Senate Budget and Fiscal Review—Wesley Chesbro, Chair

SUBCOMMITTEE NO. 4 Agenda

Joseph Dunn, Chair
Tom McClintock
Christine Kehoe

Wednesday, April 27, 2005
1:30 p.m.
Room 2040

Consultant: Brian Annis

Agenda - Part B

Public-Employee Issues

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Department Budgets Proposed for Consent / Vote Only

1900 Public Employees' Retirement System

The California Public Employees' Retirement System (CalPERS) administers retirement and health benefits for more than 1.4 million active employees and retirees of state and local agencies. Benefits include: retirement, disability, and survivor's retirement benefits; Social Security for State employees; and the development, negotiation, and administration of contracts with health maintenance organizations, group hospitals, and medical insurance plans.

Proposition 162, approved by voters in 1992, amended the California Constitution to provide the CalPERS Board of Administration with authority over the administration of the retirement system. Therefore, the CalPERS budget item is presented to the Governor and Legislature for informational purposes, with the exception of the component of the Health Benefits Program. On April 15, 2005, the CalPERS Finance Committee adopted a 2005-06 operations budget of $250.3 million and 1,811 positions – an increase of approximately $800,000 and 52 positions. Note, this operations budget is about $20 million less that that indicated in the Governor's Budget as CalPERS opted to absorb certain price increases. When benefit expenditures are added, the total budget is approximately $11 billion.

8385 California Citizens' Compensation Commission

The California Citizens' Compensation Commission is responsible for setting the salaries and benefits for the State Legislators, Governor, Attorney General, Lieutenant governor, Secretary of State, Controller, Treasurer, Superintendent of Public Instruction, Insurance Commissioner, and Board of Equalization members.

The Governor proposes expenditures of $14,000 (all General Fund) and no positions for the Commission – the same amount as 2004-05. The Commission meets annually and is staffed by the Department of Personnel Administration. The Commission budget funds travel expenses and stipends for the annual meeting – Commissioners do not receive a salary.

Control Section 3.50 Benefit Charges against Salaries and Wages

Control Section 3.50 of the budget bill specifies what benefit expenditures shall be charged against appropriations from which salaries and wages are paid. The language in this control section is identical to language approved with the 2004 Budget Act except for updates to Government Code citations related to SB 626 (Chapter 69, Statutes of 2004), which reorganized and renumbered the code sections in the Public Employees Medical and Hospital Care Act (PEMHCA).

Control Section 4.20
Contribution to Public Employees' Contingency Reserve Fund

Control Section 4.20 sets the employer's contribution to the Public Employees' Contingency Reserve Fund at 0.300 percent of the gross health insurance premiums paid by the employer and employee for administrative expenses. This rate is adjusted annually, as necessary, to maintain a three-month reserve in the fund. The 2004 Budget Act set the rate at 0.425 percent; however, CalPERS indicates a rate of 0.300 is sufficient for 2005-06 to maintain the three-month reserve. The Control Section additionally allows the Director of Finance to adjust the rate, with 30-day notification to the Legislature, as necessary to ensure a three-month reserve.

Control Section 29.00 Personnel-Year Estimates

Control Section 29.00 of the budget bill requires the Department of Finance to calculate and publish a listing of total personnel-years and estimated salary savings for each department and agency. These listing must be published at the same time as the publication of the (a) Governor's Budget, (b) the May Revision and (c) the Final Change Book. Identical language was approved by the Legislature with the 2004 Budget Act.

Staff Comment: No issues have been raised with the budgets listed above.

Staff Recommendation: Approve the budgets and control sections listed above.

Vote on consent / vote-only budgets:

Budgets for Discussion:

1880 State Personnel Board

The State Personnel Board (SPB) is responsible for California's civil service system. SPB provides a variety of recruitment, selection, classification, goal setting, training and consultation services to State departments and local agencies. The Board is composed of five members, who are appointed by the Governor, and serve 10-year terms.

