

# **BACKGROUND PAPER FOR THE BUREAU OF ELECTRONIC AND APPLIANCE REPAIR, HOME FURNISHINGS AND THERMAL INSULATION (BEARHFTI)**

**(Joint Oversight Hearing, March 17, 2014**

**Senate Committee on Business, Professions and Economic Development &  
Assembly Committee on Business, Professions and Consumer Protection)**

## **IDENTIFIED ISSUES, BACKGROUND AND RECOMMENDATIONS REGARDING BEARHFTI**

### **BRIEF OVERVIEW OF THE BUREAU OF ELECTRONIC AND APPLIANCE REPAIR, HOME FURNISHINGS AND THERMAL INSULATION**

#### **History and Function of the Bureau**

The California Bureau of Home Furnishings and Thermal Insulation (BHFTI) was initially established in 1911 (AB 547 Ryan, Chapter 73, Statutes of 1911) in response to unscrupulous manufacturing practices in the mattress industry which contributed to the fires following the 1906 San Francisco earthquake. BHFTI's jurisdiction was later expanded to include upholstered furniture and other bedding and insulation products. To ensure public safety, BHFTI's licensing population was broadened to include retailers, wholesalers and importers to remove dangerous product from the market. In addition to bedding and upholstered furniture manufacturers, importers, wholesalers and retailers, BHFTI regulates supply dealers, custom upholsters, sanitizers and manufacturers of thermal insulation. The BHFTI also certifies thermal insulation products and publishes an annual directory of those products.

The California Bureau of Electronic and Appliance Repair (BEAR) was separately established in 1963 under the Electronic and Appliance Repair Dealer Registration Law (SB 1292 Short, Chapter 1492, Statutes of 1963). In the late 1950s and early 1960s, fraud and negligence in the television repair industry were growing concerns to consumers and law enforcement agencies. Although televisions became more common in the 1950s, they were too expensive to replace for many consumers, who became vulnerable to unethical television repair businesses. In 1973, the repair of major home appliances was added to BEAR's regulatory authority. As technology evolved, the Bureau's regulations have been revised to add such items as microwave ovens, personal computers, satellite antennas and home office products. In 1994, service contracts (which provide for the maintenance, replacement or repair of specified items) over consumer electronic and home appliance products were

added to BEAR's regulatory authority. Service contracts now also include furniture, jewelry, lawn and garden products, and many other home and personal items.

The electronic and appliance repair industries and service contract industry are regulated under the Electronic and Appliance Repair Dealer Registration Law (Business and Professions Code Section (BPC) 9800 *et seq.*) and the home furnishings and thermal insulation industries are regulated under the Home Furnishings and Thermal Insulation Act (BPC 19000 *et seq.*)

In the late 1990s, BEAR and BHFTI were housed together under the oversight of one Chief and had consolidated some functions in an effort to share resources and reduce costs. In 2009, ABX4 20 (Strickland, Chapter 18, Statutes of 2009-10 Fourth Extraordinary Session), officially merged the Bureau of Home Furnishings and Thermal Insulation with the Bureau of Electronic and Appliance Repair together to create the Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation (BEARHFTI, or the Bureau).

The Bureau licenses and regulates over 40,000 businesses. The Bureau does not license individuals.

<b>Licensee Population</b>						
		FY 2009/10	FY 2010/11	FY 2011/12	FY 2012/13	
<u>Appliance Service Dealer</u> (repairs, services, or maintains major appliances, as specified)	Active	2,438	2,428	2,397	2,413	
	Out-of-State	7	3	4	8	
	Out-of-Country	0	0	0	0	
	Delinquent	248	289	327	291	
<u>Combination Service Dealer</u> (repairs, services, or maintains electronics and appliances, as specified)	Active	489	476	543	499	
	Out-of-State	11	5	6	6	
	Out-of-Country	0	0	0	0	
<u>Electronic Service Dealer</u> (installs, repairs, services, or maintains electronics, as specified)	Delinquent	10	27	6	10	
	Active	4,392	5,227	5,442	5,279	
	Out-of-State	19	30	31	28	
	Out-of-Country	0	1	1	1	
<u>Service Contract Seller</u> (sells service contracts)	Delinquent	709	852	799	720	
	Active	8,666	9,061	9,483	9,593	
	<u>Service Contract Administrator</u> (facilitates the compensation of parties for claims or repairs under services contracts and other activities on behalf of service contract sellers)	Active	23	30	38	45
		Out-of-State	21	28	36	40
Out-of-Country		0	0	0	0	
<u>Bedding Retailer</u> (sells bedding, which includes mattresses, box springs, comforters, and pillows)	Delinquent	4	2	2	2	
	Active	2,604	2,090	1,972	1,817	
	Out-of-State	5	7	9	11	
	Out-of-Country	0	0	0	0	
<u>Custom Upholsterer</u> (makes or repairs upholstered furniture (furniture with cushions or pillows or that is or can be stuffed or filled))	Delinquent	139	135	148	184	
	Active	566	551	487	488	
	Out-of-State	3	2	2	2	
	Out-of-Country	0	0	0	0	
<u>Furniture Retailer</u> (sells upholstered furniture)	Delinquent	71	79	112	103	
	Active	2,860	2,786	2,677	2,445	
	Out-of-State	6	6	7	7	
	Out-of-Country	0	0	0	0	
<u>Furniture &amp; Bedding Retailer</u> (sells	Delinquent	161	177	160	161	
	Active	10,664	10,764	11,232	11,282	

bedding and upholstered furniture)	Out-of-State	21	22	25	25
	Out-of-Country	0	0	0	0
	Delinquent	464	443	529	610
<u>Importer</u> (manufactures or wholesales upholstered furniture, bedding, or filling material made outside of the U.S. for the purpose of sale or resale in CA)	Active	3,342	3,425	3,545	3,736
	Out-of-State	436	433	452	458
	Out-of-Country	2,423	2,503	2,619	2,813
	Delinquent	1,916	2,209	2,550	1,860
<u>Furniture &amp; Bedding Manufacturer</u> (makes, or does the upholstery or covering of any unit of, upholstered furniture or bedding)	Active	1,449	1,428	1,425	1,419
	Out-of-State	659	661	655	654
	Out-of-Country	2	2	2	2
	Delinquent	267	315	348	287
<u>Sanitizer</u> (sanitizes bedding or filling material)	Active	11	9	15	14
	Out-of-State	1	2	2	1
	Out-of-Country	0	0	0	0
	Delinquent	1	1	2	3
<u>Supply Dealer</u> (manufactures, processes, or sells felt, batting, pads, fabrics, or loose material for upholstered furniture or bedding)	Active	156	147	134	132
	Out-of-State	30	28	26	24
	Out-of-Country	9	9	9	9
	Delinquent	19	19	26	21
<u>Thermal Insulation Manufacturer</u> (produces insulation materials or a combination of materials that retards the transfer of heat or cold)	Active	127	132	127	122
	Out-of-State	85	91	86	84
	Out-of-Country	8	11	10	11
	Delinquent	7	3	8	11
<u>Wholesaler</u> (sells upholstered furniture or bedding or filling materials to another for the purpose of resale)	Active	184	183	189	182
	Out-of-State	35	28	31	27
	Out-of-Country	0	0	0	0
	Delinquent	52	57	57	46

The current BEARHFTI mission statement, as stated in its 2013-2017 Strategic Plan, is: "***To protect and serve consumers while ensuring a competent and fair marketplace.***"

The Bureau's mandate includes making protection of the public its highest priority in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public is to be paramount. (BPC 9810.1, 19004.1)

The Bureau is required to do all of the following:

- License and register companies that engage in electronic and appliance repair or in the manufacture or sale of upholstered home furnishings or thermal insulation.
- Adopt appropriate regulations and ensure compliance with laws and regulations.
- Inspect businesses and conduct investigations.
- Conduct research, develop standards, and test products to confirm that they meet certain standards.
- Handle consumer complaints.
- Initiate disciplinary action against companies that violate statutory or regulatory requirements.

### **Council Membership**

The BEARHFTI Consumer Advisory Council is a voluntary council dedicated to assisting the Bureau by providing perspective, information, and insight into the electronic and appliance repair, service

contract, and upholstered furniture, bedding, and thermal insulation markets in California. Members of the Council serve in an advisory capacity on policy matters by making non-binding recommendations directly to the Bureau Chief. The Council has no decision-making or regulatory authority.

Previously, there were two Advisory Councils: the Bureau of Electronic and Appliance Repair Consumer Advisory Council and the Home Furnishings and Thermal Insulation Consumer Advisory Council. BEARHFTI combined the two Councils for efficiency and to optimize the dialogue between members of the different industries, which shared some common issues.

The Council is comprised of 9 members (6 professional and 3 public). The Director of the Department of Consumer Affairs appoints all members who typically serve two-year terms. Currently, there are 6 professional members and 1 public member, and 2 vacant spots (as of July 2013) for public members that are in the process of being filled. Terms for all members are set to expire on October 2, 2015. Meetings are held twice a year and a notice and agenda of each meeting is distributed and posted on the website at least 10 days prior to each meeting. Because the Council is voluntary, there is no quorum requirement.

**Fiscal and Fund Analysis**

As a Special Fund agency, the Bureau receives no General Fund support, relying solely on fees set by statute and collected from licensing and renewal fees. Although BEAR and BHFTI have merged under BEARHFTI, the electronic and appliance repair side and the home furnishings and thermal insulation side each continue to operate with their own budgets and their own funds.

Revenues collected and deposited into the Electronic and Appliance Repair Fund have remained relatively consistent over the past, while the revenues of the Home Furnishing and Thermal Insulation Fund have fluctuated (see below).

