

Department of Law Shutdown Analysis Fact Sheet

June 8, 2017

Based on the Department of Law's analysis to date, we believe there are two broad categories of government programs and services that can legally continue at partial or complete funding levels: (1) personnel and funding necessary to carry out constitutional mandates; and (2) personnel and funding necessary to carry out federally mandated programs. The level of staffing and funding will depend on the program and how much is needed to meet the mandate. We have further separated these two broad categories into the three tiers outlined below, to help analyze what state programs and services will be shut down if no budget is passed by June 30, 2017.

Tier 1 – Immediate threat to public health or safety

Tier 1 encompasses those mandates that would lead to immediate threats to public health or safety if interrupted for even the shortest amount of time. Tier 1 would likely include operation of correctional facilities, state-operated nursing homes and medical facilities, law enforcement, and emergency and disaster response.

Tier II - Severe impacts on public health and welfare and economic stability within a short amount of time

Tier II includes constitutional and federal mandates that may only be delayed a short amount of time, if at all, before severe impacts would occur to the State's people and economy. Each state entity overseeing these programs will need to consider how often work would need to be done and how many employees it would take to do that work in order to avoid severe impacts. We believe there is a reasonable legal basis to continue to fund these programs although for some programs it may only be at a reduced level of funding. Tier II may include federal public assistance programs, unemployment benefits, and timely payments of bonded indebtedness.

Tier III – Constitutional and federal mandates including mandates that require some minimum continual funding and others for which funding can be temporarily delayed but will eventually need funding to avoid violating the constitution

There are a number of constitutional or federal mandates that may not require 24-hour or even weekly operations to fulfill, but could become urgent if a shutdown were to continue for too long.

The Department of Law is currently working with the Office of Management and Budget and each of the departments to evaluate each of their programs and services in light of the above tiers. The examples provided represent the department's preliminary determination but is subject to change as we complete our review.