The Governor proposes expenditures of $18.5 million ($3.9 million General Fund and $14.6 million reimbursements) and 128.7 positions for the SPB – an increase of $88,000. These figures include a $60,000 unallocated General Fund reduction. SPB indicates it will consolidate two downtown Sacramento locations in response to the unallocated reduction. The Administration did not submit Budget Change Proposals or workload adjustments for the SPB.

Issue for Discussion:

1. **Peace Officer Procedural Bill of Rights Mandate (LAO issue).** In the *Analysis of the 2005-06 Budget Bill*, the Legislative Analyst recommends that the Legislature requests the Commission on State Mandates to reconsider its decision regarding the Peace Officer Procedural Bill of Rights (POBOR) mandate in light of a recent California Supreme Court decision. The Administration proposes this mandate be deferred in 2005-06, which would still require the activity, but delay reimbursement to locals. This mandate has been deferred in every budget since 2002-03. The annual cost is estimated at $30 million and the total backlog of unpaid local government POBOR claims totals about $250 million.

   Background: The Legislature enacted the Peace Officer Procedural Bill of Rights in 1976 to provide a series of rights and procedural protections to peace officers who are subject to interrogation or discipline by their employer. In 1999, the Commission on State Mandates found that the requirement of POBOR, that exceed the rights provided all public employees under the Due Process Clause of the United States and California Constitutions, to be a reimbursable mandate. In 2004, the California Supreme Court found that state procedural requirements do not constitute a reimbursable mandate if local agencies have a choice whether to implement the program. The LAO suggests that the 2004 California Supreme Court decision would likely guide the California State Mandates Commission to make a different determination on POBOR – should the Mandates Commission have a cause to review its 1999 decision. Proposition 1A, which was approved by voters in 2004, exempts mandates pertaining to labor relations from its annual funding requirement.

State Auditor Findings: The State Auditor looked at POBOR mandate claims in its 2003 report, *State Mandates: The High Level of Questionable Costs Claimed Highlights the Need for Structural Reforms of the Process* (Report 2003-106). Among other findings, the State Auditor made the following conclusions related to the POBOR mandate:

- The costs are significantly higher than what the Legislature expected.
- Local entities reviewed claimed costs that far exceed the Commission on State Mandates' intent.
- Local entities lacked adequate supporting documentation for most of the costs claimed.

The State Auditor examined claims made in 2001-02 by four local entities totaling $19.1 million, and found that $16.2 million of this amount related to activities that far exceeded the Mandate Commission's intent. Additionally, $18.5 million of the $19.1 million claimed lacked appropriate supporting documentation.

Staff Comment: A finding that POBOR is not a reimbursable mandate would not change the statutory requirements or affect peace officer procedural rights in any way. Such a finding would remove the requirement that the State fund this activity, but would not prohibit discretionary funding by the Legislature.

Staff Recommendation: Adopt the following LAO suggested budget language that would give the Commission on State Mandates the authority and responsibility to complete a review of their 1999 POBOR determination. The language would make any application of a revised finding prospective.

In 2005-06, the Commission on State Mandates shall review its Statement of Decision regarding the Peace Officer Procedural Bill of Rights (POBOR) test claim and make any modifications necessary to this decision to clarify whether the subject legislation imposed a mandate consistent with the California Supreme Court 2004 decision in San Diego Unified School District vs.Commission on State Mandates and other applicable court decisions. If the commission revises its Statement of Decision regarding the POBOR mandate, the revised decision shall apply to local government POBOR activities occurring after the date the revised decision is adopted.

Vote:

1920 State Teachers' Retirement System

The State Teachers' Retirement System (CalSTRS) administers retirement and health benefits for more than 735,000 active and retired educators in the public schools from kindergarten through the community college system. Unlike public employees covered under the California Public Employees' Retirement System (CalPERS), CalSTRS members do not participate in the social security system.

Proposition 162, approved by voters in 1992, amended the California Constitution to provide the CalSTRS Board with authority over the administration of the retirement system. Therefore, the CalPERS budget item is presented to the Governor and Legislature for informational purposes. The CalSTRS operations budget is $120.2 million and 714 positions, although CalSTRS indicates it is in discussions with the Department of Finance concerning the amount of the pro rata charge. When benefit payments are included, the total budget is approximately $7.1 billion.

