

Report 2013-701

# Recommendations for the Legislature From Audits Issued During 2012 and 2013

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January 16, 2014

2013-701

Dear Governor and Legislative Leaders:

The California State Auditor's Office aims to provide oversight and to ensure the accountability of government operations. As such, my office conducts independent audits as mandated by the Legislature through statute or the budget process, or through requests approved by the Joint Legislative Audit Committee. While our recommendations are typically directed to the agencies we audit, we also make recommendations for the Legislature to consider in the interest of more efficient and effective government operations. This special report summarizes those recommendations we made during calendar years 2012 and 2013 for the Legislature to consider, or recommendations for the state agency to seek legislative changes.

In this special report, we include recommendations intended to enhance the safety of California's citizens. For example, to address public safety concerns about the possession of firearms by persons who are mentally ill, we recommend that the Legislature amend state law to specify that all mental health-related events that would prohibit an individual from possessing a firearm must be reported to the California Department of Justice within 24 hours regardless of the entity required to report. We also make recommendations intended to enhance the safety of students enrolled in California's public schools. Specifically, we recommend that the Legislature consider amending state law to ensure that it aligns with the key components related to school safety that the United States Department of Education has identified.

In some instances, we make recommendations intended to increase state revenue or correct deficiencies. For example, we found that although the state agencies we tested generally have adequate controls over accounts that exist outside of California's Centralized Treasury System, an agency may still bypass state rules, as well as its own policies. An example of this is the California Department of Forestry and Fire Protection, which had \$3.7 million in settlement payments for the cost of fire suppression and investigation deposited in an unauthorized outside account. In this case, we recommend that the Legislature consider requiring that all money received as a result of cost recovery be deposited in the state treasury.

The Appendix that begins on page 49 includes a listing of legislation chaptered or vetoed during the first year of the 2013-14 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, Legislative Affairs, at (916) 445-0255.

Respectfully submitted,



ELAINE M. HOWLE, CPA  
State Auditor

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## State Athletic Commission

### Improve Broadcast Revenue Collection and Oversight of the Neurological Account and Address Administrative Deficiencies

#### Recommendations

1. To ensure that it accurately collects revenue, the State Athletic Commission (commission) should seek legislation, with the assistance of the Department of Consumer Affairs (Consumer Affairs), that requires promoters to submit their broadcast contracts and authorizes the commission to impose penalties on those promoters who refuse to submit these contracts.

**Status:** Partially implemented.

2. To ensure that it uses the Neurological Examination Account (neurological account) as the Legislature intended, the commission needs to conduct a thorough analysis that identifies the average cost of neurological examinations and the number of athletes whom it licenses. If, after performing such an analysis, the commission determines that it cannot comply with the law as it is currently written, it needs to work with Consumer Affairs' legal counsel and the Legislature to determine a reasonable alternative use of the neurological account.

**Status:** Implemented. Senate Bill 309 (Chapter 370, Statutes of 2013) extends the sunset date for the commission to the end of 2015. Among other provisions, this bill also requires the commission to use no more than 30 percent of moneys from the neurological account to fund special neurological examinations and new diagnostic imaging and testing to be used in connection with the required examinations and limits the administrative costs associated with managing and distributing the account to no more than 20 percent of the prior year's contributions, and raises the maximum broadcasting fee collected by the commission from \$25,000 to \$35,000.

3. If the commission fails to implement an action plan it develops to prioritize and resolve its most significant deficiencies by the time frame specified, the Legislature should consider transferring the commission's responsibilities to Consumer Affairs.

**Status:** Not implemented.

#### Background

The commission is one of 40 regulatory boards, committees, and bureaus within Consumer Affairs, and has various responsibilities, including setting standards for amateur and professional boxing, kickboxing, and mixed martial arts, and issuing licenses to promoters, managers, referees, trainers, and athletes. However, its primary duty is to protect the health and safety of athletes by regulating approximately 200 combat events annually.

The commission's revenues are generally derived from taxes, assessments, and fees collected from the events it regulates. However, because the commission has inconsistently adhered to its regulations and processes, it cannot ensure that it has correctly calculated and collected ticket assessments and other sources of revenue. In several cases, however, we could not determine if the commission collected the correct amount of revenue because commission staff did not obtain or retain the critical information necessary.

For instance, the commission did not collect or retain copies of the broadcast contract for any of the eight events we reviewed where such contracts were applicable. Broadcast contracts are required to state the amount promoters receive for selling, leasing, or transferring the broadcasting and television rights to radio stations or television networks. State law requires the commission to collect 5 percent of the total value of any such broadcast contracts from promoters, up to a maximum of \$25,000. Given that these contracts could be for significant amounts, the existing maximum fee may fall short of reflecting 5 percent of current broadcast contracts. Legislation requiring promoters to submit broadcast contracts and imposing penalties on promoters who refuse to provide the contracts would allow the commission to determine whether the \$25,000 fee on broadcast contracts is adequate or needs to be increased.

The commission has also failed to adequately administer its neurological account, which the Legislature established in 1986 to pay for neurological examinations that might detect physical conditions that could place athletes at risk for serious or permanent injury. Although the fund balance in the neurological account reached \$712,000 as of June 30, 2012, the commission has not used the account to pay for examinations since at least 1998, stating that it could not do so because of the excessive cost of the examinations. Instead, it has used the neurological account only to pay for state operations, such as a portion of the salary and benefits of the staff person who is responsible for verifying the accuracy of the neurological assessment calculation. The commission is considering requesting legislation that would change its responsibilities related to paying for these examinations. However, until the Legislature makes such a change, the commission is failing to use the funds to fulfill the intent of the law.

Moreover, over the past 10 years, a number of audits and reviews have noted serious deficiencies in the commission's administration, yet the commission has consistently failed to address these issues. This calls into question whether the commission will promptly and adequately address the serious concerns we raise in our report. If the commission, with the assistance of Consumer Affairs, is able to develop and follow a plan to correct the issues we have noted, it may be able to demonstrate that it can operate effectively. However, if the commission is unable to make significant improvements within a specified time frame, we believe the Legislature should consider transferring the commission's responsibilities to Consumer Affairs.

## **Report**

*2012-117 State Athletic Commission: Its Ongoing Administrative Struggles Call Its Future Into Question* (March 2013)

# California Department of Education

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

### Recommendation

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

**Status:** Not implemented.

### Background

In 2002 the Legislature authorized the department to develop and implement CALPADS to comply with the federal No Child Left Behind Act of 2001 and to assess the long-term value of the State's educational investments and programs. The department designed CALPADS to gather student-level data from public schools statewide so that it could comply with state and federal reporting requirements and more accurately calculate graduation and dropout rates. CALPADS allows the department to track certain data, such as enrollment status, for individual students from the time they enter high school until they exit.

