***Senate Budget and Fiscal Review—Senator Mark Leno, Chair***
**SUBCOMMITTEE NO. 2** **Agenda**

**Senator Jim Beall, Chair**
**Senator Jim Nielsen**
**Senator Hannah-Beth Jackson**

**Wednesday, May 21, 2014**
**10:00 a.m.**
**Hearing Room 112**

**Consultant: Catherine Freeman**

**May Revision and Open Items (Part B)**

## Items Proposed for Discussion



**Resources—Environmental Protection—Energy—Transportation**

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# Trailer Bill Language

## Update on Trailer Bill Actions and Open Items

**Governor's Proposals and Subcommittee Actions.** The following table provides updates to the trailer bills proposed by the Governor, including status and date of public availability on the Department of Finance website.

| Trailer Bill | Date Available or Modified | Subcommittee Action (to move these to the Resources Trailer Bill) |
|---|---|---|
| Environmental License Plate Fund for Climate Change | February 1 | Reject (May 8) |
| Cap-and-Trade | February 7 | No Action |
| Resources License Plate Fund | February 1 | No Action (no budget proposal) |
| Seismic Planning Fee | February 1 | Approved on March 20 |
| Fireworks | March 7 | Held Open |
| Oil Spill Response | February 19 | Recommended for approval with changes on May 20 |
| State Park Gifts | February 1 | Recommended for approval with changes on May 20 |
| Revenue Generation | February 1, amended May 1 | Recommended for approval with changes on May 20 |
| State Parks Revolving Fund | May 1 | Did not hear |
| Fracking | March 10 | Held Open |
| Groundwater | Not Available | Held Open |
| Drinking Water | March 1 (draft) | Approved on May 20 |
| Marijuana Enforcement | February 1 | Held Open |
| Beverage Container Recycling | February 15 | Held Open |
| Beverage Container Audit | February 1 | Approved on April 10 |
| PUC Self Generation Incentive Fund | May 15 | Did not hear (no budget proposal) |

**Staff Comments.** The majority of the trailer bills have been publicly available for 2-3 months. In that time, the public has submitted comments to staff and the Administration. Staff recommends the following language be moved forward in order to advance the budget proposals they implement: (1) Fireworks; (2) Fracking; (3) Drinking Water; and, (4) Marijuana Enforcement. Moving these trailer bills forward will allow staff to consolidate the final trailer bill for review and amendment by all parties in a timely manner.

**Staff Recommendation:** Approve trailer bill language proposals. All language is subject to review and revision by legislative counsel and staff.

**Vote:**

# 3930 Department of Pesticide Regulation

***Item Proposed for Discussion***

**Update on Risk Assessments and Fumigants**

**Governor's Proposal.** The Governor does not have a budget proposal.

**Previous Legislative Actions.** The Legislature, in the 2013 Budget Act, required the department to complete five risk assessments on high priority pesticides per year. This action was taken to ensure that the department was moving forward with risk assessments to the fullest extent possible.

**Staff Comments.** The department should provide an update on the previous year's requirement to provide five risk assessments by June 30, 2014. In addition, the department should discuss its current approach to the use of fumigants both in fields and in refrigerated warehouses.

**Previous Subcommittee Actions.** The subcommittee heard this item on April 24. Members of the public suggested that allocating funding to fumigant research would accelerate the department's ability to provide options to those using fumigants both in agricultural settings and post-production work. However, the department also provided an update on the mill assessment, and projections, should the drought continue. During drought conditions, less crops are planted, and less pesticides used, resulting in potential significant decreases in revenue in the forthcoming year.

The subcommittee considered appropriating $500,000 from the mill assessment for fumigant research and held the item open.

**Recommendation:**

**Vote:**

# 0540 Secretary for Natural Resources
# 8570 California Department of Food and Agriculture

### *Item Proposed for Discussion*

### AB 32 Scoping Plan Update

**Governor's Proposals.** The Governor has submitted the following requests directed by the air Resources Board to other departments related to the AB 32 Scoping Plan Update.

- **California Natural Resources Agency (CNRA).** The Spring Finance Letter requests $529,000 (Cost of Implementation Account) and two positions to implement the requirements of the AB 32 Scoping Plan Update. One position will coordinate activities to prepare and publish a forest carbon plan and further efforts to develop sustainability criteria to support forest biomass utilization. The second position will serve as a coordinator for other significant new responsibilities described in the AB 32 Scoping Plan Update. The proposal also includes $250,000 a year for two years to fund an economic resources study to support a forest carbon plan.