Issue for Discussion

1. **State Contribution to the Defined Benefit Program.** The Governor proposes to shift State responsibility for making contributions to CalSTRS basic retirement program to local employers. Specifically, the Governor's proposal eliminates the State's 2.017 percent contribution to the Defined Benefit (DB) program, for an assumed General Fund (Non-98) savings of $469 million in 2005-06. The proposal increases contributions for CalSTRS employers – school districts, county offices of education and community colleges – but does not provide additional funding to cover higher local contributions to the DB program. The Governor's proposal allows local employers to share costs with CalSTRS employees through collective bargaining. The state also contributes 2.5 percent of payroll for purchasing power benefits – estimated to total $581 million General Fund (non-98) in 2005-06. This purchasing power protection program is <u>not</u> affected by the Governor's proposal.

   Detail: Under the DB program, benefits are funded from three sources. Contributions, as a percent of payroll, for each of these sources are fixed in statute as follows:

   - Employee Contributions: 8.0 %
   - Employer Contributions: 8.25 %
   - State Contributions: 2.017 %

   Under the Governor's proposal, the state DB program contribution of 2.017 percent would be eliminated and the funding obligation would shift to either the Employer Contribution or the Employee Contribution (depending on collective bargaining). As noted in the LAO analysis, the State's contribution of 2.017 percent is pegged to payroll two years ago. If the 2.0-percent calculation were applied to current payroll, the costs would be approximately $500 million.

   In addition, the Governor proposes to give teachers the option of eliminating their 2 percent contribution currently credited to a Defined Benefit Supplement (DBS)

program. This option would allow employees to increase their take home pay by reducing contributions from 8 to 6 percent, but also reduce DBS benefits. Under current law, the DBS program ends in 2010.

The Administration also proposes to eliminate a statutory surcharge that is activated when there is unfunded liability to cover 1990-level benefits. This surcharge was triggered for three-quarters of the year in 2004-05 at a rate of 0.524 percent and resulted in a General Fund (non-98) cost of $92 million. The LAO estimates that the full year costs of funding the surcharge is between $120 and $170 million in General Funds. CalSTRS estimate of the 2005-06 cost of this surcharge is $122 million.

CalSTRS Comments: The CalSTRS Board is opposed to the Governor's DB contribution shift proposal because it: (1) potentially worsens the funding condition of the DB program; (2) potentially impairs contractual rights of existing members; and (3) poses a severe administrative burden on local employers and CalSTRS to administer the benefit program.

Proposition 98 Rebenching: The Governor's proposal would not result in any savings to the State if the cost shift would result in a rebenching of Proposition 98. In the *Analysis of the 2005-06 Budget Bill*, the LAO indicated that because the proposal shifts costs to locals it would likely require rebenching of Proposition 98. If this were the case, the state would have to appropriate $469 million to locals. The Administration has argued that no rebenching would be necessary with the proposal.

Legislative Counsel Opinion: The Legislative Counsel provided an opinion on the Governor's proposal and Proposition 98 rebenching in a letter dated April 11, 2005, and titled, *State Teachers' Retirement: Proposition 98 - #9293*. The opinion concludes as follows:

> *Thus, it is our opinion that the proposal to eliminate the state's annual contribution to the California State Teachers' Retirement System Defined Benefit Program contained in the Governor's Budget for the 2005-06 fiscal year would require a recalculation of the minimum educational funding obligation imposed by Section 8 of Article XVI of the California Constitution if that proposal is enacted by the Legislature and signed by the Governor.*

Staff Comment: Rebenching of Proposition 98, as the Legislative Counsel indicates would be required, means that the Governor's proposal would not save the State any money, as the State would be required to backfill the cost to locals of this retirement cost.

Staff Recommendation: Reject the Governor's proposal, because it will not generate any savings for the State.

Vote:

8320 Public Employment Relations Board

The Public Employment Relations Board (PERB) is responsible for administering and enforcing California's public-sector collective bargaining laws and to assist employers and employees in resolving their labor relations disputes.

