of the sharps and pharmaceutical industries.

## **Report**

*2016-127 Home-Generated Sharps and Pharmaceutical Waste: By Designating a Lead Agency, the State Could Increase Proper Disposal (May 2017)*

# Department of General Services and Department of Technology

## Require General Services and Technology to Submit an Annual Legislative Report on Noncompetitive Contract Requests

### Recommendation

To promote accountability for and transparency of the State's noncompetitive contract request process, the Legislature should require the Department of General Services (General Services) and the Department of Technology (Technology) to submit an annual report of all noncompetitive requests they approve with values over \$1 million. This report should include performance metrics such as the percentage of procurement dollars approved as noncompetitive requests. This could be a published annual report or the two agencies could provide this information publicly on their websites. In addition, the Legislature could require agencies to publicly justify their noncompetitive requests in Legislative hearings when it sees fit. For each noncompetitive request listed in the annual report, General Services and Technology should include—at a minimum—the following information:

- Contracting agency.
- Original contract value (if applicable).
- Noncompetitive request value.
- Numbers and values of noncompetitive amendments (if applicable).
- Mechanisms applied to enforce compliance.

**Status:** Not implemented.

### Background

The Legislature has charged General Services and Technology with overseeing the State's procurement of goods and services on a statewide level. Specifically, General Services is responsible for overseeing the majority of the State's procurements, while Technology is responsible for overseeing acquisitions of certain information technology and telecommunications goods and services. Nonetheless, neither entity provided adequate oversight of the billions of dollars the state agencies awarded through noncompetitive contracts during our audit period from fiscal years 2011–12 through 2015–16. Although noncompetitive contracts are appropriate in some situations, state law generally requires agencies to use the competitive bidding process when possible in order to ensure fair competition and to eliminate favoritism, fraud, and corruption. Further, economic experts agree that competition in public procurement benefits taxpayers and consumers by providing lower prices, greater innovation, and improved products and services. However, General Services and Technology failed to ensure that agencies under their oversight used competitive bidding as state law requires, potentially putting the State at risk of not receiving the best value.

### Report

**2016-124** *Department of General Services and California Department of Technology: Neither Entity Has Provided the Oversight Necessary to Ensure That State Agencies Consistently Use the Competitive Bidding Process* (June 2017)

Blank page inserted for reproduction purposes only.

# State Assistance Fund for Enterprise, Business and Industrial Development Corporation

## Establish SAFE-BIDCO as a Program Within the State Treasurer's Office and Require an Annual Legislative Report on Revenues and Expenses

### Recommendations

1. To ensure that the State Assistance Fund for Enterprise, Business and Industrial Development Corporation's (SAFE-BIDCO) operations are subject to appropriate oversight and to fulfill its mission of providing financing to small businesses, the Legislature should establish SAFE-BIDCO as a program within the State Treasurer's Office (Treasurer's Office).

**Status:** Resolved. SAFE-BIDCO was seized by the California Department of Business Oversight (Business Oversight) in September 2017 and is no longer in operation. On September 15, 2017, Business Oversight issued an order taking possession of SAFE-BIDCO and appointing an agent to assist in liquidating the entity. Business Oversight noted in its order many of the same concerns we identified in our audit, including SAFE-BIDCO's operating losses, declining capital, and declining loan production. Business Oversight's action to liquidate SAFE-BIDCO has effectively resolved the need for our recommendations.

2. To track SAFE-BIDCO's performance in fulfilling its mission to provide assistance to California small businesses, the Legislature should require SAFE-BIDCO to report to the Legislature annually on its revenue and expenses and the success of its programs.

**Status:** Resolved. SAFE-BIDCO was seized by Business Oversight in September 2017 and is no longer in operation.

### Background

The Legislature authorized the creation of SAFE-BIDCO, a nonprofit organization, in 1981 to provide financing assistance to small business through loans for the manufacture or purchase of alternative energy equipment. In 1990 the Legislature expanded its statutory purpose to make more financial assistance available to the State's small businesses, with a goal of increasing the competitiveness of small businesses and of creating jobs. SAFE-BIDCO is overseen by a governing board, and has over the years operated eight programs designed to help small businesses obtain financing in the form of direct loans and loan guarantees. SAFE-BIDCO estimates that it has helped create more than 13,000 jobs during that time.

However, in the past five years, SAFE-BIDCO has spent more than it has earned, and its net assets have declined from \$3.7 million to \$1.3 million. SAFE-BIDCO has not taken sufficient steps to raise additional capital on its own to address its financial condition. SAFE-BIDCO's management of its operations raises concerns about whether the State should appropriate any funding to it without increasing the State's direct oversight of SAFE-BIDCO's expenses and performance. Existing oversight by the State is limited to an annual examination by the Department of Business Oversight, which focuses on determining the soundness of SAFE-BIDCO's lending.

Although it is clear that SAFE-BIDCO needs capital to continue its mission to assist small businesses, we are reluctant to recommend that the State appropriate funding without increased direct oversight of SAFE-BIDCO to ensure adequate reporting and controlled expenses. We believe direct oversight could occur by the Legislature's establishing SAFE-BIDCO as a program within the Treasurer's Office. Additionally, reporting on the success of SAFE-BIDCO's programs is critical for the Legislature to make decisions regarding this nonprofit organization. Thus, SAFE-BIDCO should report to the Legislature even if it does not become part of a state department.

**Report**

**2016-133** *SAFE-BIDCO: At Risk of Insolvency, It Needs Increased Oversight if It Is to Receive State Funding and Continue to Help Small Businesses in California Gain Financing* (April 2017)

## 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:** Implemented. Assembly Bill (AB) 581 (McCarty, Chapter 553, Statutes of 2017) requires an apprenticeship program, in order to be eligible to receive grant funds from the California Apprenticeship Council (council), to agree to keep adequate records that document the expenditure of those grant funds and make all records available to Industrial Relations so that Industrial Relations is able to verify that grant funds were used solely for training apprentices. This statute prohibits an apprenticeship program that is unable to demonstrate how grant funds are spent or an apprenticeship program that is found to be using grant funds for purposes other than training apprentices from being eligible to receive any future grant from the council. In such cases, this statute authorizes Industrial Relations to initiate the process to rescind the registration of the apprenticeship program.

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:** Implemented. AB 1731 (Assembly Committee on Jobs, Economic Development and the Economy, Chapter 94, Statutes of 2017) requires the Chancellor's Office to provide guidance to LEAs on the allocation and oversight of apprenticeship training funds, consistent with the rules set by the council.

#### 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 California 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

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

#### Recommendation

To make the tobacco 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)

Blank page inserted for reproduction purposes only.

# 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)

Blank page inserted for reproduction purposes only.

## California Department of Social Services

### Require the California Department of Justice to Provide Sentencing Information for All Convictions, Require Specified State Entities to Share Administrative Actions, and Expand the List of Nonexemptable Crimes

#### Recommendations

1. To ensure that the California Department of Social Services (Social Services) receives all necessary information for making exemption decisions, the Legislature should amend state law to require the California Department of Justice (Justice) to send Social Services all available sentencing information for all convictions. Additionally, the Legislature should amend state law to require Justice to send juvenile criminal history information related to serious and violent felony offenses as well as any other juvenile criminal history that Social Services identifies as valuable to its exemption reviews.

**Status:** Partially implemented. Senate Bill 420 (Monning, Chapter 333, Statutes of 2017) includes sentencing information in the state summary criminal history record and requires that information to be provided whenever the information is to be used for employment, licensing, or certification purposes.