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

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

### Report

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

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# Los Angeles Unified School District

## Monitor Classified Employees After Separation From a School District

### Recommendation

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

**Status:** Not implemented. However, it should be noted that the following legislation addressing issues related to the audit was enacted during the 2013–14 Regular Legislative Session:

Assembly Bill 449 (Chapter 232, Statutes of 2013) requires a school district superintendent or charter school administrator to report any change in the employment status of credentialed employees to the commission not later than 30 days after the change in employment status, if the employment status change is the result of an allegation of misconduct or a pending allegation of misconduct. Failure to make the report is unprofessional conduct and may subject the superintendent or administrator to adverse action by the commission.

It should also be noted that the following legislation was introduced during the 2013–14 Regular Legislative Session:

Assembly Bill 375, if enacted, would have revised various procedures related to the dismissal or suspension of a permanent employee of a school district, including authorizing a notice of dismissal or suspension to be given at any time of year. The bill would have required in a dismissal or suspension hearing against a permanent employee for unprofessional conduct or unsatisfactory performance, if a hearing is requested by the employee, that the hearing be commenced within six months of the employee's request, and be completed by a closing of the record within seven months from the date of the employee's request. The bill was vetoed by the governor.

Senate Bill 160, if enacted, would require a school district or charter school to notify the State Department of Education when a classified employee is dismissed, suspended, or terminated from employment as a result of misconduct against a child. The bill would require the department, upon request by a school district or charter school, to provide that information only for the purposes of verifying previous employment of a classified employee. The bill would require that information to be kept confidential and would require the department to remove the information upon proof of acquittal or factual innocence. The bill was held in the Assembly Committee on Education.

## Background

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

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

## Report

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

# California Department of Education

## Clarify Migrant Education Program State Parent Council Open Meeting Requirements

### Recommendation

To help the state parent council meet the State's open meeting requirements, the Legislature should consider whether it needs to clarify its intent as to which open meeting law applies to the state parent council.

**Status:** Not implemented. However, it should be noted that the following legislation addressing issues related to the audit was introduced during the 2013–14 Regular Legislative Session:

Assembly Bill 275, if enacted, would require, in part, that all meetings of the statewide parent advisory council be held pursuant to the Bagley-Keene Open Meeting Act. This bill was held in the Assembly Committee on Appropriations.

### Background

The federally funded migrant education program (migrant program) provides supplemental education services to California's migrant children. Children can receive migrant program services if they or their parents or guardians are migrant workers in the agriculture or fishing industries and their families have moved in the last three years for the purpose of finding temporary or seasonal employment.

Federal law requires that each state operating a migrant program seek input from migrant parents regarding the content of the State's program. State law also requires the California Department of Education (Education) to take steps to ensure effective parent involvement, including the establishment of a state parent council comprised of members who are knowledgeable of the needs of migrant children. State law requires the council to meet a minimum of six times a year to provide input on issues relating to the operation of the migrant program.

In 2011 Education conducted a review of the state parent council's activities and found that the council frequently violated open meeting requirements by making changes to posted agendas, failing to follow the agenda during meetings, voting on items that did not appear on the agenda, and failing to make a record of its meetings. Our review of Education's Web site logs showed that for three meetings held during the audit period, each of the agendas was posted at least 72 hours in advance of the meeting. This practice complies with one of the State's open meeting laws—the Greene Act—which Education believes applies to the state parent council.

Our legal counsel has advised that while a strict reading of the law suggests that the Greene Act applies, it is unclear whether the Legislature intended that the Greene Act apply to this statewide body. Our legal counsel further advised that it is reasonable to conclude that the state open meeting law that applies to the state parent council is the Bagley-Keene Act,

which requires all meetings held by a state body to be open and public and that notice of the meeting, including an agenda, must be made available on the Internet 10 days in advance of the meeting.

**Report**

**2012-044** *California Department of Education: Despite Some Improvements, Oversight of the Migrant Education Program Remains Inadequate* (February 2013)

## School Safety and Nondiscrimination Laws

### Require Education to Report to the Legislature on Appeal Process Improvements and Align State Law With Key Components of Federal Bullying Policies

#### Recommendations

1. By spring 2014 the Legislature should require the California Department of Education (Education) to report to the Senate and Assembly Budget subcommittees on what actions it has taken to improve its processing of appeals so that the Legislature can consider redirecting existing resources through the annual budget process or taking other actions necessary to ensure that the review of appeals is prioritized.

**Status:** Not implemented.

2. The Legislature should consider amending state law to ensure that it aligns with the key components related to school safety that the United States Department of Education (U.S. DOE) has identified. Specifically, the Legislature should consider amending the Education Code to provide that protected characteristics need not be present for an act to be considered bullying, require a collaborative process for the development of anti-bullying policies, require local educational agencies (LEAs) to provide bullying prevention training for all school staff, and require LEAs to report all incidences of bullying annually and the responses taken. If the Legislature adds training requirements to the Education Code, it should consider modeling those requirements on the provisions in Massachusetts law.

**Status:** Not implemented.

**Note:** It should be noted that the following legislation addressing issues related to the audit was introduced during the 2013–14 Regular Legislative Session:

Senate Bill 231, if enacted, would create the California Bullying Prevention Clearinghouse to be administered by Education to address issues relating to bullying and peer abuse. This bill would also require the Superintendent of Public Instruction to establish a California Bullying Prevention Advisory Council to provide technical assistance to Education, school districts, and other appropriate entities on best practices, strategies, and other interventions that may assist in reducing the incidence of bullying and peer abuse. This bill was held in the Assembly Committee on Appropriations.

#### Background

School safety is a serious problem that has received widespread national attention. Specifically, bullying in schools has become widely viewed as an urgent social, health, and education concern that has moved to the forefront of public debate on school legislation and policy, according to the U.S. DOE.

Under various federal and state laws, public schools have an obligation to provide students equal educational opportunity by combating racism, sexism, and other forms of bias in schools. The California Safe Place to Learn Act (act)—established in 2008 and amended in 2012—reinforced these federal and state protections by requiring Education to assess whether LEAs have adopted policies in compliance with the law to address this act, among other requirements. In a 2011 report, U.S. DOE identified key components of anti-bullying legislation that states can implement. We found that California laws differ from the U.S. DOE examples in several instances; therefore, the State could benefit from including these missing components in law.

We also found that, although most LEAs have implemented policies and programs to comply with recent changes to state law regarding discrimination, harassment, intimidation, and bullying, most do not evaluate the effectiveness of their school safety practices. Additionally, although Education has access to statewide data that it could use to evaluate the effectiveness of LEAs' efforts to prevent and respond to these acts, it does not evaluate those data, citing a lack of funding and staffing. Moreover, our review found that Education needs to better fulfill its leadership responsibilities under California law in the area of school safety.

### **Report**

*2012-108 School Safety and Nondiscrimination Laws: Most Local Educational Agencies Do Not Evaluate the Effectiveness of Their Programs, and the State Should Exercise Stronger Leadership* (August 2013)

## Office of the Secretary of State

### Modify Drivers License Applications to Conform With Motor Voter Requirements and Ensure That the Office of the Secretary of State Has Statutory Authority to Designate Voter Registration Agencies

#### Recommendation

To ensure that the Office of the Secretary of State has the authority to designate voter registration agencies under the National Voter Registration Act of 1993 (NVRA), the Legislature should expressly define who may make such designations.