The Governor proposes expenditures of $5.6 million (primarily General Fund) and 44.0 positions for the Board – an increase of $426,000 (General Fund) and 3.0 positions. These figures include an unallocated General Fund reduction of $86,000. The Board indicates it does not currently have a complete plan for this reduction, however, it will first look at reductions to travel, library services, and staff training.

Issue for Discussion

1. **Staffing Augmentation for New Oversight Responsibilities.** The Administration requests a permanent augmentation of $438,000 General Fund to add three new attorney positions. These new positions would perform workload related to legislation over the past three years (most recently SB 1102 in 2004) that added the following entities to PERB's area of responsibility: cities, counties, special districts, and trial court employees. PERB indicates that since these entities were added, the average number of annual litigation documents prepared has increased by 150 percent, the number of annual requests for injunctive relief has increased by 127 percent, and the annual number of unfair practice charges filed has increased by 50 percent.

   Staff Comment: No issues have been raised with this issue. PERB lost three legal positions to Control Section 31.60 in 2003-04, so this request would restore the number of legal positions to that which the Board had in 2002-03.

   Staff Recommendation: Approve this issue.

   Vote:

8380 Department of Personnel Administration

The Department of Personnel Administration (DPA) represents the Governor as the "employer" in all matters concerning the State employer-employee relations. The Department is responsible for all issues related to salaries, benefits, position classification, and training. For rank and file employees, these matters are determined through the collective bargaining process and for excluded employees, through a meet and confer process.

The Governor proposes expenditures of $78.5 million ($31.3 million General Fund) and 204 positions for DPA – a decrease of $27.1 million and 21 positions. The decrease in expenditures is primarily driven by carry-over funds that are artificially inflating 2004-05 expenditures; savings related to the closing of the State Training Center; and bargaining-unit MOU expenditures that are shifted from DPA to corrections.

Issue for Discussion

1. **Staffing for the Alternate Retirement Program.** The Administration requests an augmentation of $607,000 ($78,000 General Fund, $529,000 reimbursements), with $110,000 of this one-time, to administer the Alternate Retirement Program. This funding would support 1.0 position (two-year limited term) and administrative costs such as tax counsel legal services, investment consulting fees, and communication costs. DPA had additionally requested 2004-05 funding of $446,000 through a deficiency letter, but staff understands the current year request has been withdrawn by the Administration. The Administration indicates the program will produce 2005-06 savings totaling $145 million ($80 million General Fund).

   Background: As part of the 2004-05 budget package, SB 1105 amended sections of the Government Code to establish an Alternate Retirement Program for new state employees. Effective August 11, 2004, during the first 24 months of employment neither the employer nor the employee make contributions to the California Public Employees' Retirement System (CalPERS). Instead, the employee contributes a portion of their salary to the Alternate Retirement Program. These funds are placed in an Internal Revenue Code Section 401(a) account. The employer does not make a contribution to this plan, thus saving approximately 17 percent of its salary costs for the average miscellaneous employee. At the end of the 24-month period, the employee will be enrolled in the CalPERS system that will include both employer and employee contributions. The Alternative Retirement Plan program is administered by the DPA.

   Staff Comment: DPA indicates the costs associated with this existing program cannot be absorbed within existing budgeted resources.

   Staff Recommendation: Approve this request.

   Vote:

2. **Salary and Benefit Surveys:** The issue of salary and benefit surveys was discussed at the March 30, 2005, Senate Rules Committee confirmation hearing for Director Michael Navarro and Deputy Director William Avritt. Chairman Perata indicated he wanted to help DPA institute a complete salary survey. Mr. Navarro indicated he would welcome that. Mr. Avritt indicated DPA would want the survey to include both rank and file as well as manager and supervisor compensation; look at different regions of the state; and examine total compensation, not just salary.

   Staff Comment: The DPA should describe for the Subcommittee what recent salary surveys they have performed and how the information has benefited the state. The department indicates it will put together a plan for a comprehensive salary survey and submit a 2006-07 Budget Change Proposal to the Department of Finance.

