



through May at the bottom right hand corner of the report, they are now projecting to overspend this internal lump sum allocation by only \$332,000. For SFY 2014/15, we are making up this identified overage with reductions in both the aforementioned overtime, retired annuitant usage and continued attritions without backfills. So our personnel budget, even with this internal overage in this category, is fine for SFY 2014/15. Last Thursday they received the expenditures through the month of May and we are on pace to meet our salary and wages budget of \$41.4 million for 2014/15. Typically the fiscal year end reports take longer than the monthly updates so there is a chance that the final 2014/15 report will not be available for next board meeting in August but as soon as they get the data he will report everything to the board.

Chief Silva reported that last week Admin Services distributed proposed office supply allocations to all CUIAB branches. Although we don't yet have a 2015/16 budget proposal for the board's consideration, they needed to give offices an idea of what their allocations would be so that they can continue to procure their needed office supplies. Chief Silva reported that in the current month, July, they are rolling out 37 replacement copy machines agency wide. CUIAB had copiers with maintenance service agreements that ended in June 2013, June 2014 and June 2015. During the last couple of fiscal years they analyzed the true copier needs while they sort of eked out the life of those slated for replacement back in 2013/14. Based on that study, the 37 copiers that are arriving this month will replace a total of 52 copiers that will be surveyed, so that's a reduction of 15 machines. In addition to those machines there are roughly 30-31 machines agency wide that are slated for replacement in 2016 and 2017, so they will be able to use the period from now until then to analyze their usage to perhaps look at further reductions in our copiers.

Chief Silva reported that they had a little bit of attrition in Admin Services so they are shuffling duties around to make ends meet and reassign some duties to existing staff since there is no backfilling of attritions.

Member Allen asked if the overage in CTO in IT was due to a special project or being low on staffing, what the cause of it was.

Chief Silva responded that his understanding is that it was needed overtime for staying late hours and taking care of the network at odd hours and things like that. It wasn't assigned to a specific project. It was ongoing monthly accumulation of CTO for extra time worked.

Chair Dresser asked if it was out of the ordinary.

Chief Silva replied it was not, that it has been consistent all throughout 2014/15 monthly. He thinks Sal Cannella had warned them at the beginning of the fiscal year that there would be a consistent pattern of CTO earned. Now as far as it consistently not being used after it is earned, no one has really spoken to that. But if it is on the books for a period of nine months then Human Resources Division will cash out that leave, so it is important to the extent that we can to have, not just IT but all staff, utilize that CTO when possible.

Chair Dresser commended staff for keeping the overtime expenditures down.

**4. Approval of the Minutes:**

The June 9, 2015 minutes were approved unanimously with one minor edit to the DOL representative's name on page two.

**5. Chair's Report:**

Chair Dresser reported that a couple weeks ago he attended the Department of Labor NAUIAP meeting in Washington, D.C. He reported that the Department of Labor is being underfunded by Congress both for the states, such as California, as well as its own internal operations. The states are receiving less money than they need by the formulas that are being used. He reported that Connecticut rolled out an automated calendaring program. It took them five years to get it right, and the head of that effort told the Chair that they would cooperate with our people should we consider developing a similar tool. He thinks that Chief Dressler has been trying to contact that person. Robert Johnston at DOL is in charge of the Conformity Division, may be lending assistance to us down the road. They are also looking into online training from the Department of Labor website.

Chair Dresser thanked all field and appellate staff for their efforts in making time lapse and case aging. He stated that the field is making it and that appellate is making some improvements and should be there fairly soon. Unfortunately for CUIAB, the UI caseload continues to drop. For fiscal year 2014/15 there were 238,199 new UI cases, and of course extensions are pretty much drying up. The previous year there were 323,277 new UI appeals received in 2013/14. Apparent is the huge reduction which is continuing unfortunately. Because of the dwindling number of cases in UI which means the prospect for the layoff is heightened. Chair Dresser stated that they made some inquiries about "golden handshakes," and that is not to be. We are in an unfortunate position because of reducing workload. You heard Chief Silva talk about reducing overtime, reducing the use of retired annuitants to almost nothing, and other efforts, and it is just one of those things that we are going to have to deal with as a board.

Chair Dresser reported that he will be visiting each of the field offices later this month and through August and September; and will be answering questions as they come up.

## **6. Board Member Reports:**

Vice Chair Allen thanked the staff for always doing an excellent job and he appreciates that job they've done. He also remarked that the Chair is doing a great job with a lot on his plate. He thanked the Chair for the good job that he does.

Member Corbett agreed with his comments.

Vice Chair Allen commented that he had reviewed the precedent process and sent it back to Chief Rose with comments. He thought it better explained the context of the legal requirements. He did ask that the flowchart be included for ease of reading.

Lastly, Member Allen paid appropriate respect to Bastille Day and the conditions that gave rise to the French Revolution, and how programs like our UI program might have obviated some of the inequities that led to the violence.