Licensee renewal fees are based on the issue date (one year cycle for Electronic and Appliance Repair and Thermal Insulation, two year cycle for Home Furnishings), and expire on the last day of the corresponding month. Major retailers with multiple stores may request their renewal dates be synced to a specific date and in those instances the Bureau prorates the fees accordingly. The Bureau has not changed fees within the last 10 years for its licensing categories.

<b>Fee Schedule and Revenue: Electronic and Appliance Repair</b>								
Types of Fees	Current Fee	Statutory Limit	B&P Code/CCR	FY 09/10	FY 10/11	FY 11/12	FY 12/13	% Rev.
Registration - Service Contract Admin	\$75.00	\$ 75.00	BPC 9873; 16 CCR 2760	\$300	\$900	\$1,125	\$675	0%
Renewal - Service Contract Admin	\$75.00	\$ 75.00	BPC 9873; 16 CCR 2760	\$1,800	\$2,513	\$2,437	\$2,625	0%
Delinq Fee - Service Contract Admin	\$37.50	\$ 37.50	BPC 9873	\$75	\$75	\$108	\$113	0%
Registration - Service Contract Seller	\$75.00	\$ 75.00	BPC 9873; 16 CCR 2760	\$68,475	\$160,875	\$110,850	\$97,800	5%

Renewal - Service Contract Seller	\$75.00	\$ 75.00	BPC 9873; 16 CCR 2760	\$506,475	\$537,188	\$589,200	\$684,280	26%
Delinq Fee - Service Contract Seller	\$37.50	\$ 37.50	BPC 9873	\$7,237	\$13,425	\$3,300	\$6,338	0%
Registration - Electronic Repair	\$165.00	\$ 165.00	BPC 9873; 16 CCR 2760	\$168,135	\$90,910	\$142,560	\$138,425	6%
Renewal - Electronic Repair	\$165.00	\$ 165.00	BPC 9873; 16 CCR 2760	\$725,593	\$794,010	\$799,101	\$789,128	35%
Delinq Fee - Electronic Repair	\$82.50	\$ 82.50	BPC 9873	\$36,805	\$32,157	\$41,537	\$43,500	2%
Registration – Maj. Appliance Repair	\$165.00	\$ 165.00	BPC 9873; 16 CCR 2760	\$47,025	\$38,775	\$39,104	\$36,135	2%
Renewal –Maj. Appliance	\$165.00	\$ 165.00	BPC 9873; 16 CCR 2760	\$362,669	\$369,271	\$373,420	\$373,802	17%
Delinq Fee – Maj. Appliance Repair	\$82.50	\$ 82.50	BPC 9873	\$16,581	\$19,140	\$21,118	\$22,906	1%
Registration - Combo Repair	\$325.00	\$ 325.00	BPC 9873; 16 CCR 2760	\$11,995	\$5,525	\$28,925	\$2,135	1%
Renewal - Combo Repair	\$300.00	\$ 300.00	BPC 9873; 16 CCR 2760	\$129,900	\$139,485	\$138,848	\$166,500	6%
Delinq Fee - Combo Repair	\$150.00	\$ 150.00	BPC 9873	\$1,200	\$1,200	\$750	\$1,050	0%
Total	-	-		\$2,084,265	\$2,205,449	\$2,292,383	\$2,365,412	100%

### Fee Schedule and Revenue: Home Furnishings and Thermal Insulation

Types of Fees	Current Fee	Statutory Limit	B&P Code/CCR	FY 09/10	FY 10/11	FY 11/12	FY 12/13	% Rev.
Initial -Retail Furn	\$120.00	\$ 120.00	BPC 19170; 4 CCR 1107	\$ 8,760	\$ 12,480	\$ 7,680	\$ 5,880	0%
Initial -Retail Furn-Chain	\$120.00	\$ 120.00	-	\$ 11,975	\$ 6,280	\$ 3,350	\$ 4,310	0%
Renewal -Retail Furn	\$120.00	\$ 120.00	BPC 19170; 4 CCR 1107	\$ 149,040	\$ 162,960	\$ 100,800	\$ 179,690	4%
Deliq. Ren-Retail Furn	\$ 24.00	\$ 24.00	BPC 19170.5	\$ 3,168	\$ 7,608	\$ 960	\$ 1,872	0%
Initial -Retail Bedding	\$120.00	\$ 120.00	BPC 19170; 4 CCR 1107	\$ 9,960	\$ 13,380	\$ 30,360	\$ 10,320	0%
Initial -Retail Bed-Chain	\$120.00	\$ 120.00	-	\$ 16,420	\$ 16,020	\$ 2,650	\$ 3,450	0%
Renewal -Retail Bedding	\$120.00	\$ 120.00	BPC 19170; 4 CCR 1107	\$ 91,800	\$ 105,840	\$ 78,720	\$ 95,040	2%
Delq. Ren-Retail Bed	\$ 24.00	\$ 24.00	BPC 19170.5	\$ 1,248	\$ 960	\$ 696	\$ 1,368	0%
Initial -Retail Furn/Bed	\$240.00	\$ 240.00	BPC 19170; 4 CCR 1107	\$ 82,520	\$ 82,560	\$ 158,400	\$ 84,810	3%
Initial -Retail Furn/Bed-Chain	\$240.00	\$ 240.00	-	\$ 218,040	\$ 92,965	\$ 53,050	\$ 53,505	3%
Renewal –Retail	\$240.00	\$ 240.00	BPC 19170;	\$1,228,040	\$ 944,520	\$1,360,960	\$ 1,039,708	30%

Furn/Bed			4 CCR 1107					
Delq. Ren-Retail Combo	\$ 48.00	\$ 48.00	BPC 19170.5	\$ 11,136	\$ 21,956	\$ 9,696	\$ 9,552	0%
Initial –Custom Upholsterer	\$360.00	\$ 360.00	BPC 19170; 4 CCR 1107	\$ 18,480	\$ 7,920	\$ 6,480	\$ 10,496	0%
Renewal – Custom Upholsterer	\$360.00	\$ 360.00	BPC 19170; 4 CCR 1107	\$ 89,740	\$ 84,984	\$ 83,520	\$ 82,080	2%
Delq. Ren-Upholsterer	\$ 72.00	\$ 72.00	BPC 19170.5	\$ 3,168	\$ 2,568	\$ 2,016	\$ 3,096	0%
Initial – Sanitizer	\$360.00	\$ 360.00	BPC 19170; 4 CCR 1107	\$	\$ 360	\$ 2,640	\$ 360	0%
Initial – Sanitizer -Chain	\$360.00	\$ 360.00	-	\$	\$	\$ 165	\$ 885	0%
Renewal - Sanitizer	\$360.00	\$ 360.00	BPC 19170; 4 CCR 1107	\$ 1,440	\$ 1,080	\$ 1,440	\$ 1,080	0%
Delq. Ren-Sanitizer	\$ 72.00	\$ 72.00	BPC 19170.5	\$	\$	\$ 72	\$	0%
Initial -Supply Dealer	\$540.00	\$ 540.00	BPC 19170; 4 CCR 1107	\$ 5,940	\$ 2,160	\$ 1,080	\$	0%
Initial -Supply Dealer-Chain	\$540.00	\$ 540.00	-	\$	\$	\$	\$	0%
Renewal - Supply Dealer	\$540.00	\$ 540.00	BPC 19170; 4 CCR 1107	\$ 31,860	\$ 38,880	\$ 32,700	\$ 37,800	1%
Delq. Ren-Supply Dealer	\$100.00	\$ 100.00	BPC 19170.5	\$ 400	\$ 1,700	\$ 1,000	\$ 900	0%
Initial -Furn/Bed MFG	\$650.00	\$ 650.00	BPC 19170; 4 CCR 1107	\$ 75,970	\$ 86,300	\$ 73,040	\$ 79,010	2%
Initial -Manuf Furn -Chain	\$650.00	\$ 750.00	-	\$	\$ 135	\$ 596	\$ 893	0%
Renewal -Furn/Bed MFG	\$650.00	\$ 750.00	BPC 19170; 4 CCR 1107	\$ 428,910	\$ 362,105	\$ 419,760	\$ 372,090	10%
Delq. Ren-Furn/Bed MFG	\$100.00	\$ 100.00	BPC 19170.5	\$ 9,900	\$ 8,100	\$ 9,900	\$ 8,600	0%
Initial -Furn/Bed Wholesaler	\$540.00	\$ 540.00	BPC 19170; 4 CCR 1107	\$ 14,040	\$ 16,260	\$ 10,800	\$ 10,140	0%
Initial -Wholesaler-Chain	\$540.00	\$ 540.00	-	\$ 5,795	\$	\$	\$ 210	0%
Renewal-Wholesaler	\$540.00	\$ 540.00	BPC 19170; 4 CCR 1107	\$ 39,420	\$ 34,560	\$ 42,120	\$ 38,760	1%
Delq. Ren-Wholesaler	\$100.00	\$ 100.00	BPC 19170.5	\$ 700	\$ 800	\$ 1,500	\$ 1,100	0%
Initial -Importer	\$650.00	\$ 650.00	BPC 19170; 4 CCR 1107	\$ 408,105	\$ 412,720	\$ 398,730	\$ 464,000	11%
Initial -Importer -Chain	\$650.00	\$ 650.00	-	\$	\$ 298	\$ 3,467	\$ 3,819	0%
Renewal - Importer	\$650.00	\$ 750.00	BPC 19170; 4 CCR 1107	\$ 716,331	\$ 762,925	\$ 797,500	\$ 857,835	20%
Delq. Ren-Importer	\$100.00	\$ 100.00	BPC 19170.5	\$ 27,500	\$ 27,600	\$ 29,800	\$ 33,500	1%
Initial -Thermal Insulation	\$2,000.00	\$ 2,000.00	BPC 19059.7; 19170.3	\$ 22,000	\$ 22,000	\$ 18,000	\$ 16,000	1%
Renewal -	\$2,000.00	\$2,500.0		\$ 198,000	\$ 236,000	\$ 250,000	\$ 228,000	6%

Thermal Insulation		0	-					
Delq. Ren-Thermal Insulation	\$100.00	\$ 100.00	BPC 19170.5	\$ 1,800	\$ 1,500	\$ 1,800	\$ 2,200	0%
Penalty Ren-Thermal Insulation	\$600.00	\$ 750.00	BPC 19170.5	\$ 1,200	\$	\$ 1,200	\$ 600	0%
BHFTI -30% Penalty	N/A	N/A	BPC 19170.5	\$ 38,770	\$ 37,902	\$ 35,542	\$ 38,211	1%
Total	-	-		\$3,971,576	\$3,616,386	\$4,032,190	\$ 3,781,170	100

There is no mandated reserve level for the Bureau; however, the DCA Budget Office has historically recommended that smaller programs maintain a contingency fund slightly above the standard three to six months of reserve. Maintaining an adequate reserve of at least six months provides for a reasonable contingency fund so that the Bureau has the fiscal resources to absorb any unforeseen costs, such as costly enforcement actions or other unexpected client service costs.

