

The seal of the California State Assembly is a large, circular emblem with a serrated outer edge. It features a central shield with a bear, a miner, and a miner's pickaxe. The shield is flanked by two figures holding a banner that reads "LEGISLATORUM". Below the shield is another banner with the Latin motto "EST JUSTAS LEGES CONDERE". The words "CALIFORNIA STATE ASSEMBLY" are inscribed around the perimeter of the seal.

Assembly Committee on Accountability
and Administrative Review

2009-10 Session

Summary of Second Year

ASSEMBLY COMMITTEE ON ACCOUNTABILITY AND ADMINISTRATIVE REVIEW

CHAIRMAN: HECTOR DE LA TORRE

VICE-CHAIR: AUDRA STRICKLAND

Juan Arambula
Tom Berryhill
Marty Block
Joan Buchanan
Anna M. Caballero
Bill Emmerson
Nathan Fletcher
Felipe Fuentes
Curt Hagman
Alyson Huber
Kevin Jeffries
Dave Jones
Bonnie Lowenthal
V. Manuel Pérez
Michael Villines

COMMITTEE PURPOSE

The Assembly Committee on Accountability and Administrative Review is a standing committee charged with investigating California state government programs and agencies to help improve program performance, find efficiencies and save taxpayers' money. The Committee can use confidential sources to develop information.

The Committee investigates topics such as:

Inefficient use of state dollars by a government department or agency;

Misuse or abuse of state funds or property;

A state government program, department or agency's failure to perform its required duties to serve the public.

CONSULTANTS

Nancy D. Chaires
Mark Martin
Linda Morshed

COMMITTEE SECRETARY

Elizabeth Delgado

TABLE OF CONTENTS

Hearing Title	Page
CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION: OUT-OF-STATE PRISON PROGRAM.....	4
STATE EXPENDITURES.....	5
PERFORMANCE MEASUREMENT IN STATE AGENCIES.....	6
CA DEPARTMENT OF MANAGED HEALTH CARE AND CA DEPARTMENT OF INSURANCE: RESCISSION SETTLEMENT AGREEMENTS.....	7
PAROLE RECORD RETENTION	8
STATE EMPLOYEE FURLOUGHS.....	9
SALE OF STATE BUILDINGS.....	10
IRAN DIVESTMENT.....	11
SUCCESSION PLANNING.....	12
PROTECTING TAXPAYERS DOLLARS THROUGH PUBLIC BIDDING ...	13
BEVERAGE CONTAINER RECYCLING PROGRAM.....	14
ADMINISTRATIVE OFFICE OF THE COURTS: INFORMATION TECHNOLOGY AND FACILITIES MANAGEMENT.....	15
LOCAL GOVERNMENT TRANSPARENCY AND COMPENSATION.....	16
MUNICIPAL COMPENSTATION AND TRANSPARENCY IN THE CITY OF BELL.....	17

CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION
OUT-OF-STATE PRISON PROGRAM

Hearing Date: January 20, 2010

Governor Schwarzenegger declared a state of emergency in the prison system on October 24, 2006, citing severe overcrowding as a threat to health and safety in 29 of the state's 33 prisons. The declaration allowed the California Department of Corrections and Rehabilitation (CDCR) to enter into contracts to house California inmates in out-of-state prison facilities. The emergency declaration remains in effect.

The Committee questioned CDCR about its procurement process for obtaining out-of-state prison beds. CDCR entered into a \$22.9 million contract with one vendor that grew to a contract worth more than \$600 million, without ever conducting a competitive bidding process. It is impossible to determine if the state got the best deal for out-of-state prison beds that it could have due to the informal procurement process utilized by CDCR.

The Committee also questioned CDCR about its staffing levels for overseeing the out-of-state prison program. CDCR has more than 170 administrators overseeing the program and is seeking to add 37 more in Fiscal Year 2010/11.

Committee Recommendations:

The Committee recommended that any effort by the Department of Corrections and Rehabilitation to expand the out-of-state prison program be authorized by the Legislature only after the Department commits to holding a formal, competitive bidding process.

The Committee also recommended that the Budget Committee reject the Budget Change Proposal to add 37.5 positions to CDCR to administer the out-of-state prison program. Amid the state's fiscal crisis, the Department should either reduce the ratio it has set to determine the number of certain staff positions to inmates or reduce the number of higher-ranking officials it is using to oversee the program.

Result:

The Committee referred its recommendations to the Assembly Budget Subcommittee #4 on State Administration, which will address the out-of-state prison program during the budget process.

Consultant: Mark Martin (916) 319-3600

STATE EXPENDITURES

Hearing Date: February 10, 2010

Governor Schwarzenegger issued an Executive Order in 2009 directing an end to new contracts for goods and services after March 1, 2009 and further ordered a 15% reduction in spending for each department and a 15% reduction on existing contract costs.

Despite the Executive Order, the Committee found expenditures on new and ongoing contracts throughout the year for expenditures of new vehicles, furniture and conferences and meetings at hotels. More than \$33 million in spending was reported in these three categories by state agencies for the period from January 1 – March 15, 2009. State agencies reported another \$41.3 million in spending over the course of the 2009 calendar year in the same categories.

The Committee questioned why spending was proceeding as if there was no financial crisis, specifically focusing on bureaucratic responses that seemed to justify expenditures because they were "allowed by the fleet manual" or "not a violation of the executive order."

Committee Recommendations:

The Committee made several recommendations to improve the quality and transparency of the data that is posted on-line concerning state expenditures because of flaws that became apparent during its inquiry.

The Committee directed the following changes to reduce state costs:

The Department of General Service should change the replacement criteria contained in the State of California Fleet Handbook to extend vehicle life for all non-emergency light duty vehicles. Agencies and Departments of California State Government should develop a personnel-to-vehicle ratio for employees who need a vehicle to do their job. These agencies and departments should conduct a census of employees who utilize state vehicles to determine who needs a vehicle full-time and who might share a pool vehicle.

The Department of General Services should develop an electronic database of all state facilities with conference and meeting rooms with a contact person for each facility.

State agencies should adopt a policy of using state or other municipal facilities for meetings rather than private facilities in an effort to reduce costs.

Result:

Governor Schwarzenegger directed the Department of General Services to inform state agencies and departments that no contracts will be approved that would result in the expenditure of funds unless the expenditure is certified in writing to be "vital and mission critical" and signed by the Agency's Secretary or Department's Director, or their designees.

Consultant: Linda Morshed (916) 319-3600

PERFORMANCE MEASUREMENT IN STATE AGENCIES

Hearing Date: February 24, 2010

The purpose of this informational hearing was to build the skills of our Members in evaluating the performance of state agencies. The Committee provided an overview and history of federal and state performance measurement and management programs. Panelists addressed obstacles to implementing these programs & how the Legislature can support these efforts, and the benefits that can be expected from these programs.

The Committee further examined these topics using a case study approach. Specific programs reviewed were the Department of Toxic Substances Control, Department of Transportation, and the Department of Corrections and Rehabilitation.

Result:

Committee Members developed a document titled Steps for Implementing a Performance Measurement Program, which is available to state agencies interested in creating such a program. The document is also posted on the Committee website.

Consultant: Nancy Chaires (916) 319-3600

CALIFORNIA DEPARTMENT OF MANAGED HEALTH CARE AND CALIFORNIA
DEPARTMENT OF INSURANCE
RESCISSION SETTLEMENT AGREEMENTS

Hearing Date: March 10, 2010

A Committee investigation revealed that consumer protection actions taken by the Department of Managed Health Care and Department of Insurance regarding health insurance rescissions had failed to help 95 percent of the affected consumers. Data gathered by the Committee showed that agreements made between the Department of Managed Health Care and the Department of Insurance and health insurers allowed less than 5 percent of consumers who lost health insurance to regain insurance, and even fewer – only 170 out of 6,006 - recouped money for medical expenses.

The Committee examined steps taken by the two departments to address rescission – the practice health insurers use to withdraw health coverage when consumers get sick and begin incurring medical costs. The departments reached settlements with health plans that required the plans to offer new insurance coverage to consumers and a path to recover some expenses. Concerns about the departments' processes included poor outreach to consumers, overly legalistic remedies that favored insurance companies over consumers, and a lack of standardized requirements to prevent future illegal rescissions.

Testimony from the departments indicated neither had a clear idea of why so few consumers participated.

Committee Recommendations:

The Committee recommended that the Department of Managed Health Care and the Department of Insurance provide a report to the Legislature describing the results of each department's rescission settlement agreements. The Committee also recommended that the Department of Managed Health Care require an independent Third Party Review process for rescission for each of the five health plans under its authority and that the Department of Managed Health Care complete the rescission rule-making process it began in 2007. Finally, the Committee recommended that the departments attempt to locate consumers affected by their rescission settlement agreements to determine why so few consumers participated. The Committee also recommended that the Budget Committee reject the Budget Change Proposal to add 37.5 positions to CDCR to administer the out-of-state prison program. Amid the state's fiscal crisis, the Department should either reduce the ratio it has set to determine the number of certain staff positions to inmates or reduce the number of higher-ranking officials it is using to oversee the program.

Result:

The Committee sought to better protect consumers from illegal rescission in the future and asked the department to analyze the results of their settlements to better understand how they could handle similar situations in the future. Those analyses are pending.

Consultant: Mark Martin (916) 319-3600

PAROLE RECORD RETENTION

Hearing Date: March 24, 2010

The tragic deaths of teenagers Chelsea King and Amber Dubois brought to light gaps in the State's parolee record retention policies. The Committee reviewed and discussed California Department of Corrections and Rehabilitation (CDCR) policies requiring the destruction of field files that may assist law enforcement in apprehending dangerous suspects.

Corrections officials responded to questions in order to establish precisely what type of information had been retained and what had been destroyed.

Committee Recommendations:

The Committee requested that CDCR clarify to whom its new parole file retention policy applies; produce documentation related to the development of DOM 81090.8 to illustrate how they determined that one year after discharge was the appropriate retention period for parolee field files; provide the Committee with the implementation timeline for the Sex Offender Management System; and establish a recurring review of its department-wide record retention policies.

Result:

The Chair and Asm. Fletcher sponsored legislation to address the issues discussed in this hearing. AB 2295 (De La Torre & Fletcher) which would have established a statutory record retention policy for CDCR, was vetoed by Gov. Schwarzenegger. AB 1844 (Fletcher), the Chelsea King Child Predator Prevention Act of 2010, was signed into law in September 2010.

Consultant: Nancy Chaires (916) 319-3600

STATE EMPLOYEE FURLOUGHS

Hearing Date: April 14, 2010

The Committee examined the implementation and administration of state employee furloughs ordered by Governor Schwarzenegger beginning on February 1, 2009. In the Governor's Executive Orders instituting the furloughs, he stated the furloughs were necessary due to the deficits in the General Fund, the imposition of an unprecedented freeze on lending money from the California Pooled Money Investment and to protect the cash reserve.

The Committee reviewed the use of furloughs at the California Unemployment Insurance Appeals Board, The Division of State Architect, the Office of Statewide Health Planning and Development, and the Department of Motor Vehicles.

According to the Governor's decree, "essential services were not to be jeopardized" and "represented state employees and supervisors" would be furloughed, with "equivalent furlough or salary reduction for all state managers, including exempt state employees, regardless of funding source."...included. The Governor's plan allowed for "a limited exemption process".

The Committee found employees furloughed in agencies where the cost of services provided are paid by users and work to approve construction projects slowed down, including hospital and school construction. By implementing furloughs and reducing the work of agencies funded by special funds or federal funds, the Governor set the stage for California to lose federal funding for programs or infrastructure needs.

The Committee also found instances where agencies are observing the furlough on Friday and then encouraging employees to come to work on Saturday at straight time or overtime, depending on the circumstances. In essence, some of the agencies ordered to furlough employees are costing us money and having a negative impact on financial recovery as evidenced in the hearing by information that 57.7% of the furlough savings will be General Fund revenues and the remaining 42.3 % will result from a combination of federal and special funds.

Result:

Governor Schwarzenegger reinstated furloughs on July 28, 2010 and exempted employees who work for departments that collect revenue, including the Department of Motor Vehicles. He also included the Office of Statewide Health Planning now.

The Governor chose not to apply the exemption to the California Unemployment Insurance Appeals Board which has fallen profoundly behind in processing unemployment claims and handling appeals, at the risk of losing federal funds. He also opted not to exempt the Division of State Architect which collects fees to support its services and would result in an increase in new construction to feed the employment sector.

Consultant: Linda Morshed (916) 319-3600

SALE OF STATE BUILDINGS

Hearing Date: April 28, 2010

The Committee examined the Schwarzenegger Administration's proposal to sell 11 state buildings to help address the state's budget deficit. The Committee's hearing marked the first legislative hearing regarding the proposal, which called for the state to lease the office space back from private owners once the sale was concluded. A Committee analysis found several concerns with the proposal, including the Administration's failure to conduct long-term economic analysis of the costs and benefits of the sale, the lack of public discussion surrounding the sale, and the reversal of four decades of state facilities planning, which overwhelmingly favored owning, rather than leasing, state facilities.

The hearing featured testimony from the Legislative Analyst's Office, which concluded the sale and leaseback of the buildings was "poor fiscal policy," and testimony from two State Building Authority officials who were fired from their positions for opposing the sale.

Committee Recommendations:

The Committee recommended that legislation be created to require Legislative approval before the buildings were sold, and to require that the Department of General Services conduct a 50-year cost-benefit analysis of the sale once a final offer was determined.

Result:

AB 2605 was approved in the State Assembly but was not approved in the State Senate.

Consultant: Mark Martin (916) 319-3600

IRAN DIVESTMENT

Hearing Date: May 12, 2010

The California Public Divest from Iran Act (Act) enacted in Assembly Bill 221 (Anderson), became effective January 1, 2008. It prohibits the California Public Employees Retirement System (CalPERS) and California State Teachers Retirement System (CalSTRS) from investing public employees retirement funds in companies that have specified energy or defense-related operations in Iran.

The Committee investigated the progress these agencies had made in divestment and prior to the hearing. No divestment was noted by CalPERS and CalSTRS had reduced its holdings but was not entirely divested.

Both agencies testified that their primary responsibility was fiduciary and simply divesting without regard to values and impact on the pension funds would be a violation of their intended function. That said, CalPERS had greatly reduced their holding through a practice referred to as "engagement." This involves meeting and influencing companies to change their business practices so the investments no longer meet the test for divestment. As a result, of the 47 companies CalPERS had held when the ACT was passed, only 14 remained.

CalSTRS took a different position toward implementing the Act. They simply sold off holdings. When the Act was passed, they held interests in 20 companies and have four remaining.

The information to follow these activities was found to be lacking and not presented to the public in like formats.

Committee Recommendations:

The Committee recommended both CalPERS and CalSTRS should post information publicly to inform their members and the Legislature of holdings that violate the Public Divest from Iran Act. Uniform formats should be developed in consultation between both agencies to enable consistent review. The reasons for any changes that appear to reduce holdings in companies doing business in Iran should be publicly noted so divestment can be identified from other reasons and investment is changed.

Result:

Immediate changes in public posting of information to fully inform members of both CalPERS and CalSTRS of any holdings in violation of the Public Divest from Iran Act. Both CalPERS and CalSTRS committed to adopt all Committee recommendations.

Consultant: Linda Morshed (916) 319-3600

SUCCESSION PLANNING

Hearing Date: May 26, 2010

This hearing allowed the Committee to review and assess the adequacy of the efforts of state agencies to ensure that they can maintain necessary staffing in the face of the impending wave of retirements, and that they take appropriate and timely steps to transfer knowledge and responsibility.

The Committee discussed workforce planning efforts in California state agencies and in other states, and demographic shifts expected to bring an unprecedented wave of retirements. Representatives from the Department of Personnel Administration discussed the assistance available to California agencies through the Statewide Workforce Planning Program. The Committee reviewed the status of workforce and succession planning in four agencies that ranged in size, these were: the Department of Mental Health, the Department of Aging, the Franchise Tax Board, and the Department of Transportation.

Committee Recommendations:

The Committee requested that the Assembly Committee on Budget pursue language requiring all state agencies to develop and maintain workforce and succession plans.

Result:

These recommendations were not implemented into the State budget.

Consultant: Nancy Chaires (916) 319-3600

PROTECTING TAXPAYERS DOLLARS THROUGH PUBLIC BIDDING

Hearing Date: June 30, 2010

The Committee conducted a detailed investigation of claims that overcharging in public bidding was occurring, specifically in the area of roof replacement for state buildings and public schools. The investigation uncovered numerous examples of school roofing projects that were rigged so that only one manufacturer's products could be used, limiting competition and increasing costs.

Witnesses, representing roofing manufacturers, contractors and consultants, all testified that bidding documents for school roofing contracts are often written so that only one manufacturer's materials qualify for the job. By limiting competition, school roofing projects can cost between 60 and 100 percent more than an open competitive bidding process.

One witness noted that in a review of 40 school roofing projects that limited competition to benefit one manufacturer, costs ranged between \$128,000 and \$500,000 per job more than industry averages. Roofing jobs on public schools can cost from over \$100,000 total to over \$1 million. Committee findings and witness testimony suggested that at least half of all projects statewide may be impacted.

Easily, hundreds of millions of dollars per year may be wasted through this manipulation of the bidding process resulting in overcharging when the number of state buildings and public school projects are considered.

Committee Recommendations:

The Committee voted to pursue legislation immediately to:

Require the development of generic specifications for school roofs that could be used by school districts to ensure that multiple manufacturers would be eligible;

Develop a better oversight mechanism, including a toll-free phone line, for contractors and others to report instances of project manipulation;

Require that financial relationships between manufacturers, contractors, architects, engineers and consultants be disclosed to school districts and the public, and failure to disclose these relationships would result in a felony charge;

Require that school districts ensure that multiple manufacturers can meet the specifications in bidding documents before the documents are released for bidding.

Result:

AB 635 was embedded with language drafted to implements the committee recommendations for public schools and community colleges. Governor Schwarzenegger signed AB 635 on September 29, 2010 (Chapter 438).

Consultants: Linda Morshed and Mark Martin (916) 319-3600

BEVERAGE CONTAINER RECYCLING PROGRAM

Hearing Date: July 28, 2010

The purpose of this hearing was to review the June 2010 Bureau of State Audits report on the Beverage Container Recycling Program, and to ensure that the Department of Resources Recycling and Recovery takes appropriate and timely steps to address the deficiencies identified in the report. The hearing focused on concerns related to financial forecasting, distributor audits, fraud investigations, and grant monitoring.

The State Auditor presented the audit findings and recommendations. Representatives from the Department of Resources Recycling and Recovery responded and described their plans for addressing the issues identified in the report.

Result:

The Department of Resources Recycling and Recovery has begun to implement the State Auditor's recommendations and provides regular updates to the Committee on the status of these efforts.

Consultant: Nancy Chaires (916) 319-3600

ADMINISTRATIVE OFFICE OF THE COURTS: INFORMATION TECHNOLOGY AND FACILITIES MANAGEMENT

Hearing Date: August 11, 2010

The Committee continued its examination of the California Court Case Management Systems (CCMS), one of the most expensive information technology projects in state history, and revealed information about high costs regarding courthouse renovations.

The Committee heard testimony from the Office of the State Chief Information Officer regarding a review of the CCMS they conducted. The review included 22 recommendations, including requiring the Judicial Branch to determine a cost cap for the project. Under questioning, Administrative Office of the Courts officials stated that CCMS would not exceed \$1.3 billion.

The Committee also questioned court officials over documents it obtained regarding costs associated with maintaining and renovating court facilities. The courts contract out for most maintenance and renovation work, and documents suggested extremely high costs for routine problems. For example, documents showed that the courts often paid \$150 to replace light bulbs. Other high costs included \$1,980 to remove gum from sidewalk and \$112 to empty trash cans.

Result:

Court officials publicly announced the total cost of the CCMS project for the first time. In addition, court officials indicated they would take the Committee's concerns under advisement as they revamp their courthouse maintenance program in 2011.

Consultant: Mark Martin (916) 319-3600

LOCAL GOVERNMENT TRANSPARENCY AND COMPENSATION

Hearing Date: September 22, 2010

The Committee gathered information from all 119 California charter cities regarding salaries and benefits for mayors, city council-members and city managers. Analysis of the data showed that benefits added significantly to compensation, especially for city managers. The Committee discovered numerous unusual benefits for city managers, such as longevity pay, incentive pay and home loans. The Committee also found that despite many cities' claims that salary information was accessible to the public, information posted on city websites was often difficult to find, difficult to understand, and rarely included benefits.

The Committee joined with the Joint Legislative Audit Committee and the Assembly Committee on Local Government to hold a hearing on the subject, which included testimony from city representatives, the Bureau of State Audits, the Attorney General's Office, and the State Controller's Office.

Result:

The hearing was intended to gather information regarding local government salaries and transparency, with the intent of promulgating legislation at a later date.

Consultant: Mark Martin (916) 319-3600

MUNICIPAL COMPENSATION AND TRANSPARENCY IN THE CITY OF BELL

Hearing Date: November 8, 2010

The purpose of this hearing was to present to the residents of Bell—for the first time—the results of the investigative audit findings to date, relating to alleged fiscal mismanagement and other abuses within their city government. Legislative Counsel described the powers of charter cities and the limitations on the State's ability to intervene in their activities. Counsel also presented their analysis of the City of Bell's charter, which concluded that there is nothing unique about the document which exposed the City to great risk of abuse. A representative of the California Newspaper Publishers Association provided an overview of case law governing access to public records, described the type of information citizens have access to, and how they could go about obtaining it. The audit team from the State Controller's Office provided detailed results of their first three audit reports related to the City.

Result: This hearing allowed the residents of Bell to hear for the first time, many details of the investigative audits. This was the first time that the State Controller or any other state agency had directly presented their findings to the effected individuals. In addition to these results, the hearing also provided information to Bell residents about the type of governmental information they can legally access and how to go about obtaining it.

Consultant: Nancy Chaires (916) 319-3600