Member Corbett commented that she also looks forward to the evolution of the precedent process and she'll look forward to continuing to work with Member Allen in that regard. Additionally, she expressed her appreciation to IT for their assistance with a few technical issues she recently had recently with email and her laptop.

## **7. Public Comment:**

No public comment.

## **8. Chief ALJ/Executive Director Report:**

Chief ALJ/Executive Director Gonzales welcomed and introduced Nick Dressler, the CIO in IT. Mr. Dressler worked for CUIAB's IT for many years and then went to CDCR and worked with a much larger IT department. He has come back and is hopeful to work on new and creative projects with CUIAB.

Chief ALJ/Executive Director Gonzales reported that the field continues to make the time lapse and case aging numbers. The workload report will note that there was, in the field, a reduction of approximately 25% of UI cases for last fiscal year

ending June 30. The cases do continue to decline.

Chief ALJ/Executive Director Gonzales reported that Judges Madlyn Hilton and Stephen Swenson are going to conduct tax training for the judges in the field so field ALJs can become more familiar with the tax issues as we continue to hear more tax cases that are more complex. Also, Judge Hilton is working with the Disability Advisory Committee and the reasonable accommodation process and will be training supervisors on the process of reasonable accommodation.

Chair Dresser asked when the training times would occur. Judge Stephen Swenson responded the training is set for July 24 through the first week in August. He will be working in Sacramento and Fresno first and then Los Angeles and Southern California. He has scheduled most of the field offices, and they are working out details for the balance.

**9. Chief ALJ of Appellate Operations, Elise Rose Report:**

Chief ALJ of Appellate Operations Rose reported that AO has had a drop in the number of registrations that may be partially attributable to the fact one of their registration staff moved to another agency and one employee was out on medical leave, so it might not just be based on the drop in workload. AO has had an increase in dispositions and the open balance is lower than it was last month. Case aging was 42.2 days at the end of June however they are watching that in July and they have brought that down to 41.5 and then down 40.6, so they are making progress. Their compliance with the 45-day is improving as well. It is up to 48% but it needs to be at 50% so that is a big improvement over last month. She reported that AO is making progress and she is happy to see that. AO has had a lot of staff out on medical in all of the units so that has been difficult because AO's staff has been pretty small anyway at this point.

Chief ALJ Rose reported that AO did develop a backlog in transcripts. She has inquired with FO and they may have 3 people that they can loan AO to do some of the transcripts. AO has more of the ALJs listening to longer hearings to try to eliminate the backlog as well.

Chief ALJ Rose reported that three ALJs who were laid off last September had returned. The AO ALJ had a meeting/training on June 24. They discussed changes in the law, and some glitches associated with changes to the time to appeal to the board, which went into effect on July 1. They went over the new standard paragraphs specifically focusing on those in the areas of domestic quits and attendance, the Paratransit case, and the school cases.

Chief ALJ Rose reported that the precedent committee meeting for this month was cancelled but they have been communicating over the email in terms of the process. She has sketched out the flow chart. She found in doing the flow chart a couple of things may need to be changed in the process language.

Member Allen commented that on some of the recent board-author decisions, they should bring up the issue of training the field judges on procedural issues. Chief Rose responded that she needs to work with Chief Gonzales and her staff on it. Chief Rose stated that some issues seem to come with some frequency, and it would be worthwhile. She also commented that they have an in-house website for the ALJs to access information, called Insight, where we recently posted information on the new statutory deadlines for filing appeals. Chair Dresser asked if Insight was being updated. He mentioned that it would be interesting to do a survey of how many judges actually use Insight.

Member Corbett noted that it would be helpful to have a little more consistency in some of the documents that are provided to the board because some have the "Remand" noted at the top, and some do not. She recognizes it is a procedural issue, and she knows it is a small matter, but it would be helpful for consistency.

#### **10. Chief Information Officer, Nick Dressler Report:**

CIO Dressler reported that it was good to be back after a six-year hiatus. He's only been here three weeks and he is trying to get to know the staff in IT. He has met with most of them one-on-one and he continues to do that just to understand their goals are and/or concerns. He started reviewing some of the Board policies and noticed that a lot of the policies are out of date. They were the same policies that were in place when he was last with CUIAB seven years ago. He is trying to get the policies up to date and then look at improvements and so forth. He is basically trying to get an overall assessment of the IT division's organization and needs.

CIO Dressler reported that on June 22 there was a successful rollout of eCATS. That update changed the late period of benefit appeals from 20 to 30 days. They have an update to the eFile upgrade in the next three to four weeks and that is to implement the discussion panel page. The network circuit upgrades are continuing. They have eight offices complete so far and within the next 30 days they will have the remaining offices. That was a huge issue they had with slowness due to bandwidth issues. The field offices will be all up to date in the next month or so. Then after that they will concentrate on the hearing-facilities upgrades to minimize the bandwidth issues.