   Staff Recommendation. Adopt provisional budget language that requires DPA to submit a plan to the appropriate fiscal committees of the Legislature by January 10, 2006, to implement a comprehensive salary survey that would include regional data, rank and file as well as manager and supervisor compensation, and total compensation, not just salary. The plan should include full fiscal detail on the costs associated with the survey, including necessary positions and total cost.

   Vote:

9650 Health and Dental Benefits for Annuitants

The Health and Dental Benefits for Annuitants budget item provides the State's contribution for the cost of a health benefits plan and dental care premiums, for annuitants and other employees, in accordance with requirements of Government Code. The cost of this benefit is estimated by the California Public Employees' Retirement System (CalPERS). The budgeted amount is $861 million (all General Fund) – an increase of $65 million from the current year. According to the LAO's *Analysis of the 2005-06 Budget Bill*, the increase reflects growth of 3.5 percent in enrollment and growth of 5 percent in health care inflation.

According to CalPERS, this expenditure forecast is traditionally updated in June and both the Administration and Legislature are notified. The budget bill is updated to reflect the new estimates through a Department of Finance technical correction, upon approval by the Legislature.

Issue for Discussion:

1. **Adjustment for the Federal Prescription Drug Program.** The Administration's estimates for this item include offsetting savings of $34.5 million for one-half year associated with the implementation of the Medicare Part D prescription drug program that becomes effective January 1, 2006. For retiree programs that provide coverage that exceed the coverage in Part D, the federal government should subsidize a portion of the prescription costs. The estimated value of this subsidy is $611 per Medicare enrollee for 2006.

   Staff Comment: The Public Employees' Retirement System (CalPERS) has expressed concern that it may be premature to adopt this reduction to premiums. The Subcommittee may wish to ask CalPERS to discuss their concerns and ask the Department of Finance to respond.

   Staff Recommendation: Keep issue open. The Administration indicates it will have updated figures available at the time of the May Revision.

   Vote:

9800 Augmentation for Employee Compensation

This budget item includes funding for pay and benefit increases for: (1) collective bargaining units with previously agreed upon provisions; and (2) statutory dental and vision insurance increases. Baseline costs are included in individual department budgets. Employee compensation funding is based upon approved Memoranda of Understanding for represented employees that are ratified by the Legislature. Compensation for excluded employees are determined by the Department of Personnel Administration or other authorized entities.

The Governor proposes funding of $261 million ($198 million General Fund) for employee compensation augmentations. In the *Analysis of the 2005-06 Budget Bill*, the LAO notes that $217 million of this amount is for contractual raises for highway patrol and correctional officers (bargaining units 5 and 6 respectively).

Issues for Discussion:

1. **Excluded Costs:** The LAO notes in their *Analysis* that this item does not include costs for the engineers' contract (unit 9), which has previously been estimated at $48 million ($1.8 million General Fund). Additionally, the item does not include the costs related to health insurance premium increases, which has previously been estimated at $102 million ($37 million General Fund). In the case of the engineer's contract, the Administration indicates it is awaiting updated salary-survey data prior to including these costs. In the case of the health premiums, the Administration indicates it intends to negotiate to shift these costs to the employee. The $102 million health-insurance cost listed here, represents the cost escalations from 2004-05 to 2005-06. The Administration also proposes to cut the base 2004-05 program funds, and that savings is included in budget item 9955 discussed later in this agenda.

   Staff Comment: The Administration indicates more information on bargaining-unit 9 costs should be available at the time of the May Revision.

   Staff Recommendation: Keep this issue open. Consider this issue again at the May Revision hearing when additional information will be available.

   Vote:

9955 Reduction for Employee Compensation

The employee compensation reductions proposed by the Governor for 2005-06, are included in the Governor's Budget as item 9955 "Employee Compensation Reform." These savings include reductions due to: (1) the adoption last year of the Alternative Retirement Program, which reduces the State's costs for employees staying with the state less that two years; and (2) cuts to employee compensation such as shifting retirement costs to employees and authority to furlough employees without pay.

The Administration indicates that total savings of $886.3 million ($487.5 million General Fund) would be realized in 2005-06 if the proposals are approved in their entirety. These figures are adjusted from the Governor's Budget based on an April 1 Finance Letter from the Administration that reduced the anticipated 2005-06 savings from the Alternative Retirement Program by $10.4 million. Savings from the Alternative Retirement program is an adjusted $145 million ($80 million General Fund) and savings from the cuts to employee compensation are $741 million ($407 million General Fund).

The Governor's proposal to provide new employees a defined contribution retirement plan instead of a defined benefit retirement plan, which was recently withdrawn by the Governor, is not included in this item. That proposal would not have taken effect in 2005-06, and was previously discussed during subcommittee hearings in February.

Issues for Consent / Vote Only

1. **Savings from the 2004 Alternative Retirement Program.** The Governor proposes to budget savings of $145 million ($80 million General Fund), from the Alternative Retirement Program enacted in August 2004 (SB 1105, Committee on Budget and Fiscal Review). The Administration requests the authority for the Director of Finance to reduce department budgets to capture this savings.

   The Alternative Retirement Program generated long-term budget savings to support the issuance of pension obligation bonds that would provide General Fund relief in 2004-05. The Administration now expects the bonds to be sold in 2005-06 instead of 2004-05, and expects bond revenues to be $560 million instead of $929 million.

   The program generates savings because, during the first 24 months of employment neither the employer nor the employee make contributions to the California Public Employees' Retirement System. Instead, the employee contributes a portion of their salary to the Alternate Retirement Program. These funds are placed in a 401(a) account. The employer does not make a contribution to this plan, thus saving approximately 17 percent of its salary costs for the average miscellaneous employee. At the end of the 24-month period, the employee would be enrolled in the PERS system that would include both employer and employee contributions.

   Staff Comment: This issue recognizes savings from an ongoing program enacted with last year's budget. No concerns have been raised with this budget issue.

   Staff Recommendation: Approve this request.

   Vote:

Issue for Discussion

1. **Cuts to Employee Compensation.** The Governor proposes budget savings of $741 million ($407 million General Fund) from cuts to employee compensation. These reductions would be phased in as union contracts are renegotiated and would therefore, require approval of represented employees through the collective bargaining process. The proposals are as follows:

   - **Defined-benefit retirement plan changes for existing employees.** Beginning in 2005-06, the Governor proposes to require employees to pick up one-half of the total retirement charges approved by CalPERS (both the "normal cost" – current cost of future benefits, and the unfunded liability). This would shift $374 million ($206 million General Fund) from the state to employees in 2005-06.

     Additionally, the Governor proposes to allow employees to opt out of CalPERS, with an estimated savings to the state of $164 million ($90 million General Fund). If an employee were to choose this option, they would receive both the "normal cost" employer contribution and the employee retirement contribution as current income, increasing take-home pay. However, unless that employee independently saved for retirement, their sole retirement support would be Social Security. The State would save money by not funding the unfunded liability in CalPERS for this employee.

   - **Five-day furlough of state employees.** The Governor proposes a five-day furlough of state employees to save the state an estimated $109 million ($60 million General Fund) in 2005-06.

   - **Eliminate leave from the overtime calculation**. The Governor proposes to eliminate holiday, sick leave, vacation, annual leave, and compensating time off, from the calculation of overtime. The Administration estimates this will generate 2005-06 savings of $36.4 million ($20 million General Fund).

   - **Health-benefit reductions.** The Governor proposes the following reductions to generate total 2005-06 savings of $55.3 million ($30.0 million General Fund):

     - New employees must work 6 months before health care is provided.
     - Enroll employees retired from the military in the federal health care program.
     - Reduce the amount the state contributes to health care by $14.20/month. (Additional savings of $102 million ($37 million General Fund) related to this proposal, are included in budget item 9800).

   - **Eliminate two state holidays.** The Governor proposes to eliminate 2 state holidays to save the state an estimated $3.1 million ($1.7 million General Fund).

   - **Cap the accrual of vacation and annual leave.** The Governor proposes to cap the accrual of vacation and annual leave at 640 hours. While the Administration indicates this will result in cost savings, it does not score any 2005-06 budget savings from this proposal.

