

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



Thursday, April 10, 2014
9:30 a.m. or Upon Adjournment of Session
Hearing Room 112

Consultant: Catherine Freeman

OUTCOMES

Items Proposed for Discussion

<u>Item</u>	<u>Department</u>	<u>Page</u>
3980	Office of Environmental Health Hazard Assessment	2

Items Proposed for Discussion

<u>Item</u>	<u>Department</u>	<u>Page</u>
3900	Air Resources Board.....	3
3940	State Water Resources Control Board.....	6
3950	Department of Resources Recycling and Recovery	22
3960	Department of Toxic Substances Control	31

Resources—Environmental Protection—Energy—Transportation

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling 916-651-1505. Requests should be made one week in advance whenever possible.

DEPARTMENTS PROPOSED FOR VOTE ONLY**3980 Office of Environmental Health Hazard Assessment**

- 1. Proposition 65 Limited-Term Positions.** Request for \$785,000 (Safe Drinking Water and Toxic Enforcement Fund) and four, limited-term positions, to revise Proposition 65 regulations and develop a website that provides information to the public on exposure to listed chemicals. The proposed reforms are intended to inform the public about their exposures to chemicals that cause cancer or reproductive harm, pursuant to the original proposition. There is no trailer bill language associated with this request.

Staff Recommendation: Approve Item 1.

Action: HOLD OPEN

3900 California Air Resources Board

*Items Proposed for Vote-Only**

- 1. Advanced Clean Cars Program.** Request for \$577,000 and 3.5 positions (Motor Vehicle Account) to implement the Advanced Clean Cars (ACC) program and enhance the evaporative regulation portion of the ACC program due to proposed changes by the US Environmental Protection Agency.
- 2. Continuation of the Implementation of Proposition 1B.** Request for a three-year appropriation of \$240 million from reverted bond authority for the Goods Movement Emission Reduction Program established in the bond measure.
- 3. Funding Shift—Portable Equipment Registration Program.** Request to realign funding from reimbursement authority to the Air Pollution Control Fund for the Portable Equipment and Registration program (net zero cost to the state).
- 4. Heavy-Duty Trucks: On-Board Diagnostics Implementation and Enforcement.** Request for \$1.23 million (Motor Vehicle Account) and seven positions to implement the heavy-duty, on-board diagnostic regulation in order to meet both state and federal emission requirements.

Recommendation: Approve Items 1-4.

VOTE 1: 2-1 (Nielsen, no)

VOTE 2: 3-0

VOTE 3: 2-1 (Nielsen, no)

VOTE 4: 2-1 (Nielsen, no)

Item Proposed for Discussion**Implementation of SB 4—Hydraulic Fracturing**

Staff Comments. The ARB collects fees from all stationary sources and is charged with the monitoring and regulation of all air emissions in the state pursuant current law. This includes GHG emissions, “criteria pollutants,” and toxic air contaminants. The ARB, under its current authority, should be providing all monitoring and assessment necessary for all current industries. Additional resources would be appropriate from current permitting fees. Therefore, staff recommends denying the funding proposal.

Staff Recommendation: Deny.

VOTE: Approve as proposed, 2-1 (Nielsen, no)

Item Proposed for Discussion**Diesel Emission-Related Proposals**

Budget Proposals. The budget includes three proposals related to diesel engines, emission regulations, and enforcement.

- 1. Enforcement of Diesel Emissions Reduction Regulations.** Request for \$1.2 million (Motor Vehicle Account) to support increasing workload related to both state and federal diesel emission enforcement requirements. These enforcement rules ensure a level playing field among the regulated community. Industry groups are assisting the ARB to ensure their investments are protected from those who are not in compliance.
- 2. Diesel Emission Regulation Implementation Support.** Request for \$682,000 (Motor Vehicle Account) and four positions to meet regulatory implementation and outreach needs related to the phase-in of diesel regulations affecting trucks, trailers, and small fleet owner/operators. This would allow the affected industry timely responses to questions and enforcement actions, and would provide education opportunities for those affected by the rules.
- 3. Verification Regulations for Diesel Retrofits.** Request for \$187,000 (Motor Vehicle Account) and one position to implement the requirements for in-use strategies to control emissions from diesel engines. The rule strengthens the deployment of retrofits by adding new installation reporting, enhanced product warranty reporting for retrofit manufacturers and recall provisions.

Staff Comments. Staff concurs with the need for the proposals based on current and federal emission rules. The department should be prepared to discuss how these proposals create a level playing field for emission regulations, in particular with trucks arriving from out of country.

Staff Recommendation: Approve Items 1-3.

VOTE 1-3: 2-1 (Nielsen, no)

3940 State Water Resources Control Board

The State Water Resources Control Board (SWRCB) and the nine Regional Water Quality Control Boards (Regional Boards or Water Boards) preserve and enhance the quality of California's water resources and ensure proper allocation and effective use. These objectives are achieved through the Water Quality and Water Rights programs.

Governor's Budget. The Governor's budget includes \$1 billion and 1,864 positions for support of the SWRCB. Increases are largely due to the Governor's proposed consolidation of the drinking water program from the Department of Public Health to the State Water Board.

Items Proposed for Vote-Only

- 1. 401 Water Quality Certification Program Compliance Monitoring.** Request for \$983,000 (Waste Discharge Permit Fund) and ten positions, to address recommendations made by the California State Auditor regarding the need for more consistent compliance monitoring and improved project record keeping.
- 2. Department of Defense Fund Shift from Federal Fund Authority to Reimbursement.** Request to shift \$3.9 million and 19.1 positions (including \$500,000 contract authority) from federal trust fund spending authority to reimbursement spending authority to continue the ongoing oversight of cleanup activities at US Department of Navy facilities.
- 3. Technical Bond Adjustments.** The budget proposes several technical bond adjustments in Propositions 13, 40, 50, and 84, to ensure expenditures and reappropriations are allocated for the purposes specified in the bond.
- 4. Fund Shift for the State Water Pollution Control Revolving Fund (SWPCRF).** The budget requests a permanent fund shift of \$3.6 million in state operation authority and seven existing positions from the Federal Capitalization Grant to the SWPCRF-Administrative Fund.
- 5. Underground Storage Tank Cleanup Fund (USTF)—Expiration of the Temporary Fee Increase and Orphan Site Cleanup Fund Technical Adjustments.** The budget proposes a decrease of \$48 million in state operations from the USTF due to the expiration of the temporary storage fee increase. The budget requests technical adjustments to revert unencumbered funds, and appropriate these funds pursuant to the original statute.
- 6. Technical Adjustment—Surface Water Ambient Water Monitoring Program (SWAMP) Administration.** The budget proposes 12 positions (federal funds) from the US Environmental Protection Agency Clean Water Act, Section 106 Grant) to manage the SWAMP activities. This proposal does not require additional funding as it redirects existing contract funds currently used for this purpose.

7. **April Finance Letters and Drought Actions—Technical Budget Adjustments for Drought-Related Activities.** SB 103 (Committee on Budget), Chapter 2, Statutes of 2014, accelerated several of the Governor’s proposals related to groundwater and water quality. The Finance Letter requests technical adjustments to provide the continuing funds for the programs previously approved.
8. **Leviathan Mine Combined Treatment—Spring Finance Letter.** The Governor's budget requests \$789,577 (General Fund) and 1.5 positions to conduct treatment activities needed to respond to ongoing federal obligations. This will implement a more effective interim solution at the Leviathan Mine Superfund site owned by the State of California. This proposal is consistent with the long-term obligation of the state at the mine.

Staff Comments. These proposals are consistent with statute and the direction the board has taken over previous years.

Recommendation: Approve Items 1-8.

VOTE 1, 6, 7: 2-1 (Nielsen, no)

VOTE 2, 3, 4, 5, 8: 3-0

ITEMS PROPOSED FOR DISCUSSION

Reorganization of the Drinking Water Program

Staff Recommendation. Hold open.

VOTE: Hold Open

Groundwater Resource Protection

Budget Proposal. The budget requests \$1.9 million (General Fund) and ten positions to begin the implementation of a program to protect groundwater resources from unreasonable diversion and use that causes overdraft conditions or unreasonable effects on public trust resources. The proposal includes trailer bill language authorizing the SWRCB to establish enforceable plans and requirements for basins found in overdraft from unreasonable diversion and/or use that unreasonably affects public trust resources.

SB 103 (Committee on Budget), Chapter 2, Statutes of 2014, appropriated \$800,000 to protect and ensure the sustainability of groundwater in critical basins. The accompanying trailer bill language also provided enhanced water rights enforcement for surface water allocations, which are permitted by the state under its water rights program.

Staff Comments. The Legislature, and in particular the Assembly and Senate budget committees, have raised concerns regarding the cost of maintaining the status quo for groundwater monitoring and enforcement for several years. The LAO has made a compelling argument regarding the costs to the state, the impacts on future water supply development, and localized impacts of the current statewide groundwater management systems. As an example, shown on page 15 of this agenda, groundwater contamination affects numerous local areas of the state, and with this contamination, the amount of water available for supply in these areas is greatly reduced or made more expensive to treat to water standards.

The Governor's proposal is a positive first step in addressing this long-standing problem. Staff recommends the subcommittee approve the proposal, including trailer bill language. This action would be consistent with the Legislature's actions on the recently passed drought package.

Staff Recommendation: Approve budget proposal and trailer bill language.

VOTE: Approve budget proposal, 2-1 (Nielsen, no)

Hold Open Trailer bill

Implementation of SB 4 - Hydraulic Fracturing

Budget Proposal. The budget requests \$6.2 million and 14 positions in 2014-15 for SWRCB to develop the groundwater monitoring criteria and plan, as well as to evaluate compliance by well owners and operators who develop their own groundwater monitoring plans. It also includes funding for contracts to perform groundwater monitoring. The request for SWRCB would increase to \$9.4 million in 2015-16, which is primarily due to additional costs related to groundwater monitoring contracts.

The Governor also proposes budget trailer language to address what the Administration describes as an inconsistency in SB 4 related to groundwater monitoring. Specifically, sections of SB 4 varied in whether it required SWRCB to “review” or “approve” groundwater monitoring plans developed by well owners and operators. The proposed legislation would specifically require SWRCB to review—rather than approve—monitoring plans. According to the Administration, this change is necessary in order to clarify DOGGR’s role as the lead state agency responsible for preparing environmental impact reports. Finally, the Administration states that it may also propose budget trailer language to clarify how the fee increase will be assessed in order to generate the additional revenue reflected in the proposed budget to fund the requested proposals.

Staff Comments. Staff appreciates the concern of the LAO regarding the shift of responsibility for groundwater monitoring. However, in order to maintain consistency for CEQA lead agencies, this shift may be necessary. As with other elements of the SB 4 implementation, the trailer bill should be left open for final discussion.

Staff concurs with the funding proposal. This proposal is consistent with the Legislature and Administration’s more focused approach to groundwater monitoring in recent years.

Staff Recommendation: Approve budget proposal and hold open trailer bill language for further review.

VOTE: 2-1 (Nielsen, no)

3950 Department of Resources Recycling and Recovery

Items Proposed for Vote-Only

- 1. Initial Transition for Support of DORIIS.** The budget requests two limited-term positions and \$258,000 (BCRF) to begin transition from contractor staff to state staff support of the Division of Recycling Integrated Information System (DORIIS). This proposal yields an annual savings of approximately \$250,000.
- 2. Increase BCRF Revenue Through Increased Audit Coverage.** The budget requests five, three-year limited-term positions and \$566,000 (BCRF) to increase audit coverage of beverage manufacturers and distributors to better protect the integrity of the BCRF. The emphasis will be on collecting revenues owed to CalRecycle and mitigating risk to the Fund.
- 3. E-Waste Recycling Fund Fraud Investigations.** The budget requests \$500,000 of expenditure authority to establish an Inter-Agency Agreement with the California Department of Food and Agriculture (CDFA), Division of Measurement Standards, to fund auditors and field inspectors to assess operational conformity with applicable recordkeeping requirements and ensure compliance with Weighmaster rules. CDFA is in agreement with this request and will not require additional reimbursement authority to implement this proposal.
- 4. California Tire Recycling Management.** The Governor's budget proposes provisional budget language for new, two-year grant appropriations from the California Tire Recycling Management Fund (Tire Fund) to allow flexibility in the encumbrance of grants and the payment of funds. This request does not include any additional fiscal resources.
- 5. Used Mattress Recovery And Recycling Program.** The budget requests 6.5 positions and \$595,000, on-going, (Used Mattress Recycling Fund) to implement the CalRecycle responsibilities under the mattress stewardship law, pursuant to SB 254 (Hancock), Chapter 388, Statutes of 2013.
- 6. Rubberized Asphalt Concrete Marketing Development Act.** The budget requests \$5.2 million in on-going expenditure authority (Tire Fund) and 1.5 three-year, limited-term positions to allow CalRecycle to increase funding for Rubberized Asphalt Concrete grants in order to spend down an existing Tire Fund balance.

Recommendation: Approve Items 1-6.