**Status:** Not implemented.

#### Background

The NVRA is commonly referred to as the “Motor Voter” law. A principal component of the NVRA is a provision that voters be able to register to vote at local California Department of Motor Vehicles (DMV) offices. It also requires the State to designate as voter registration agencies all public agencies that provide public assistance, as well as all agencies that provide state-funded programs that primarily assist persons with disabilities. States must also designate additional voter registration entities but have discretion as to which entities to designate. Examples of voter registration agencies include county welfare offices, which accept applications and administer benefits for Medi-Cal; Temporary Assistance for Needy Families; and Women, Infants and Children programs.

Our review of the State’s implementation of the NVRA found that a key component of this law is the requirement that an application submitted for a driver’s license simultaneously serve as an application to register to vote for an eligible citizen. However, our visits to some DMV offices in Sacramento found that the driver’s license application does not act as a simultaneous application for voter registration. Instead, applicants for a driver’s license complete a driver’s license application form and receive a separate voter registration card.

Additionally, our audit found that although the State may have met the minimum requirements for designating voter registration agencies under the NVRA, it should designate more agencies. For example, as an unemployment compensation office, the Employment Development Department plays an important service role and could serve as a voter registration agency. Also, the State could designate other state departments and agencies as well as county- and city-based entities that have significant interaction with the public. These additional designations could, in our view, further increase the rates of voter registration in California.

#### Report

*2012-112 Office of the Secretary of State: It Must Do More to Ensure Funds Provided Under the Federal Help America Vote Act Are Spent Effectively* (August 2013)

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## Office of Oil Spill Prevention and Response

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

#### Recommendation

To eliminate confusion about the authority of the Office of Spill Prevention and Response (spill office) and its relationship with the Department of Fish and Game<sup>1</sup> (Fish and Game), the Legislature should consider amending state law to clarify its intent regarding the administrator's authority.

**Status:** Not implemented.

#### Background

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

In an August 2008 audit report, we concluded that Fish and Game's restructuring of certain spill office positions appeared to have caused friction between the spill office and Fish and Game management. Concerns regarding the spill office's relationship with Fish and Game persist. In its 2009–2010 Biennial Report to the governor and the Legislature, the committee stated that the programmatic, fiscal, and administrative relationship between the spill office and Fish and Game continues to be of concern. Specifically, the committee believes that Fish and Game has interpreted certain changes made to state law in 2002 in such a way as to affect the legal authority of the administrator to effectively perform the statutory responsibilities. This report cited a provision of state law that has resulted in spill office employees reporting to non-spill office supervisors and described decisions made by Fish and Game's law enforcement division to remove or replace key staff during the response to the

<sup>1</sup> Effective January 1, 2013, Chapter 559, Statutes of 2012, changed the name from "Department of Fish and Game" to "Department of Fish and Wildlife."

October 2009 Dubai Star oil spill in the San Francisco Bay without the advice or consent of the administrator. The committee believes the administrator's lack of a direct line of authority over spill office staff is very troubling and it is concerned that the requirement to report to non-spill office supervisors will usurp the authority of the administrator and undermine the California program.

### **Report**

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

## Mutual Aid System

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

#### Recommendation

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

**Status:** Not implemented.

#### Background

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

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

Despite the fact that Cal EMA provides local agencies with instructions for calculating average actual hourly rates for reimbursement, it does not take steps to ensure that the figures the agencies submit are accurate. As a result, many agencies may have submitted inaccurate

average actual hourly rates used to determine their reimbursements. The California State Auditor found that these inaccuracies may have resulted in some agencies overbilling for personnel costs by nearly \$674,000, while other agencies were underbilling by nearly \$67,000. Cal EMA stated that, although it has contractual authority under the CFAA to conduct an audit, it does not have express authority under state law to do so.

**Report**

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

# Accounts Outside the State's Centralized Treasury System

## Expand Information in Controller's Reports on Outside Accounts and Specify Appropriate Use of Cost Recovery Revenues

### Recommendations

1. For the State to better monitor outside accounts, the Legislature should consider requiring the California State Controller (state controller) to expand its reporting on bank accounts outside the Centralized Treasury System (treasury system) to include information on accounts opened during the last fiscal year. Reported details should include the authority, name, and balance of the new outside accounts.

**Status:** Not implemented.

2. To ensure that state agencies do not misdirect cost recovery revenues in the future, the Legislature should specify that these revenues include any money received as a result of cost recovery efforts, and should require that these revenues be deposited in the state treasury.

**Status:** Not implemented.

**Note:** It should be noted that the following legislation addressing issues related to the audit was introduced during the 2013–14 Regular Legislative Session:

Assembly Bill 661, if enacted, would impose additional requirements related to reports prepared by state agencies concerning the adequacy of their internal accounting systems, administrative control, and monitoring practices. For example, this bill would require agency heads to sign, under penalty of perjury, reports required by the Financial Integrity and State Manager's Accountability Act of 1983, and would provide that the head of the agency would be suspended without pay if reports were not submitted within 30 days of their due dates. This bill was held on suspense in the Assembly Committee on Appropriations.

### Background

Money in the possession or control of the State is held either in accounts in banks that have an agreement with the Office of the State Treasurer (state treasurer) to participate in the treasury system or in bank accounts outside the treasury system (outside accounts). The California Department of Finance (Finance), the state controller, and the state treasurer make up the organizations with statewide oversight responsibilities affecting money in the treasury system and contribute to safeguarding the State's assets by performing a variety of activities, including overseeing revenue and disbursement cycles for funds in the treasury system.

The state controller's responsibilities include accounting for state funds, ensuring the accuracy and legitimacy of disbursements from the treasury system, and reporting on the State's financial condition. California law requires the state controller to submit a report

to the governor, called the Budgetary/Legal Basis Annual Report, which contains a statement of the funds of the State, state revenues, and public expenditures of the preceding fiscal year. This report also includes a schedule listing those accounts held outside the treasury system.

Funds in outside accounts generally serve valid purposes, such as safeguarding money held in trust and most of the money in outside accounts is held by agencies that have express statutory authority or are authorized by Finance to do so. Additionally, statutory authority allows state agencies to seek approval from Finance to open outside accounts that have benefits and efficiencies not available through the treasury system, such as the ability to process credit card receipts.

Fortunately, state agencies have generally complied with state requirements for establishing outside accounts. However, although the state agencies we tested during our audit generally have adequate controls over outside accounts, an agency may still bypass state rules as well as its own policies. For instance, the California Department of Forestry and Fire Protection (Cal Fire) had \$3.7 million in settlement payments for the cost of fire suppression and investigation (cost recovery revenues) deposited into an outside account, the Wildland Fire and Investigation Training and Equipment Fund (Wildland Fire Fund)—that was neither authorized by statute nor approved by Finance. Further, it did not subject the money in this outside account to its own internal controls, nor did it track or monitor the account's revenues adequately.