Staff Comment: The Subcommittee may want to ask the Administration about the status of negotiations with state bargaining units relative to these proposals. In order to gain the above concessions from unions, the Administration may offer offsetting benefits that would increase out-year costs. Therefore, it is difficult to evaluate these proposals independent of a total compensation package.

Staff Recommendation: Keep this issue open. More information on the status of negotiations may be available at the time of the May Revision.

Vote:

Control Section 3.60 Contributions to Public Employees' Retirement Benefits

Control Section 3.60 of the budget bill specifies the contribution rates for the various retirement classes of State employees in the California Public Employees' Retirement System (CalPERS). This section also authorizes the Department of Finance to adjust any appropriation in the budget bill as required to conform with changes in these rates. The below table provide proposed rates with historical comparisons, and is copied from the LAO's *Analysis of the 2005-06 Budget Bill*.

State Retirement Contribution Rates

1991-92 Through 2005-06

Fiscal Year	Misc. Tier 1	Misc. Tier 2	Industrial	Safety	Peace Officer/ Firefighter	Highway Patrol
1991-92	11.8%	4.0%	13.4%	17.4%	17.4%	21.7%
1992-93	10.3	3.4	12.0	15.7	15.6	17.1
1993-94	9.9	5.0	11.8	15.5	15.2	16.9
1994-95	9.9	5.9	10.6	13.9	12.8	15.6
1995-96	12.4	8.3	9.0	14.2	14.4	14.8
1996-97	13.1	9.3	9.3	14.7	15.4	15.9
1997-98	12.7	9.8	9.0	13.8	15.3	15.5
1998-99	8.5	6.4	4.6	9.4	9.6	13.5
1999-00	1.5	—	—	7.5	—	17.3
2000-01	—	—	—	6.8	2.7	13.7
2001-02	4.2	—	0.4	12.9	9.6	16.9
2002-03	7.4	2.8	2.9	17.1	13.9	23.1
2003-04	14.8	10.3	11.1	21.9	20.3	32.7
2004-05	17.0	13.2	16.4	20.8	23.8	33.4
2005-06[a]	17.1	13.3	16.9	21.2	24.7	33.1

[a] Public Employees' Retirement System estimates.

Staff Comment: The above rates show significant annual fluctuations, which is primarily based on the investment market. Using "Misc. Tier 1" from the above table as an example, the highest rates are found in 2004-05 and 2005-06 and the lowest rates are found in 1999-00 and 2001-01. The average rate for Misc. Tier 1 for the period 1991-92 through 1997-98 is 11.1 percent, while the average rate for the 1998-99 through 2005-06 period is 8.9 percent.

CalPERS determines the rates in this section, and will update these rates with the May Revision of the Governor's Budget.

Staff Recommendation: Hold this item open pending the May Revision forecast.

Vote:

Control Section 4.01 Employee Compensation Savings

Control Section 4.01 provides authority for the Director of Finance to adjust Budget Act appropriations for the reductions in employee compensation included in the 9955 budget item. The 9955 item includes savings from the Alternative Retirement Program and proposed reductions to employee compensation. The control section is written with general language and could be used for whatever savings are included in the negotiated contracts.

Staff Comment: No such item was included in the 2004 Budget Act to adjust the budget for the Alternate Retirement Program savings. The Administration should comment on how similar adjustments were made in past budgets, and why this item is needed now.

Staff Recommendation: Keep this item open pending action on budget item 9955.

Vote:

Control Section 4.11 Establishing New Positions

Control Section 4.11 of the budget bill requires that new positions approved in the budget be established effective July 1, 2005, unless otherwise approved by the Department of Finance. Additionally, it requires the Controller submit monthly reports to the Department of Finance that lists new positions approved in the budget that will be abolished pursuant to Government Code Section 12439.

Staff Comment: This control section was added to the Budget Act for the first time last year. Staff understands this control section was added to reduce the practice of departments delaying the establishment of new positions and using the resulting savings for other purposes. The Administration should explain the impact of the July 1 position-establishment requirement on the operation of state departments.

Staff Recommendation: Approve this Control Section.

Vote: