

The 2019-20 Budget:

Department of Consumer Affairs

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Summary

In this analysis, we assess the Governor's 2019-20 budget proposals for the Department of Consumer Affairs (DCA). Specifically, we review and make recommendations regarding the Governor's proposals (1) for increased funding for Consumer Affairs administration workload and (2) associated with the department's updated business modernization plan for information technology (IT) projects at Release 3 boards and bureaus. In summary, we recommend the following:

- **Consumer Affairs Administration Workload Proposal.** Reduce the Governor's budget request to address increased workload across various areas of DCA's centralized services from \$5.2 million to \$2.3 million to eliminate the portion of the request proposed to be funded through pro rata because (1) this funding is premature given that the department is currently conducting reviews of pro rata-funded services with the goal of identifying efficiencies and (2) some workload estimates lack justification.
- **Business Modernization IT Projects.** Requiring DCA and Release 3 boards and bureaus to report at budget hearings this spring on their approach to addressing the procurement of new IT systems, particularly to address project delays and lack of updated time frames for some boards and bureaus.

DEPARTMENT OVERVIEW

The Department of Consumer Affairs (DCA) oversees 37 boards, bureaus, commissions, and programs. Together, these entities license approximately 3 million individuals in roughly 250 professional categories, such as doctors, acupuncturists, and cosmetologists. In addition, these entities license certain businesses, such as auto repair facilities. As part of their regulatory responsibilities, DCA's boards and bureaus also investigate complaints and discipline violators of licensing requirements. Additionally, as described below, DCA provides certain centralized services to its boards

and bureaus, including human resources, fiscal and budgeting, and legal services.

The Governor's budget proposes \$699 million from various funds for support of DCA—including the boards, bureaus, commissions, and programs it oversees—in 2019-20, which is a decrease of \$5 million, or less than 1 percent, from the current-year estimated expenditures. This decrease primarily reflects limited-term funding provided to the Bureau of Cannabis Control in 2017-18 and 2018-19 for the development of an information technology (IT) solution and facility improvements.

CONSUMER AFFAIRS ADMINISTRATION WORKLOAD

Background

DCA Allocates Costs of Services Through Pro Rata and Usage Charges. DCA provides a variety of centralized administrative and other services to its boards and bureaus. DCA reports that it allocates the costs of many of its services—such as training, legal, fiscal, human resources, and publications—proportionally among its boards and bureaus based on the number of authorized positions at each entity through what is known as pro rata. However, for other DCA services—such as the use of some investigative services, correspondence, and professional examination services—DCA allocates costs based on measures of usage by individual boards and bureaus.

Legislature Has Raised Concerns About DCA's Pro Rata Charges. In the past, the Legislature has raised concerns through its sunset review process about DCA's pro rata charges. For example, a 2018 sunset review report produced by legislative staff noted that actual pro rata costs for every board had increased by an average of 112 percent since 2012-13. The report further stated that “pro rata charges continue to skyrocket and transparency about how costs are calculated, and what services are received for these charges, continues to be lacking.”

The Legislature has also raised concerns about the pro rata charges assessed on some specific boards and bureaus. For example, concerns raised about the high and quickly growing pro rata charges assessed to the Bureau of Real Estate (CalBRE) were a main reason why the Legislature passed Chapter 828 of 2017 (SB 173, Dodd), which removed CalBRE from DCA and established it as the Department of Real Estate (DRE). Notably, a committee analysis of the bill cited that CalBRE's pro rata charges had grown from \$1.8 million in 2013-14 to \$5.2 million in 2016-17, resulting in pressure on CalBRE to either raise fees or reduce other services.

Legislature Provided Funding for Assessments of DCA Processes to Identify Efficiencies. In response to concerns raised

about DCA's pro rata charges, the 2018-19 Budget Act provided \$242,000 to DCA to conduct organizational change management (OCM) reviews of the centralized services it funds through pro rata charges. The reviews were required to include an assessment of the department's business processes with the goal of identifying potential efficiencies. The budget further required that the results of the reviews be reported to the Legislature. DCA indicates that it is in the process of conducting these OCM reviews. According to DCA, the first review, which is expected to cover the process for promulgating regulations, is anticipated to be available in March. Subsequent reviews are anticipated to cover areas such as human resources, IT, and accounting services.