VOTE 1, 2, 5, 6: 2-1 (Nielsen, no)

VOTE3, 4: 3-0

1. Beverage Container Recycling Program Reform—Phase II

Governor's Proposal. The Governor's budget proposes 12 positions and \$1.48 million, Beverage Container Recycling Fund (BCRF), and \$1.2 million ongoing to develop and implement Phase II of reforms to the Beverage Container Recycling Program (BCRP), including restructuring administrative and handling fees, a phased elimination of the processing fee offset, creating a Recycling Enforcement Grant Program, and changing the funding sources for local conservation corps payments.

The proposed programmatic changes are expected to result in a net increase to the BCRF annual fund balance of \$72.3 million in 2014-15, growing to \$127 million when fully implemented in 2016-17. The proposal also increases processing fee revenues by roughly \$67.4 million. The Administration projects that these changes, described below, would eliminate the program's structural deficit once fully implemented and avoid the need to implement proportional reductions.

Staff Recommendation. Hold open.

VOTE: Hold Open

3960 Department of Toxic Substances Control

The Department of Toxic Substances Control (DTSC) regulates hazardous waste management, cleans up or oversees the cleanup of contaminated hazardous waste sites, and promotes the reduction of hazardous waste generation. The department is funded by fees paid by persons that generate, transport, store, treat, or dispose of hazardous wastes; environmental fees levied on most corporations; federal funds; and GF.

Governor's Budget. The Governor's Budget includes \$189 million (including \$21 million GF) and 1,504 positions for support of the DTSC. This is a decrease of \$12 million, or 4 percent, under current year expenditures.

Items Proposed for Discussion

Improving Permitting and Tracking Functions at DTSC

Governor's Proposal. The Governor's January budget includes four proposals designed to address the above concerns and implement certain aspects of the department's Fixing the Foundation initiative. These proposals include increased funding over the next two years. In total, the budget proposes \$4.6 million in 2014-15 and \$3.2 million in 2015-16 from the Hazardous Waste Control Account and the Toxic Substances Control Account. The Governor also proposed a spring finance letter related to permitting. Specifically, the request includes the following:

- **Cost Recovery.** The budget requests \$1.6 million and 14 two-year limited term positions to reduce a backlog of reimbursements owed to the department for hazardous waste clean-up activities. The Administration estimates that this cost recovery backlog includes around \$26 million in unbilled or uncollected costs that are recoverable.
- **Hazardous Waste Permitting.** The budget requests \$1.2 million and eight two-year limited term positions for two sets of activities. First, the Administration proposes to address the hazardous waste permit renewal backlog. There are currently 24 hazardous waste facilities with continued permits. This number of continued permits is expected to grow to 34 by 2017. Second, the Administration proposes to update cost estimates associated with closing hazardous waste facilities in the future. Cost estimates need to be updated to ensure that there are sufficient funds to pay for the decontamination and decommissioning of hazardous waste facilities.
- **Hazardous Waste Tracking System.** The budget includes \$1.3 million in one-time funding to rebuild the Hazardous Waste Tracking System, an IT system used by the department to track the generation, transportation, and disposal of hazardous waste. The current software used by DTSC was last updated in 2002 and is no longer supported by the developer. Additionally, the capabilities of the system no longer meet the current needs of DTSC and other regulatory agencies.

- **Hazardous Waste Manifest Error Correction.** The budget includes \$381,000 and 3.5 two-year, limited-term positions to correct existing errors in the hazardous waste manifest data. Hazardous waste manifests travel with hazardous waste from the point of generation, through transportation, to the final disposal facility. Each party in the chain of shipping (including the generator), signs and keeps one of the manifest copies, creating a tracking system for the hazardous waste. The manifests are used to verify that the hazardous waste was managed properly and arrived at its intended destination. They are also often used as evidence in criminal enforcement actions. However, according to the department, there are many errors in the system. These errors can occur for various reasons, including handlers of hazardous waste incorrectly, incompletely, or illegibly filling out the handwritten manifests, as well as DTSC staff making mistakes when entering the data into the electronic system. These errors create difficulties for monitoring hazardous waste and prevent DTSC from verifying that hazardous waste is being properly managed.
- **Spring Finance Letter—Hazardous Waste Permitting: Work Plan Implementation.** The budget requests \$699,000 (HWCA) and five three-year, limited-term positions to implement the DTSC Permit Enhancement Work Plan. The plan identifies ten reform goals that will serve as a comprehensive roadmap for implementing a more effective, protective, timely, and equitable permitting system.

Staff Recommendation: Approve budget requests as proposed.

VOTE: 2-0

VOTE: