

STD 399
Economic and Fiscal Impact Statement
Addendum

Existing law allows the Department to require a firearms dealer to charge each firearm purchaser a fee, called the “DROS Fee,” at the time of a transfer of firearms (a “DROS transaction”). The DROS Fee is currently \$19, as set by the CCR, Title 11, Section 4001, and authorized by Penal Code sections 28225 and 28230.

Assembly Bill (AB) 1669, effective January 1, 2020, decreases the fee authorized by Penal Code Section 28225 to \$1, and removes the reference, in that section, to pertinent firearms regulatory and enforcement activities.

AB 1669 adds a new section to the Penal Code, Section 28233, which authorizes a new \$31.19 fee for those specific firearms regulatory and enforcement activities. This emergency action amends Title 11, Section 4001 of the California Code of Regulations, to set the fee at \$31.19. Because the new fee in Section 28233 funds the activities previously funded by Section 28225, and because this fee is the principal fee charged at the time of each DROS transaction, the Department is naming the fee authorized by Section 28233 the “DROS Fee.”

DROS Fee Revenue

Table 1 (below) shows revenue from the current DROS Fee, and the projected revenue that the Department anticipates will result from the adoption of these emergency regulations. This table does not include other sources of revenue that are also deposited into the DROS Fund (e.g., the fees authorized by Penal Code sections 23690 and 28300).

The first row shows the total number of actual and projected DROS transactions each year. Firearm sales numbers are relatively stable, but are sensitive to new legislation and anticipated political developments. The Department, without further information regarding future sales, projects that the level of transactions will remain steady in the ongoing years. The projected number of DROS transactions for this fiscal year and the next two fiscal years approximates an average of the number of DROS transactions in the last two fiscal years.

The second row shows the number of actual and projected *billable* DROS transactions each year. Per Penal Code section 28240, for a transaction of any number of firearms on the same date, only one billable fee may be charged. Because some people purchase multiple firearms in a single transaction, the number of billable DROS transactions are fewer than the total number of DROS transactions.

The third row shows the amount of actual and projected DROS Fee revenue. Through December 31, 2019, the DROS Fee is \$19 per billable DROS transaction. Because the Department will lose the authority to charge the \$19 DROS Fee on January 1, 2020, the projection for FY 2019-20 includes half of a year’s worth of billable DROS transactions at the \$19 fee level and half of a year’s worth of billable DROS transactions at the \$31.19 fee level.

The revenue estimates for FY 2020-21 and subsequent fiscal years reflect anticipated collections of the \$31.19 fee.

Without the adoption of this emergency regulation, the DROS Fee revenue is projected to drop to \$6,688,693 for FY 2019-20 (with all revenue generated prior to January 1, 2020) and \$0 thereafter.

DROS Fee Expenditures

The DROS Fee is currently and, after January 1, 2020, will continue to be deposited in the DROS Fund. The monies are then appropriated by the Legislature for expenditure by the Department.

As authorized by Penal Code section 28233, the DROS Fee will pay for the costs of operating, in whole or in part, the firearms-related programs listed below.

| Program | Penal Code Statutes Implemented |
|---|--|
| Automated Firearms Systems Unit* | 18100, 30000 |
| Armed & Prohibited Persons Section* | 30000 |
| Phone Resolution Unit | 28220 |
| Law Enforcement Release Unit* | 33850, excepting those activities specified in section 33860 |
| Carry Concealed Weapon Permits Unit* | 26175, excepting those activities specified in section 26190 |
| Background Clearance Unit | 28220 |
| Training, Information and Compliance Section* | Chapter 2, excepting those activities specified in section 26720 |
| Customer Support Center | 28215 |
| Reporting and Quality Assurance Section | 28215 |
| Administration and Special Projects Section* | Penal Code, Part 6, Title 4 |

NOTE: An asterisk (*) indicates that the program is not wholly funded through DROS Fee revenue. Certain functions of specified programs are funded through separate fee and General Fund monies, as specified in statute.

These programs are largely concerned with background checks on potential firearms purchasers or transferees. As required by Penal Code Part 6, Title 4, Div. 6, Chapter 6, a firearm dealer must submit to the Department certain identifying information for every potential firearm purchaser or transferee. As required by Penal Code Section 28220, the Department then examines available records to determine whether the potential purchaser or transferee is prohibited by state or federal law from possessing, receiving, owning or purchasing a firearm. If the Department determines that the purchaser is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm (e.g., convicted felons; persons found to be a danger to self or others because of a mental illness; persons addicted to the use of narcotics; et cetera), the Department immediately notifies the dealer and the pending sale is terminated.

More specifically: the Background Clearance Unit examines available records concerning the potential purchaser or transferee, and determines whether the individual is prohibited. The Phone Resolution Unit tracks down information that is not immediately available, such as incomplete court records. The Reporting and Quality Assurance Section reviews DROS records and determinations for accuracy. The Customer Support Center answers questions from dealers as to how to complete the Dealer Record of Sale. The Automated Firearms System Unit maintains the Automated Firearms System, a repository of firearm records maintained by the Department. The Armed & Prohibited Persons Section matches records of persons who own or have possessed a firearm (usually subsequent to a DROS transaction) with evidence that the person may be newly prohibited (e.g., a restraining order). Each of these activities is necessary to the process of ensuring that prohibited persons are not allowed to purchase or possess a firearm.

Over the years, the Department has been forced to significantly reduce DROS program activities and expenditures in order to operate within the available DROS Fund revenues, which are well below the appropriation levels established by the Legislature for these critical public safety firearms programs. For example, the Bureau of Firearms has maintained only baseline program functionalities with an average personnel vacancy rate of 18 percent over the last three years; has postponed significant facility infrastructure projects; and has delayed necessary information technology refreshes in order to maintain solvency in the DROS Fund. The Department anticipates that the cost to refresh and rebuild its aging IT systems will total approximately \$2,352,000 in FY 2020/21 for planning and other initial costs, and then \$8,275,000 annually for a five year period.

Table 2 (below) shows a side-by-side comparison of projected DROS Fund revenues and estimated expenditures by the Department from the DROS Fund. DROS Fee revenue projections for each fiscal year are taken from Table 1.

The second row shows all other sources of revenue that are also deposited into the DROS Fund, such as other fees, transfers and other adjustments. Notably, for Fiscal Year 2020-21, two loans to the DROS Fund from the Firearms Safety and Enforcement Fund, totaling \$5,844,000, will be repaid to the Firearms Safety and Enforcement Fund. This is depicted in the table as a revenue offset for that fiscal year.

The first and second rows, combined, make up the total projected DROS Fund Revenue for fiscal years 2019-20 through 2022-23.

Departmental expenditures include its appropriation for salaries and benefits, operating expenses and equipment; a supplemental pension loan repayment of \$666,000; a Pro Rata cost of \$819,000 (which increases to \$1,226,000 in 2020-21), and the anticipated cost to refresh and rebuild legacy firearms IT systems.

The third row shows DROS Fund appropriations, which are expended by the Department for salaries and benefits, operating expenses and equipment. Historically, due to insufficient fee revenues, appropriations from the DROS Fund have exceeded DROS Fund revenues, resulting in an operational deficit. Until now, the shortfall has been offset by spending down the fund balance, shifting Departmental resources from other Departmental priorities, and holding

critical positions vacant. The Department's appropriations estimate for FY 2020-21 through 2022-23 are lower than for 2019-20 due to the removal of limited-term funding that will expire in FY 2020-21. The estimate does not reflect any other changes to appropriations, as such changes are made through the legislative and budgetary processes.

The pension loan repayment is a result of the 2017-18 budget package (Chapter 50 [SB 84, Committee on Budget and Fiscal Review]) that was approved as part of the Governor's May Revision proposal. The state borrowed \$6 billion from the Pooled Money Investment Account to make a one-time supplemental payment to the California Public Employees' Retirement System. All funds that make pension payments, including the General Fund and most other state funds, must repay the loan over the next decade. While the General Fund started repaying the loan in 2017-18, other funds (i.e., the DROS Fund) began payments in 2018-19.

The Pro Rata cost is the cost of central service agencies, such as the Department of Finance, the State Treasurer, the State Controller, and the Legislature for providing budgeting, banking, accounting, auditing, payroll, and other services to all state departments. The Pro Rata process apportions the costs of providing central administrative services to all state departments and funding sources that benefit from the services. Amounts apportioned to special funds (i.e. the DROS Fund) for their fair share of central administrative services costs are transferred from the special funds to the General Fund and the Central Service Cost Recovery Fund.

The Department is currently in the beginning stages of refreshing and rebuilding its firearms information technology (IT) systems. Since 1980, the Department has built and maintained numerous firearms IT systems in order to comply with various legislative mandates. Over the past 40 years the systems have become out of date and have effectively reached the end of their life. It is no longer efficient to make modifications to the current systems each year in response to new legislative requirements. In response, the Department has been working towards a system refresh and rebuild, which will modernize its firearms IT systems into one cohesive unit that is adaptable to future needs. This modernization is projected to cost over \$40,000,000, and will last at least five years. At that time, the Department will have a better estimate of its future expenditures, and at that time can readjust the fee as necessary.

DROS Fund Deficit

If the DROS Fee increases from \$19 to \$31.19 on January 1, 2020, the Department estimates that in fiscal year 2019-20 the DROS Fee revenue will still result in a DROS Fund deficit of \$1,862,000. For Fiscal Years 2020/21 through 2025/26, with the addition of the Firearms IT System Modernization costs, the Department estimates that this deficit will grow to over \$3,500,000 each year. (All estimates past FY 2021/22 reflect the same conditions as FY 2021/22.)

If, instead, the DROS Fee decreases to \$0 on January 1, 2020, the Department estimates that in FY 2019-20 the DROS Fund will have a deficit of almost \$20,000,000. This deficit increases to over \$25,000,000 for each fiscal year thereafter (see **Table 3**, below).

TABLE 1: REVENUE (Actual and Projected)

| | FY 17-18 | FY 18-19 | FY 19-20 (Projected) | FY 20-21 (Projected) | FY 21-22 (Projected) |
|---|-----------------|-----------------|---------------------------------|---------------------------------|---------------------------------|
| Total DROS Transactions | 857,536 | 789,540 | 809,279 | 809,279 | 809,279 |
| Billable DROS Transactions | 752,302 | 683,380 | 704,073 | 704,073 | 704,073 |
| Revenue from \$19/\$31.19 DROS Fee | \$14,293,738 | \$12,984,220 | \$17,668,712 | \$21,960,037 | \$21,960,037 |

TABLE 2: EXPENDITURES (Projected)

| | FY 19-20 (Projected) | FY 20-21 (Projected) | FY 21-22 (Projected) | FY 22-23 (Projected) |
|---|---------------------------------|---------------------------------|---------------------------------|---------------------------------|
| (+) DROS Fund Revenue from \$19/\$31.19 DROS Fee | \$17,668,712 | \$21,960,037 | \$21,960,037 | \$21,960,037 |
| (+) DROS Fund Revenue from other sources including transfers & other adjustments | \$6,749,288 | \$391,000 | \$6,235,000 | \$6,235,000 |
| (-) DROS Appropriation | \$24,795,000 | \$21,778,000 | \$21,778,000 | \$21,778,000 |
| (-) Pension Loan Repayment & Pro Rata | \$1,485,000 | \$1,892,000 | \$1,892,000 | \$1,892,000 |
| (-) Firearms IT System Modernization | N/A | \$2,352,000 | \$8,275,000 | \$8,275,000 |
| Deficit | (\$1,862,000) | (\$3,670,963) | (\$3,749,963) | (\$3,749,963) |

TABLE 3: DEFICIT WITH A \$0 DROS Fee (Projected)

| | FY 19-20 (Projected) | FY 20-21 (Projected) | FY 21-22 (Projected) | FY 22-23 (Projected) |
|----------------|---------------------------------|---------------------------------|---------------------------------|---------------------------------|
| Deficit | (\$19,530,712) | (\$25,631,000) | (\$25,710,000) | (\$25,710,000) |