Governor's Proposal

As shown in **Figure 1**, the Governor's budget proposes 24.5 positions and \$5.2 million in 2019-20 (declining to \$4.5 million in 2020-21, \$3.6 million in 2021-22, and \$2.1 million in 2022-23 and annually thereafter) to address increased workload across various areas of DCA's centralized services. Of the amount requested, \$2.9 million and 18 positions are for legal, accounting, fiscal, and human resources services and are proposed to be funded by DCA's boards and bureaus via pro rata. (The legal services staff is proposed for DCA to establish a dedicated unit to assist boards and bureaus with the promulgation of regulations.) The remaining \$2.3 million and 6.5 positions are for investigation and examination-related services and are proposed to be funded by boards and bureaus based on their usage of those services.

LAO Assessment

Resources for Pro Rata-Funded Services are Premature Pending OCM Reviews. The Legislature funded OCM reviews of DCA's pro rata-funded services with the goal of identifying efficiencies. As these reviews have not yet been completed, we find that DCA's request for additional positions funded through pro rata is premature. The full level of requested staffing may

not be necessary if the OCM reviews result in the identification of improved business processes that require fewer staff.

Resources for Pro Rata-Funded Services Also Lack Sufficient Justification. The lack of client usage information for pro rata-funded services makes it difficult to assess appropriate staffing levels. Based on the limited information that is currently available, some portions of the request appear inflated. For example, the Governor's proposal does not appear to account for reductions in workload from the removal of CalBRE. Specifically, to help transition CalBRE to its own department, DCA is scheduled to provide various services (such as fiscal, accounting, human resources, examination, and education services) to CalBRE through 2019-20. The value of these services totals \$1.5 million in 2018-19 and \$1 million in 2019-20. Once DCA is no longer providing these services, we would anticipate there would be some decline in its workload. However, these reductions do not appear to be reflected in DCA's future workload estimates.

Additionally, the request for legal services staff for the creation of a unit devoted to promulgating regulations was based on DCA's estimate of the amount of time necessary for it to complete its work on all the regulation packages that it estimates boards and bureaus will propose in a

year. However, this does not appear to take into account that DCA's legal staff already do work related to promulgating regulations, so some of the proposed work is not new and should not require additional staff. We note that we do not have specific concerns with the requests for the usage-based services.

LAO Recommendation

Reduce Request to Eliminate Additional Staffing for Pro Rata-Funded Services. We recommend that the Legislature reduce the Governor's proposal from \$5.2 million and 24.5 positions to \$2.3 million and 6.5 positions in 2019-20 (\$2.1 million ongoing) to eliminate the portions proposed to be funded through pro rata. We find that our recommended level of funding is more appropriate because the portions proposed to be funded through pro rata are premature and lack sufficient justification. If, after the OCM reviews of the relevant pro rata funded services are completed, the department determines that additional resources are still necessary, it can return with a budget request in the future. This additional time will also give the department an opportunity to develop a more fully justified proposal for requesting any additional resources necessary for these activities.

Figure 1

Governor's 2019-20 Proposal for Consumer Affairs Administration Workload

Function	Position Authority	Amount			
		2019-20	2020-21	2021-22	2022-23 and Ongoing
Funded Through Pro Rata					
Legal/regulations	8	\$1,670,000	\$1,470,000	\$1,470,000	—
Accounting and fiscal	7	1,200,000	943,000	—	—
Human resources	3	46,000	46,000	46,000	\$46,000
Subtotals	(18)	(\$2,916,000)	(\$2,459,000)	(\$1,516,000)	(\$46,000)
Funded Based on Usage					
Investigations	4.5	\$1,980,000	\$1,790,000	\$1,790,000	\$1,790,000
Examinations	2.0	287,000	271,000	271,000	271,000
Subtotals	(6.5)	(\$2,267,000)	(\$2,061,000)	(\$2,061,000)	(\$2,061,000)
Totals	24.5	\$5,183,000	\$4,520,000	\$3,577,000	\$2,107,000

UPDATE ON BUSINESS MODERNIZATION INFORMATION TECHNOLOGY PROJECTS

Background

BreEZe Project History. When first initiated, the BreEZe project was proposed to be an integrated, web-enabled enforcement and licensing system that would replace various systems that have been in place at all of the boards and bureaus within DCA. It was proposed to be completed in three phases (or “releases”), with roughly half of the boards and bureaus in the third release. In November 2009, the BreEZe project was approved with a budget of \$28 million and an expected completion date of June 2014. DCA selected Accenture as the vendor for the project in September 2011. The first release was launched in October 2013, but experienced various implementation challenges. Notably, according to a report by the California State Auditor, executive officers for most of the Release 1 boards and bureaus reported that BreEZe decreased their regulatory entity’s operational efficiency. In January 2015, the administration informed the Legislature of its intent to cancel the contract with Accenture after Release 2 due in large part to rising project costs, which had grown to \$96 million for Releases 1 and 2 alone. The Legislature concurred with the administration’s proposed approach in March 2015, but expressed a desire for closer oversight over the project and for a plan for development of IT systems for Release 3 boards and bureaus. In January 2016, DCA launched Release 2 and has since reported that the second release has proceeded successfully.

Legislature Required an Annual Business Modernization Plan. In 2017, DCA had not yet proposed a plan for Release 3 boards and bureaus, including a time line for the completion of cost-benefit analyses that would be used to inform decisions about whether entities previously slated for Release 3 would come onto BreEZe or another system. In response to concerns about lack of information on the plan for Release 3, the *2017-18 Budget Act* and Chapter 429, Statutes of 2017 (SB 547, Hill) required DCA to report

on the progress of Release 3 entities’ transition to a new licensing technology platform by December 31 of each year. The 2017-18 budget also provided \$1.3 million in special funds for DCA to conduct reviews of the business activities of Release 3 boards and bureaus in order to prepare them to transition to new IT systems. These reviews were intended to identify and document existing “as-is” business processes and recommend changes, as relevant. The \$1.3 million was made contingent on DCA’s submission of a notification specifying the department’s plan and proposed time line for completing reviews of business activities, as well as agreements of Release 3 entities that they were committed to participate according to the proposed plan.

2017 and 2018 Business Modernization Plans. In response to the above requirements, DCA produced a business modernization plan in December 2017 that identified the anticipated timing of activities related to development of IT systems for Release 3 boards and bureaus, such as completing reviews of business activities, completing the Project Approval Lifecycle procurement process, and going live with the new systems. The 2017 business modernization plan also identified challenges and opportunities facing each entity and assessed their organizational readiness. (More information on the Project Approval Lifecycle procurement process can be found in our report *The 2017-18 Budget: The New IT Project Approval and Funding Process*.)

In December 2018, DCA submitted an updated business modernization plan, which provided some updated information on the anticipated timing of activities related to the development of IT systems for Release 3 entities. Unlike the 2017 plan, the 2018 business modernization plan did not include an assessment of each entities’ challenges and opportunities or organizational readiness. Instead, the 2018 plan provided descriptions of the business activities and other actions taken thus far by each entity. In addition, the 2018 business modernization

plan identified several budget change proposals (BCPs) that it anticipated requesting to enable entities to move forward with their IT projects. The Governor’s 2019-20 budget requests funding for two of these BCPs, which would provide funding for additional staff at the Board of Pharmacy and Board of Accountancy to support business process reviews and other planning activities necessary for transitioning these two boards to new IT systems. (We do not have specific concerns with these BCPs.)

LAO Assessment

2018 Business Modernization Plan Reflects Uncertain Time Lines for Some Entities. Based on our discussions with DCA, our understanding is that DCA is allowing Release 3 entities to proceed with addressing their IT needs at their preferred time lines, recognizing that they each have different levels of organizational readiness and operational priorities. As a result, as reflected in the 2018 business modernization plan and summarized

in **Figure 2**, some entities are now reporting delays in completing certain activities and lack clear time lines for proceeding with their projects. Specifically, two entities—the Professional Fiduciaries Bureau and the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board—report that they have postponed business activities and new schedules for their projects will be developed at some point in the future. Additionally, another three entities—the Board of Professional Engineers, Land Surveyors, and Geologists; the Board of Chiropractic Examiners; and the Bureau of Private Postsecondary Education—report that they have experienced delays and indicated that revised schedules will be developed pending approval of BCPs. (These BCPs have not yet been submitted to the Legislature.)

Lack of Clear Time Lines Hinders Legislative Oversight of the Progress of Projects. In enacting reporting requirements, the Legislature sought more certainty about the department’s plan for addressing the IT needs of Release 3 boards

Figure 2

Anticipated Schedules for Release 3 Entities in 2017 and 2018 Business Modernization Plans

Entity	Business Process Mapping Completion Date ^a		Planned Launch Date	
	2017 Plan	2018 Plan	2017 Plan	2018 Plan
Accountancy	8/2019	8/2020	9/2022	9/2023
Acupuncture	11/2018	Completed	1/2022	1/2022
Architecture/Landscape Architect	10/2019	10/2019	11/2022	11/2022
Athletic Commission	3/2020	3/2020	10/2023	10/2023
Automotive Repair	12/2019	12/2019	12/2022	12/2022
BPELSG	12/2017	Completed	11/2020	Delayed
Cemetery and Funeral	8/2019	8/2019	1/2023	1/2023
Chiropractic Examiners	2/2018	Completed	7/2021	Delayed
Contractor State Licensing	3/2020	3/2020	1/2024	1/2024
Court Reporters	2/2019	Completed	6/2022	6/2022
Household Goods and Services ^b	1/2020	1/2020	1/2024	1/2024
Pharmacy	10/2021	10/2021	7/2025	7/2025
Private Postsecondary Education	1/2018	Completed	7/2021	Delayed
Professional Fiduciaries	6/2018	Delayed	1/2022	Delayed
SLPAHAD	9/2018	Delayed	3/2022	Delayed
Structural Pest Control	10/2018	10/2018	1/2022	1/2022

^a Identifies business processes that would need to be incorporated in new information technology system.

^b Previously known as the Bureau of Electronic and Appliance Repair Home Furnishings and Thermal Insulation.

BPELSG = Board of Professional Engineers, Land Surveyors, and Geologists and SLPAHAD = Speech-Language Pathology and Audiology and Hearing Aid Dispensers Bureau.

and bureaus. The lack of clear time lines for some boards and bureaus, as reflected in the 2018 business modernization plan, runs counter to this purpose. This lack of information is problematic because it makes it difficult for the Legislature to oversee these projects and ensure that they are completed in a timely manner. Furthermore, boards and bureaus postponing business activities and not providing clear time lines calls into question their level of commitment moving forward with implementing IT improvements. The Legislature has an interest in ensuring that these projects continue to move forward because Release 3 entities will continue to rely on a patchwork of multiple outdated IT systems until they transition to new IT systems. Consequently, long turnaround times for licensing and enforcement activities will continue to be problems for many of the boards and bureaus. Additionally, the lack of clear time frames reduces potential opportunities to bundle the procurements of IT systems for more than one entity together because it is not clear if they will be ready to move forward at the same time. In some cases, such as when IT needs of multiple entities are similar, such bundling could provide some efficiencies or cost savings.

LAO Recommendation

Require DCA and Boards and Bureaus to Report at Budget Hearings. We recommend that the Legislature require DCA and boards and bureaus that have experienced delays to report at budget hearings. Specifically, we recommend that the Legislature require (1) DCA to report at budget hearings on the rationale for its approach of allowing boards and bureaus to proceed at their preferred time lines and not requiring them to provide updated completion dates in the 2018 business modernization plan and (2) boards and bureaus that are of particular concern to report at budget hearings on the reasons they have postponed or delayed their work towards new IT systems.

Together, the information from DCA and individual boards and bureaus would allow the Legislature to evaluate whether it is comfortable with DCA's current approach to coordinating the IT projects for the Release 3 boards and bureaus. Additionally, the information would help explain why some entities have delayed their IT-related business activities—for example, whether they have other operational priorities or other challenges to moving forward. Based on this information, the Legislature could determine if it wants to direct DCA or the boards and bureaus to proceed more quickly with developing their IT systems.

LAO PUBLICATIONS

This report was prepared by Helen Kerstein and reviewed by Brian Brown. The Legislative Analyst's Office (LAO) is a nonpartisan office that provides fiscal and policy information and advice to the Legislature.

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