- **California Department of Food and Agriculture (CDFA).** The May Revision requests $140,000 (Cost of Implementation Account) and one position (redirected) to assist and implement the requirements of the AB 32 Scoping Plan Update. The funding would be used to establish emission reduction targets for the agriculture sector, develop tools to help farmers and ranchers estimate GHG emissions, and other agriculture-related GHG reduction activities.

**Staff Comments.** There is no statutory authorization for the Air Resources Board to direct another agency to engage in new activities related to AB 32. Staff recommends rejecting this proposal until the Legislature considers, whether to codify the studies and changes requested by the ARB in the Scoping Plan Update.

In addition, the Secretary for Natural Resources (CNRA) has the following existing positions that work on climate change, forestry, and AB 32: (1) Deputy Secretary for Climate Change and Energy; (2) Assistant Secretary for Climate Change; (3) Assistant Secretary of Forest Resources and Management. The Secretary also oversees the activities of the Department of Forestry and Fire Protection, California Energy Commission, and other agencies related to the requirements of the AB 32 scoping plan.

The CDFA also has a proposal before the Legislature for use of cap-and-trade auction revenues that would provide direct assistance and aid to the agriculture community. Significant research has been conducted at the local, state, and federal levels on greenhouse gas emissions in this sector. It is unclear, without statutory direction, what this position would add to the existing research.

**Staff Recommendation:** Reject proposals.

**Vote:**

# 8660 California Public Utilities Commission

***Items Proposed for Discussion***

## Railroad Safety: Addressing Increased Hazards from Oil-by-Rail

**Background.** Crude oil trains, railroad bridges, and hazardous materials present significant population exposure to catastrophic incidents in heavily populated areas. A sharp upswing in Bakken crude oil railcar explosions nationally, and internationally, and a projected 25-fold increase in such train traffic in California, represents a significant risk increase. Both the National Transportation Safety Board (NTSB) and the Federal Railroad Administration (FRA) have identified crude-oil train shipments carrying Bakken crude as presenting significant risk of explosion and harm.

**Governor's Proposal.** The Spring Finance Letter requests seven rail inspectors and $1.1 million (Public Utilities Commission Transportation Reimbursement Account) to address new rail risks and mandates. The proposal would include: two associate railroad track inspectors for railroad bridge inspections; two associate transportation operations supervisors for hazardous materials inspections of crude oil trains and container trains at ports; two associate railroad track inspectors to address the increased wear on tracks and supporting structures; and, one associate railroad equipment inspector to focus on the heavy and high-use tank car trains.

**LAO Recommendation.** "The LAO recommends approval of the proposal with the addition of supplemental reporting language requiring the CPUC to report on the implementation of this proposal. We find that there are increased environmental and public safety risks associated with the projected increase in rail traffic in the coming years, and there is currently limited oversight of rail bridge safety. Our concern is that this is a new responsibility for the commission, and certain implementation details still need to be developed. In particular, the commission has not completed its plan for how it will prioritize which bridges to inspect, and it is unclear what additional training the commission will seek for its inspectors who will specialize in rail bridge safety."

**Staff Comments.** Staff concurs with the LAO.

**Recommendation.** Approve proposal with supplemental reporting language to be drafted by the LAO.

## Implement Greenhouse Gas Revenue Return to Energy-Intensive, Trade Exposed Industries

**Background**. As part of its implementation of the state's cap-and-trade program for greenhouse gas reduction, the Air Resources Board (ARB) issues greenhouse gas (GHG) allowances, which are permits to emit GHGs into the atmosphere. In order to protect electric ratepayers from price increases, the ARB allocates free allowances to the state's electric utilities and requires them to sell those allowances, returning the revenue to ratepayers. Senate Bill 1018 (Committee on Budget and Fiscal Review), Chapter 39, Statutes of 2011, required this revenue to be provided directly to residential customers, small businesses, and companies in emission intensive, trade-exposed (EITE) industries. The allocation to EITE companies is intended to ensure that industrial production currently occurring in California does not move outside the state as a result of cap-and-trade, thus causing emissions to "leak" out of the state.

The CPUC has been developing a program to address the mitigation leakage risk, including specific formulas to determine how much allowance revenue each EITE company should receive, and to base the allocation primarily on product output. The CPUC has stated that this calculation is problematic because it has a challenging time calculating the price of output, and that it is not aware of all companies at risk of "leakage."

**Budget Proposal.** The budget requests an increase of $1 million (reimbursable authority) in 2014-15 and $500,000 per year from 2015-16 through 2021-2022, to enable the CPUC to implement the return of GHG revenue to EITE industries. The funding is proposed to allow CPUC to ensure that sensitive and confidential business information is not compromised, and to complete the study of EITE industry leakage. In the proposal, the CPUC asserts that because the state has not yet conducted a comprehensive study of industries put at risk due to cap-and-trade, the CPUC would like to engage researchers at the University of California to conduct a "far-ranging study" of other industries that might need financial assistance.

**Implementing Legislation.** SB 1018 states:

> *748.5. (a) Except as provided in subdivision (c), the commission shall require revenues, including any accrued interest, received by an electrical corporation as a result of the direct allocation of greenhouse gas allowances to electric utilities pursuant to subdivision (b) of Section 95890 of Title 17 of the California Code of Regulations to be credited directly to the residential, small business, and emissions-intensive trade-exposed retail customers of the electrical corporation.*
>
> *(b) Not later than January 1, 2013, the commission shall require the adoption and implementation of a customer outreach plan for each electrical corporation, including, but not limited to, such measures as notices in bills and through media outlets, for purposes of obtaining the maximum feasible public awareness of the crediting of greenhouse gas allowance revenues. Costs associated with the implementation of this plan are subject to recovery in rates pursuant to Section 454.*

**Staff Comments.** At the time of the passage of SB 1018, it was not contemplated that the return of cap and trade funds to residential, commercial, and industrial entities would require over $1 million to implement the program. In addition, the idea that the CPUC must contract to conduct a far-ranging study on the impacts of cap-and-trade on industry was not discussed. This activity is beyond the scope of the CPUC and more in the purview of the ARB, as part of its broader discussion of "leakage" within the cap-and-trade program.

This item was held open on March 6 for further review. As discussed above, staff believes that there are easier and more cost-effective way to identify impacted industries, particularly working with the Air Resources Board, which has held numerous public meetings on the impacts of the cap-and-trade program.

**Staff Recommendation:** Reject

## General Fund Loan Repayment

**Background.** In October 1996, the California Public Utilities Commission (CPUC) established the California High-Cost Fund-B Administrative Committee Fund (CHCF-B) Program to provide subsidies to larger telephone companies serving high-cost areas. The purpose of the program was to reduce the disparity in rates charged by these telephone companies. The CHCF-B is funded by a surcharge on telephone customers who have services such as “call waiting” or “caller ID” on their phones. The budgeted surcharge rate—which is set administratively by the CPUC by resolution—has varied significantly from a high of 3.8 percent on the cost of services in 1999 to a low of 1.4 percent in 2002. Currently, the rate is 2 percent.

**Governor’s Proposal.** The Governor proposes to repay a $59 million loan from CHCF-B in the budget year. At this time, the fund has a balance of $156.7 million. With annual expenditures declining from $29.5 million to $22.2 million, the necessity of this funding is not demonstrated in the near future and, therefore, repayment of this loan could be delayed.

**Staff Comments.** Conversations with the Administration have made it clear that the fund does not need repayment in the budget year. In addition, the continued audits related to fund balances and fiscal management at the CPUC make it difficult to determine when a loan repayment would be necessary in the near future.

**Recommendation.** Reject loan repayment.

# 3900 Air Resources Board (ARB)

### *Items Proposed for Discussion*

## Cap-and-Trade Support Proposals

**Governor's Proposal.** The Governor's budget includes several proposals intended to provide coordination, administration, and monitoring of cap-and-trade auction proceeds. These proposals are proposed to be funded by the Greenhouse Gas Reduction Fund (GGRF) and are separate from the overall cap-and-trade expenditure proposals.

1. **Cap-And-Trade Auction Proceeds—Administration.** The Governor's Budget proposes $2.63 million, which includes $1 million per year in contract funds, and 10 positions (GGRF) for activities related to implementation of the new GGRF, including: fiscal management of the GGRF; technical analysis to quantify and evaluate the benefits of GGRF investments; and legal review to ensure a legally defensible implementation of GGRF investments in sustainable communities projects.

2. **Cap-And-Trade Expenditure Plan – Coordination and Reporting (Spring Finance Letter).** The Governor's budget requests an additional 16 positions and $4.135 million (GGRF), which includes just over $1 million annually for two years, in contract and equipment funds, for implementing the GGRF and establishing a GGRF project tracking solution.

3. **Cap and Trade Market Surveillance.** The Governor's budget proposes $700,000 (GGRF) for ARB to support three new positions and contract funding to expand its market surveillance capabilities and implement its market monitoring plan. The additional staff would review daily trades of allowances to look for anomalies in trade patterns and coordinate with the U.S. Commodity Futures Trading Commission (CFTC) to incorporate more advanced methods of surveillance into ARB's own oversight activities. ARB is requesting resources because the program is going to expand to include fuels beginning January 1, 2015, and the market will mature with an increase in trading volumes.