California law allows public agencies, such as Cal Fire, to recover the costs they incur, such as costs related to suppression of a fire resulting from negligence or a violation of law. In May 2005 the deputy chief of Cal Fire's law enforcement unit executed a memorandum of agreement with the California District Attorneys Association requiring the association to establish and manage the Wildland Fire Fund, and receive administrative fees amounting to 3 percent of all cost recovery revenues deposited into the fund and 15 percent of all disbursements made from the fund. In executing this agreement, Cal Fire's law enforcement unit circumvented accounting and budgeting processes for establishing accounts and obtaining program funding. As a result, expenditures of cost recovery revenues that Cal Fire directed into the Wildland Fire Fund were not subject to essential state fiscal controls and legislative oversight.

## **Report**

*2013-107 Accounts Outside the State's Centralized Treasury System: Processes Exist to Safeguard Money, but Controls for These Accounts Need Strengthening* (October 2013)

## Nonprofit Hospitals

### Base Nonprofit Hospitals' Tax-Exempt Status on the Amounts of Community Benefits Derived, Define a Standard Methodology for Calculating Those Benefits, and Ensure All Hospitals Submit Community Benefit Plans

#### Recommendations

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

**Status:** Not implemented.

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

**Status:** Not implemented.

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

**Status:** Not implemented.

**Note:** It should be noted that the following legislation addressing issues related to the audit was introduced during the 2013–14 Regular Legislative Session:

Assembly Bill 975, if enacted, would define the terms “Community Benefits” and “Charity Care,” require private nonprofit hospitals and nonprofit multispecialty clinics to develop a community benefits statement, community needs assessment and community benefits plan, and require Health Planning to develop and adopt regulations to prescribe a standardized format for community benefits plans. This bill was ordered to the Assembly Inactive File.

#### Background

State law provides that entities organized and operated for nonprofit purposes can be exempt from paying the State's corporation income taxes (corporation taxes) and property taxes. The Legislature has declared that in exchange for favorable tax treatment by the government, nonprofit hospitals assume a social obligation to provide community benefits in the public interest. State law defines community benefits to be a hospital's activities that are intended to address community needs and priorities, primarily through disease prevention and improvement of health status. These activities can include health care services rendered to vulnerable populations for which hospitals do not receive full compensation

(costs of uncompensated care), such as charity care, which is the portion of a patient's bill that is uncollectible due to the inability to pay. Community benefits can also include the unreimbursed cost of other types of services, such as child care, adult day care, medical research and education, and nursing and other professional training. State law requires certain tax-exempt hospitals to prepare annual community benefit plans that describe the activities that the hospitals have undertaken to address community needs and that report the amount of community benefits that the hospitals provided during the year. Health Planning is responsible for collecting information that hospitals are required to provide and making that information available to the public.

Though the Legislature expects nonprofit hospitals to provide community benefits as free or reduced-cost medical care to the poor in exchange for the State's favorable tax treatment, state law clearly states that state agencies cannot use a community benefit plan to justify the tax-exempt status of a nonprofit hospital. The Internal Revenue Service requires nonprofit hospitals to provide additional information on their tax returns regarding the activities, policies, and practices of each hospital operated during the tax year. Nevertheless, federal law, like state law, does not require nonprofit hospitals to deliver specific amounts of community benefits for the hospitals to qualify for tax exemptions.

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

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

## Report

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

## Departments of Public Health and Social Services

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

#### Recommendation

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

**Status:** Not implemented.

#### Background

To address the need for the prevention of childhood injuries and abuse, the Legislature created two state funds: the Child Health and Safety Fund (health and safety fund) to support the State's childcare regulatory functions, child abuse prevention programs, and child injury prevention programs, and the State Children's Trust Fund to carry out child abuse and neglect prevention and intervention programs statewide.

While the Department of Social Services (Social Services) is the designated administrator of the health and safety fund, Public Health is responsible for managing a part of the fund known as the Kids' Plates Program, an unintentional childhood injury prevention program. The Kids' Plates Program receives its revenue in part from the sale of *Have a Heart, Be a Star, Help Our Kids* specialized license plates. Public Health is responsible for using the program's revenue to award grants to community-based organizations throughout the State for projects and programs that prevent childhood injuries.

From 1998 until 2010, Public Health contracted with the San Diego State University Research Foundation (research foundation) to administer the Kids' Plates Program, when it was determined that the contract was in violation of state law. Furthermore, Public Health paid the research foundation for its administration expenses using local assistance funds even though the Legislature intended the funds to be used only for costs directly associated with preventing unintentional childhood injury. Since it stopped contracting with the research foundation, Public Health has struggled to effectively administer the Kids' Plates Program, in part because the Legislature did not award it funding for administrative costs until fiscal year 2012–13, roughly two years after the expiration of the contract with the research foundation.

The 2012–13 Budget Act states that Public Health may use no more than 5 percent of the funds appropriated to it from the health and safety fund to administer the Kids' Plates Program. As a result, for fiscal year 2012–13, Public Health received a \$25,000 appropriation to administer the program. Additionally, the Legislature directed Public Health to use local assistance funding to create a regional grant program. Public Health has stated that it is

unsure whether the \$25,000 appropriation will be sufficient to cover the costs of administering the regional grant program and monitoring awards. Public Health plans to assess its process and the staff costs for fiscal year 2012–13 to identify its actual costs.

**Report**

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

# California State University

## Clarify Statutory Definition of Supplanting and Require Each CSU Campus to Measure Whether Supplanting Is Occurring

### Recommendation

To provide sufficient direction to the California State University (CSU) Office of the Chancellor (Chancellor's Office) and CSU campuses regarding the supplanting of state-supported courses or programs by self-supported courses or programs, the Legislature should enact clarifying statutory language during the 2013–14 Regular Legislative Session that includes a definition of the term *supplant* and a description of how CSU should measure whether supplanting is occurring. The clarifying language should also require each CSU campus to take all reasonable steps to ensure that when it makes course or program offering decisions, those decisions do not force students who are attempting to earn a degree to take self-supported courses that are required as a condition of degree completion.

**Status:** Not implemented.

### Background

The CSU is a system of 23 campuses located throughout California. The State appropriates money in the annual budget from the State's General Fund to the CSU to provide higher education. CSU in turn allocates that money to the campuses to provide state-supported courses and programs, which make up the majority of courses and programs CSU offers. In addition, CSU campuses offer extended education courses and programs that must be self-supported; students or third parties, such as employers, typically pay for these courses and programs. Although CSU does not have an explicit definition of *extended education*, according to a 2002 executive order issued by the Chancellor's Office, extended education programs include all self-supported instructional programs designed and used to provide increased access to the educational resources of the system and to otherwise facilitate use of those resources.

The California Education Code and executive orders issued by the chancellor prohibit CSU campuses from "supplanting" state-supported courses offered during the regular academic year with self-supported courses. One apparent purpose of this prohibition is to ensure that CSU campuses do not reclassify state-supported courses as self-supported courses to increase the fees they charge to students. However, state law and Chancellor's Office policy do not define the word *supplant*, and the term can be interpreted in more than one way. Until the Legislature and CSU define *supplanting* and direct all CSU campuses to establish a method for tracking and evaluating the movement between state-supported and self-supported courses and course sections, any instances of supplanting will remain unclear.

### Report

**2012-113** *California State University's Extended Education: It Is Unclear Whether Supplanting Occurred, and Campuses Did Not Always Document Their Adherence to Laws, Policies, and Procedures* (December 2013)

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## Workforce Investment Board

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

#### Recommendation

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

**Status:** Not implemented. However, it should be noted that the following legislation addressing issues related to the audit was enacted during the 2013–14 Regular Legislative Session:

Senate Bill 118 (Chapter 562, Statutes of 2013) requires, among other provisions, the state board to incorporate specific principles into the state's strategic plan that align the education and workforce investment systems of the State to the needs of the 21<sup>st</sup> century economy and promotes a well-educated and highly skilled workforce to meet the future workforce needs.

#### Background

The U.S. Congress enacted the federal Workforce Investment Act of 1998 (WIA) to, among other things, consolidate, coordinate, and improve employment, training, literacy, and vocational rehabilitation programs in the United States. WIA requires each state's governor to establish a state workforce investment board, to submit a state workforce investment plan, to designate local workforce investment areas within the State, to oversee the creation of local workforce investment boards (local boards), and once every two years, to certify one local board for each local area in the State. In California, the state board and the Employment Development Department within the Labor and Workforce Development Agency play key roles in implementing WIA.

State law enacted in 2006 requires the state board, in collaboration with state and local partners, to develop a strategic workforce plan to serve as a framework for the development of public policy, fiscal investment, and operation of all state labor exchange, workforce education, and training programs in order to address California's economic, demographic, and workforce needs. Although state law does not set an explicit deadline for completing the strategic workforce plan, more than five years later, a plan still does not exist. Without this plan, the State cannot ensure that its workforce investment system provides lifelong learning for all Californians, promotes self-sufficiency, links education and training to economic development, and prepares California to compete successfully in the global economy.

#### Report

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

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## Employment Development Department

### Authorize the Employment Development Department to Share Database Information With Law Enforcement

#### Recommendation

To help protect the State's citizens from identity theft, the Legislature should expressly authorize the Employment Development Department (department), on its own initiative, to share information from the Base Wage File with appropriate law enforcement officials when evidence exists of the potential misuse of Social Security numbers. If the department receives such legal authority, it should, at least annually, review the Base Wage File for associations of multiple names with a single Social Security number. The department should also establish a reasonable threshold for the number of associated names that will trigger further scrutiny from the department or referral to law enforcement.

**Status:** Not implemented.

#### Background

The department's Workforce Services Branch assists Californians, including veterans, with finding employment. Funding for this work comes from the U. S. Department of Labor (Labor) via the Workforce Investment Act of 1998 (WIA) and the Wagner-Peyser Act of 1933 (Wagner-Peyser). Additionally, the Jobs for Veterans State Grant (veterans grant) provides funding for specialized staff to assist veterans in finding work and to conduct outreach to employers on behalf of veterans. Although all veterans receive priority for workforce services offered through the WIA and Wagner-Peyser, the veterans grant focuses on providing services to disabled and economically disadvantaged veterans.

Our audit found that the poor quality of the data California uses to report information to Labor on participants in its workforce development system, and the methodology the department uses to collate those data, call into question the validity of California's performance statistics. California provides information to Labor from its Base Wage File—which tracks total wages paid to individuals in California—which Labor uses to assess the workforce development system. However, we noted more than 1,400 instances in the Base Wage File where a single Social Security number was associated with 10 or more different names in a single quarter, which could be a possible indicator of identity theft.

The department asserts that state law prohibits it from sharing this information with other entities, such as law enforcement, that might investigate such cases unless the department receives a request from the affected entity. However, federal regulations state that disclosure of this information to a public official for use in the performance of his or her duties is permissible under certain circumstances. The department, as a state government entity, has a responsibility to the State's citizens to provide information to law enforcement when the department reasonably suspects that individuals are reporting or otherwise using Social Security numbers inappropriately. Unless it periodically reviews data in the Base Wage File and reports suspicious activity to the appropriate authorities, the department is missing an opportunity to thwart potential identity theft.

**Report**

*2013-102 Employment Development Department: It Needs to Address Data Issues to Better Evaluate and Improve the Performance of Its Employment Programs for Veterans*  
(October 2013)

## Conduit Bond Issuers

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

#### Recommendations

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

**Status:** Not implemented.

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

**Status:** Not implemented.

#### Background

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

The financial arrangements between the joint powers authorities and their consulting firms raises a concern under Section 1090, a state law that prohibits officers and employees of public agencies from being financially interested in any contract they enter into in their official capacity. Because a revenue bond is generally considered to be a contract for purposes of

Section 1090, we believe that the consultants' role in the bond-approval process constitutes participation in the "making of a contract" for the purposes of Section 1090. As to whether the consultants are financially interested in bond transactions, each time they recommend bond transactions that the joint powers authority approves, their private employer becomes eligible to receive a percentage of the fees associated with the face value of the bonds in accordance with their contract with the joint powers authority. Consequently, this compensation structure could be found as serving as an incentive to recommend bonds for approval, which is the kind of conflict Section 1090 is designed to prevent. However, no reported judicial decision squarely addresses this issue. While some of the prior cases that have analyzed whether a Section 1090 violation existed have broadly applied this prohibition, an appellate court decision appears to cast some doubt on whether this compensation model would be found to violate Section 1090.

Effective January 1, 2010, SB 99 created requirements designed to ensure that all conduit bond issuers make their activities transparent and accountable to the public. This requires that issuers post key information on their Web sites including full staff reports, board meeting minutes, and financial audits. However, the law does not specify when issuers must post certain information on their Web sites, nor does it state how long issuers must keep that information posted. The Health Financing Authority did not post the list of applications its board approved for conduit financing until approximately nine months after fiscal year 2010–11 ended. Further, California Communities may not have met several SB 99 requirements in fiscal years 2009–10 and 2010–11 because it only maintains board meeting agendas and minutes on its Web site for six months. Moreover, its Web site only includes its most recent financial audit.

### **Report**

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

## Probationers' Domestic Violence Payments

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

#### Recommendations

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

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

**Status:** Implemented. Assembly Bill 139 (Chapter 144, Statutes of 2013) clarifies that the \$500 domestic violence probationer's payment is a fee, not a fine, and specifies how moneys from the fee shall be disbursed.

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

**Status:** Not implemented.

#### Background

To address a growing need to develop innovative strategies and services to reduce the trauma of domestic violence, in 1994 the Legislature established a funding stream derived from payments made by individuals convicted of crimes of domestic violence and sentenced to probation (probationers). Although state law refers to the domestic violence payment as a fee in one instance, the courts reviewed during the audit differ about whether to interpret the payment as a fine or a fee. For example, the executive officer in one court pointed to a court case that he believed indicated the payment was punitive for certain purposes, which

is consistent with an interpretation that the payment is a fine. In the world of criminal justice, a fine is designed to be punitive, and in many cases the amount imposed by the court corresponds to the seriousness of the offense. In contrast, a fee is a payment that a defendant may be ordered to pay upon conviction as a condition of probation, and courts do not consider a fee punitive or punishing.

Varying interpretations of state law also exist as to how collections entities should allocate installment payments. Although state law allows defendants to pay court-ordered debt in installments according to certain payment categories,<sup>2</sup> the law does not explicitly state whether the domestic violence payment falls in the category of fines and penalty assessments or whether collections entities are to allocate payments proportionally within the category of other reimbursable costs. In addition, although state law explicitly requires prorating installment payments only for the category of fines and penalty assessments, most of the collections entities reviewed during the audit indicated they apply payments proportionally regardless of the payment category. By applying payments proportionally, collections entities ensure that recipients of the different fund categories receive an equitable share of any partial payments. In contrast, by paying off and closing each individual fine or fee before moving to the next fine or fee on the list, entities do not ensure the same equitable application of the payments. For example, if the first item in the other reimbursable costs category was a citation processing fee and the second item was the domestic violence payment, a court using this method would allocate all revenue to the citation processing fee and only allocate revenue to the domestic violence payment once the citation processing fee had been fully satisfied.

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

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

<sup>2</sup> State law requires counties to apply domestic violence payments to the following categories appearing in order of priority: victim restitution, state surcharge, fines and penalty assessments, and other reimbursable costs.

Finally, we noted differences in the methods that the collections entities used for calculating the distribution percentages. One collections entity bases its percentages on the statutes in effect on the dates the probationer receives his or her sentence. Conversely, the collections entities in the other three counties base their distributions on the date the probationer actually makes a payment. Whether collections entities use the statutes in effect at the date of sentencing or the date a payment is made matters when the distribution percentages change in state law, as they have in the past. Thus, the Legislature may want to clarify its intent.

**Report**

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

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## Salton Sea Restoration Fund

### Ensure That the Salton Sea Restoration Fund Feasibility Study Will Provide Meaningful and Timely Information

#### Recommendations

1. To ensure that the feasibility study it recently funded will provide it with meaningful and timely information, the Legislature should enact legislation that does the following:
  - Contains specific guidance to the California Natural Resources Agency (Resources Agency) regarding the Legislature's priorities for restoring the Salton Sea so that the Resources Agency can address those priorities when developing the feasibility study.
  - Provides a deadline for the completion of the feasibility study and submission of a restoration plan.
  - Requires the feasibility study to analyze and include the extent to which restoration activities could lessen the State's future financial obligations for mitigation under the Quantification Settlement Agreement (QSA).
  - Once the Legislature has approved a restoration plan, it should hold a budget hearing to consider the appropriate funding mechanism.

**Status:** Not implemented.

2. The Legislature should designate the Resources Agency as the implementing entity responsible for coordinating the efforts of all entities involved in the restoration and mitigation activities for the Salton Sea.

**Status:** Not implemented.

#### Background

The Salton Sea, located in Riverside and Imperial counties in Southern California, is the State's largest inland lake. The Salton Sea was formed in 1905 when Colorado River floodwater breached an irrigation canal being constructed in the Imperial Valley; it has since been primarily fed by agricultural drain water. Beginning in 2003 a series of agreements known collectively as the QSA, between the State, local water agencies, and other entities have required, among other things, a water transfer that has reduced the amount of water that flows into the Salton Sea.

Legislation enacted in 2003 to facilitate the implementation of the QSA requires the secretary of the Resources Agency, in consultation with other entities, to undertake an ecosystem restoration study to determine a preferred alternative for restoring the Salton Sea ecosystem and permanently protecting the wildlife dependent on it. This legislation details the financial responsibility the State assumes with respect to mitigation, and requires the formation of

a joint powers authority consisting of the California Department of Fish and Wildlife (Fish and Wildlife), the Coachella Valley Water District (Coachella), Imperial Irrigation District (Imperial), and the San Diego County Water Authority (San Diego), to implement and allocate mitigation responsibilities between local water agencies and the State.

The QSA and related implementing legislation also require Imperial, Coachella, and San Diego to contribute a total of \$30 million (in 2003 dollars) to the State for the restoration of the Salton Sea. The QSA and related implementing legislation refer to these contributions as the Salton Sea Restoration Limit. Restoration differs from mitigation in that it refers to actions intended to bring back something that previously existed, such as bird habitat, rather than actions intended to reduce or rectify a negative effect.

Although the QSA and its implementing legislation establish the Salton Sea Restoration Limit, neither imposes any specific requirements on the State to restore the Salton Sea. However, the Legislature's 2003 legislative package established the State's broad goals for restoration. To achieve these objectives, the legislation enacted the Salton Sea Restoration Act, created the Salton Sea Restoration Fund (Restoration Fund), and established several funding sources.

In fiscal year 2013–14, the Legislature appropriated \$2 million from the Restoration Fund for the Resources Agency to use in completing a feasibility study with the assistance of the Salton Sea Authority. The fiscal year 2013–14 Enacted Budget Summary states that under the direction of the Resources Agency, the authority will collaborate with state, federal, and local stakeholders to, among other things, develop feasible alternatives for inclusion in a comprehensive plan and options to achieve restoration goals. In addition to the 2013–14 budget appropriation, recently enacted legislation specifies certain aspects of the feasibility study. However, we are concerned that this legislation does not provide adequate, specific direction to the Resources Agency and the authority to ensure that they complete the study in a timely manner and that the study's content meets the needs of the Legislature.

## **Report**

**2013-101** *Salton Sea Restoration Fund: The State Has Not Fully Funded a Restoration Plan and the State's Future Mitigation Costs Are Uncertain* (November 2013)

## Juvenile Justice Realignment

### Specify the Intended Goals of Juvenile Justice Realignment, Amend the Block Grant Funding Formula, and Require Performance Outcome and Expenditure Reporting

#### Recommendations

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

**Status:** Not implemented.

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

**Status:** Not implemented.

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

**Status:** Not implemented.

#### Background

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

State law does not provide clear goals for realignment, nor does it require the board to define or assess the outcomes of realignment. Rather, the law asserts that local juvenile justice programs are better suited to provide rehabilitative services than state-operated facilities. The Legislature noted that a projected impact of the law would be to decrease the number of juvenile offenders housed in Juvenile Justice. However, these goals are both vague and nonspecific. Without clear goals, measuring whether realignment has been successful is challenging. The board has not developed goals or a definition of success because state law does not require it to do so. However, as the only state-administering body referenced in the law that realigned juvenile offenders, the board is best positioned to propose the goals of realignment and the elements of success in meeting those goals, in the absence of legal or other authoritative criteria. Without clear goals and specific ways to consistently measure those goals, determining the success or failure of realignment with certainty is not possible.

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

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

### **Report**

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

## Armed Persons With Mental Illness

### Seek Legislation Regarding Appropriateness of Firearm Records Review Time Frame and Specify That All Mental Health-Related Prohibiting Events Be Reported Within 24 Hours

#### Recommendations

1. To ensure that its implementation of reviews of armed prohibited persons is consistent with state law, the Department of Justice (Justice) should seek legislative change to confirm whether its practice of reviewing firearm records only back to 1996 is appropriate.

**Status:** Not implemented.

2. The Legislature should amend state law to specify that all mental health-related prohibiting events must be reported to Justice within 24 hours regardless of the entity required to report.

**Status:** Not implemented.

**Note:** It should be noted that the following bills addressing issues related to the audit were enacted during the 2013–14 Regular Legislative Session:

Assembly Bill 500 (Chapter 737, Statutes of 2013) establishes safe firearms storage requirements when persons prohibited from owning or possessing a firearm reside in a household where a firearm is present, creates procedures permitting Justice to instruct dealers to delay release of firearms up to no more than 30 additional days when Justice is unable to determine the purchaser's eligibility to possess a firearm within the 10-day waiting period, and requires Justice to be notified that firearms are in fact delivered after the purchaser takes possession of a gun.

Assembly Bill 539 (Chapter 739, Statutes of 2013) allows a person who is temporarily prohibited from owning or possessing a firearm to transfer firearms in his or her possession or ownership to a licensed firearms dealer for storage during a specified period of prohibition, and requires the dealer to notify Justice of the date the dealer takes possession of the firearm.

Assembly Bill 1131 (Chapter 747, Statutes of 2013), among other provisions, requires courts to electronically report to Justice as soon as possible but not later than two court days after the prohibiting determination and requires mental health facilities to report to Justice within 24 hours of a prohibiting event.

Senate Bill 127 (Chapter 753, Statutes of 2013) requires a licensed psychotherapist to report to a local law enforcement agency within 24 hours the identity of a person who has communicated to that therapist a serious threat of physical violence against a reasonably identifiable victim or victims, and requires local law enforcement agencies to notify Justice electronically and within 24 hours of receiving that report.

Senate Bill 140 (Chapter 2, Statutes of 2013) appropriates \$24 million to Justice to address the backlog in the APPS database and requires Justice to report to the Joint Legislative Budget Committee, no later than March 1, 2015, and March 1 each year thereafter, on specific information regarding the backlog and APPS database.

Senate Bill 363 (Chapter 758, Statutes of 2013), among other provisions, expands the crime of “criminal storage” to include any person who keeps any loaded firearms within any premises and knows or reasonably should know that a person who is prohibited from possessing a firearm is likely to gain access to the firearm, and that prohibited person does in fact gain access to the firearm and kills or causes great bodily injury to someone.

### **Background**

Justice manages California’s effort to identify firearm owners in the State who are prohibited from owning or possessing a firearm because of a mental health-related event in their life. Justice refers to these individuals as armed prohibited persons. State law, enacted in 2001 and subject to appropriation of funds, mandated Justice to create a database to match information related to prohibited persons to its records of firearm owners to determine whether these individuals are prohibited from owning their firearms. This database, commonly known as the Armed Prohibited Persons System (APPS database), was implemented in November 2006 to allow Justice to cross-reference all persons in California who are firearm owners and who are unlawfully in possession of a firearm because of a qualifying event in their life that prohibits them from owning a firearm.

In our review we noted a limitation in what the APPS database is identifying—one that does not appear to be fully consistent with state law. Justice is generally only reviewing firearm records from 1996 through the present, although the state law that establishes the APPS database requires Justice to identify armed prohibited persons in its Consolidated Firearms Information System (CFIS) going back to January 1991. According to Justice, because CFIS was not implemented until 1996, CFIS does not contain firearm records going back to 1991. However, Justice does have firearm records that pre-date 1996, but it considers these records less reliable for the purpose of identifying prohibited persons and thus for conducting prohibition reviews.

Additionally, the audit found that the reports the courts made regarding their required mental health determinations were not always submitted to Justice in a timely manner. At the time we issued our report, state law required courts to immediately report certain mental health determinations to Justice. However, the law does not define *immediately*. Consequently, courts we visited had differing interpretations of what the law meant by that. Effective January 1, 2014, state law now requires the courts to report to Justice as soon as possible but not later than two court days after the prohibiting determination. However, the new requirement for mental health facilities to report to Justice will be a shorter period of time: within 24 hours of a prohibiting event. In effect, this change to the law will place less urgency on prohibition reports from courts than on those from mental health facilities.

### **Report**

*2013-103 Armed Persons With Mental Illness: Insufficient Outreach From the Department of Justice and Poor Reporting From Superior Courts Limit the Identification of Armed Persons With Mental Illness* (October 2013)

## High-Speed Rail Authority

### Establish an Independent Ridership Review Group

#### Recommendation

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

**Status:** Not implemented. However, it should be noted that the following legislation addressing issues related to the audit was introduced during the 2013–14 Regular Legislative Session:

Assembly Bill 463, if enacted, would require the Authority and its contractors and subcontractors to submit copies of all contracts, contract amendments, and contract change orders of \$25,000 or more to the Legislature. This bill was held in the Assembly Committee on Transportation at the request of the author and is currently a two-year bill.

#### Background

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

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

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

The program's success relies on the accuracy of the Authority's ridership model, which is fundamental to the Authority's revenue projections and thus to private investors' interest in the program. The Authority used its ridership model to estimate the program's expected operating and maintenance costs, revenues, and net operating profits as well as to project the number of jobs the program will create and the overall economic benefits that will result. However, the independent nature of the ridership review group's assessment of these projections may be questionable since the group's members were handpicked by the Authority's chief executive officer. Additionally, the Authority's process for overseeing the development of the ridership model lacked transparency, which may raise investor concern about the model's credibility.

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

### **Report**

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

## Office of Traffic Safety

### Verification of Law Enforcement's Compliance With Sobriety Checkpoint Guidelines

#### Recommendation

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

**Status:** Not implemented.

#### Background

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

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

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

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

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

**Report**

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

# California Department of Transportation: State Route 710 Properties

## Effective Management of SR 710 Properties

### Recommendations

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

**Status:** Not implemented.

2. To ensure that the State properly manages its resources, the Legislature should consider amending the state law known as the Roberti Bill to allow Caltrans to sell SR 710 properties that have a high market value at fair market prices.

**Status:** Implemented. Senate Bill 416 (Chapter 468, Statutes of 2013) enacts changes to the Roberti Bill to authorize the sale of state-owned surplus residential properties to income-qualified buyers in "as is" condition at the buyer's request. The statute also creates the SR 710 Rehabilitation Account into which Caltrans must deposit proceeds from Roberti Bill sales of properties, continuously appropriates funds in the SR 710 Rehabilitation Account to make required repairs to homes being purchased by income-qualified buyers, and limits the total funds that can be maintained in the account to \$500,000.

### Background

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

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

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

### **Report**

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

## Metropolitan Transportation Commission

### Redefine Uses of Toll Revenues and Establish Greater Separation Between the Metropolitan Transportation Commission and the Bay Area Toll Authority

#### Recommendations

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

**Status:** Implemented. Senate Bill 613 (Chapter 603, Statutes of 2013) prohibits the toll authority from purchasing or otherwise acquiring office space and office facilities in addition to the office space and office facilities located at 390 Main Street in San Francisco, and restricts the authority's contributions of toll revenues to the Metropolitan Transportation Commission (transportation commission).

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

**Status:** Not implemented.

#### Background

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

State law requires that tolls collected from state-owned bridges be used for specific purposes, such as to pay the costs for bridge construction, maintenance, and seismic retrofit projects. Furthermore, state law authorizes the toll authority to issue bonds—to be repaid with toll revenues—for these purposes. In October 2011 the Bay Area Headquarters Authority—a joint powers authority created by the transportation commission and the toll authority—purchased a building with toll revenues from the seven state-owned bridges in the Bay Area. The building purchase was the culmination of nearly two years of planning among the transportation

commission, the toll authority, the Bay Area Air Quality Management District, and the Association of Bay Area Governments to co-locate, and the building is intended to serve as their regional headquarters. However, at the time it was purchased, the building exceeded the combined space needs of the entities seeking to co-locate, and the toll authority's decision to contribute toll revenues to acquire a larger-than-necessary building has been controversial. Members of the Legislature questioned the appropriateness of using public funds to essentially enter into the commercial real estate business.

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

### **Report**

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

## Appendix

### Legislation Chaptered or Vetoed During the 2013–14 Regular Legislative Session

The table below briefly describes bills that were chaptered or vetoed during the first half of the 2013–14 Regular Legislative Session and were based, at least in part, on recommendations from a California State Auditor’s report or the analysis of the bill relied in part on a state auditor’s report.

**Table**  
**Legislation Chaptered or Vetoed in the 2013–14 Regular Legislative Session**

BILL NUMBER/CHAPTER	REPORT (ABBREVIATED TITLE)	LEGISLATION CHAPTERED OR VETOED
<b>Business and Professions</b>		
SB 309 Ch. 370, Stats 2013	2012-177 State Athletic Commission (March 2013)	Among other provisions, extends the sunset date for the California State Athletic Commission (commission) to the end of 2015; requires the commission to use no more than 30 percent of moneys from the State Athletic Commission Neurological Examination Account to fund special neurological examinations; limits the administrative costs associated with managing and distributing the account to no more than 20 percent of the prior year’s contributions; and raises the maximum broadcasting fee collected by the commission from \$25,000 to \$35,000.
<b>Education</b>		
AB 375 Vetoed	2012-103 Los Angeles Unified School District (November 2012)	Would have updated and streamlined the teacher discipline and dismissal process by, among other things, allowing a school district to issue a notice of dismissal at any time, including the summer months and by allowing dismissals to take place at any time of year for all other charges except unsatisfactory performance, which shall be given during the school year.
AB 449 Ch. 232, Stats 2013	2012-103 Los Angeles Unified School District (November 2012)	Requires a school district superintendent or charter school administrator to report any change in the employment status of a credentialed employee to the Commission on Teacher Credentialing (commission) not later than 30 days after the change in employment status, if the employment status change is the result of an allegation of misconduct or a pending allegation of misconduct. Provides that failure to make the report is unprofessional conduct and could subject the superintendent or administrator to adverse action by the commission.
<b>Elections and Redistricting</b>		
SB 360 Ch. 602, Stats 2013	2012-112 Secretary of State Help America Vote Act (August 2013)	Makes significant changes to procedures and criteria for the certification and approval of a voting system.
<b>Health and Human Services</b>		
AB 1108 Ch. 772, Stats 2013	2011-101.1 Child Welfare Services (October 2011)	Prohibits any person required to register as a sex offender based on the commission of an offense against a minor from residing, except as a client, and from working or volunteering in specified foster homes and facilities, and makes violations of this prohibition a misdemeanor.
<b>Housing and Community Development</b>		
AB 984 Ch. 82, Stats 2013	2010-123 California Housing Finance Agency (February 2011)	Requires that at least one of the members of the California Housing Finance board appointed by the governor have specific knowledge of bonds and related financial instruments, interest rate swaps, and risk management.

continued on next page ...

BILL NUMBER/CHAPTER	REPORT (ABBREVIATED TITLE)	LEGISLATION CHATERED OR VETOED
<b>Local Government</b>		
<b>AB 130</b> Ch. 92, Stats 2013	<i>2011-113 Salinas Valley Memorial Healthcare System (March 2012)</i>	Prohibits a local health care district from entering into, or renewing an employment contract with a hospital administrator on or after January 1, 2014, that authorizes retirement plan benefits to be paid prior to retirement.
<b>AB 139</b> Ch. 144, Stats 2013	<i>2011-121 Domestic Violence Payments (September 2012)</i>	Clarifies that the \$500 domestic violence probation payment is a fee, not a fine, and specifies how moneys from the fee shall be expended.
<b>Natural Resources</b>		
<b>AB 757</b> Ch. 297, Stats 2013	<i>2012-121.1 Department of Parks and Recreation (September 2013)</i>	Requires the Department of Parks and Recreation (Parks) to report to the Legislature by July 31, 2014, on its implementation of recommendations contained in the State Controller's <i>Payroll Review Report of the Department of Parks and Recreation</i> dated December 18, 2012.
<b>Transportation</b>		
<b>SB 416</b> Ch. 468, Stats 2013	<i>2011-120 California Department of Transportation (August 2012)</i>	Enacts changes to the Roberti Bill to authorize the sale of state-owned surplus residential properties to income-qualified buyers in "as is" condition at the buyer's request. The statute also creates the State Route (SR) 710 Rehabilitation Account (SR 710 Account) into which Caltrans must deposit proceeds from Roberti Bill sales of properties, continuously appropriates funds in the SR 710 Account to make required repairs to homes being purchased by income-qualified buyers, and limits the total funds that can be maintained in the account to \$500,000.
<b>SB 613</b> Ch. 603, Stats 2013	<i>2011-127 Metropolitan Transportation Commission (August 2012)</i>	Prohibits the Bay Area Toll Authority from purchasing or otherwise acquiring office space and office facilities in addition to the office space and office facilities located at 390 Main Street in San Francisco, and restricts the authority's contributions of toll revenues to the Metropolitan Transportation Commission.