2. To ensure that any entity authorized by state or federal law to receive state or federal criminal history information subsequent to receiving the individual's initial record of arrests and prosecutions (RAP sheet) is informed of all criminal activity of an individual, the Legislature should do the following:
  - Amend state law to clearly direct Justice to transmit all convictions it receives to the entities authorized to receive subsequent criminal history.
  - Require Justice to obtain and transmit subsequent federal RAP sheets to all entities authorized to receive subsequent California criminal history information and to report to the Legislature periodically about its implementation efforts.

**Status:** Not implemented.

3. To ensure that all applicable entities share their administrative actions with each other as state law intends, the Legislature should amend state law to require that Social Services, the California Department of Aging (Aging), the California Department of Public Health (Public Health), the Department of Health Care Services (Health Care Services), the Emergency Medical Services Authority (Medical Services), and county agencies provide each other their administrative action information.

**Status:** Not implemented.

4. To better ensure the safety of clients in the care facilities Social Services licenses (licensed facilities), the Legislature should amend state law to do the following:
  - Require that Social Services receive state and federal RAP sheets for individuals before allowing them access to licensed facilities.

- Expand the list of crimes for which Social Services cannot issue an individual an exemption to be present in a facility to include the eight crimes we identified and any other crimes it deems appropriate.

**Status:** Not implemented.

### Background

Social Services is responsible for protecting the health and safety of vulnerable populations—such as children, adults, and seniors—in licensed facilities. Its Caregiver Background Check Bureau (CBCB) is responsible for evaluating the character of individuals with criminal records who apply to have access to a licensed facility, such as employees or volunteers. To decide whether it will grant an individual an exemption that will allow him or her to be present in a facility, the CBCB receives criminal history information from Justice as well as other information related to the individual's character. For this audit, we reviewed how well Social Services and Justice fulfill their roles in the background check process and found that Justice and other state departments do not send Social Services certain information it needs to protect vulnerable clients.

In 2016 Justice stopped providing Social Services sentencing information because state law does not explicitly require that it share this information. It also did not forward information about certain convictions because it believed it was not authorized to share that information. However, this information is valuable for Social Services in deciding whether to allow an individual with a criminal history to be present in a licensed facility.

The CBCB reviews the RAP sheet to determine whether state law prohibits the individual from having contact with licensed facility clients. To safeguard clients' health and safety, state law prohibits anyone with a criminal conviction for any crime—other than a minor traffic violation—from caring for or living with clients in a licensed facility. However, state law gives Social Services the authority to make an *exemption decision*—to grant an individual an exemption to this prohibition—if it determines that the individual is of good character and therefore not a health and safety risk to vulnerable populations. Social Services cannot exempt individuals who have been convicted of certain crimes, such as kidnapping or murder. We believe Social Services could better protect clients in licensed facilities if the Legislature amended state law to add additional crimes to the current list of crimes for which Social Services cannot issue an individual an exemption to be present in a facility.

In addition, Social Services and four other state departments—Aging, Public Health, Health Care Services, and Medical Services—do not promptly share information with one another about the administrative actions they take against individuals. This is, in part, because their interagency agreements lack specificity about when to share this information. As a result, Social Services cannot be assured that it receives the information it needs to protect vulnerable populations.

### Report

**2016-126** *California Department of Social Services: Its Caregiver Background Check Bureau Lacks Criminal History Information It Needs to Protect Vulnerable Populations in Licensed Care Facilities* (March 2017)

## In-Home Supportive Services

### Statutorily Define the Pay Period for In-Home Supportive Services Program Providers

#### Recommendation

To facilitate providers' efforts to report their time, and to reduce the potential for providers to be inadvertently suspended from the In-Home Supportive Services (IHSS) program, the Legislature should amend state law to define the pay period as two workweeks. Moreover, the Legislature should modify state law to require weekly hours as the basis for authorizing services but continue to allow flexibility for recipients to adjust the hours their providers work across workweeks in a manner similar to the provisions of the current law.

**Status:** Not implemented.

#### Background

The IHSS program employs individuals who provide in-home services to eligible people so they may remain in their homes as an alternative to receiving out-of-home care. These caregivers (IHSS providers) perform ongoing services for eligible IHSS recipients and receive payment for these services. More than 460,000 providers in California deliver in-home services to nearly 548,000 eligible individuals—low-income people who are also aged, blind, or disabled—located throughout the State.

State law requires that providers record and track work time both semi-monthly and weekly. However, these time frames do not align for most of the year and create obstacles to providers' ability to accurately plan or report their in-home services. Providers are required to follow certain rules that limit the number of hours they may claim in a workweek. State law defines the IHSS workweek as starting on Sunday and ending on Saturday. A provider must adhere to specified workweek hour limits to avoid receiving a violation from the IHSS program. Adding complexity to the workweek issue, providers complete two timesheets each month for pay periods that generally do not coincide with the start of the workweek. State law establishes for IHSS providers a structure consisting of two pay periods per month. As specified by state regulations, one pay period starts on the first day of the month and ends on the 15th, and the other begins on the 16th and ends on the last day of the month. However, in most cases, the first day of a pay period does not coincide with the first day of the IHSS workweek.

To address these concerns, a coalition of county organizations and provider and consumer advocates created a proposal in February 2016 requesting that the workweek and pay period issue be simplified. The proposal pointed out that despite the collective efforts of stakeholder groups to educate providers on the implementation of overtime rules, the current time-reporting rules were too complex for recipients and providers. The coalition recommended that the State change the pay periods to two-week periods that would directly align with the workweek defined in state law.

#### Report

**2016-128** *In-Home Supportive Services: The State Could Do More to Help Providers Avoid Future Payment Delays* (March 2017)

Blank page inserted for reproduction purposes only.

## 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 (Developmental Services) 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 Developmental Services to resume collecting cost statements and adjust the rates if appropriate.

**Status:** Not implemented.

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 Developmental Services to conduct an in-depth review of its in-home respite rates by November 1, 2017. In conducting this review, the Legislature should require Developmental Services 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:** Assembly Bill (AB) 1380 (Santiago, 2017), in part, would require Developmental Services to conduct an in-depth review of in-home respite provider rates by November 1, 2018, and report the results of that review to the Legislature on or before January 1, 2020. This bill was held in Senate Appropriations Committee.

3. To ensure the health and safety of individuals with developmental disabilities, the Legislature should require workers who provide in-home respite services to consumers to undergo a criminal background check. For the other services that fall under the Lanterman Act, the Legislature

should require Developmental Services to conduct a review of the types of services provided directly to consumers and whether any oversight mechanisms are in place to ensure that workers providing these services do not have criminal backgrounds. The Legislature should require Developmental Services to report the results of this review no later than December 31, 2017, and, using the results of this review, determine whether legislation requiring such workers to undergo criminal background checks is necessary to protect the health and safety of individuals with developmental disabilities.

**Status:** Not implemented.

**Note:** AB 1380 would require an employer to submit fingerprints of a prospective in-home respite worker to the California Department of Justice for a criminal background check prior to employment.

## Background

Developmental Services is charged with overseeing the in-home respite services program (in-home respite services) for Californians with qualifying developmental disabilities; however, Developmental Services 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*.

Developmental Services 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 Developmental Services 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, Developmental Services 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, Developmental Services 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, Developmental Services 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, Developmental Services performs no monitoring of in-home respite services. Without effective monitoring, Developmental Services 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)

## California's Foster Care System

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

#### 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.

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.

#### 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 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. Assembly Bill (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 CWS and the juvenile justice systems.

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 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)

# The University of California

## Specify the Conditions Under Which the University May Amend Contracts and Define Professional and Personal Services That May Be Exempt From Competitive Bidding

### Recommendation

To ensure that the University of California (university) maximizes the use of competition, the Legislature should revise the Public Contract Code to specify the conditions under which the university may amend contracts without competition and more narrowly define the professional and personal services that the university may exempt from competitive bidding.

**Status:** Not implemented.

**Note:** Senate Bill 574 (Lara) would have prohibited an amendment, renewal, or extension of an existing contract involving annual expenditures of \$100,000 or more unless specified conditions are met. Additionally, this bill would have provided that to qualify as a lowest responsible bidder or best value awardee on any contract for specified services a bidder must certify in writing to the university that the bid includes, for all employees who work for more than 10 days at the university in any 12-month period under the contract, a total employee compensation package that is valued on a per-employee basis at a level sufficient that it does not undercut by more than 5 percent the average per-employee value of total compensation for employees of the University of California who perform comparable work at the relevant campus, medical center, or laboratory at which the bidder proposes to perform the work. This bill was vetoed by the Governor.

### Background

The university's Office of the President manages the university's fiscal and business operations. A chancellor at each campus is responsible for managing campus operations. At applicable campuses, those chancellors delegate management authority over the medical centers—which are semi-autonomous, self-supporting operations—to chief executive officers. Although the campuses and medical centers must follow the university's systemwide procurement policies, they have significant autonomy over their contracting decisions. The Office of the President reported that in fiscal year 2015–16, the university spent \$8 billion through contracts on goods and services.

For this audit, we reviewed 30 services contracts at three campuses, two medical centers, and the Office of the President. Although our review determined that the campuses and medical centers generally adhered to the Office of the President's contract policy, we identified certain areas in which they could make improvements. Our review of these 30 contracts found that some university locations did not consistently use competitive bidding to ensure that they procured services at the lowest cost or best possible value. For example, we found that some locations used amendments to repeatedly extend services contracts far beyond their original parameters. In one instance, the University of California, Davis, campus amended its contract with a food service vendor 24 times, extending the contract's term from seven years to 19 and increasing its value from \$71 million to \$237 million. The Office of the President only provides vague guidance on the appropriate use of amendments, which hinders the

university locations' ability to fulfill their services needs at the lowest cost or best possible value while maximizing opportunities for vendors wishing to contract with them. In addition, some university locations appear to have misused sole-source exemptions to avoid the competitive bidding process. For example, the University of California, San Francisco medical center asserted to us that it used a sole-source contract to hire a janitorial services vendor because it had an urgent need for the services, yet its contract file lacked sufficient justification for the need to forego competitive bidding.

**Report**

**2016-125.1** *The University of California Office of the President: It Has Not Adequately Ensured Compliance With Its Employee Displacement and Services Contract Policies (August 2017)*

# California State University

## Require CSU to Submit an Annual Report Regarding Student Success

### Recommendation

To improve its budget oversight of the California State University (CSU), the Legislature should require CSU to submit an annual report that provides information on specific activities that CSU engaged in during the previous year to meet the State's goals for student success.

**Status:** Not implemented.

### Background

The CSU is a system of 23 campuses throughout the State and is governed by a 25-member Board of Trustees. The CSU's executive officer is the chancellor. In addition to faculty members who teach students and conduct research, CSU employs executive and management personnel and nonfaculty support staff such as payroll technicians, cooks, parking officers, and student workers. For this audit, we reviewed CSU's hiring and compensation of management personnel, its compensation of CSU executives, and its budget oversight.

The CSU Office of the Chancellor delegates near complete budget responsibility and authority to the CSU campuses. However, many campuses cannot demonstrate that they are adequately monitoring their budgets. Despite campus officials asserting that their central budget offices follow informal policies to review division and department budgets periodically, four of the six campuses we visited do not document the results of their reviews. Also, state law exempts CSU from many budget oversight mechanisms applicable to other state agencies and requires CSU to periodically submit certain reports to the Legislature regarding its performance. However, none of the reports we examined require CSU to specify how it used state appropriations to improve student success.

### Report

**2016-122** *California State University: Stronger Oversight Is Needed for Hiring and Compensating Management Personnel and for Monitoring Campus Budgets* (April 2017)

Blank page inserted for reproduction purposes only.

# The University of California Office of the President

## Appropriate Funds Directly to the Office of the President and Require the Regents to Contract With an Independent Third Party to Monitor a Corrective Action Plan

### Recommendations

1. To ensure that the University of California (university) Office of the President's actions align with the university's primary mission, the Legislature should appropriate an amount directly to the Office of the President through the annual state budget process that eliminates the need for a campus assessment. Based on the Office of the President's actions as it implements its three-year plan, evaluate the amount of the direct appropriation annually. Once the Office of the President has completed the three-year plan, evaluate the necessity of a continued direct appropriation after assessing the strength of the Office of the President's new budget, accounting, and staffing policies, as well as its demonstrated commitment to ongoing transparency.

**Status:** Implemented. Assembly Bill 97, the Budget Act of 2017, appropriates \$296 million to the Office of the President and provides that the funds may only be encumbered if the President certifies in writing to the California Department of Finance that there will be no campus assessment for support of that office for the 2017–18 fiscal year and overall campus revenues will be greater in the 2017–18 fiscal year than in the previous fiscal year.

2. To ensure that the Office of the President's actions align with the university's primary mission, the Legislature should, from the funds appropriated, require the regents to contract with an independent third party that can assist the regents in monitoring the three-year corrective action plan for the Office of the President. The Legislature should hold annual hearings that include a status report by the independent third party regarding the Office of the President's progress, challenges, and barriers to success in implementing the three-year corrective action plan.

**Status:** Resolved. Legislation was not introduced to address this recommendation; however the Office of the President entered into a contract with an independent third party to assist in monitoring the three-year corrective action plan.

### Background

The Office of the President's budgeting practices are of concern because its disclosed discretionary budget is almost entirely funded by an annual charge, called the *campus assessment*, that it levies on the campuses. The Office of the President allows campuses to pay this assessment using any funding source, and campuses paid about a third of the \$288 million fiscal year 2015–16 assessment—up to \$106 million—using their portion of the money from the State's General Fund. Over the past five years, the Office of the President has underspent the revenue it received from the campus assessment by \$32 million and, as a result, a significant portion of the Office of the President's discretionary reserve consists of funds the campuses could have retained and spent for other purposes. Moreover, the Office of the President increased the campus assessment in two of the

four years we reviewed, a decision we find problematic given that it consistently failed to spend all of the revenue it received from the campuses. We believe the Office of the President might be able to refund at least \$38 million of its uncommitted reserve funds to campuses.

Furthermore, because the Office of the President provides so little information about its budget—and the information it does provide is sometimes misleading—the regents and Legislature are likely to find it difficult, if not impossible, to understand its operations. In fact, we found the Office of the President made inaccurate and unsubstantiated claims about its budget during regents' meetings, such as claiming the Office of the President is not funded using state money even though campuses use money from the State's General Fund to pay for the campus assessment. The Office of the President's inability to substantiate its public claims is due to its lack of strong, consistent budgeting processes, which would help to provide transparency and accountability.

As a result of the nature and number of the concerns we identified in the course of this audit, we believe that significant reforms are necessary to ensure that the Office of the President makes prudent decisions that reflect the interests of those that it serves. Specifically, the Legislature should directly appropriate funds to the Office of the President that eliminates the need for levying an assessment on campuses. This change would increase the Office of the President's accountability by requiring it to justify both its budget levels and fiscal decisions, such as the level of compensation it provides for its staff. Additionally, we believe that the Legislature should, from the funds appropriated, require the regents to contract with an independent third party that can assist the regents in monitoring a three-year corrective action plan focused on addressing the many issues we identify in this report. This plan would help to ensure the Office of the President's accountability and transparency and give campuses a better ability to plan for expenses that should benefit them.

## **Report**

**2016-130** *The University of California Office of the President: It Failed to Disclose Tens of Millions in Surplus Funds, and Its Budget Practices Are Misleading* (April 2017)

# The 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 alternate 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)

## Workers' Compensation Insurance

### Require Insurers to Periodically Provide Explanation of Benefits Statements to Injured Workers

#### Recommendation

To better ensure that the payments insurers issue to providers for workers' compensation insurance (workers' compensation) claims are based on valid services, the Legislature should require workers' compensation insurers to periodically provide explanation of benefits statements (EOB statements) to injured employees.

**Status:** Not implemented. (Note: Report issued in December 2017)

#### Background

The system for workers' compensation in California requires employers to provide benefits to employees who are injured or disabled in the course of employment. These benefits include covering the costs associated with health care and other services necessary for injured employees to return to work, providing disability payments, and compensating injured employees who cannot fully return to work. In exchange, employers generally have protection against law suits filed by employees related to workplace injuries. The Department of Industrial Relations (Industrial Relations) is responsible for monitoring the administration of claims filed through the workers' compensation system, which California has had in place for over 100 years. A 2016 report by Industrial Relations indicates that the workers' compensation system cost the State's employers—who pay for the system by either purchasing workers' compensation policies or self-insuring—\$25.1 billion in 2015.

In part because of its size and complexity, the workers' compensation system creates ample opportunity for fraud. This fraud can take many forms, including employees who claim to be injured when they are not or health care providers who bill insurers for services or treatments they did not provide.

Despite the State's efforts, we identified certain weaknesses in its processes for detecting workers' compensation fraud. For example, California could improve its efforts to detect workers' compensation fraud by requiring insurers to periodically issue EOB statements to injured employees. These statements list the types of services providers rendered to injured employees, the dates the providers rendered the services, and the fees they received for the services. Consequently, EOB statements provide injured employees with the opportunity to review the services for which providers bill and potentially identify fraudulent charges. Certain government agencies and some insurers outside of workers' compensation already use EOB statements to help fight fraud. Nonetheless, the State does not currently require workers' compensation insurers to issue EOB statements to injured employees.

#### Report

**2017-103** *Workers' Compensation Insurance: The State Needs to Strengthen Its Efforts to Reduce Fraud* (December 2017)

Blank page inserted for reproduction purposes only.

## The State Bar of California

### Require Legislative Approval or Notification on Revenue Decisions and Disclosures 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)

## 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.

**Note:** Assembly Bill 1209 (Gonzales-Fletcher) would have required, on and after July 1, 2019, and biennially thereafter, an employer that is required to file a statement of information with the Secretary of State and that has 500 or more employees in California to collect specified information on gender wage differentials and submit the information to the Secretary of State by July 1, 2020, and biennially thereafter. This bill would also have required the Secretary of State to publish this information on an Internet website available to the public upon receiving necessary funding and establishing adequate mechanisms and procedures. This bill was vetoed by the Governor.

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)

Blank page inserted for reproduction purposes only.

## Department of Water Resources

### Require Agencies to Report Significant Cost or Schedule Changes Made to Complex Infrastructure Projects

#### Recommendation

To improve management of large and complex infrastructure projects, the Legislature should enact legislation requiring agencies to publicly report significant changes in the cost or schedule of such projects if they are expected to exceed their established budgets by 10 percent or schedules by 12 months.

**Status:** Not implemented. (Note: Report issued in October 2017)

#### Background

The California WaterFix Project (WaterFix) is intended to address environmental and water supply reliability issues related to pumping water from the Sacramento-San Joaquin Delta (the Delta). The Department of Water Resources (DWR) began collaborating with state and federal entities as well as local water agencies (water contractors) in 2006 to develop an approach to restoring the Delta and improving water reliability, referred to as the Bay Delta Conservation Plan (BDCP). In conjunction with developing the BDCP, DWR also initiated the Delta Habitat Conservation and Conveyance Program (conservation and conveyance program) to evaluate how to implement the BDCP, which included considering alternatives to the BDCP, performing preliminary design, and assessing environmental impacts. Through this evaluation, DWR identified one of the alternatives—referred to as WaterFix—as its preferred approach. WaterFix focuses on the construction of a new water conveyance facility to improve water reliability and separates the large-scale Delta restoration effort originally included in the BDCP into a separate program called California EcoRestore.

DWR is responsible for the construction, maintenance, and operation of State Water Project facilities while the U.S. Bureau of Reclamation (Reclamation) is generally responsible for Central Valley Project facilities. Water contractors contract for water deliveries from these two systems. Water contractors and Reclamation have primarily funded the project planning efforts that began with the BDCP and that have now shifted to WaterFix.

Because of the unexpected complexity of the project, the planning phase has experienced significant cost increases and schedule delays. In a June 2006 steering committee meeting, the finance subcommittee presented a \$13 million budget for preparation of the BDCP, which included budgeted consultant costs for completing all tasks except public outreach. Following the establishment of the budget, DWR entered into a \$1.6 million contract with Alameda County Flood Control and Water Conservation District Zone 7 (Zone 7) to cover its share of consultant costs for December 2006 through June 2008. The scope of work in the contract included engaging the services of a BDCP consultant, the preparation of the BDCP, and the services of Zone 7 to manage the contract with the BDCP consultant. However, the parties subsequently discovered that the \$1.6 million budgeted over the 19-month term of the contract was insufficient to allow the consultant to successfully complete the BDCP. The parties first amended the contract in June 2008 to add an additional year, extending the term through June 30, 2009. In the spring of 2009, the parties agreed to amend the contract a second

time, increasing the contract by \$3.5 million and the term by another two years, thus extending the contract through June 30, 2011. The parties amended the contract a third time in March 2010 to increase the contract by another \$2.6 million. These three amendments collectively increased the cost of this contract from \$1.6 million to \$7.7 million, nearly five times the original amount, and they extended its term by three years. In addition, DWR has so far spent roughly \$260 million to evaluate and plan for the possible construction of alternative conveyance facilities and habitat restoration projects, including those that constitute the BDCP and, subsequently, WaterFix. In March 2009 DWR estimated the initial budget for these activities to be \$140 million.

**Report**

**2016-132** *Department of Water Resources: The Unexpected Complexity of the California WaterFix Project Has Resulted in Significant Cost Increases and Delays* (October 2017)

## Concealed Carry Weapon Licenses

### Clarify That Licensing Authorities Can Increase Fees for Applications, Renewals, and Modifications Under Specified Conditions

#### Recommendation

The Legislature should amend state law to clarify that licensing authorities—sheriffs and police departments—can increase fees for concealed carry weapon (CCW) applications, renewals, and modifications above \$100, \$25, and \$10, the respective maximum amounts specified in state law, provided that the fee for an initial application does not exceed the authorities' actual costs and that the rate of increase for any of the fees does not exceed that of the California Consumer Price Index (CCPI).

**Status:** Not implemented. (Note: Report issued in December 2017)

#### Background

State law outlines four broad criteria that an individual must meet to be issued a CCW license. Specifically, state law allows licensing authorities to issue a CCW license upon proof that the applicant is of good moral character, has good cause for the license, is a resident of the licensing authority's jurisdiction, and has completed firearms training. Although state law establishes these four criteria, it provides broad discretion to the licensing authority to determine whether an applicant has met the requirements. Under this discretion, each of the entities we reviewed as part of this audit—the Los Angeles County Sheriff's Department, Sacramento County Sheriff's Department (Sacramento), and San Diego County Sheriff's Department—established its own requirements for how applicants can satisfy the four criteria.

Additionally, licensing authorities vary in their interpretation of the state law that limits the maximum processing fee for initial and renewal applications and amendments to CCW licenses, leading to differences in the fees they charge. State law sets the maximum fee for initial CCW application licenses at up to \$100 of actual costs to process the application. In addition, state law allows licensing authorities to charge up to \$25 for renewal applications and \$10 for license amendments, such as a change of address on the license. Furthermore, separate sections of state law allow licensing authorities to increase all three of these fees at a rate not to exceed the CCPI.

However, the Sacramento sheriff believes that state law does not allow his department to charge more than \$100 for an initial license. We disagree with this interpretation, and we calculated that the maximum allowable fee as of 2017 would be about \$156 for an initial license. If Sacramento had charged the maximum allowable fee during the three-year period we reviewed, it would have reduced its program's annual deficits by more than half. Because of licensing authorities' differing interpretations of state law governing fees for CCW licenses and the potential benefit that clarifying the law could have, we believe that the Legislature should amend state law.

#### Report

**2017-101** *Concealed Carry Weapon Licenses: Sheriffs Have Implemented Their Local Programs Inconsistently and Sometimes Inadequately* (December 2017)

Blank page inserted for reproduction purposes only.

# California Department of Corrections and Rehabilitation

## Require Corrections to Report to the Legislature Annually on Suicide Prevention and Response Efforts

### Recommendation

To provide additional accountability for the California Department of Corrections and Rehabilitation's (Corrections) efforts to respond to and prevent inmate suicides and attempted suicides, the Legislature should require that Corrections report to it in April 2018 and annually thereafter on the following issues:

- Its progress toward meeting its goals related to the completion of suicide risk evaluations in a sufficient manner.
- Its progress toward meeting its goals related to the completion of 72-hour treatment plans in a sufficient manner.
- The status of its efforts to ensure that all mental health staff receive required training and mentoring related to suicide prevention and response.
- The status of its efforts to fill vacancies in its mental health treatment programs, especially its efforts to hire and retain psychiatrists.
- Its progress in implementing the recommendations made by the special master's experts, the court-appointed suicide expert, and its own reviewers regarding inmate suicides and attempts. Corrections should include in its report to the Legislature the results of any audits it conducts as part of its planned audit process to measure the success of changes it implements as a result of these recommendations.
- Its progress in identifying and implementing mental health programs that may ameliorate risk factors associated with suicides at the prisons.

**Status:** Not implemented. (Note: Report issued in August 2017)

### Background

Despite the fact that the rates of inmate suicide in California's prisons has been higher on average than those of all U.S. state prisons for several years, Corrections has failed to provide the leadership and oversight necessary to ensure that its prisons follow its policies related to inmate suicide prevention and response. Corrections is responsible for providing mental health services to its inmates who are unable to function within the usual correctional environment because of mental illness. However, from 2005 through 2013, the average suicide rate in Corrections' prisons was 22 per 100,000 inmates—substantially higher than the average rate of 15.66 per 100,000 in U.S. state prisons during the same period. Further, while female inmates made up only about 4 percent of Corrections' total inmate population, they accounted for about 11 percent of its inmate suicides. These statistics,

combined with the significant deficiencies we identified when we reviewed suicide prevention and response practices at four prisons, raise questions regarding Corrections' leadership on this critical issue.

We found significant weaknesses in compliance with suicide prevention and response policies when we reviewed 40 files on inmates who committed or attempted suicide at four prisons—California Institution for Women; California State Prison, Sacramento; Central California Women's Facility; and Richard J. Donovan Correctional Facility. The audit found that prisons failed to complete or completed inadequate risk evaluations for many of those inmates who required them, prisons did not complete or created inadequate treatment plans for some inmates—plans did not always specify medication dosage and frequency, treatment methods, provider information, or follow-up upon discharge—and prisons did not properly monitor inmates who were at risk of committing suicide. In addition, we found that some staff members at the prisons we visited had not completed required trainings related to suicide prevention and response. Although Corrections has known about many of the issues related to suicide prevention and response policies and practices that we found for a number of years, it has not fully implemented processes to address the issues that have been raised.

## **Report**

**2016-131** *California Department of Corrections and Rehabilitation: It Must Increase Its Efforts to Prevent and Respond to Inmate Suicides* (August 2017)

## The 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:** Implemented. Assembly Bill (AB) 90 (Weber, Chapter 695, Statutes of 2017) establishes Justice as the state agency responsible for administering and overseeing any shared gang database in which California law enforcement agencies participate, and requires Justice to develop and implement standardized periodic training for all persons authorized to access or enter data in a shared gang database.

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:** Implemented. AB 90 requires Justice to promulgate regulations governing the use, operation, and oversight of any shared gang database. The regulations will also provide for periodic audits by law enforcement agencies and Justice staff to ensure the accuracy, reliability, and proper use of any shared gang database. The results of those audits must be reported to the public.

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:** Implemented. AB 90 requires Justice, by February 15, 2018, and annually thereafter, to publish an annual report on the CalGang database, invite and assess public comments following the report’s release, and summarize the public comments received on prior reports and the actions taken in response to those comments.

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:** Implemented. AB 90 provides that, commencing January 1, 2018, the CalGang Executive Board (board) will no longer administer or oversee the CalGang database or the shared gang databases that participate in the CalGang database. Justice is required to establish a technical advisory committee with specified members to advise on uses of shared gang databases.

## 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 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)

Blank page inserted for reproduction purposes only.

# The Bradley-Burns Tax and Local Transportation Funds

## Allocate Internet Sales Revenue Based on Destination of Sold Goods, Regularly Review and Evaluate Tax Expenditures, and Specify In Statute That Digital Goods Are Taxable

### Recommendations

1. To ensure that the Bradley-Burns Uniform Local Sales and Use Tax Law (Bradley-Burns tax) revenue is more evenly distributed and remove the incentive for local jurisdictions to vie for commercial development as a means to increase their tax revenue, the Legislature should amend the Bradley-Burns tax to allocate revenues from Internet sales based on the destination of sold goods rather than their place of sale.

**Status:** Not implemented. (Note: Report issued in November 2017)

2. To increase budgetary control and ensure that it has the information necessary to make decisions that reflect the State's best interests, the Legislature should regularly review and evaluate tax expenditures, including exemptions and exclusions to the Bradley-Burns tax and general sales and use taxes, by:
  - Performing annual reviews of existing tax expenditures and eliminating those that no longer serve their intended purpose.
  - Reviewing tax expenditures that have no stated legislative purpose and either adding clarifying language to those statutes or eliminating them.
  - Requiring the Franchise Tax Board and the Department of Finance to include in their annual reports on tax expenditures the estimated costs of those expenditures before implementation compared to actual forgone revenues to date.

**Status:** Not implemented. (Note: Report issued in November 2017)

3. To increase the tax bases for the general sales and use taxes and the Bradley-Burns tax, the Legislature should amend state law to specify that digital goods are taxable.

**Status:** Not implemented. (Note: Report issued in November 2017)

### Background

Since 1956 the Bradley-Burns tax has imposed a tax on the retail sale of merchandise or goods within the State. The State collects the 1.25 percent Bradley-Burns tax on behalf of cities and counties and distributes the revenue to those local governments. The State allocates 1 percent of the 1.25 percent tax to counties or incorporated cities to use at their discretion and the other 0.25 percent to counties to support transit programs. Since 1972 the 0.25 percent has been distributed to local transportation funds (LTFs) in each county. Counties use these LTFs to operate their local transportation programs.

Our review of the Bradley-Burns Tax and LTFs revealed some counties may benefit disproportionately from the Bradley-Burns tax because of the way state law currently directs the allocation of the funds. Retailers generally allocate Bradley-Burns tax revenue based on the *place of sale*, which they identify according to their business structure. While the allocation of the tax from traditional brick-and-mortar retail sales is relatively straightforward, when retailers ship goods to customers across state, county, or city borders—as is the case with most e-commerce sales—allocation becomes more complicated. Retailers that make sales over the Internet may identify the place of sale as one of their warehouses or sales offices rather than the destination to which they ship the goods.

Further, the State could also potentially increase its revenue—including LTF funding—by routinely reviewing *tax expenditures*, which are tax exclusions, tax exemptions, preferential tax rates, tax credits, and other tax provisions that reduce the amount of tax revenue the State collects. Tax expenditures lessen the amount of available state revenue in much the same way as direct spending does. According to the Center on Budget and Policy Priorities, most tax expenditures are written into statute and continue indefinitely unless repealed. Nonetheless, neither the Legislature, Tax Administration, nor any other state entity currently reviews the costs and benefits of tax expenditures to ensure that they are in the State’s continued best interest. By not routinely reviewing exemptions, exclusions, and other tax expenditures, the Legislature has missed an opportunity to exert budgetary control over a significant portion of the State’s potential spending.

Finally, taxing digital goods—such as e-books, downloadable software, and online products—could lead to significant increases in the amount of Bradley-Burns tax the State collects.

## Report

**2017-106** *The Bradley-Burns Tax and Local Transportation Funds: Changing the Allocation Structure for the Bradley-Burns Tax Would Result in a More Equitable Distribution of Local Transportation Funding* (November 2017)

## Corporate Income Tax Expenditures

### Adopt Best Practices, 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 Motor Vehicles

### Amend State Law to Enable DMV to Detect and Deter Misuse of Placards and Plates

#### Recommendations

1. To increase the Department of Motor Vehicles' (DMV) oversight of applications for disabled person parking placards (placards) or disabled person or disabled veteran license plates (plates), the Legislature should modify current law to require DMV to conduct at least quarterly audits of a selection of applications for disabled placards or plates and to seek the Department of Consumer Affairs' healing arts boards' cooperation in doing so.

**Status:** Implemented. Senate Bill (SB) 611 (Hill, Chapter 485, Statutes of 2017) requires DMV to conduct a quarterly random audit of applications submitted for these plates or placards and to seek the cooperation of the Medical Board of California or the appropriate regulatory boards in conducting the audits.

2. To better align the State's disabled person parking placard program (placard program) with the needs of Californians with disabilities, the Legislature should amend state law to include podiatrists on the list of medical providers approved in state law to certify applications for disabilities related to their specialty.

**Status:** Implemented. SB 611 includes licensed podiatrists on the list of medical professionals authorized to provide disability certification.

3. To assist DMV in more accurately identifying deceased individuals with active permanent placards, the Legislature should amend state law to require DMV to use the U.S. Social Security Administration's Death Master File (master file) to inform its efforts to identify and cancel deceased individuals' placards.

**Status:** Implemented. SB 611 requires DMV to compare its record of issued placards against the master file.

4. To assist DMV in identifying deceased placard holders, the Legislature should require that all individuals with permanent placards reapply every four years.

**Status:** Implemented. SB 611 requires DMV to send a renewal form, which would not require recertification of medical disability or proof of the applicant's true full name, to each placard holder every six years.

5. To assist DMV in identifying deceased placard holders, the Legislature should require that all who apply for a placard or a plate include their full legal name and date of birth, and provide satisfactory proof of this information at the time of application.

**Status:** Implemented. SB 611 requires an applicant for a special license plate, a distinguishing placard, or a temporary distinguishing placard to provide proof of his or her true full name and date of birth at the time of application by submitting specified documents to DMV.

6. To reduce the risk of placard misuse, the Legislature should limit to no more than two the number of replacements of permanent placards an individual may obtain during the two-year placard renewal period. The Legislature should require that those desiring replacements beyond that limit reapply and submit new certifications of disability.

**Status:** Implemented. SB 611 prohibits DMV from issuing more than four substitute placards to a placard holder in a two-year renewal period, and requires a placard holder who requires a substitute placard in excess of this limit to reapply for a new placard and submit a new certification of disability.

### **Background**

California grants special parking privileges to people with certain disabilities outlined in state law. These people may apply for a placard to display in their vehicle or for a special license plate. To obtain placards or plates, they must submit a two-page application to DMV that includes a description of the disability and a certification from an authorized medical provider. Both placards and plates allow these permitted individuals to park in parking spaces designated for people with disabilities, in metered spaces without paying the meter, and in time-limited spaces without having to worry about those limitations. These benefits create a significant incentive for misuse.

In reviewing the placard program, we identified several improvements DMV and the Legislature can make that will reduce fraud and misuse. For example, DMV does not sufficiently review applications for placards and plates to ensure they are legitimate. Further, DMV issues renewal placards to many thousands of placard holders who are likely deceased because its process for identifying them is limited. Also, we found that state law provides no limitations on the number of replacement placards a person may receive, and we noted that two people each received more than 20 replacement placards over three years. In addition, we found that the enforcement of placard misuse would improve if DMV established reasonable goals for the number of enforcement activities it conducts. Finally, DMV could provide parking enforcement officials better information to determine whether a placard is valid or being misused.

### **Report**

**2016-121** *Department of Motor Vehicles: Administrative and Statutory Changes Will Improve Its Ability to Detect and Deter Misuse of Disabled Person Parking Placards* (April 2017)

## Department of Transportation

### Require the Maintenance 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 (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)

Blank page inserted for reproduction purposes only.

# 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:** Senate Bill 19 (Hill, Chapter 421, Statutes of 2017) adds Section 633 to the Public Contract Code to provide that the provisions requiring the CPUC to comply with specified requirements regarding contracts for consultant or advisory services *do not apply* to contracts for legal services and requires the CPUC to notify the Attorney General when contracting for legal services by attorneys who are not employees of the CPUC.

### 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)

## Appendix

### Legislation Chaptered or Vetoed During the 2017–18 Regular Legislative Session

The table below briefly describes bills that were chaptered or vetoed during the *first year* of the 2017–18 Regular Legislative Session which either address recommendations in a report issued by the California State Auditor (State Auditor) or the analysis of the bill relied in part on a State Auditor’s report.

**Table A**  
 Legislation Chaptered or Vetoed in the 2017 Regular Session

BILL NUMBER (CHAPTERED OR VETOED)	REPORT (ABBREVIATED TITLE)	SUMMARY OF LEGISLATION
<b>Business and Professions</b>		
SB 799 Ch. 520, Stats. 2017	2016-046 <i>Board of Registered Nursing</i> (December 2017)	<ol style="list-style-type: none"> <li>1. Extends the repeal date of the provisions establishing the Board of Registered Nursing (BRN) until January 1, 2022.</li> <li>2. Repeals the provision requiring BRN to contract with the State Auditor’s office to conduct a performance audit of its enforcement program.</li> <li>3. Deletes those provisions providing for the suspension of a current investigation while a registered nurse is in an intervention program and, instead, authorizes BRN to investigate at its discretion complaints against registered nurses participating in the intervention program.</li> <li>4. Prohibits disciplinary action with regard to acts committed before or during participation in the intervention program, unless the registered nurse withdraws or is terminated from the intervention program.</li> <li>5. Requires BRN by January 1, 2019, to deliver a report to the appropriate legislative policy committees detailing a comprehensive plan for approving and disapproving continuing education opportunities, and, by January 1, 2020, to report to the appropriate legislative committees on its progress implementing this plan.</li> <li>6. Requires the California Research Bureau to prepare and deliver a report to the Legislature by January 1, 2019, that evaluates to what extent employers voluntarily report disciplined nurses to BRN and that offers options for consistent and reasonable reporting mechanisms.</li> </ol>
AB 1190 VETOED	2014-116 <i>Department of Consumer Affairs BreEZe System</i> (February 2015)	Would have required the Department of Consumer Affairs to publish, a minimum of once quarterly, prescribed information relating to BreEZe on its Internet Web site, including the estimated start and completion date of the Department of Technology’s Project Approval Lifecycle (PAL) process for programs that were previously scheduled for the 3rd release of BreEZe, the status of programs that have started the process, and the results and recommendations made for each program that has completed the PAL process.
<b>Education</b>		
AB 97 Ch. 14, Stats. 2017	2016-129 <i>K-12 High-Speed Network</i> (May 2017)	The Budget Act of 2017, in part, provides no additional funding for the K-12 High-Speed Network (K12HSN) program but instead directs Imperial County Office of Education to support the program’s operations through a combination of \$2.5 million in reserve funds and \$8 million in state grant moneys already allocated to K12HSN in a prior year.
SB 730 Ch. 571, Stats. 2017	2016-139 <i>California Department of Education Federal Buy American Provision</i> (August 2017)	Requires the California Department of Education to take certain actions to monitor and enforce the Buy American provisions that are authorized by and conform to federal law.

BILL NUMBER (CHAPTERED OR VETOED)	REPORT (ABBREVIATED TITLE)	SUMMARY OF LEGISLATION
SB 390 VETOED	2016-112 <i>School Library Services</i> (November 2016)	Would have added consideration of the <i>Model School Library Standards for California Public Schools</i> , including how libraries and certificated teacher librarians can help improve the critical thinking, research skills, and digital citizenship of pupils, to the state priority areas that local educational agencies are required to address in their Local Control and Accountability Plans.
SB 527 VETOED	2006-109 <i>Home-to-School Transportation Program</i> (March 2007)	Would have required state funds received for the home-to-school transportation program to be adjusted by a specified cost-of-living calculation.

#### Governmental Organization

AB 434 Ch. 780, Stats. 2017	2014-131 <i>California State Government Websites</i> (June 2015)	Before July 1, 2019, and before July 1 biennially thereafter, requires the director of each state agency or entity and the chief information officer of that state agency or entity to post on the home page of the agency's or entity's Internet Web site a signed certification that the agency's or entity's Internet Web site is in compliance with specified accessibility standards.
AB 531 VETOED	2015-611 <i>High-Risk: Information Security</i> (August 2015)	Would have required the Office of Information Security (office) within the Department of Technology (Technology Department), on or before July 1, 2019, to review information security technologies currently in place in state agencies to determine if there are sufficient policies, standards, and procedures in place to protect critical government information and prevent the compromise or unauthorized disclosure of sensitive digital content inside or outside the firewall of state agencies. The bill also would have required the office, following the review, to develop a statewide plan to require the implementation by state agencies, within the fiscal year, of any information security technology the office determines to be necessary to protect critical government information and prevent the compromise or unauthorized disclosure of sensitive digital content of a state agency.
AB 581 Ch. 553, Stats. 2017	2016-110 <i>Trade Apprenticeship Programs</i> (November 2016)	Requires an apprenticeship program, to be eligible to receive grant funds from the Apprenticeship Council (council), to agree to keep adequate records that document the expenditure of those grant funds and make all records available to the Department of Industrial Relations (Industrial Relations) so that Industrial Relations is able to verify that grant funds were used solely for training apprentices. The statute also requires Industrial Relations to verify that grants made by the council are used solely for training apprentices. Finally, this statute prohibits an apprenticeship program that is unable to demonstrate how grant funds are expended or an apprenticeship program that is found to be using grant funds for purposes other than training apprentices from being eligible to receive any future grant from the council under these provisions and authorizes Industrial Relations to initiate the process to rescind the registration of the apprenticeship program.
AB 1022 Ch. 790, Stats. 2017	2015-611 <i>High-Risk: Information Security</i> (August 2015)	Requires each state agency, as part of its Technology Recovery Plan, to provide the Technology Department with an inventory of all critical infrastructure controls, and their associated assets, in the possession of the agency. The statute authorizes a local entity that receives state funds for the purposes of storing, sharing, or transmitting data, or in support of an information technology project with a state entity, upon the request of the Technology Department, to submit a Technology Recovery Plan to the Technology Department. Finally, the statute authorizes the Technology Department to provide suggestions with regard to the plans and prohibits public disclosure of those plans.
AB 1731 Ch. 94, Stats. 2017	2016-110 <i>Trade Apprenticeship Programs</i> (November 2016)	Revises the principles upon which the California Community Colleges Economic Workforce Development Program operates to require the program to provide guidance to local educational agencies on the allocation and oversight of apprenticeship training funds, consistent with the rules set by the California Apprenticeship Council.

BILL NUMBER (CHAPTERED OR VETOED)	REPORT (ABBREVIATED TITLE)	SUMMARY OF LEGISLATION
<b>Health &amp; Human Services</b>		
AB 658 Ch. 345, Stats. 2017	2015-507 <i>Department of Public Health: Laboratory Field Services</i> (September 2015)	Directs the Department of Public Health to suspend the clinical laboratory license fee for two years and annually adjust all licensing fees thereafter.
SB 213 Ch. 733, Stats. 2017	2016-126 <i>California Department of Social Services Caregiver Background Checks</i> (March 2017)	Creates a process for the California Department of Social Services to grant an exemption for foster care and resources family applicants who have committed certain crimes and would otherwise have been disqualified from licensure or approval.
SB 233 Ch. 829, Stats. 2017	2015-131 <i>California's Foster Care System: Psychotropic Medications</i> (August 2016)	Requires a specified evaluation initiated by the court when determining termination of parental rights or establishing legal guardianship of a dependent child to include providing a copy of the complete health and education summary. Requires a foster care case plan to include a summary of the health and education information or records, including mental health information, of the child, and provides that a caregiver should also have access to a copy of the health and education summary.
SB 420 Ch. 333, Stats. 2017	2016-126 <i>California Department of Social Services Caregiver Background Checks</i> (March 2017)	Includes sentencing information in the state summary criminal history record and requires that information to be provided whenever the information is to be used for employment, licensing or certification purposes.
<b>Higher Education</b>		
AB 1655 Ch. 802, Stats. 2017	2016-130 <i>University of California Office of the President</i> (March 2017)	In part, this statute, whenever a request for information relating to the security of funds of the University of California (university) is made by the State Auditor's Office to one or more university campuses, prohibits those campuses from coordinating their response with, or seeking counsel, advice, or similar contact regarding their response from, the university Office of the President before submitting the requested information to the State Auditor's Office. The statute requires the State Auditor's Office, when requesting information under these provisions, to include a statement in the request that it is requesting the information pursuant to these provisions and that the request for information is not to be shared with the university Office of the President. This statute also requires that university's mandated biennial reports to the Legislature and Department of Finance be based on publicly available information, and that the costs reported be prior year actual expenditures. The statute changes the date on which the requirement for submission of these biennial reports becomes inoperative to January 1, 2023.
AB 1674 Ch. 803, Stats. 2017	2015-107 <i>University of California Enrollment Practices</i> (March 2016)	Requests the university, in collaboration with the Academic Senate of the University of California to ensure that implementation of any admissions policy regarding admission of nonresident undergraduate students includes guidance that ensures the academic qualifications for admitted nonresident undergraduate students generally exceeds the academic qualifications of resident undergraduate students, and requests the university to report specified information to the Legislature annually regarding implementation of the policy.
SB 574 VETOED	2016-125.1 <i>University of California Contract Policies</i> (August 2017)	Would have prohibited an amendment, renewal, or extension of an existing contract unless specified conditions are met. Additionally, this bill would have provided that to qualify as a lowest responsible bidder or best value awardee on any contract for specified positions, a bidder must certify in writing to the university that the bid includes, for all employees who work for more than 10 days at the university in any 12-month period under the contract, a total employee compensation package that is valued on a per-employee basis at a level sufficient that it does not undercut by more than 5 percent the average per-employee value of total compensation for employees of the University of California who perform comparable work at the relevant campus, medical center, or laboratory at which the bidder proposes to perform the work.
AB 97 Ch. 14, Stats. 2017	2016-130 <i>University of California Office of the President</i> (March 2017)	The Budget Act of 2017, in part, appropriates \$296 million to the university Office of the President and provides that the funds shall only be encumbered if the President certifies in writing that there will be no campus assessment for support.

BILL NUMBER (CHAPTERED OR VETOED)	REPORT (ABBREVIATED TITLE)	SUMMARY OF LEGISLATION
<b>Local Government</b>		
AB 1209 VETOED	2015-132 <i>County Pay Practices</i> (May 2016)	Would have required, on and after July 1, 2019, and biennially thereafter, an employer that is required to file a statement of information with the Secretary of State and that has 500 or more employees in California to collect specified information on gender wage differentials and submit the information to the Secretary of State by July 1, 2020, and biennially thereafter. This bill would also have required the Secretary of State to publish this information on an Internet website available to the public upon receiving necessary funding and establishing adequate mechanisms and procedures.
<b>Judiciary</b>		
SB 36 Ch. 422, Stats. 2017	2015-047 <i>State Bar of California</i> (May 2016)	Repeals the provision prohibiting the Legislature from reducing State Bar membership dues if the State Bar board secures an obligation on those dues.
<b>Public Safety</b>		
AB 41 Ch. 694, Stats. 2017	2014-109 <i>Sexual Assault Evidence Kits</i> (October 2014)	<ol style="list-style-type: none"> <li>1. Requires law enforcement agencies to report information regarding rape kit evidence, within 120 days of the collection of the kit, to the Department of Justice (Justice) through a database established by Justice.</li> <li>2. Requires that information include, among other things, whether biological evidence samples were submitted to a DNA laboratory for analysis and if a probative DNA profile was generated.</li> <li>3. Requires a public DNA laboratory, or a law enforcement agency contracting with a private laboratory, to provide a reason for not testing a sample every 120 days the sample is untested, except as specified.</li> <li>4. States that these requirements only apply to a kit collected on or after January 1, 2018.</li> <li>5. Requires Justice to file a report to the Legislature on an annual basis summarizing the information in its database.</li> <li>6. Requires that money received by the Office of Emergency Services from the federal Office on Violence Against Women be used before appropriating money from the General Fund for purposes of reimbursing any costs determined by the Commission on State Mandates to be mandated by the state to a local law enforcement agency by this statute.</li> </ol>
AB 90 Ch. 695, Stats. 2017	2015-130 <i>CalGang Criminal Intelligence System</i> (August 2016)	<p>Makes Justice responsible for administering and overseeing any shared gang database in which California law enforcement agencies participate, and provides that, commencing January 1, 2018, the CalGang Executive Board will no longer administer or oversee the CalGang database or the shared gang databases that participate in the CalGang database. The statute also requires the Justice to:</p> <ol style="list-style-type: none"> <li>1. Promulgate regulations governing the use, operation, and oversight of any shared gang database.</li> <li>2. Establish a technical advisory committee with specified members to advise on uses of shared gang databases.</li> <li>3. Develop and implement standardized periodic training for all users authorized to enter data in a shared gang database, as well as for all persons with access to the CalGang database.</li> <li>4. Promulgate regulations to provide for periodic audits by law enforcement agencies and department staff to ensure the accuracy, reliability, and proper use of any shared gang database, and to report the results of those audits to the public.</li> </ol> <p>Finally, this statute imposes a moratorium on the use of the CalGang database commencing January 1, 2018, until the Attorney General certifies that specified information has been purged from the CalGang database.</p>

BILL NUMBER (CHAPTERED OR VETOED)	REPORT (ABBREVIATED TITLE)	SUMMARY OF LEGISLATION
<b>Transportation</b>		
<b>SB 611</b> Ch. 485, Stats. 2017	2016-121 <i>Department of Motor Vehicles Disabled Person Parking Placard Program</i> (April 2017)	<p>In part:</p> <ol style="list-style-type: none"> <li>1. Requires an applicant for a special license plate, a distinguishing placard, or a temporary distinguishing placard to provide proof of his or her full legal name and date of birth at the time of application in a manner satisfactory to the Department of Motor Vehicles (DMV).</li> <li>2. Includes licensed podiatrists on the list of medical professionals authorized to provide disability certification.</li> <li>3. Requires DMV to send a renewal form, which would not require recertification of eligibility or proof of the applicant's true full name, to each placard holder every 6 years.</li> <li>4. Requires the DMV to compare its record of issued placards against the Social Security Administration's Death Master File.</li> <li>5. Prohibits the DMV from issuing more than four substitute placards to a placard holder in a two-year renewal period.</li> <li>6. Requires a placard holder who requires a substitute placard in excess of this limit to reapply for a new placard and submit a new certification of disability.</li> </ol>
<b>Utilities and Commerce</b>		
<b>AB 797</b> Ch. 473, Stats. 2017	2014-124 <i>California's Alternative Energy and Efficiency Initiatives</i> : (February 2015)	Requires the California Public Utilities Commission (CPUC) to perform an assessment of the California Solar Initiative Program through July 31, 2019, to be completed no later than December 31, 2019, to determine the cost-effectiveness of the program and the program's effectiveness in achieving program goals.
<b>SB 19</b> Ch. 421, Stats. 2017	2016-104 <i>California Public Utilities Commission Contracting Practices</i> (September 2016)	Provides that certain requirements that would otherwise apply to consultant or attorney services do not apply to contracts for legal services and requires that the CPUC notify the Attorney General when contracting for legal services by attorneys who are not employees of the CPUC.
<b>Veterans Affairs</b>		
<b>AB 961</b> VETOED	2013-115 <i>Disabled Veterans Business Enterprise Program</i> (February 2014)	Would have required the Department of Veterans Affairs' (Veterans Affairs) records of its promotional efforts regarding the Disabled Veterans Business Enterprise (DVBE) program to include specified information about the business attending or participating in those promotional efforts, and required the department to compare a list of businesses that participate in promotional efforts with a list of those businesses that become newly certified DVBEs, and those that become prime contractors or subcontractors with the state. Finally, this bill would have required an awarding department to maintain all records of the information provided by the prime contractor pursuant to those provisions for a minimum of three years and established appropriate review procedures for those records to ensure the accuracy and completeness of the award amounts and paid amounts reported.
<b>AB 1365</b> Ch. 509, Stats. 2017	2012-119 <i>Department of Veterans Affairs: Veterans Homes</i> (May 2013)	Requires Veterans Affairs to submit a legislative report and post in a prominent location on its web site a financial report that provides specified information about veterans homes.