**Staff Comments.** Staff recommends approval of these proposals in order to enhance the coordination, administration, and monitoring of the cap-and-trade program.

**Staff Recommendation:** Approve.

## In-State Greenhouse Gas Reductions—Carbon Capture

**Governor's Proposal.** Governor's budget requests an ongoing eight positions and $400,000 (Cost of Implementation Account) in annual contract money to support the development and implementation of quantification methodologies for in-state greenhouse gas (GHG) reductions including carbon capture and storage (CCS) and in-state offset protocols from non-capped sectors. The proposal would allow ARB to develop, propose, implement, and enforce quantification methodologies for emission reductions from CCS projects, and/or additional in-state offset protocols that can generate offset credits for use as compliance instruments under the cap-and-trade program. These activities are important to provide additional cost-effective compliance options for California businesses, as well as support creation of more in-state jobs associated with climate change mitigation.

**Staff Comments.** This proposal should be targeted depending on the ultimate outcome of the cap-and-trade expenditure plan approved by the Legislature.

**Staff Recommendation:** Reject.

## Climate Change Engagement with Other Jurisdictions

**Governor's Proposal.** The May Revision requests six positions and $1.1 million ($550,000 Cost of Implementation Account [COIA]; $550,000 Motor Vehicle Account [MVA]) to accommodate increased workload associated with working with other jurisdictions such as Brazil, Canada, Chile, China, Costa Rica, Kazakhstan, Mexico, New Zealand, South Korea, South Africa, Turkey, the European Union, and other Pacific states on air quality and climate change activities.

**LAO Recommendation. "**We recommend rejection of this proposal for a couple of reasons. First, we find that it is questionable whether either fund source proposed to be used for these activities is allowable. In the case of the Motor Vehicle Account, Article XIX of the California Constitution permits these funds to be used for various purposes related to "vehicles used upon the streets and highways of this State, including…mitigation of the environmental effects of motor vehicle operation." However, this proposal would not be used directly for California roads or vehicles, and it is unclear whether the proposed activities would mitigate the effects of air pollution by California drivers to any significant extent. In the case of the Cost of Implementation Account, current law requires that its funds be used for the implementation of Chapter 488 of 2006 (AB 32, Nuñez), including "to facilitate the development of integrated and cost-effective regional, national, and international greenhouse gas reduction programs." However, based on our conversations with the board, its proposed activities will be focused on providing advice and assistance to other jurisdictions interested in implementing similar programs. These activities will not necessarily be intended to integrate California's greenhouse gas emission reduction programs with those of other jurisdictions. Second, the board has not provided clear workload justification for the number of positions it has requested (6). Thus, it is unclear what additional resources, if any, would be necessary to support the proposed activities."

**Staff Comments.** Reject.

## Fund Transfer for Clean Vehicle Rebate Project

**Governor's Proposal.** The Governor's budget requests a one-time transfer of $30 million ($15 million in 2013-14 and $15 million in 2014-15) from smog abatement fee revenues deposited in the Vehicle Inspection Fund to the Air Quality Improvement Fund. This includes a corresponding increase in spending authority of $30 million to provide vehicle rebates for light-duty zero emission and plug-in vehicle rebates through ARB's Clean Vehicle Rebate Program.

**Governor's January Proposal.** The Governor also proposes $200 million to expand the existing clean transportation programs that provide incentives for sustainable freight technology, zero-emission cars, low-emission cars in disadvantaged communities, and clean trucks and bus programs. The Governor proposes to spend $30 million from current-year proceeds for low-carbon transportation projects. This would reverse a $30 million loan from the Vehicle Inspection and Repair Fund approved in the current-year mainly for electric vehicle rebate programs.

**Staff Comments.** Arguments in opposition to the proposal state that the use of smog abatement fee revenue is inappropriate because it is derived from broad sources, many of whom are lower income individuals. The program provides incentives to those purchasing mainly vehicles that are available for moderate to higher income individuals.

Arguments in favor of the proposal state that the smog abatement fees were originally intended to be used for programs that reduce vehicle emissions, and that, therefore, the use of these funds for incentive programs (regardless of the income of the recipient) is appropriate.

Should the subcommittee adopt the proposal, it should also require that the allocation of funds be means-tested to address the need for funding to go to lower income individuals.

**Recommendation:**

**Vote:**