The total revenues anticipated by the Bureau for the Electronic and Appliance Repair Fund for FY 2013/14, is \$2.39 million and for FY 2014/15, \$2.39 million. The total expenditures for FY 2013/14, is expected to be \$2.58 million, and for FY 2014/2015, \$2.74 million. The Bureau expects the fund to have 8.6 months in reserve for FY 2013/14 and 6.9 months in reserve at the end of FY 2014/15. The fund is expected to have a reserve of 0.8 months at the end of FY 2017/18.

<b>Fund Condition: Electronic and Appliance Repair Fund</b>						
(Dollars in Thousands)	FY 2009/10	FY 2010/11	FY 2011/12	FY 2012/13	FY 2013/14	FY 2014/15
Beginning Balance	\$2,095	\$2,281	\$2,248	\$1,913	\$2,151	\$1,970
Prior Year Adjustment		(\$11)	(\$22)	(\$22)		
Adjusted Balance		\$2,270	\$2,270	\$1,935	\$2,151	\$1,970
Total Revenue and Transfers	\$2,106	\$2,222	\$2,303	\$2,373	\$2,394	\$2,390
Total Resources	\$4,201	\$4,492	\$4,573	\$4,308	\$4,545	\$4,360
Budget Authority	\$2,177	\$2,478	\$3,016	\$2,432	\$2,702	\$2,745
Expenditures	\$1,920	\$2,244	\$2,660	\$2,157	\$2,575*	\$2,743*
Loans to General Fund	\$0	\$0	\$0	\$0	\$0	\$0
Fund Balance	\$2,281	\$2,248	\$1,913	\$2,151	\$1,970	\$1,617
Months in Reserve	12.2	10.1	9.4	10	8.6	6.9

\* Projected

In FY 2011/12, the Home Furnishings and Thermal Insulation Fund loaned \$1.5 million to the General Fund, which is scheduled to be repaid in full in FY 2013/14. The total revenues anticipated by the Bureau for the Home Furnishings and Thermal Insulation Fund for FY 2013/14, is \$5.37 million and for FY 2014/15, \$3.87 million. The total expenditures anticipated for that fund for FY 2013/14 is \$4.48 million, and for FY 2014/2015 it is \$4.63 million. The Bureau expects the fund to have 6.9 months in reserve for FY 2013/14 and 4.9 months in reserve at the end of FY 2014/15. However, the fund expects to have a deficit at the end FY 2017-18.

<b>Fund Condition: Home Furnishings and Thermal Insulation</b>						
(Dollars in Thousands)	FY 2009/10	FY 2010/11	FY 2011/12	FY 2012/13	FY 2013/14*	FY 2014/15*
Beginning Balance	\$4,029	\$4,331	\$3,673	\$2,263	\$1,781	\$2,671
Prior Year Adjustment		-\$25	\$68	\$8		
Adjusted Balance		\$4,306	\$3,741	\$2,271	\$1,781	\$2,671
Total Revenue and Transfers	\$4,066	\$3,734	\$4,071	\$3,879	\$5,365	\$3,872
Total Resources	\$8,095	\$8,040	\$7,812	\$6,150	\$7,146	\$6,543
Budget Authority	\$4,527	\$4,612	\$4,692	\$4,679	\$4,884	\$4,862
Expenditures	\$3,764	\$4,367	\$4,049	\$4,369	\$4,475	\$4,628
Loans to General Fund	\$0	\$0	-\$1,500	\$0	\$0	\$0
Loans Repaid from General Fund	\$0	\$0	\$0	\$0	\$1,500	\$0
Fund Balance	\$4,331	\$3,673	\$2,263	\$1,781	\$2,671	\$1,915
Months in Reserve	11.9	10.9	5.8	4.8	6.9	4.9

\* Projected

Although the Bureau's fund reserve is shrinking over time, the Bureau is not seeking a statutory fee increase this year. According to the Bureau, the increase in expenditures over time is attributable to a general increase in costs, for example, for retirement and medical benefits and overhead expenses. The Bureau reports that it intends to ward off its projected deficits by (1) increasing efforts to identify unlicensed activity, which will generate revenues through initial licenses and renewal licenses; (2) increasing its citation and fine authority to the statutory limit of \$5,000, which it expects to implement in 2015; and, if necessary, (3) increasing its fees for importers, manufacturers, and thermal insulation up to the respective statutory caps.

### Expenditures by Program Component

Enforcement costs have dropped from 39% of the Electronic and Appliance Repair Fund's expenditures in FY 2009/10 to 25% for FY 2012/13. The drop in costs is attributed to the Bureau's new citation and fine process for unlicensed activity. Under its new process, the Bureau issues an order of abatement citation with a notice to comply to an unlicensed business, and, if the business does not comply, issues a citation and fine via certified mail instead of requiring field staff to contact the business in person a second time. Licensing and administration accounted for 12% and 21% of expenditures in FY 2012/13.

Enforcement, licensing, and administration costs have remained relatively constant and represent 25%, 8%, and 45% of the Home Furnishings and Thermal Insulation Fund's expenditures for FY 2012/13, respectively. Administrative costs include the costs of the laboratory testing program, which is discussed later.

<b>Expenditures by Program Component -Electronic and Appliance Repair</b>								
	FY 2009/10		FY 2010/11		FY 2011/12		FY 2012/13	
	Personnel Services	OE&E	Personnel Services	OE&E	Personnel Services	OE&E	Personnel Services	OE&E

Enforcement	556,749	160,132	424,653	133,987	410,177	137,052	353,247	171,862
Examination	0	0	0	0	0	0	0	362
Licensing	117,536	33,806	184,632	58,255	228,527	76,358	176,624	85,931
Administration *	247,444	71,170	307,720	97,092	234,387	78,315	294,373	143,219
DCA Pro Rata	0	670,518	0	913,730	0	1,486,332	0	905,851
Diversion (if applicable)	0	0	0	0	0	0	0	0
<b>Totals</b>	<b>921,729</b>	<b>935,626</b>	<b>917,005</b>	<b>1,203,064</b>	<b>873,091</b>	<b>1,778,057</b>	<b>824,244</b>	<b>1,307,225</b>

\* Administration includes costs for executive staff, council, administrative support, and fiscal services.

<b>Expenditures by Program Component -Home Furnishings and Thermal Insulation</b>								
	FY 2009/10		FY 2010/11		FY 2011/12		FY 2012/13	
Enforcement	655,053	310,043	650,946	427,788	668,259	304,295	664,322	430,862
Examination	0	0	0	0	0	0	0	0
Licensing	214,381	101,469	234,341	154,004	334,129	152,147	214,059	138,833
Administration *	1,012,354	479,157	1,106,609	727,240	1,042,484	474,700	1,181,017	765,977
DCA Pro Rata	0	987,418	0	1,080,500	0	1,045,526	0	931,139
Diversion (if applicable)	0	0	0	0	0	0	0	
<b>Totals</b>	<b>1,881,788</b>	<b>1,878,087</b>	<b>1,991,896</b>	<b>2,389,532</b>	<b>2,044,872</b>	<b>1,976,668</b>	<b>2,059,398</b>	<b>2,266,811</b>

\* Administration includes costs for executive staff, council, administrative support, and fiscal services.

### **Staffing Levels**

The Bureau Chief is appointed by the Governor, and serves as the Chief of the Bureau. The current Chief, Tonya Corcoran, has served as Chief for almost two years, and previously headed the Consumer Assistance Program at the Bureau of Automotive Repair, and has been with DCA for 23 years.

The Bureau has reported difficulty recruiting for specialized positions required for field and laboratory work, due to the specialized nature of the work and the qualifications needed. As budgetary constraints have eased, the Bureau is currently filling its vacant positions and has restructured some of the work as appropriate. In 2012, the Department, on behalf of the Bureau, administered open examinations for the Field Representative and Textile Technician classifications, and these two positions were filled. The Bureau also reclassified an inspector position to a senior analyst to address rulemaking files, budget change proposals and other policy and administrative work identified in its Strategic Plan. The Bureau has provided opportunities to allow internal staff to compete for available positions whenever they meet the qualifications in order to retain expertise.

For FY 2013/14, the Bureau has 41.9 allocated personnel, with 6.9 dedicated to licensing, 16 dedicated to field operations and enforcement, and 10 dedicated to laboratory work. There are currently four vacancies within the Bureau. The Bureau has conducted interviews for two positions, and is actively recruiting for the other two positions.

The Bureau recognizes that some staff may choose to retire in the next few years, and is working to ensure that procedures and historical knowledge are documented for their successors. The Bureau operates under DCA's succession plan, and provides information to the Department on potential retirements and how they plan to address them. The Bureau reports that it is constantly working on streamlining to ensure that certain policies and procedures are consistent across the various units.

## Licensing

The Bureau licensed and registered over 44,000 businesses in FY 2012/13:

- Electronic service dealers (5,308)
- Appliance service dealers (2,421)
- Electronic and appliance service dealers (505)
- Service contract sellers (9,977)
- Service contract administrators (85)
- Custom upholsters (490)
- Bedding retailers (1,828)
- Furniture retailers (2,452)
- Bedding and furniture retailers (11,307)
- Importers (7,007)
- Furniture and bedding manufacturers (2,075)
- Sanitizers (15)
- Supply dealers (165)
- Thermal insulation manufacturers (217)
- Wholesalers (209)

The licensing population has remained relatively stable over recent years, although there has been a noticeable increase in electronic service dealers and a decrease in bedding retailers and furniture retailers.

The following bills have affected the Bureau's licensing population:

- SB 1077 (Greene, Chapter 1137, Statutes of 1996) added the importer license type, consolidated manufacturer and wholesaler license types, eliminated renovator license, and exempted 'antique' and 'used' furniture.
- SB 1349 (Sen. Comm. on Bus. & Prof., Chapter 549, Statutes of 1997) exempted sanitizers from holding additional licenses if they hold certain other licenses.
- AB 1496 (Olberg, Chapter 837, Statutes of 2000) exempted medical device retailers from licensure if they hold other certain license types.
- AB 446 (Asm. Comm. on Bus. & Prof., Chapter 306, Statutes of 2001) deleted cellular telephone repair from products under regulation.
- AB 2973 (Asm. Comm. on Bus. & Prof., Chapter 405, Statutes of 2002) exempted companies who sanitize by allowing them to perform that activity under other license types.
- AB 1553 (Wesson, Chapter 775, Statutes of 2003) added regulated products under service contract program.
- SB 1047 (Sen. Comm. on Bus. & Prof., Chapter 354, Statutes of 2007) included used bedding under sanitization requirements.
- AB 2111 (Smyth, Chapter 543, Statutes of 2010) added products including "accessories" of electronic sets and appliances.
- AB 480 (Calderon, Chapter 421, Statutes of 2013) added optical products to service contracts.

The Bureau's licensing program provides public protection by ensuring licenses and registrations are issued only to applicants who have not committed criminal acts that would be grounds for denial,

which include acts that are substantially related to a person's scope of work or acts that could jeopardize a potential consumer, such as fraud or violent crime.

<b>Licensing Data</b>	<b>FY 2010/11</b>	<b>FY 2011/12</b>	<b>FY 2012/13</b>
Initial License Applications Received	5,139	4,888	3,989
Licensed Issued	4,864	4,816	3,833
Pending Applications	6	20	118
Average Days to Application Approval – EAR	28	29	26
Average Days to Application Approval – HFTI	20	18	13
License Renewals	24,059	25,862	22,668

The Bureau's performance target for issuing licenses and registrations is 30 days from receipt of the application. If the application is complete and there is no criminal history, the Bureau has been consistently able to meet this goal. The statutory requirements for licensure include a completed application, fee, and in the case of service contract sellers and administrators, financial documentation and sample contracts. If an application is deficient or needs clarification, the Bureau returns the application within a few days of receipt. Upon approval of a complete application and all supporting documents, a license or registration is issued. The Bureau has taken the following steps to reduce licensing process times:

- Cross trained and redirected licensing staff, when needed.
- Periodically reviewed application procedures to make sure applications are as clear as possible and ways to streamline the process.
- In 2012, implemented an on-line credit card renewal program for certain license and registration types to expedite renewals and bypass the manual cashiering system (which is handled by DCA), which can create delays. This has cut the renewal time down from one month to within 3 days for processing a renewal.

The Bureau has not pursued any Budget Change Proposals (BCPs) for the authority to hire additional staff because it is meeting its licensing expectations.

As noted above, the Bureau only licenses businesses, not individuals. However, an applicant must disclose specified information, including criminal convictions, for the business owner and, if applicable, for all partners and officers or members of a corporation or LLC. When applying for licensure, the applicant certifies and signs under penalty of perjury that the information being submitted is true. When a criminal conviction is indicated on the application, the Bureau requires the applicant to complete a questionnaire to fully disclose all criminal convictions. The Bureau then obtains court records to determine if the convictions have a substantial relationship to the functions and duties of a licensee/registrant. The Bureau's enforcement database is also searched for criminal and administrative cases, outstanding citations or other actions. There is no national database for disciplinary actions for the industries under the Bureau's purview. The Bureau does not have the statutory authority to fingerprint applicants.

### **Product Testing**

California is one of only two states (Ohio is the other) that have testing laboratories. The rest of the nation looks to California for technical expertise in testing and classifying filling materials found in furniture and bedding, and for setting industry standards. These standards ultimately affect the

products that are sold across the country, because manufacturers typically produce items that meet California's standards and distribute those items to the rest of the nation. Recently, the Bureau approved new flammability standards for upholstered furniture under Technical Bulletin 117-2013. These new standards reflect modern manufacturing methods by testing upholstered furniture for smolder ignition, which is the predominant source of fires today.

The Bureau is also responsible for ensuring thermal insulation products offered for sale in California perform at the level stated by the manufacturer. It does so by licensing thermal insulation manufacturers, certifying thermal insulation products, and periodically testing samples for compliance. If the Bureau finds products that do not perform as certified and are found to be in violation, it has the authority to order that the product be withheld from sale and take administrative or civil action against the manufacturer. The Bureau also publishes an annual directory of products that have been certified and tested to California standards.

In addition, the Bureau has access to and may inspect and test any article of upholstered furniture, bedding, or insulation, and may condemn, seize, or destroy any of those products that are in violation of the law. While companies do not need to have their products tested to receive a license, staff may select items for testing to determine if products are in compliance.

The laboratory tests roughly 300 samples of upholstered furniture, mattresses, bedding, plumage (feather and down), and thermal insulation each year, and upholstered furniture and mattresses make up the largest share of those samples. For FY 2013/14, the Bureau has already conducted over 216 tests.

### **Product Reimbursement**

Effective January 1, 2013, AB 1443 (Logue, Chapter 90, Statutes of 2012) required the Bureau to reimburse the manufacturer, distributor, or retailer for any article or sample of filling material or insulation taken for analysis, unless the article or sample was found to be in violation of law or Bureau regulation. The Bureau is authorized to reimburse only eligible products and only for actual costs. Prior to implementation of AB 1443, the Bureau purchased upholstered furniture products for testing at full retail and paid regardless of the product passing or failing to meet the Bureau's standards.

From February 2013 through January 31, 2014, the Bureau tested 264 furniture samples. Of that amount, 58 were ineligible for reimbursement (product failed to meet standards), which meant that 22% of samples tested were in violation. Of the 206 products that were eligible for reimbursement, 69 samples were reimbursed. The Bureau has initiated the reimbursement process for the other 137 vendors, but has not yet received a response.

<b>Product Testing Data</b>	FY 2010/11		FY 2011/12		FY 2012/13	
	# Tested	% Failed	# Tested	% Failed	# Tested	% Failed
Residential upholstered furniture (TB 117)	109	37%	209	53%	132	49%
Mattress/mattress sets (16 CFR 1633)	42	14%	34	18%	54	19%
Mattress/mattress pads (16 CFR 1632)	4	0%	2	0%	6	17%
Commercial upholstered furniture (TB 133)	1	0%	5	0%	1	100%
Plumage (feather and down)	14	57%	30	60%	41	54%
Thermal Insulation	101	14%	26	12%	33	21%
Bedding (for labeling)	9	*	12	*	30	*

Labeling	159	85%	287	91%	263	82%
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\*test results are included in labeling results

## **Product Failure Rates**

Nearly half of all products tested under the original Technical Bulletin (TB) 117 failed to meet the standard. According to the Bureau, this failure is due in part to the fact that TB 117 was a component standard, in that each component of a piece of upholstered furniture (such as the cushion cover, the filling, and the batting) could individually meet the TB 117 standard, but when tested together, the piece could still fail because TB 117 did not focus on the interaction of the materials. This was part of the impetus for the new TB 117-2013 standard discussed below.

Furthermore, over half of all feather and down products tested failed to meet standards. Of course, these failure rates include even small variances from the standard, such as a 1% difference in the required feather to down ratio. In addition, labeling violations occurred in over 80% of products tested, but those violations include minor issues such as using a slightly different font size or failing to include the word "the," that may not pose a substantial risk of harm or confusion to consumers.

While it is difficult to discern how many failed products had major rather than minor violations, the average product reimbursement rate was 78%, which means that while many products did not completely adhere to all requirements, most failures did not rise to the level of a serious violation. Mattress failure rates, which are based on federal standards that borrowed California standards, remain relatively consistent below 20%.

## **Flammability Standards**

Technical Bulletin 117-2013: Existing law requires all upholstered furniture that is sold to California consumers to be fire retardant. California is the only state with a residential upholstered furniture flammability standard. These flammability standards were developed and adopted in 1975 by the Bureau under TB 117. On June 18, 2012, Governor Brown asked the Bureau to review the state's four-decade-old flammability standards under TB 117 and revise flammability standards for upholstered furniture sold in the state in order to reduce the use of toxic flame retardants while continuing to ensure fire safety. After a substantial effort, on November 21, 2013 the Bureau revised TB 117 and approved the state's new flammability standards for upholstered furniture - TB 117-2013 - to reflect modern manufacturing methods that can provide greater fire protection.

Beginning January 1, 2014, manufacturers may begin manufacturing to the new standards. They will have one year to complete the transition and must come into full mandatory compliance on January 1, 2015. The standards were crafted based on a comprehensive review, statewide workshops and public comment, which included over 30,000 comments in support, and a petition that reached over 68,000 signatures in support.

Since the standards have been approved, the Bureau's priority has now shifted toward getting manufacturers to understand and comply with the new standards. The Bureau is currently in a "question and answer" period for TB 117-2013, and working on preparing a "Frequently Asked Questions" section to put on its Internet Web site to increase understanding, and has been in contact with manufacturers and stakeholders across the country who are affected by the new standards.

Exempt Products: BPC 19161.5 authorizes the Bureau Chief, subject to the approval of the DCA Director, "to exempt items of upholstered furniture which are deemed not to pose a serious fire hazard" from fire retardant requirements.

Recently, the Bureau, after examining the risk associated with a product, has exempted specified juvenile products from toxic flame retardant requirements. In 2010, the Bureau exempted strollers, infant carriers, and nursing pillows from TB 117 standards (4 CCR 1374.2). Effective January 1, 2014, the Bureau exempted an additional 15 juvenile products, including: bassinets, booster seats, car seats, changing pads, floor play mats, highchairs, highchair pads, infant bouncers, infant seats, infant swings, infant walkers, nursing pads, playpen side pads, play yards, and portable hook-on chairs. In addition, while the Bureau used to require exempt products to display a label that stated the product was exempt from TB 117, which caused consumer confusion, exempted products are no longer required to have that label.

Thermal Insulation: Existing law authorizes the Bureau, with input from the California Energy Commission (CEC), the State Fire Marshal, manufacturers, distributors, and licensed installers, to establish insulation material standards governing the quality of all insulation material sold or installed in the state, including safety and thermal performance. In May of 2012, the Bureau actively resumed work on the Thermal Insulation standard and corresponding regulations, and met with the California Building Standards Commission on the process of publishing regulations.

In December 2012, the CEC provided comments on the draft standard, and the Bureau incorporated those comments and held a public workshop on the proposed new standards in June 2013. The Bureau is currently working with industry to finalize the regulations and standard. In addition, AB 127 (Skinner, Chapter 579, Statutes of 2013) requires the State Fire Marshal, in consultation with the Bureau, to propose building standards to the Building Standards Commission by January 1, 2015 that maintain overall fire safety, while giving full consideration to the long-term human and ecological health impacts associated with chemical flame retardants.

### **Enforcement**

BPC 9810.1 and 19004.1 specify that protecting the public is the highest priority of the Bureau and paramount to any other interests. The Bureau conducts routine inspections, investigates complaints, and takes necessary disciplinary action to promote consumer protection, minimize substandard practices, and maintain a fair and competitive marketplace. The Bureau makes sure resources are allocated to respond to consumer complaints and that illegal or unethical behavior is addressed appropriately. The Bureau works closely with the Attorney General's office on enforcement actions and to prioritize workload to address the most egregious acts first. When appropriate, the Bureau refers cases to district attorneys to pursue criminal action.

Much of the Bureau's work is done in the field through site inspections. In the home furnishings arena especially, regulation is more product-safety driven than consumer complaint responsive. Staff inspects products for proper labeling and samples products for testing to ensure consumer safety and check that businesses are properly licensed. On the electronic and appliance repair side, many investigations are based on consumer complaints or industry tips, and facilities are inspected for proper estimate practices, invoicing, proper repairs and disclosure to the consumer. The Bureau also takes a proactive approach in assisting companies to comply with consumer protection laws. The Bureau has a comprehensive "Write It Right" document on its website to provide instruction in how to properly give

estimates, invoices, and provide diagnostic fee and service call quotations. If a violation notice is given in the field, the Bureau continues to monitor the business for repeat violations.

According to the Bureau, its intake and investigations take an average of less than 90 days, which is well below the target time of 180 days. However, the Bureau also states that it has not been able to meet the Formal Disciplinary targets, which are 540 days, largely due to delays at the Attorney General's office. To reduce the amount of time it takes to resolve disciplinary cases, the Bureau tries to reduce the number of cases that require more time-consuming actions from the Attorney General's office. For example, the Bureau triages its cases and pursues alternative actions for some cases that pose less of a risk to consumers, such as placing a licensee on probation instead denying or revoking a license (if a licensee fails probation, the revocation becomes automatic). The Bureau pursues actions through the Attorney General's office only for egregious violations, such as consumer fraud.

In 2013, the Bureau is focused on three enforcement goals as identified in its Strategic Plan:

- Revise the Bureau's disciplinary guidelines to remediate misconduct.
- Review and update the probationary monitoring program to effectively oversee probationer terms and conditions.
- Develop and implement a plan to address unlicensed activity and illegal or unfair business practices.

### Disciplinary Guidelines

The disciplinary guidelines for both programs were last updated in 1997. The Bureau has drafted new guidelines for both the Electronic and Appliance Repair Law and the Home Furnishings and Thermal Insulation Act. The Bureau has worked closely with the Attorney General's office and the Department's Legal Division to ensure that the new language, terminology, terms and conditions are appropriate. The guidelines are currently undergoing review, and the Bureau anticipates that regulations will be promulgated this fiscal year.

### Probation Monitoring Program

In January 2013, the Bureau reviewed and refined procedures of the Probation Monitoring Program. The Bureau began adding additional probation requirements to stipulated settlements, using licensing coding for tracking purposes, and posting probationer information on the Bureau's website to increase public disclosure. In FY 2012/13, there were six new probationers under the Bureau, bringing the total number of probationers to 11.

### Unlicensed Activity

In recent years, the electronic and appliance repair business has changed markedly from storefronts to mobile businesses, making it increasingly difficult to make a follow-up field contact with someone who is not willing to comply with the Bureau's registration requirements. This prompted the Bureau to review its processes for addressing unlicensed activity.

In February 2013, the Bureau changed its policies to more effectively address unlicensed activities. The Bureau first seeks compliance from unlicensed businesses by issuing an order of abatement citation with a notice to comply. Non-compliance is followed by a citation and fine, which can be

issued via certified mail. This substantially reduces the need for field staff to contact the unlicensed business owner in person a second time, and their time is more efficiently allocated to address others that are unlicensed or operating with an expired license. If a business does not comply after an abatement order is issued and a fine is levied, the Bureau seeks other enforcement actions with escalating consequences. In addition, office staff are now triaging consumer complaints and referring complaints to the field as necessary. This ensures that field staff has more time to be active in the field to address unlicensed and unscrupulous practitioners and handle the most complex consumer complaints.

Since implementation of the new policy, the volume of citations issued by the Bureau has increased dramatically. The Bureau is currently averaging 84 citations per month with a high level of compliance. The threat of a financial citation incentivizes unlicensed businesses and delinquent licensees to pay the required licensure fees. For the 2013 calendar year, the Bureau has issued more than 1,000 citations as a result of its new policy. While citations and compliance have increased, the number of violations issued has decreased because the Bureau is no longer required to take a formal enforcement action against many businesses because the new cite and fine method succeeded in bringing them into compliance. Of the citations issued by the Bureau, roughly 65% of electronic and appliance repair violations are for unlicensed activity, and roughly 60% of home furnishings and thermal insulation violations are for unlicensed activity.

<b>Enforcement Statistics</b>	<b>FY 2010/11</b>	<b>FY 2011/12</b>	<b>FY 2012/13</b>
Complaints	2,153*	1,910	1,621
Complaints referred to investigation	2,150	1,906	1,739
Investigations assigned	2,153	1,905	1,877
Investigations closed	2,254	1,874	1,844
Investigations – average days to close	63	66	62
Desk investigations- average days to close	55	56	52
Non-sworn investigations – average days to close	85	98	104
Investigations pending	282	315	306
Notice of violations issued	2,000	1,584	1,396
Citations issued	72	121	465
Average days to complete	183	114	30
Fines assessed	\$31,700	\$39,850	\$28,000
Fines collected	\$12,200	\$19,600	\$14,100
Inspections conducted	5,687	4,653	3,109

\*About 900 complaints were HFTI related, while roughly 1,200 complaints were EAR related.

The table below shows the timeframes for the last three years for formal discipline and identifies the actual formal disciplinary actions taken by the Bureau in the past three years.

<b>Formal Disciplinary Actions</b>	<b>FY 2010/11</b>	<b>FY 2011/12</b>	<b>FY 2012/13</b>
Discipline: Average Days to Complete	528	623	776
Accusations Filed	1	1	1
AG Cases Initiated	7	11	11
AG Cases Pending	13	16	18
Revocation	0	3	0
Voluntary Surrender	0	0	1
Suspension	0	0	0

Probation with Suspension	0	0	0
Probation	0	0	0
Probationary License Issued	4	3	3
Other	2	0	0

In the past, the Bureau has utilized the telephone disconnect authority under BPC 149 to help address unlicensed activity. When an unlicensed appliance and service repair business advertises in a telephone directory and is noncompliant, the Bureau would work with the California Public Utilities Commission (CPUC) to disconnect the associated business telephone number. In 2012, the Bureau initiated 42 telephone disconnects, of which 28 were successful. However, in late 2012, the CPUC put all requests on hold pending further legal review, based on arguments by telephone service providers that takedowns are only permitted under statute when a business has advertised in a print telephone directory and is using a traditional phone line (which represent a diminishing minority of cases). As a result, no takedowns were initiated by the Bureau in 2013.

### **Consumer Satisfaction Survey**

The Bureau conducted consumer satisfaction surveys via website, mail, email, over the phone, and in person. Results from its FY 2011/12 and 2012/13 surveys are below:

<b>Consumer Satisfaction Survey</b>	<b>FY 2011/12</b>	<b>FY 2012/13</b>
Questions	% Positive Responses	
How satisfied were you with the time it took for us to resolve your complaint?	87%	85%
How satisfied were you with the explanation you were provided regarding the outcome of your complaint?	81%	81%
Overall, how satisfied were you with the way in which we handled your complaint?	84%	85%
Would you contact us again for a similar situation?	87%	85%
Would you recommend us to a family or friend experiencing a similar situation?	85%	84%

## **PRIOR SUNSET REVIEWS: CHANGES AND IMPROVEMENTS**

BEAR and BHFTI were last reviewed in 1995 by the Joint Legislative Sunset Review Committee (JLSRC). During the previous sunset review, JLSRC made some recommendations for both BEAR and BHFTI. Below is a summary of those recommendations and actions that have been taken over the last 19 years in response.

Recommendations and actions for the electronics and appliance repair side include the following:

1. Continue to regulate the electronic repair industry segment: Although the cost of replacing many electronic items has gone down, JLSRC previously recommended the continued regulation of the industry, as there was still a propensity for consumer fraud and dishonest dealing.
2. Continue market evaluation and restoration of appliance repair: The Bureau has not conducted any formal market evaluation studies.

3. Monitor market condition of service contracts: The Bureau conducted a Service Contract Market Study in 1999, which concluded that regulation was warranted. Since then, the scope of regulation has been expanded to include many other home and personal use items, including optical products, which were added last year. The Bureau continues to review service contracts to verify compliance with the Song-Beverly Consumer Warranty Act and that the appropriate financial backing is in place. The Bureau perpetually reviews contracts and notifies companies when there is a deficiency or discrepancy. In the past three fiscal years, there has been an average of 28 complaints per year relating to service contracts.
4. Consolidate consumer household products under one Bureau: BEAR and BHFTI were housed together in 1998, and officially merged together as the Bureau in 2009.

Recommendations and actions for the home furnishings and thermal insulation side include the following:

1. Simplify the licensing structure: The home furnishings program restructured its licensing types to simplify and remove duplication for companies who manufactured, imported, and wholesaled both furniture and bedding; consolidated the manufacturer and wholesaler license types; eliminated the renovator license; exempted businesses from holding a sanitizer license if they held other licenses; and exempted antique and used furniture.
2. Adopt federal plumage (feather and down) guidelines, but maintain the ability to enforce them: The Bureau adopted regulations to enforce the federal standards. In 1998 the Federal Trade Commission repealed the federal standards, and as a result, the Bureau adopted plumage standards in 2000. The Bureau continues to enforce plumage guidelines by testing feather and down products to determine if they are in compliance.
3. Redefine the labeling requirement: Labeling regulations have since been amended for clarity and simplification.
4. Deregulate waterbeds and allow the industry to self-regulate: Waterbeds were deregulated in 1997.
5. Continue market condition assessment to target resources and evaluate consumer risk and impact: The Bureau has not conducted any formal market evaluation studies.
6. Implement a comprehensive communication strategy for education of consumers, targeted industry segments, and government and consumer organizations: The Bureau has created and makes available educational materials and guidelines for consumers and licensees.

#### **Major changes since 1995:**

- Merged BEAR and BHFTI together to form the Bureau in 2009.
- Changed headquarters location in 2012.
- Adopted a 2013-2017 Strategic Plan.
- Implemented a new process for issuing citations and fines.
- Adopted new Technical Bulletin 117-2013 flammability standards for upholstered furniture.

# CURRENT SUNSET REVIEW ISSUES FOR THE BUREAU OF ELECTRONIC AND APPLIANCE REPAIR, HOME FURNISHINGS AND THERMAL INSULATION

The following are unresolved issues pertaining to the Bureau which were not previously addressed, along with new areas of inquiry for the Committees to consider. There are also recommendations from Committee staff as to how particular issues or problem areas might be better understood or usefully addressed. The Bureau and other known interested parties have been provided with this Background Paper and should be able to respond to the issues and recommendations presented.

## **BUDGET ISSUES**

### **ISSUE #1: Long-term deficits**

**Background:** The Bureau expects the Electronic and Appliance Repair Fund to have 8.6 months in reserve in FY 2013/14, 6.9 months in reserve in FY 2014/15, and only 0.8 month in reserve in FY 2017/18. According to the Bureau, projected revenues for the Electronic and Appliance Repair Fund will hover around \$2.39M through FY 2017/18, while expenditures are projected to increase from \$2.16M in 2012/13 to \$2.92M in FY 2017/18.

Similarly, the Bureau expects the Home Furnishings and Thermal Insulation Fund to have 6.9 months in reserve in FY 2013/14, 4.9 months in reserve in FY 2014/15, 0.6 months in reserve in FY 2016/17, and a negative 1.7 month deficit in FY 2017/18. According to the Bureau, projected revenues for the Home Furnishings and Thermal Insulation Fund will stay around \$3.9M through FY 2017/18, while expenditures are projected to increase from \$4.37M in FY 2012/13 to \$4.73M in FY 2016/17 to \$4.83M in FY 2017/18. The increase in expenditures is due to a general increase in costs, such as retirement and medical benefits and overhead expenses.

As a Special Fund agency, the Bureau receives no General Fund support, relying solely on fees set by statute and collected from licensing and renewal fees. The Bureau has not changed fees within the last 10 years for its licensing categories, and is not currently requesting a statutory fee increase.

The Bureau reports that to bridge its future budget gap, it intends to: (1) increase enforcement against unlicensed activity in order to generate additional revenues through initial licenses and renewal licenses; (2) increase its citation and fine authority to the statutory limit of \$5,000, which it expects to implement in 2015; and, if necessary, (3) increase its fees for importers, manufacturers, and thermal insulation up to the statutory caps.

**Staff Recommendation:** *The Bureau should elaborate on any planned efforts to increase its revenues and reduce its expenditures, including timelines and estimated amounts, and also explain any regulatory changes to increase the amount of penalties that are under consideration. The Bureau should also discuss its thinking as to whether and when it might seek a statutory fee increase in the future.*

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**ISSUE #2: Pro Rata**

**Background:** Through its various divisions, DCA provides centralized administrative services to all boards and bureaus in the Department. Most of these services are funded through a pro rata calculation that is based on "position counts" and charged to each board or bureau for services provided by personnel, including budget, contract, legislative analysis, cashiering, training, legal, information technology, and complaint mediation.

The chart below shows the DCA Pro Rata Expenditures for the last four fiscal years charged to the Electronic and Appliance Repair Fund, which is expected to spend roughly 37% of its budget on pro rata for FY 2013/14, and the Home Furnishings and Thermal Insulation Fund, which is expected to spend roughly 19% of its budget on pro rata for FY 2013/14. According to the Bureau, a big portion of its pro rata, especially for the Electronic and Appliance Repair side, goes to investigating complaints. In FY 2010/11, DCA handled 1,156 complaints for the Bureau, in FY 2011/12 it handled 1,242 complaints, and in FY 2012/13 it handled 1,108 complaints.

<b>Pro Rata Expenditures</b>					
	FY 2009/10	FY 2010/11	FY 2011/12	FY 2012/13	Totals
Electronic and Appliance Repair	\$670,518	\$913,730	\$1,486,332	\$905,851	\$3,976,431
Home Furnishings and Thermal Insulation	\$987,418	\$1,080,500	\$1,045,526	\$931,139	\$4,044,583
Total	\$1,657,936	\$1,994,230	\$2,531,858	\$1,836,990	\$8,021,014

**Staff Recommendation:** *The Bureau should advise the Committees about the bases upon which pro rata is calculated, and the methodology for determining how the pro rata charged will be paid from among the two funds under the Bureau's jurisdiction. The Bureau should also discuss whether it could achieve cost savings by dealing with more of its consumer complaints in-house through its cite and fine authority.*

**LICENSING – LICENSE RENEWALS**

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**ISSUE #3: Should the Bureau switch to biennial license renewals for all licensees?**

**Background:** Licensee renewal fees are based on the issue date, and expire on the last day of the corresponding month. Licenses are renewed annually for Electronic and Appliance Repair and Thermal Insulation, and are renewed biennially for Home Furnishings.

**Staff Recommendation:** *The Bureau should examine the pros and cons of requiring biennial instead of annual license renewals for Electronic and Appliance Repair and for Thermal Insulation, specifically looking at any increased risk to consumers, any difficulty in changing renewals to a biennial basis, and cost savings, and inform the Committees of its findings.*

## LICENSING– ELECTRONIC AND APPLIANCE REPAIR

### **ISSUE #4: Should the Bureau deregulate or streamline electronic or appliance repair dealers?**

**Background:** In the 1995 sunset review report, DCA reviewed both the electronic and appliance repair market and the home furnishings and thermal insulation market to determine whether or not those industries should continue to be regulated. The DCA review for BEAR recommended that it deregulate the electronic repair industry segment and continue market evaluation of appliance repair, although the Legislature ultimately disagreed.

The 1995 report for BEAR assessed the need to regulate the electronics and appliance repair industry based on market condition, the public benefit of regulatory activity, and an evaluation of the program's success in attaining those public benefits. DCA found that the need to regulate products decreased since the program's inception, particularly in the area of electronics; that manufacturers have improved electronic products as they have matured; that enforcement requirements to meet industry expectations were expensive relative to overall consumer benefit; and that government regulation has been a deterrent to the industry taking responsibility for itself. The report stated that the economic risk presented by the electronics repair market has diminished because the overall volume of electronic repair activity has decreased as prices to repair products have increased and the cost of acquiring new products has decreased. The report also noted that trends in both the sales and repair of electronic products point to an increasing role for larger retailers (around 80% market share in 1995), which generally have fewer complaints filed against them because larger retailers presumably take greater steps to serve consumers to protect their reputation.

On the appliance side, the report acknowledged that most major appliances were a necessity and with a comparatively higher cost than electronics, were considered an investment and expected to have a long lifespan, which makes it more cost effective to have one repaired. In addition, due to the size of major appliances, the report noted consumers have less ability to price shop for repairs as consumers cannot easily drop off big appliances at a repair shop for estimates. As a result, many appliances require home servicing. DCA noted that if no preventive screening of dealers was performed, those who have certain criminal backgrounds could endanger consumers. In addition, since appliance repair dealers are less likely to have a storefront, it may be difficult for consumers to locate the dealer again if problems later arise.

As a result, DCA recommended that the Bureau no longer regulate the electronics repair industry, but continue to monitor the progress of the computer repair market to ensure that they continue to demonstrate the ability to regulate themselves. DCA recommended that the appliance repair industry continue to be regulated, but that the Bureau should continue to monitor the appliance repair industry's self-regulation efforts and evaluate changes and efforts in the industry. However, the 1995 JLSRC recommended continuing to regulate the electronic industry based on the need to protect consumers against fraud and dishonest business practices.

In recent years, the number of complaints regarding electronic and appliance repair businesses has remained relatively stable, but the types of complaints have varied tremendously. In addition, it is clear that complaints related to just a few electronics and appliances make up a large portion of total complaints.

<b>BEAR Complaints</b>	<b>2010/11</b>	<b>%</b>	<b>2011/12</b>	<b>%</b>	<b>2012/13</b>	<b>%</b>
Refrigerator/Freezer	165	13.14%	142	12.98%	164	12.03%
Washer	105	8.36%	76	6.95%	73	5.36%
Oven/Range/Stove	74	5.89%	60	5.48%	62	4.55%
Dishwasher	31	2.47%	35	3.20%	35	2.57%
Dryer	21	1.67%	28	2.56%	20	1.47%
Microwave	24	1.91%	23	2.10%	14	1.03%
Miscellaneous Appliance	3	0.24%	1	0.09%	2	0.15%
<b>Total Appliances</b>	<b>423</b>	<b>33.68%</b>	<b>365</b>	<b>33.36%</b>	<b>370</b>	<b>27.16%</b>
Computers and Peripherals	248	19.75%	155	14.17%	130	9.54%
Television	159	12.66%	108	9.87%	80	5.87%
Antenna/Satellite	75	5.97%	32	2.93%	20	1.47%
Home Stereo Equipment	15	1.19%	20	1.83%	7	0.51%
Auto Alarms	4	0.32%	9	0.82%	5	0.37%
Video Game	6	0.48%	5	0.46%	5	0.37%
Cellular Phone/PDA	5	0.40%	6	0.55%	4	0.29%
VCR/VDR/DVD	3	0.24%	4	0.37%	4	0.29%
Auto Entertainment	3	0.24%	0	0.00%	2	0.15%
Camcorder/Camera	6	0.48%	1	0.09%	0	0.00%
Home Office Equipment	3	0.24%	4	0.37%	0	0.00%
Miscellaneous Electronics	4	0.32%	3	0.27%	1	0.07%
<b>Total Electronics</b>	<b>531</b>	<b>42.29%</b>	<b>347</b>	<b>31.73%</b>	<b>258</b>	<b>18.93%</b>
<b>Other/Unlicensed Activity</b>	<b>275</b>	<b>21.89%</b>	<b>345</b>	<b>31.54%</b>	<b>702</b>	<b>51.50%</b>
Service Contracts	22	1.75%	32	2.93%	30	2.20%
Non-Jurisdictional	5	0.40%	5	0.46%	3	0.22%
<b>Total</b>	<b>1256</b>	<b>100.00%</b>	<b>1094</b>	<b>100.00%</b>	<b>1363</b>	<b>100.00%</b>

<b>BEAR</b>	<b>2010/11</b>	<b>%</b>	<b>2011/12</b>	<b>%</b>	<b>2012/13</b>	<b>%</b>
<b>Unlicensed</b>	<b>250</b>	<b>19.90%</b>	<b>328</b>	<b>29.98%</b>	<b>714</b>	<b>52.38%</b>
Incompetence/Negligence	262	20.86%	153	13.99%	181	13.28%
Contractual	363	28.90%	323	29.52%	180	13.21%
Fraud	16	1.27%	25	2.29%	40	2.93%
Non-Jurisdictional	115	9.16%	88	8.04%	126	9.24%
Product/Service Quality	225	17.91%	167	15.27%	104	7.63%
Unprofessional Conduct	5	0.40%	2	0.18%	11	0.81%
Other	12	0.96%	1	0.09%	4	0.29%
Health/Safety	4	0.32%	5	0.46%	3	0.22%
Personal Conduct	4	0.32%	2	0.18%	0	0.00%
<b>Total</b>	<b>1256</b>	<b>100.00%</b>	<b>1094</b>	<b>100.00%</b>	<b>1363</b>	<b>100.00%</b>

While complaints have remained stable over the past few years, the number of complaints that are solely related to whether a business is licensed or not has risen to over 50% of all complaints, while complaints that do not relate to unlicensed activity have fallen from 1,006 in FY 2010/2011 to 649 in FY 2012/13. The reason for the drop is unknown and could be the result of a number of factors, including any or a combination of the following: (1) the industry's compliance is improving, perhaps in response to state regulation and/or better self-regulation; (2) consumers are more likely to replace than repair products and so services are less sought after; or (3) consumers are more sophisticated and are addressing issues in other ways. The reason for the drop in complaints that are primarily service-related and consumer-driven is unknown.

**Staff Recommendation:** *The Bureau should study the electronic and appliance repair markets in depth to determine whether those markets are successfully regulating themselves. Specifically, the Bureau should actively monitor and report back to the Legislature where risk to consumers remains the greatest (for example, mobile vs brick-and-mortar licensees, or if problems are concentrated around specific types of products) and continued regulation is clearly indicated.*

## **LICENSING– HOME FURNISHINGS AND THERMAL INSULATION**

### **ISSUE #5: Should the Bureau continue to offer certain home furnishings licenses?**

**Background:** In 1995, the Department assessed BHFTI's program and licensing programs to determine whether regulatory activities were appropriate, necessary, and should be continued. Among other things, the 1995 report recommended simplifying licensing for home furnishings and thermal insulation and monitoring the home furnishings and thermal insulation market to target resources and evaluate consumer risk and impact.

**Staff Recommendation:** *The Bureau should conduct a market condition assessment: to monitor the market and shifts in the market; to identify where the problems currently are for consumers and to determine where resources could be refocused or expanded; to make sure current statutes and regulations reflect the current needs of the market; and to determine whether regulation is still required for all industries or whether some level of self-regulation would be advisable in some cases. The results of that assessment should also be reported back to the Legislature.*

### **ISSUE #6: Should the Bureau consider consolidating license types that are highly similar or are infrequently used?**

**Background:** Since the last report, the home furnishings program restructured its licensing types to simplify and remove duplication for companies who manufactured, imported, and wholesaled both furniture and bedding; consolidated the manufacturer and wholesaler license types; eliminated the renovator license; and exempted businesses from holding a sanitizer license if they held other licenses. However, the Bureau continues to maintain a separate furniture retailer license (\$120; 2,452 active licensees in FY 2012/13), bedding retailer license (\$120; 1,828 active licensees in FY 2012/13), and combination furniture and bedding retailer license (\$240; 11,307 active licensees in FY 2012/13). As the previous report pointed out, the larger the number of license categories and overlap of licensee activity, the more confusing it is for licensees and administration. Currently, licenses for manufacturers, wholesalers, and importers apply to both bedding and upholstered furniture.

**Staff Recommendation:** *The Bureau should discuss, and the Committees may wish to consider, whether or not three different license categories for bedding and furniture retailers should still be required, or whether those license categories should be consolidated for retailers as it was for manufacturers and wholesalers.*

#### **ISSUE #7: Should the Bureau consider consolidating the sanitizer license?**

**Background:** DCA's 1995 sunset review report also determined that regulating sanitization was justified by the benefits to consumers from regulation. All used mattresses are required to be sanitized before resale and to have a special label. The primary purpose of sanitization is to protect the public from disease and public health risks, including bed bugs, insects, lice, bacteria, and infectious diseases. Because used bedding might be soiled with bodily substances, such as blood, urine or feces, that may or may not be visible to the eye, consumers are unable to determine whether a product is in compliance or not.

The 1995 report noted that most industry representatives support regulation and stress the vulnerability of consumers to fraud in the purchase of used bedding. As an example of the need for regulation, the report pointed to an operation in 1995 when BHFTI inspected a firm that was selling soiled and filthy used mattresses without sanitizing them, resulting in the confiscation of 86 mattresses. The report also noted that while violations of sanitization regulations were not widespread, they have occurred, and that no other laws regulate the sanitization of used bedding. Under BPC19059.5, a sanitizer does not need a sanitizer's license if he or she is licensed as a home medical device retail facility or as an upholstered furniture and bedding manufacturer, retail furniture and bedding dealer, retail bedding dealer, or custom upholsterer. As a result, in FY 2012/13, only 15 sanitizers were licensed as standalone sanitizers. In FY 2012/13, one business that held a standalone sanitizer license was inspected. According to the Bureau, there is no additional cost to license a business as a sanitizer instead of under another license.

**Staff Recommendation:** *The Committees may wish to consider whether a standalone sanitizer license should continue to be offered. To make this determination, the Bureau should provide data on complaints and enforcement actions against sanitizers, including actions for unlicensed activity, samples taken and pass/fail rates, and the number of sanitizers the Bureau has inspected. In order to ensure that standalone sanitizers are still regulated by the Bureau, the Bureau could eliminate the sanitizer license but require sanitizers to hold another license, such as a retailer's or manufacturer's license.*

#### **ISSUE #8: Should the Bureau consider consolidating the custom upholsterer license?**

**Background:** A custom upholsterer is a business that repairs, reupholsters, recovers, restores, or renews upholstered furniture, or who makes to order any article of upholstered furniture, using new or owner's materials.

Generally speaking, it is more expensive to use a custom upholsterer to repair a piece than to replace the piece, and it is more expensive to make a piece to order. As a result, custom upholsterers tend to deal with items of higher cost or items that have higher value, although antique items are exempt. Businesses that hold a manufacturer's license (\$540) are not required to hold a custom upholsterer's license (\$360). A manufacturer is a business that makes any article of upholstered furniture or bedding in whole or in part, or who does the upholstery or covering of any unit thereof, using either new or

secondhand material, but does not include a custom upholsterer. Businesses that hold custom upholsterer's licenses are not required to hold a furniture retailer's license (\$120). In FY 2012/13, there were 490 custom upholsters licensed by the Bureau, of whom 29 were new licensees. Of that population, it is unclear how many would have obtained another license, such as a retailer's license, if it was not required to hold a custom upholsterer's license. In FY 2012/13, the Bureau inspected 52 custom upholsterers. It is unknown how many inspections were based on consumer complaints, or whether those inspections produced any violations.

**Staff Recommendation:** *The Committees may wish to consider whether a custom upholsterer's license should continue to be offered. To make this determination, the Bureau should track complaints and enforcement actions against custom upholsterers, including actions for unlicensed activity, samples taken and pass/fail rates, to determine whether there is a continuing need for regulation or if the industry seems to be capable of safely regulating itself. If there is a demonstrated need for regulation, the Bureau could, for purposes of streamlining license categories, eliminate the standalone license but require custom upholsters to hold another license, such as a retailer or manufacturer license, to ensure that standalone custom upholsterers are still regulated by the Bureau.*

## **PRODUCT FAILURE RATES**

### **ISSUE #9: What should the Bureau do in response to the large number of products that fail product testing?**

**Background:** Nearly half of all furniture products tested under the old Technical Bulletin (TB) 117 failed to meet the standard. According to the Bureau, this failure is due to the fact that TB 117 was a component standard, in that each component of a piece of residential furniture, such as the cushion cover, the filling, and the batting, could individually meet the TB 117 standard, but when tested together, the piece could still fail the overall standard because TB 117 did not focus on the interaction of the materials (which was part of the impetus for the new TB 117-2013 standard).

In addition, over half of all feather and down products tested fail to meet existing standards. These failure rates, however, include small variances from the standard, such as a 1% difference in the feather to down ratio in a product.

Moreover, labeling violations occurred in over 80% of products tested, but include minor violations such as use of a different font size or failing to include the word "the," that may not pose as much of a risk to consumers. While it is difficult to discern how many failing products had major violations or minor violations, the average product reimbursement rate was 78%, which means that while many products did not completely adhere to all requirements, most failures did not rise to the level of a major violation.

In such cases, consistently high failure rates raise three important questions: Are the standards unrealistically stringent? Are the standards well-known and clear to manufacturers? Are the penalties for violations too low to be an effective deterrent?

Product Testing Data	FY 2010/11		FY 2011/12		FY 2012/13	
	# Tested	% Failed	# Tested	% Failed	# Tested	% Failed
Type of Product Tested						
Residential upholstered furniture (TB 117)	109	37%	209	53%	132	49%
Mattress/mattress sets (16 CFR 1633)	42	14%	34	18%	54	19%
Mattress/mattress pads (16 CFR 1632)	4	0%	2	0%	6	17%
Commercial upholstered furniture (TB 133)	1	0%	5	0%	1	100%
Plumage (feather and down)	14	57%	30	60%	41	54%
Thermal Insulation	101	14%	26	12%	33	21%
Bedding (for labeling)	9	*	12	*	30	*
Labeling	159	85%	287	91%	263	82%

\*test results are included in labeling results

**Staff Recommendation:** *The Bureau should reexamine its standards, especially its feather and down and labeling standards, to determine if 1) some of those standards should be relaxed so that manufacturers can meet them more easily, presuming there is no appreciable impact on consumer safety; 2) standards should be clarified or better advertised; or 3) its penalties for home furnishings and thermal insulation violations, which average \$500, are too low to act as a proper deterrent.*

### **TELEPHONE DISCONNECT**

**ISSUE #10:** Should the Bureau be authorized to disconnect telephone numbers that are listed online by unlicensed electronic and appliance service repair businesses?

**Background:** Under BPC 149, if a specified entity, including the Bureau, has probable cause to believe that a person is advertising in a telephone directory and offering services that he or she is not licensed or registered to perform, the entity may issue a citation to the violator to stop the unlawful advertising and notify the telephone company to disconnect the number in that unlawful advertising. If he or she fails to comply with the order of correction, the entity is required to notify the California Public Utilities Commission (CPUC) of the violation, and the Commission is mandated to require the telephone provider for the violator to disconnect the telephone number listed in the unlawful advertisement. Once the business comes into compliance, e.g. citation is paid and license or registration is issued or renewed, staff will send a memorandum to the telephone service provider that the business is now compliant and needs to have the phone number turned back on.

In 2010, 2011, and 2012, the Bureau completed 4, 18, and 28 telephone disconnects, respectively. In 2012, the Bureau initiated 42 telephone disconnects, but CPUC rejected 14 of those requests based on a service provider's interpretation of the statute that the law only applies to advertising or listings in paper telephone directories (not online directories, websites or other media). Since late 2012, CPUC has put all requests on hold pending further legal review of the telephone disconnect policy based on concerns that the takedown authority extends only to advertisements in telephone directories, and does not apply to some more modern forms of telephony. As a result, the Bureau did not request or complete any telephone disconnects in 2013.

Because the Bureau does not code its complaints for type of complaints, e.g. for advertising vs. fraud, it is unaware of how many complaints are advertising-related and of that number, how many complaints are for unlawful advertising in non-telephone directory media, such as Internet Web sites.

**Staff Recommendation:** *In light of the growth of online advertising and the increased need to protect consumers and legitimately licensed businesses from unlicensed activity, the Committees may wish to consider granting the Bureau clear authority to request the disconnection of telephone numbers, and perhaps even online advertisements and websites as well, of unlicensed businesses with false or misleading advertisements anywhere online or in print.*

## **TECHNOLOGY ISSUES**

### **ISSUE #11: What is the status of BreEZe implementation by the Bureau?**

**Background:** The BreEZe Project will provide DCA boards, bureaus, and committees with a new enterprise-wide enforcement and licensing computer system. BreEZe will replace the existing outdated legacy systems with an integrated solution based on updated technology.

BreEZe is intended to provide DCA organizations with a solution for all applicant tracking, licensing, renewal, enforcement, monitoring, cashiering, and data management capabilities. In addition to meeting these core DCA business requirements, BreEZe is intended to improve DCA's service to the public and connect all license types for an individual licensee. BreEZe will also be public Web-enabled, allowing licensees to complete applications, renewals, and process payments through the Internet. The public will also be able to file complaints, access complaint status, and check licensee information.

Done correctly, BreEZe represents a major opportunity to improve the Bureau's operations to include electronic payments and expedite processing. Staff from numerous DCA boards and bureaus have participated in the design and development of the software. However, due to increased project costs, SB 543 (Steinberg, Chapter 448, Statutes of 2011) authorized the Department of Finance (DOF) to augment the budgets of boards, bureaus and other entities that comprise DCA for expenditure of non-General Fund moneys to pay BreEZe project costs.

The Bureau is scheduled go live on BreEZe in Phase Three of the roll-out, which is slated to begin in late 2015. DCA is currently working on Phase One of BreEZe.

**Staff Recommendation:** *The Bureau should update the Committees about the current status of its implementation of BreEZe, including expected starting dates, new functionalities, additional costs, and any existing or expected declines in service levels and licensing or enforcement backlogs.*

## **FOLLOW UP REPORT**

### **ISSUE #12: Should the Bureau examine and respond to the issues and recommendations identified above and report its findings back to the Committees?**

**Background:** The Committees have identified specific issues and recommendations relating to the Bureau's fiscal outlook, jurisdiction, including the specific markets and industries it regulates, licensing scheme, regulatory framework, and overall health. Because this is the Bureau's first sunset review since 1995, and a significant amount of time has passed since the Bureau was reviewed by the Committees, it may be beneficial for the Bureau going forward to examine and respond to the issues

and recommendations identified above and to report its findings back to the Committee before its next sunset review.

**Staff Recommendation:** *The Bureau should examine and respond to the issues and recommendations identified above and report its findings back to the Committees no later than March 1, 2015.*

### **CONTINUED REGULATION OF BEARHFTI**

**ISSUE #13:** Should the licensing and regulation of electronic and appliance repair and home furnishings and thermal insulation continue to be regulated by the Bureau?

**Background:** In light of the substantial number of complaints still being received and the disciplinary actions taken, as well as the other consumer protection-related activities of the Bureau, the health, safety and welfare of consumers continue to be protected by the existence of a strong licensing and regulatory Bureau with oversight over both electronic and appliance repair and home furnishings and thermal insulation. The separate question of whether specific products or services should continue to be regulated will need to be answered after additional research and discussion by the Bureau.

As such, the Bureau should be continued with a four-year extension of its sunset date in order to protect the interests of the public and so that the Legislature may confirm that the issues and recommendations in this Background Paper have been fully addressed.

**Staff Recommendation:** *The Committees should consider extending by four years the sunset date of the Bureau in order to continue the regulatory authority of the Bureau.*

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