#### **11. Chief Counsel's Report:**

Chief Counsel Levy indicated that the Litigation Report is in the packets showing four new superior court petitions and three new appeals filed in the court of appeal. A total of 32 cases were closed in the last month, mostly attributable to researching our older cases to determine their status and if necessary have the motion filed because the five year statute has passed to get those cases dismissed. That leaves presently an open litigation caseload of 240 cases. The totals for this year reflect 63 affirmances, 2 reversals and 1 remand.

## **12. Unfinished and New Business:**

CUIC 413 Board Takeover of Case No. 5477399/400: Chief Counsel Levy stated that section 406(b) of the Unemployment Insurance Code requires the Executive Director to periodically engage in a continuous review of FO appeals that are not appealed to the full board. The purpose of this audit is to make sure that there is continuous quality control going on where some of our stakeholders who either lack the will or the means to pursue a board appeal. He explained that when the process uncovers decisions that don't appear to be supported by the record or consistent with applicable legal principles, the Executive Director recommends the cases to the Board for takeover. Chief Counsel Levy stated that an analysis from ALJ Jill Coren to Chief ALJ Gonzales explained the facts of the case and that the record seemed to demonstrate significant failures such that the Board should remove the case to itself, and refer it to Chief Rose for further action that may be warranted.

Member Allen asked if this process was done yearly or is this something that is a quality control aspect. Chief Gonzales responded that the review is one of the duties of the Chief Judge which has been delegated to Judge Coren, who is an ALJ II-confidential, the review is continuous. She does it weekly. There is a random pull of the cases and she will read the cases and listen to the hearing if necessary.

Member Allen commented that he finds it very good that they are doing this. He's been on the board and he's always learning. This is something he wasn't even aware of and he's pleased to hear they are doing it.

Chief Gonzales commented that it is very rare that these result in a recommendation for Board action.

Chair Dresser stated that the process is ongoing.

Member Corbett asked if this was a required process by law. Chief Gonzales replied it was, that the statute defines the duties of the Chief Administrative Law

judge, defined in UI Code 406(a) and (b), and the duties in (b) as the Chief Judge her duty is to do a continuous review of cases that are not appealed to the board to make sure that there is consistency and so on.

Member Corbett asked what sort of bench marks the reviewer is looking for. Chief Gonzales answered that in essence since the statute is unclear and in the past it has been done by different personnel they have been trying to pull it together to find the kinds of things as inconsistencies on what the field judges might do. Now they are following up with regular emails to the presiding judges about their findings. Even though the cases weren't necessarily appealed the problem would not be known. But if it is noted in the review, they had implemented the process of notifying the presiding judges in the field on some of the reviewed cases that show, not necessarily anything negative, but suggestions for the ALJs to handle particular issues in cases with a better approach.

Chair Dresser commented that he thinks it would be helpful once our budget situation is under control and our time lapse and case aging are under control, but at some point soon to maybe have a monthly or annual report, first of all the number of cases reviewed by Judge Coren and what if any are the findings. If there are any trends that she sees in the unappealed cases, it would be helpful to the board to know what they are. Chief Gonzales stated that she would work on that.

Chief Counsel Levy stated that under 406(b) the referral comes up to the board and the board may then under section 413 decide to remove the case to itself. So he asked for a motion; the board has two options: the first is to set aside the decision and refer it back to a different ALJ. What staff recommended however is that the board set aside the decision and remove it to the board for further proceedings.

Member Corbett so moved. Member Allen seconded. The motion passed unanimously.

Chair Dresser called the next items: Appeals Board Policy Statement Nos. 7 and 13, Equal Employment Opportunity, and Reasonable Accommodations.

Staff Counsel Ralph Hilton presented the updates to these two policies, No. 7 and No. 13, dealing with discrimination and reasonable accommodations. The policies had not been updated since 1994. The major changes were to update the policies in light of changes to the law since 1994. Also, the modifications separate out the process of handling claims from the board policies so that the board isn't required vote on a new board policy every time there is minor change in law.

On Chief Rose's suggestion, Members Allen and Corbett discussed whether the Board should adopt a policy related to bullying as well, which would be consistent with recent changes in law. The Board decided, however, that bullying is broader than discrimination, and therefore the subject of bullying doesn't belong in these policies. On the Board's request, there will be added to the second paragraph the reference to the appropriate federal laws that identify all protected classes.

Mr. Hilton reminded the Board that it can revisit the Policies at any board meeting and that any modifications can be addressed at any board meeting. Chair Dresser called for a vote. Policy Statement No. 7 which passed unanimously.

Chair Dresser questioned if Policy Statement No. 13 was directed just towards CUIAB employees or is it also somehow applicable to parties that come before CUIAB in terms of providing access to parties with disabilities. Mr. Hilton responded that the policy applies just to CUIAB employees and applicants for employments. If they wanted to extend it to the parties it would then be a regulation and would require going through the regulatory process. Chair Dresser called for a vote. Policy Statement No. 13 was approved unanimously.

**13. Closed Session:**

The Board went into closed session at 11:52 a.m. No votes were reported.

**Adjournment**