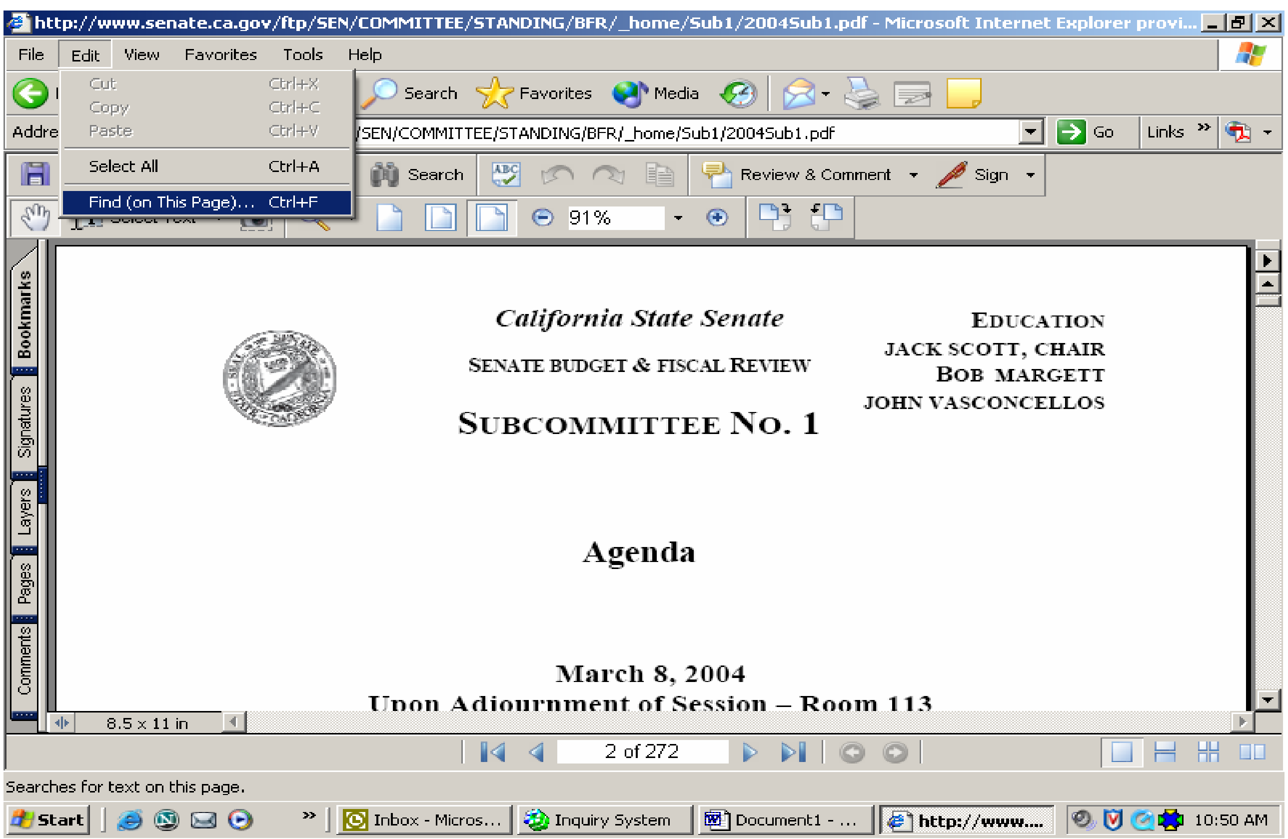
Senate Budget and Fiscal Review

Subcommittee No. 2, 2012 Agendas

Complete year 2012 Subcommittee No. 2 agendas in PDF format. They are archived in Adobe Acrobat to make them more accessible by subject. Please use "Edit" then "find" from the Menu to access information. Use "Bookmarks" from side menu To access agendas by date.



Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 2 **Agenda**

S. Joseph Simitian, Chair
Jean Fuller
Alan Lowenthal

Wednesday, March 7, 2012
2:30 pm
Hearing Room 4203

Consultant: Catherine Freeman

Departments Proposed for Discussion

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 916-324-9335. Requests should be made one week in advance whenever possible.

DEPARTMENTS PROPOSED FOR DISCUSSION

0540 Secretary for Natural Resources

The Secretary for Natural Resources heads the Natural Resources Agency. The Secretary is responsible for overseeing and coordinating the activities of the boards, departments, and conservancies under the jurisdiction of the Natural Resources Agency. The mission of the Resources Agency is to restore, protect and manage the State's natural, historical and cultural resources for current and future generations using creative approaches and solutions based on science, collaboration and respect for all involved communities. The Secretary for Resources, a member of the Governor's cabinet, sets the policies and coordinates the environmental preservation and restoration activities of 27 various departments, boards, commissions and conservancies.

Governor's Budget. The Governor's January Budget includes $47.7 million to support the Secretary for Natural Resources. This is a $125 million decrease under current year estimated expenditures primarily due to reduced bond fund expenditures.

Presentation by Secretary John Laird

Items Proposed for Discussion

1. Program Shifts and Eliminations. The Budget proposes to eliminate or shift the following agencies under the Secretary for Natural Resources:

- **Eliminate Department of Boating and Waterways.** Proposal to eliminate the department and commission, and to recreate the department as a separate division of the Department of Parks and Recreation similar to the Off-Highway Vehicle Division.
- **Transfer CalRecycle to the California Environmental Protection Agency (Cal-EPA).** The Department of Resources Recycling and Recovery would be shifted in order to place it with boards and departments with similar missions.
- **Eliminate Colorado River Board.** The board functions would be transferred to the Natural Resources Agency.
- **Eliminate the State Geology and Mining Board.** The Governor proposes to eliminate the Board and move the appeals process to the Office of Administrative Hearings, and the balance of the Board's responsibilities to the Office of Mine Reclamation within the Department of Conservation.

Staff Comments. Staff have reviewed the proposals and generally concurs with most of the administration's proposals to consolidate activities. The Secretary should outline his vision for the agency and how these eliminations fit into the overall Resources Agency structure and functions. In particular, the Secretary should address the shift of the Colorado River Board functions to the Secretary's office. In this case, the members of the Colorado River Board have some concerns about their water rights and how this shift will impact their ability to negotiate with other water rights holders on the Colorado River.

Recommendation: HOLD OPEN

Vote:

3540 Department of Forestry and Fire Protection

The California Department of Forestry and Fire Protection (DFFP) or "CalFIRE," under the policy direction of the Board of Forestry, provides fire protection services directly or through contracts for timberlands, rangelands, and brushlands owned privately or by state or local agencies. In addition, DFFP: (1) regulates timber harvesting on forestland owned privately or by the state and (2) provides a variety of resource management services for owners of forestlands, rangelands, and brushlands.

Governor's Budget. Excluding capital outlay, where the amount of carryover makes year-to-year comparisons less meaningful, the Governor's Budget includes $1.1 billion, which represents an overall decrease of $11.3 million and 41 positions from the 2011-12 budget. Decreases in funding are largely the result of re-benching the department's Emergency Fund (E-Fund).

ITEM PROPOSED FOR VOTE-ONLY

1. Emergency Medical Services. Requests redirection of $230,000 (General Fund) in 2012-13 and $472,000 thereafter, and a total of 11.5 permanent positions. The positions will provide oversight of the CalFIRE Emergency Medical Services Program as required by regulation and statute.

2. Computer Aided Dispatch (CAD) Hardware and Service Refresh. Requests $5.6 million in 2012-13 and a total of $8.7 million over five years from the State Emergency Telephone Number Account to provide a one-time hardware life cycle replacement. Funds will also be used for ongoing system maintenance and support over a five year period.

3. CalFIRE Administrative Correction Advances. The department wishes to eliminate various reporting mandates that are either duplicative or can be provided more readily on an as-needed basis to the Legislature. These include, for example, reporting on building codes which is now handled by another agency, fire prevention activities that will be reported under the new State Responsibility Area fire fee report, and cooperative agreements over $5 million.

4. Forest Legacy Budget Bill Language. The department requests budget bill language to allow the department to use funding within its support budget to acquire conservation easements pursuant to the California Forest Legacy Program Act in order to comply with state administrative procedure for this 10-year old program.

5. Statewide Communications Facilities (Phase IV). The department requests $6.8 million for a planned telecommunications infrastructure replacement project. This funding is part of a multi-year proposal as part of the California Technology Agency's Public Safety Office conversion to digital technology.

Staff Comments. Staff has reviewed the proposals and concurs with the Governor with one exception. Item one was submitted prior to an understanding of the impacts of both current-year General Fund reductions and possible budget-year trigger cuts. Staff recommends delaying this proposal by a year to determine funding availability. Under item (3), both budget and policy staff plan to work with the department to determine a more useful way to report on cooperative agreements signed by the department.

Recommendation: APPROVE Items 2-5; DENY Item 1

Vote:

ITEMS PROPOSED FOR DISCUSSION

6. Department of Justice Civil Cost Recovery Legal Fees

Governor's Budget. The budget proposes an increase of $3 million in 2012-13 and $2.0 million ongoing to augment its Statewide Legal Services budget to fund the Department of Justice (DOJ) legal services related to the Civil Cost Recovery Program. This proposal is actually a shift in funding from DOJ, where costs were billed to departments after work was completed. Instead this proposal includes the total anticipated DOJ costs in the annual budget.

Background. The California Health and Safety Code authorizes fire agencies to recover suppression, investigation, and related administrative costs from anyone who starts a fire negligently or in violation of certain laws. The Governor requested and received $1.7 million and 10 two-year limited-term positions in the current year to augment its Statewide Fire Suppression Civil Cost-Recovery Program. This increased the total program budget to $2.8 million.

During budget discussions in 2010-11, the Legislature heard and approved a proposal to allow the Attorney General/Department of Justice (DOJ) to bill for legal services against the General fund in departments starting in 2011-12. The change was intended to increase accountability and control the cost of legal representation, and to help departments prioritize legal service needs.

The department inadvertently left the Civil Cost Recovery Program legal costs out of the total DOJ legal services cost projections. Annual costs are projected to be about $2.0 million annually, however a single case in the budget year, the "Moonlight Fire" is anticipated to increase these costs one-time. The department anticipates recovering up to $9 million from this fire.

Staff Comments. The Legislature considered this proposal in previous year budgets. The program returns about $12 million annually from civil actions excluding legal fees which are paid directly to DOJ. Approval of this item would be consistent with previous legislative action.

Recommendation. APPROVE as budgeted.

Vote:

7. State Responsibility Area Fire Prevention Fee

Governor's Budget. The budget proposes $9.3 million in 2012-13 and ongoing funding of $6.1 million, and 29 positions to implement ABx1 29 of 2011. This legislation authorizes a fee to be assessed on structures located within State Responsibility Areas (SRA) in order to pay for fire prevention activities in the SRA that specifically benefit owners of structures within the SRA.

In a companion budget proposal, the Board of Equalization, charged with collection of the fee, is requesting 56 positions and $6 million in order to establish the fee base and collection program.

The proposal also requests Trailer Bill Language that changes to the eligible use of the fee to include additional fire prevention activities and requires regular reporting on the status and use of the fund.

Background. The State Board of Forestry and Fire Protection (BOF), as required by ABx1 29, adopted emergency regulations to establish the fire prevention fee. The pending BOF regulations establish a $150 fee for all habitable structures, as defined, with a $35 credit for those applicable structures within a local fire protection district. Under the legislation, CalFIRE is required to submit to the Board of Equalization a list of the appropriate names and addresses of those required to pay the fee.

Staff Comments. The proposal is consistent with statements made by CalFIRE when the fee legislation passed in 2011. The committee may wish to discuss the following issues:

(1) The proposed scope of change for eligible uses of the fee including an expansion of fire prevention activities.
(2) The timeline for collection of the fee and when billing will commence.

Recommendation. HOLD OPEN

8. General Fund Reductions —Information Item

Governor's Budget. The budget includes two General Fund reductions: (1) $4.1 million General Fund in the baseline budget, and (2) a trigger-cut should revenues not be realized from the ballot-measures proposed for November 2012.

Background. The budget act of 2011 included a two-phased reduction to the CalFIRE fire protection budget totaling approximately $16.9 million. Of this amount, $12.8 was implemented in the current year and an additional $4.1 million will be implemented in 2012-13 after the completion of the 2011 fire season. These resulted in the following cuts:

(1) Eliminate staffing for two Lake Tahoe fire engines that supplement the US Forest Service;
(2) Eliminate funding for five bulldozers and 10 heavy fire equipment operators; and,
(3) Elimination of one single Air Attack Base and relocate the air tanker to nearby base.

Governor's Trigger Cut Proposal. The Governor proposes additional reduction of $15 million in the budget year and $60 million ongoing, should his tax initiative fail. These cuts would primarily be to emergency air response and fire station closures.

Staff Comments. The department has taken a methodical approach to the approved General Fund reductions. The department used a statistical analysis to determine where cuts would be taken. These included vegetation type, response area, call volume, fire history, response times, and proximity to other firefighting resources and expertise. While the cuts were difficult, the department tried to keep an overarching goal to maintain the Department's initial attack capability and cause the least impact to one particular type of fire protection resource or geographic area.

Reductions to the Lake Tahoe basin leaves Forest Service engines in place. Should these cuts have been taken in other areas of the state, it would have left no fire protection in those areas. CalFIRE conducted outreach with local entities regarding the impacts of these cuts.

The subcommittee may wish to discuss the impacts of further cuts to the department and how these reductions will be handled.

Recommendation. Information Item, no action needed.

3560 State Lands Commission

The Commission manages and protects California's sovereign public trust lands and other lands. These lands total more than 4.5 million acres, plus 790,000 acres of reserved mineral interests.

Governor's Budget. The Governor's Budget includes $31.3 million and 216 positions for the Commission, which represents an overall increase of $2.2 million and 17 positions. The increases in budget are largely due to added funding and positions to implement royalty recovery and lease compliance and land exchanges for renewable energy projects.

ITEMS PROPOSED FOR VOTE-ONLY

1. AB 982—Renewable Energy. The budget proposes an increase of $686,000 from the School Land Bank Fund and 6 positions to execute land exchanges for renewable energy-related projects. Chapter 485, Statutes of 2011 (AB 982, Skinner) directs the Commission to negotiate land exchanges with the federal government to consolidate non-contiguous school parcels owned by the state to promote the development of large-scale renewable energy projects. These positions will not require state funding as all costs are being paid by project applicants. According to the department, the approved projects could substantially increase rents and royalties to the General Fund and State Teachers' Retirement Fund.

2. AB 1112—DOF Audit Finding. Requests $300,000 for contracting services with the Department of Finance to perform required audits on the Oil Spill Prevention and Administration Fund related to Chapter 583, Statutes of 2011. This bill requires the commission to contract for an analysis and report of the oil spill prevention program financial basis and effectiveness.

3. Renewable Energy Projects Workload. The budget proposes an increase of $395,000 (reimbursement authority) and three positions to handle increased workload caused by alternative energy projects on lands within the jurisdiction of the Commission. With increased public interest in the development of renewable energy sources, interest has been focused on public lands for such uses. Consequently, the commission staff is currently experiencing an increase in workload from proposed energy projects such as onshore solar power, wind generation, exploration and development of geothermal resources, and offshore wave and tidal energy.

Recommendation: APPROVE Items 1-3

Vote:

ITEM PROPOSED FOR DISCUSSION

1. Revenue Enhancing Proposals

Governor's Budget. The budget, in two separate requests, proposes an increase of $1 million General Fund and 9 positions for the Commission to increase financial audit activities related to management of oil, gas, and other mineral resources owned by the state, as well as to ensure compliance and prompt payment of rentals from surface leasing. The positions will focus on leases that have historically generated the most revenues and recoveries, as well as those that have had the most problems.

Bureau of State Audits (BSA) Review in 2011. The Bureau of State Audits (BSA) reviewed the department as part of a requested audit and found that the commission was not always managing its leases in the State's best interest. According to the audit, the commission missed opportunities to generate millions of dollars in revenues for the State's General Fund—estimated to be as much as $8.2 million for some of the leases in the audit sample.

The Commission has responded to the audit with two requests for positions funding authority in order to begin to address the concerns of the audit. These two requests—Royalty Recovery and Revenue Assurance ($470,000), and Lease Compliance and Revenue Enhancement ($555,000)—address the findings of the audit by adding positions designed to provide more prompt monitoring of current leases, while also reviewing and correcting delinquent leases.

Staff Comments. The proposed return on investment for each auditor position is 10 to one. The proposal is expected to generate $6.6 million in General Fund and is responsive to the findings of the recent BSA audit. According to the Commission, the positions requested were approved on a limited-term basis in order to determine their effectiveness. In past years, however, limited-term positions were not converted to permanent regardless of their revenue generating capabilities.

The audit also recommended adding positions in port-areas to improve the Commission's ability to process applications for business development in these areas. While this would not have a direct General Fund revenue impact, the proposal has merit. The Subcommittee may wish to direct the Commission to return with a proposal that would partner with ports to address this audit finding.

Recommendation. APPROVE the following proposals:

(1) Royalty Recovery and Revenue Assurance ($470,000)
(2) Lease Compliance and Revenue Enhancement ($555,000)
(3) Supplemental reporting language (in concept) to require the Commission to report on the effectiveness of the limited-term positions in two years' time and make recommendations for permanent staffing levels.

Vote:

3790 Department of Parks and Recreation

The Department of Parks and Recreation (Parks) acquires, develops, and manages the natural, cultural, and recreational resources in the state park system and the off-highway vehicle trail system. In addition, the department administers state and federal grants to local entities that help provide parks and open-space areas throughout the state.

The state park system consists of 277 units, including 31 units administered by local and regional agencies. The system contains approximately 1.4 million acres, which includes 3,800 miles of trails, 300 miles of coastline, 800 miles of lake and river frontage, and about 14,800 campsites. Over 80 million visitors travel to state parks each year.

Governor's Budget. The Governor's Budget includes $423 million, a decrease of $745,933 and 18 positions from the 2011-12 budget. The decreases are mainly related to bond expenditures ($654,851 million), reductions in Off-Highway Motor Vehicle Division ($10 million) and General Fund ($10 million).

BACKGROUND:

The Legislature approved two major General Fund reductions to the Department of Parks and Recreation in the 2011 budget. The first was a reduction of $11 million in the current year and a $22 million ongoing starting in this budget. To implement the reduction, the Legislature approved trailer bill language specifying criteria for reducing the state park system including how the administration can select parks for closure, partial closure, and reduced service. The Legislature also approved a reduction of $10 million to the Off-Highway Vehicle (OHV) program and a shift of the same amount from the Motor Vehicle Fuel account to the General Fund.

In May of 2011, the department submitted a list of 70 parks slated for closure to the Legislature and the public. Using the following criteria, parks were selected from all areas of the state:

- Relative significance (e.g., historic value, uniqueness)
- Rate of visitation
- Estimated net savings to each park unit
- Feasibility of closing the park
- Operating efficiencies to be gained
- Infrastructure deficiencies (such as septic repairs or costly building upgrades)
- Recent infrastructure investments and capital improvements
- Deed and grant restrictions
- Funding provided from non-General Fund sources (such as dedicated fees)

Shortly after the list of closures was released, the department produced its estimates of operating costs and capital improvement needs at the 70 parks slated for closure. The department does not budget on a park-by-park basis; therefore, it is difficult to determine the exact amount of money an individual park may save. This also makes it difficult for those who wish to take over the parks to determine how much funding is necessary to take over an individual park.

In the interim since the budget has passed, members of the public, local agencies, federal agencies, and non-profit organizations have made efforts to find other ways to fund parks on the closure list. For example, the National Parks System will charge two dollars more at Muir Woods to pay for continued operation of Samuel P. Taylor State Park which was slated for closure and to help support Mt. Tamalpais State Park which is not on the closure list. Mono Lake State Natural Reserve was also removed from the closure list because of efforts by local nonprofits to take over funding for the park through increased fees.

GOVERNOR'S PROPOSAL:

The Governor's proposal includes the final and ongoing $11 million General Fund reduction approved by the Legislature last year resulting in closure of *up to* 70 state parks effective July 1, 2012.

The budget proposes to shift $11 million from the base budget to a continuously appropriated fund to provide the department additional flexibility to implement new projects or programs that generate additional revenues. The department is also proposing to spend $4.3 million from this fund for revenue generating projects. This is tied closely to the department's efforts to provide incentives to individual park units while pursuing concessions, operating agreements, and other arrangements with public, nonprofit, and private entities to keep as many parks open as possible.

Major Sources of Funding (in thousands)

Funding Source	2011-12	2012-13	Comment
General Fund	$121,831	$112,015	Reflects General Fund reduction
State Parks and Recreation Fund	139,316	132,286	Reflects proposal to shift funds to non-budget act
Off Highway Vehicle Trust Fund	113,912	75,233	
Federal Trust Fund	28,116	16,175	
Bond Funds	688,774	28,308	Reflects reduction in one-time bond expenditures
All Other Funds	86,452	68,451	
Total	**$1,178,401**	**$432,468**	

The budget also includes a ballot trigger reduction to eliminate all seasonal lifeguards and 20 percent of park rangers if the Governor's tax initiative is not approved in November. This will result in an additional $8.7 million ongoing reduction if fully implemented.

ISSUES TO CONSIDER:

Funding shifts and funding increases mask a challenged budget environment. Over the past five years, the department has effectively shifted its main source of funding from the General Fund to the State Parks and Recreation Fund (SPRF). On paper, this means that the department's spending power has effectively remained the same between these two funding sources since 2008-09. In fact, with other sources of funding, the department's overall budget has grown from $367 million to $432 million. Even excluding one-time bond expenditures, the budget has grown about 18 percent in the past several years. Much of this growth can be attributed to other funding sources including increased reimbursements, increases in the Off-Highway Vehicle Trust Fund, and other dedicated funding sources for specific purposes.

State Parks and Recreation Funding 2008-09 to 2012-13
(dollars in thousands)

	2008-09	2009-10	2010-11	2011-12	2012-13
General Fund	$135,241	$120,720	$117,458	$121,831	$112,015
State Parks and Recreation Fund	111,596	118,080	114,339	139,316	132,286
Other Funds	94,679	127,286	130,313	228,480	159,859
Subtotal	**$341,516**	**$366,086**	**$362,110**	**$489,627**	**$404,160**
Bond Funds (One-Time)	26,192	40,542	116,243	688,774	28,308
Total (including bond funds)	**$367,708**	**$406,628**	**$478,353**	**$1,178,401**	**$432,468**

Parks infrastructure costs are increasing with an aging system. However, during the time of the budget increases, costs to run state parks have also increased. Many state parks are over 50 years old and have an aging infrastructure much like our state levees and wastewater infrastructures. Decades old septic systems designed for lower visitor usage are being put to the test and in many cases failing requiring more and more costly repairs to maintain. Additionally, as we increase fees for park visitors, those visitors expect amenities that are reflective of an increased cost to use the park. Even such basics as flushing toilets and garbage service have increased in cost.

One state park costing the state millions per year. As an example of increased costs, one state park, the Empire Mine State Park has cost the state $31 million over the past five years due to toxic runoff from the mining operation conducted there over 50 years ago. The park was a gold mine for 100 years before it closed in 1956. The state acquired the property in Grass Valley, California with more than 850 acres of forested land, mine buildings, and historic properties in 1975. The state park was the subject of a series of lawsuits and cleanup and abatement orders related to the park's 367 miles of abandoned and flooded mine shafts and toxic legacy from gold mining. The rulings required the state to clean up toxic runoff from the gold mining legacy. The state has been in negotiations with the former owner over the cleanup since the orders were issued; however, according to the latest budget proposal, mediation has stalled while cleanup is still required.

Empire Mine State Park Funding 2007-08 to 2012-13
(dollars in thousands)

	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13
General Fund, Bond Funds and Special Funds	$3,868	$1,368	$5,765	$4,070	$11,595	$4,594
Total (all funds)						**$31,260**

How can the state maintain its current park system? The greatest question for legislators is what kind of state park system can the state maintain over the long term. Acquisitions over time whether through ballot approved bond measures or donations from individuals or groups have led the state to own and manage more property than can appropriately be budgeted for. Unexpected expenses such as the Empire Mine example and an increasingly aging system have backlogged multiple millions in deferred maintenance issues. Continued increases in fees may be possible but this also comes with the risk of lower attendance numbers and reduced public access to state parks. This makes the prospect of partnering with other entities for revenue generation or simply taking over parks a costly endeavor for the entity taking over.

The administration proposed closure of 70 state parks in part or in full. The likelihood of all of those parks closing is slim given the efforts outside entities to take over certain parks. The Legislature should consider the following in the budget year:

- Are funds at the department being spent on the highest priority areas?
- What parks remain on the closure list and is there anything the Legislature can do to provide tools to the department to continue to reduce this list?
- Are there other ways to fund the department or to allocate funding within priority areas of the department?
- Are there parks that should close regardless of a funding sponsor in order to limit state liability and future costs?
- What is the department doing to increase revenues at state parks—and why is it that the National Park System and local nonprofits are able to increase fees to save parks when our state park system is unable to do so?
- Why can't we introduce entry fees rather than parking fees at all state parks?
- Is it time to change the way we budget for the parks system in general to allow for innovation locally while maintaining a robust statewide system?

ITEM PROPOSED FOR VOTE-ONLY

1. Proposition 99. The budget requests an increase of $1.4 million in Public resources Account, Cigarette and Tobacco Products Surtax Fund. This increase will support one-time statewide projects that were previously supported by State Parks and Recreation Funds due to previous Proposition 99 reductions.

2. Concessions/Operating Agreement Proposals. The department requests approval of the following concession/operating agreement budget proposals:

a. Morro Bay State Park (Café/Marina concession)
b. Old Town San Diego State Historic Park (Period style restaurant concession)
c. Morro Bay State Park and Montana de Oro State Park (Amendment to existing operating agreement with County of San Luis Obispo)
d. Language for reporting purposes for the collection of vehicle day use fees concession at the San Diego District state beaches (approved by Public Works Board on March 13, 2011).

3. Donner Memorial State Park. Requests $881,000 Proposition 84 bond funds to continue work on a long-lived interpretive and educational exhibit, and for new museum buildings at Donner Memorial State Park.

4. Prairie City SVRA—Water Tank Infrastructure Improvement. Requests $177,000 to fund mandatory cleaning and inspection for a 500,000 steel water tank at Prairie City State Vehicular Recreation Area (SVRA).

5. Extensions of Liquidation—City of Encinitas, Moonlight State Beach project.

Recommendation: APPROVE Items 1-5

Vote:

ITEM PROPOSED TO HOLD OPEN

6. Local Assistance Program. The department requests funds in the amount of $49 million for the Local Assistance Program from special and federal funds for grants to various local agencies. Each program has specific restrictions and funding requirements. The majority of funds go to local agencies and nonprofits for project work. The department is requesting:

a. $3.6 million Habitat Conservation Fund
b. $21 million Off Highway Vehicle Trust Fund
c. $15.7 million Recreational Trails Fund
d. $8.7 million Federal Trust Fund

7. El Capitan State Beach—New Lifeguard Headquarters. The department requests $7.8 million (Proposition 84 bond funds) to demolish existing lifeguard headquarters in the campground loop at El Capital State Beach, and construct a new lifeguard headquarters near existing concession buildings in the day-use beach area.

8. Off-Highway Vehicle Opportunity Purchase and Pre-Budget Schematics. The department requests $7.9 million (Off-Highway Vehicle Fund) of which $2.0 million is proposed for opportunity purchases and pre-budget schematics, and $5.9 million is proposed for Hollister Hills SVRA infrastructure and rehabilitation.

Staff Comments. Staff has reviewed the proposals and recommends holding these items open. Given the budget reductions of previous years and proposed trigger-cut reductions including lifeguards at state beaches, it would seem prudent to hold open these items as current parks-related legislation is discussed in the budget and policy arenas.

Recommendation: HOLD OPEN

Vote:

ITEMS PROPOSED FOR DISCUSSION

Revenue Incentive Opportunities

Governor's Budget Proposal. The budget proposes to shift $11 million State Parks and Recreation Fund (SPRF) from Budget Act to Non-Budget Act (continuous appropriation). In addition, the department is requesting $4.3 million SPRF (continuous appropriation authority) to allow the department to move towards greater self-sufficiency through enterprise projects at districts. The request is predicated on the nature of fee revenue that comes in during the last quarter of the year, after budget proposals have been well-vetted and finalized. This does not allow the department the flexibility it needs to create innovative and review projects that would increase revenue potential at Parks districts.

According to the department, a committee will be established to evaluate proposals and only the most viable projects will be funded. Proposed projects will be evaluated based on estimated revenue, enhancements to infrastructure and overall benefit to the State Park System. The proposal allows the department to move towards greater self-sufficiency, address the growing deferred maintenance backlog.

Staff Comments. As discussed in the overview, while the overall budget for the Parks Department has remained relatively steady over the past five years, the nature of the funding has changed considerably with increasing reliance on fee-based revenues for State Parks. While this trend is not unlike other areas of State government, the nature of parks fees is such that the public who pays the fee has an expectation of a product (clean bathrooms, litter removal, maintenance of historic sites) for their fee payment.

This proposal is one of many avenues the department is considering as it moves forward. Staff have some concerns about the language in the trailer bill including reporting of project progress, and the types of projects that might be included in this proposal.

Recommendation. HOLD OPEN, require the department to work with both budget and policy staff to finalize trailer bill language.

Vote:

Empire Mine State Park

Governor's 2011-12 Budget. The Governor requests $4.6 million in funds for continued evaluation, analysis, and implementation of remedial actions required at Empire Mine State Historic Park (SHP). These measures include, but are not limited to, removing contaminated materials and/or facilities, capping areas of contaminants, expansion of wetland remediation areas, and ongoing maintenance of current soil and water management projects at the mine.

Background. Empire Mine SHP is the site of one of the oldest, largest, deepest, longest, and richest gold mines in California. Closed in 1956, the mining operations left the land contaminated with various dangerous chemicals, including arsenic, cyanide, mercury, thallium, manganese, and iron. In order to create a park, the state purchased the mine property from Newmont Mining Corporation in 1974 and assumed all rights and responsibility to the title and interest and responsibility for the free flowing of water from the Magenta Drain tunnel running beneath. The park consists of 856 acres containing many of the mine's buildings and the entrance to 367 miles of abandoned and flooded mine shafts.

As the owner of the Empire Mine lands, Parks was sued for alleged violations of the Federal Clean Water Act. The lawsuit was settled on January 13, 2006, through a consent decree in federal court. The consent decree requires Parks to immediately implement corrective measures to mitigate the impacts from toxic soils and contaminated surface water discharges to the local watershed. The project is also under order by the Department of Toxic Substances Control (DTSC) and the Central Valley Regional Water Quality Board.

Beginning in FY 2005-06, the state began providing funding to determine the presence of contaminants at the mine, and each year since has funded corrective measures. The following is a historical perspective of costs at Empire Mine.

Empire Mine State Park Funding 2007-08 to 2012-13
(dollars in thousands)

	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13
General Fund, Bond Funds and Special Funds	$3,868	$1,368	$5,765	$4,070	$11,595	$4,594
Total (all funds)						**$31,260**

Staff Comments. The proposed request for funding, the seventh year in a multi-year plan, would respond to various regulatory orders issued both in court proceedings and by state regulatory agencies. The funding will also aid the department in its efforts to determine an appropriate mediated settlement amount with the original owner. Staff concurs that the work needs to continue to reach a settlement with the original owner, and that the state must comply with the cleanup and remediation orders.

The committee may wish to ask the department for an update on the remediation, the need to continue to use General Fund for this ongoing project, and an update on negotiations with the Responsible Parties for repayment of expenses. According to the department, negotiations with the responsible party have stalled and therefore it would seem that a change in the department's cost recovery strategy has changed.

Recommendation: APPROVE

VOTE:

S. Joseph Simitian, Chair
Jean Fuller
Alan Lowenthal

Wednesday, March 7, 2012
2:30 pm
Hearing Room 4203 Outcomes

Consultant: Catherine Freeman

Departments Proposed for Discussion

DEPARTMENTS PROPOSED FOR DISCUSSION

0540 Secretary for Natural Resources

The Secretary for Natural Resources heads the Natural Resources Agency. The Secretary is responsible for overseeing and coordinating the activities of the boards, departments, and conservancies under the jurisdiction of the Natural Resources Agency. The mission of the Resources Agency is to restore, protect and manage the State's natural, historical and cultural resources for current and future generations using creative approaches and solutions based on science, collaboration and respect for all involved communities. The Secretary for Resources, a member of the Governor's cabinet, sets the policies and coordinates the environmental preservation and restoration activities of 27 various departments, boards, commissions and conservancies.

Governor's Budget. The Governor's January Budget includes $47.7 million to support the Secretary for Natural Resources. This is a $125 million decrease under current year estimated expenditures primarily due to reduced bond fund expenditures.

Presentation by Secretary John Laird

Items Proposed for Discussion

1. Program Shifts and Eliminations. The Budget proposes to eliminate or shift the following agencies under the Secretary for Natural Resources:

- **Eliminate Department of Boating and Waterways.** Proposal to eliminate the department and commission, and to recreate the department as a separate division of the Department of Parks and Recreation similar to the Off-Highway Vehicle Division.
- **Transfer CalRecycle to the California Environmental Protection Agency (Cal-EPA).** The Department of Resources Recycling and Recovery would be shifted in order to place it with boards and departments with similar missions.
- **Eliminate Colorado River Board.** The board functions would be transferred to the Natural Resources Agency.
- **Eliminate the State Geology and Mining Board.** The Governor proposes to eliminate the Board and move the appeals process to the Office of Administrative Hearings, and the balance of the Board's responsibilities to the Office of Mine Reclamation within the Department of Conservation.

Staff Comments. Staff have reviewed the proposals and generally concurs with most of the administration's proposals to consolidate activities. The Secretary should outline his vision for the agency and how these eliminations fit into the overall Resources Agency structure and functions. In particular, the Secretary should address the shift of the Colorado River Board functions to the Secretary's office. In this case, the members of the Colorado River Board have some concerns about their water rights and how this shift will impact their ability to negotiate with other water rights holders on the Colorado River.

Recommendation: HOLD OPEN

Vote:

3540 Department of Forestry and Fire Protection

The California Department of Forestry and Fire Protection (DFFP) or "CalFIRE," under the policy direction of the Board of Forestry, provides fire protection services directly or through contracts for timberlands, rangelands, and brushlands owned privately or by state or local agencies. In addition, DFFP: (1) regulates timber harvesting on forestland owned privately or by the state and (2) provides a variety of resource management services for owners of forestlands, rangelands, and brushlands.

Governor's Budget. Excluding capital outlay, where the amount of carryover makes year-to-year comparisons less meaningful, the Governor's Budget includes $1.1 billion, which represents an overall decrease of $11.3 million and 41 positions from the 2011-12 budget. Decreases in funding are largely the result of re-benching the department's Emergency Fund (E-Fund).

ITEM PROPOSED FOR VOTE-ONLY

1. Emergency Medical Services. Requests redirection of $230,000 (General Fund) in 2012-13 and $472,000 thereafter, and a total of 11.5 permanent positions. The positions will provide oversight of the CalFIRE Emergency Medical Services Program as required by regulation and statute.

2. Computer Aided Dispatch (CAD) Hardware and Service Refresh. Requests $5.6 million in 2012-13 and a total of $8.7 million over five years from the State Emergency Telephone Number Account to provide a one-time hardware life cycle replacement. Funds will also be used for ongoing system maintenance and support over a five year period.

3. CalFIRE Administrative Correction Advances. The department wishes to eliminate various reporting mandates that are either duplicative or can be provided more readily on an as-needed basis to the Legislature. These include, for example, reporting on building codes which is now handled by another agency, fire prevention activities that will be reported under the new State Responsibility Area fire fee report, and cooperative agreements over $5 million.

4. Forest Legacy Budget Bill Language. The department requests budget bill language to allow the department to use funding within its support budget to acquire conservation easements pursuant to the California Forest Legacy Program Act in order to comply with state administrative procedure for this 10-year old program.

5. Statewide Communications Facilities (Phase IV). The department requests $6.8 million for a planned telecommunications infrastructure replacement project. This funding is part of a multi-year proposal as part of the California Technology Agency's Public Safety Office conversion to digital technology.

Staff Comments. Staff has reviewed the proposals and concurs with the Governor with one exception. Item one was submitted prior to an understanding of the impacts of both current-year General Fund reductions and possible budget-year trigger cuts. Staff recommends delaying this proposal by a year to determine funding availability. Under item (3), both budget and policy staff plan to work with the department to determine a more useful way to report on cooperative agreements signed by the department.

Recommendation: APPROVE Items 2-5; DENY Item 1

Vote:

Item 1 to Deny: (3-0)
Items 2, 4, 5 to Approve: (3-0)
Item 3 (Approve proposal minus Prevention Report): (3-0)
Item 3 (Approve proposal for Prevention Report): (2-1, Fuller)

ITEMS PROPOSED FOR DISCUSSION

6. Department of Justice Civil Cost Recovery Legal Fees

Governor's Budget. The budget proposes an increase of $3 million in 2012-13 and $2.0 million ongoing to augment its Statewide Legal Services budget to fund the Department of Justice (DOJ) legal services related to the Civil Cost Recovery Program. This proposal is actually a shift in funding from DOJ, where costs were billed to departments after work was completed. Instead this proposal includes the total anticipated DOJ costs in the annual budget.

Background. The California Health and Safety Code authorizes fire agencies to recover suppression, investigation, and related administrative costs from anyone who starts a fire negligently or in violation of certain laws. The Governor requested and received $1.7 million and 10 two-year limited-term positions in the current year to augment its Statewide Fire Suppression Civil Cost-Recovery Program. This increased the total program budget to $2.8 million.

During budget discussions in 2010-11, the Legislature heard and approved a proposal to allow the Attorney General/Department of Justice (DOJ) to bill for legal services against the General fund in departments starting in 2011-12. The change was intended to increase accountability and control the cost of legal representation, and to help departments prioritize legal service needs.

The department inadvertently left the Civil Cost Recovery Program legal costs out of the total DOJ legal services cost projections. Annual costs are projected to be about $2.0 million annually, however a single case in the budget year, the "Moonlight Fire" is anticipated to increase these costs one-time. The department anticipates recovering up to $9 million from this fire.

Staff Comments. The Legislature considered this proposal in previous year budgets. The program returns about $12 million annually from civil actions excluding legal fees which are paid directly to DOJ. Approval of this item would be consistent with previous legislative action.

Recommendation. APPROVE as budgeted.

Vote: Approve as Budgeted: (2-0) Fuller not voting

7. State Responsibility Area Fire Prevention Fee

Governor's Budget. The budget proposes $9.3 million in 2012-13 and ongoing funding of $6.1 million, and 29 positions to implement ABx1 29 of 2011. This legislation authorizes a fee to be assessed on structures located within State Responsibility Areas (SRA) in order to pay for fire prevention activities in the SRA that specifically benefit owners of structures within the SRA.

In a companion budget proposal, the Board of Equalization, charged with collection of the fee, is requesting 56 positions and $6 million in order to establish the fee base and collection program.

The proposal also requests Trailer Bill Language that changes to the eligible use of the fee to include additional fire prevention activities and requires regular reporting on the status and use of the fund.

Background. The State Board of Forestry and Fire Protection (BOF), as required by ABx1 29, adopted emergency regulations to establish the fire prevention fee. The pending BOF regulations establish a $150 fee for all habitable structures, as defined, with a $35 credit for those applicable structures within a local fire protection district. Under the legislation, CalFIRE is required to submit to the Board of Equalization a list of the appropriate names and addresses of those required to pay the fee.

Staff Comments. The proposal is consistent with statements made by CalFIRE when the fee legislation passed in 2011. The committee may wish to discuss the following issues:

(1) The proposed scope of change for eligible uses of the fee including an expansion of fire prevention activities.
(2) The timeline for collection of the fee and when billing will commence.

Recommendation. HOLD OPEN

The Department of Finance and CalFIRE are to work with staff to provide staff the legal assurances referenced in testimony that this expansion of duties will meet the fee nexus requirements.

8. General Fund Reductions —Information Item

Governor's Budget. The budget includes two General Fund reductions: (1) $4.1 million General Fund in the baseline budget, and (2) a trigger-cut should revenues not be realized from the ballot-measures proposed for November 2012.

Background. The budget act of 2011 included a two-phased reduction to the CalFIRE fire protection budget totaling approximately $16.9 million. Of this amount, $12.8 was implemented in the current year and an additional $4.1 million will be implemented in 2012-13 after the completion of the 2011 fire season. These resulted in the following cuts:

(1) Eliminate staffing for two Lake Tahoe fire engines that supplement the US Forest Service;
(2) Eliminate funding for five bulldozers and 10 heavy fire equipment operators; and,
(3) Elimination of one single Air Attack Base and relocate the air tanker to nearby base.

Governor's Trigger Cut Proposal. The Governor proposes additional reduction of $15 million in the budget year and $60 million ongoing, should his tax initiative fail. These cuts would primarily be to emergency air response and fire station closures.

Staff Comments. The department has taken a methodical approach to the approved General Fund reductions. The department used a statistical analysis to determine where cuts would be taken. These included vegetation type, response area, call volume, fire history, response times, and proximity to other firefighting resources and expertise. While the cuts were difficult, the department tried to keep an overarching goal to maintain the Department's initial attack capability and cause the least impact to one particular type of fire protection resource or geographic area.

Reductions to the Lake Tahoe basin leaves Forest Service engines in place. Should these cuts have been taken in other areas of the state, it would have left no fire protection in those areas. CalFIRE conducted outreach with local entities regarding the impacts of these cuts.

The subcommittee may wish to discuss the impacts of further cuts to the department and how these reductions will be handled.

Recommendation. Information Item, no action needed.

3560 State Lands Commission

The Commission manages and protects California's sovereign public trust lands and other lands. These lands total more than 4.5 million acres, plus 790,000 acres of reserved mineral interests.

Governor's Budget. The Governor's Budget includes $31.3 million and 216 positions for the Commission, which represents an overall increase of $2.2 million and 17 positions. The increases in budget are largely due to added funding and positions to implement royalty recovery and lease compliance and land exchanges for renewable energy projects.

ITEMS PROPOSED FOR VOTE-ONLY

1. AB 982—Renewable Energy. The budget proposes an increase of $686,000 from the School Land Bank Fund and 6 positions to execute land exchanges for renewable energy-related projects. Chapter 485, Statutes of 2011 (AB 982, Skinner) directs the Commission to negotiate land exchanges with the federal government to consolidate non-contiguous school parcels owned by the state to promote the development of large-scale renewable energy projects. These positions will not require state funding as all costs are being paid by project applicants. According to the department, the approved projects could substantially increase rents and royalties to the General Fund and State Teachers' Retirement Fund.

2. AB 1112—DOF Audit Finding. Requests $300,000 for contracting services with the Department of Finance to perform required audits on the Oil Spill Prevention and Administration Fund related to Chapter 583, Statutes of 2011. This bill requires the commission to contract for an analysis and report of the oil spill prevention program financial basis and effectiveness.

3. Renewable Energy Projects Workload. The budget proposes an increase of $395,000 (reimbursement authority) and three positions to handle increased workload caused by alternative energy projects on lands within the jurisdiction of the Commission. With increased public interest in the development of renewable energy sources, interest has been focused on public lands for such uses. Consequently, the commission staff is currently experiencing an increase in workload from proposed energy projects such as onshore solar power, wind generation, exploration and development of geothermal resources, and offshore wave and tidal energy.

Recommendation: APPROVE Items 1-3

Vote:

Items 1, 3 to Approve: (3-0)
Item 2 to Approve: (2-1) Fuller

ITEM PROPOSED FOR DISCUSSION

1. Revenue Enhancing Proposals

Governor's Budget. The budget, in two separate requests, proposes an increase of $1 million General Fund and 9 positions for the Commission to increase financial audit activities related to management of oil, gas, and other mineral resources owned by the state, as well as to ensure compliance and prompt payment of rentals from surface leasing. The positions will focus on leases that have historically generated the most revenues and recoveries, as well as those that have had the most problems.

Bureau of State Au dits (BSA) Review in 2011. The Bureau of State Audits (BSA) reviewed the department as part of a requested audit and found that the commission was not always managing its leases in the State's best interest. According to the audit, the commission missed opportunities to generate millions of dollars in revenues for the State's General Fund—estimated to be as much as $8.2 million for some of the leases in the audit sample.

The Commission has responded to the audit with two requests for positions funding authority in order to begin to address the concerns of the audit. These two requests—Royalty Recovery and Revenue Assurance ($470,000), and Lease Compliance and Revenue Enhancement ($555,000)—address the findings of the audit by adding positions designed to provide more prompt monitoring of current leases, while also reviewing and correcting delinquent leases.

Staff Comments. The proposed return on investment for each auditor position is 10 to one. The proposal is expected to generate $6.6 million in General Fund and is responsive to the findings of the recent BSA audit. According to the Commission, the positions requested were approved on a limited-term basis in order to determine their effectiveness. In past years, however, limited-term positions were not converted to permanent regardless of their revenue generating capabilities.

The audit also recommended adding positions in port-areas to improve the Commission's ability to process applications for business development in these areas. While this would not have a direct General Fund revenue impact, the proposal has merit. The Subcommittee may wish to direct the Commission to return with a proposal that would partner with ports to address this audit finding.

Recommendation. APPROVE the following proposals:

(1) Royalty Recovery and Revenue Assurance ($470,000)
(2) Lease Compliance and Revenue Enhancement ($555,000)
(3) Supplemental reporting language (in concept) to require the Commission to report on the effectiveness of the limited-term positions in two years' time and make recommendations for permanent staffing levels.

Vote: Approve Staff Recommendation: (3-0). Require that staff/LAO be kept apprised of opportunities for entrepreneurial endeavors for Ports and to work on a proposal that addresses how to enhance business development and outreach.

3790 Department of Parks and Recreation

The Department of Parks and Recreation (Parks) acquires, develops, and manages the natural, cultural, and recreational resources in the state park system and the off-highway vehicle trail system. In addition, the department administers state and federal grants to local entities that help provide parks and open-space areas throughout the state.

The state park system consists of 277 units, including 31 units administered by local and regional agencies. The system contains approximately 1.4 million acres, which includes 3,800 miles of trails, 300 miles of coastline, 800 miles of lake and river frontage, and about 14,800 campsites. Over 80 million visitors travel to state parks each year.

Governor's Budget. The Governor's Budget includes $423 million, a decrease of $745,933 and 18 positions from the 2011-12 budget. The decreases are mainly related to bond expenditures ($654,851 million), reductions in Off-Highway Motor Vehicle Division ($10 million) and General Fund ($10 million).

BACKGROUND:

The Legislature approved two major General Fund reductions to the Department of Parks and Recreation in the 2011 budget. The first was a reduction of $11 million in the current year and a $22 million ongoing starting in this budget. To implement the reduction, the Legislature approved trailer bill language specifying criteria for reducing the state park system including how the administration can select parks for closure, partial closure, and reduced service. The Legislature also approved a reduction of $10 million to the Off-Highway Vehicle (OHV) program and a shift of the same amount from the Motor Vehicle Fuel account to the General Fund.

In May of 2011, the department submitted a list of 70 parks slated for closure to the Legislature and the public. Using the following criteria, parks were selected from all areas of the state:

- Relative significance (e.g., historic value, uniqueness)
- Rate of visitation
- Estimated net savings to each park unit
- Feasibility of closing the park
- Operating efficiencies to be gained
- Infrastructure deficiencies (such as septic repairs or costly building upgrades)
- Recent infrastructure investments and capital improvements
- Deed and grant restrictions
- Funding provided from non-General Fund sources (such as dedicated fees)

Shortly after the list of closures was released, the department produced its estimates of operating costs and capital improvement needs at the 70 parks slated for closure. The department does not budget on a park-by-park basis; therefore, it is difficult to determine the exact amount of money an individual park may save. This also makes it difficult for those who wish to take over the parks to determine how much funding is necessary to take over an individual park.

In the interim since the budget has passed, members of the public, local agencies, federal agencies, and non-profit organizations have made efforts to find other ways to fund parks on the closure list. For example, the National Parks System will charge two dollars more at Muir Woods to pay for continued operation of Samuel P. Taylor State Park which was slated for closure and to help support Mt. Tamalpais State Park which is not on the closure list. Mono Lake State Natural Reserve was also removed from the closure list because of efforts by local nonprofits to take over funding for the park through increased fees.

GOVERNOR'S PROPOSAL:

The Governor's proposal includes the final and ongoing $11 million General Fund reduction approved by the Legislature last year resulting in closure of *up to* 70 state parks effective July 1, 2012.

The budget proposes to shift $11 million from the base budget to a continuously appropriated fund to provide the department additional flexibility to implement new projects or programs that generate additional revenues. The department is also proposing to spend $4.3 million from this fund for revenue generating projects. This is tied closely to the department's efforts to provide incentives to individual park units while pursuing concessions, operating agreements, and other arrangements with public, nonprofit, and private entities to keep as many parks open as possible.

Major Sources of Funding (in thousands)

Funding Source	2011-12	2012-13	Comment
General Fund	$121,831	$112,015	Reflects General Fund reduction
State Parks and Recreation Fund	139,316	132,286	Reflects proposal to shift funds to non-budget act
Off Highway Vehicle Trust Fund	113,912	75,233	
Federal Trust Fund	28,116	16,175	
Bond Funds	688,774	28,308	Reflects reduction in one-time bond expenditures
All Other Funds	86,452	68,451	
Total $1,178,401		**$432,468**	

The budget also includes a ballot trigger reduction to eliminate all seasonal lifeguards and 20 percent of park rangers if the Governor's tax initiative is not approved in November. This will result in an additional $8.7 million ongoing reduction if fully implemented.

ISSUES TO CONSIDER:

Funding shifts and funding increases m ask a challenged b udget environment. Over the past five years, the department has effectively shifted its main source of funding from the General Fund to the State Parks and Recreation Fund (SPRF). On paper, this means that the department's spending power has effectively remained the same between these two funding sources since 2008-09. In fact, with other sources of funding, the department's overall budget has grown from $367 million to $432 million. Even excluding one-time bond expenditures, the budget has grown about 18 percent in the past several years. Much of this growth can be attributed to other funding sources including increased reimbursements, increases in the Off-Highway Vehicle Trust Fund, and other dedicated funding sources for specific purposes.

State Parks and Recreation Funding 2008-09 to 2012-13
(dollars in thousands)

	2008-09	2009-10	2010-11	2011-12	2012-13
General Fund	$135,241	$120,720	$117,458	$121,831	$112,015
State Parks and Recreation Fund	111,596	118,080	114,339	139,316	132,286
Other Funds	94,679	127,286	130,313	228,480	159,859
Subtotal	**$341,516**	**$366,086**	**$362,110**	**$489,627**	**$404,160**
Bond Funds (One-Time)	26,192	40,542	116,243	688,774	28,308
Total (including bond funds)	**$367,708**	**$406,628**	**$478,353**	**$1,178,401**	**$432,468**

Parks infrastructure costs are increasing with an aging system. However, during the time of the budget increases, costs to run state parks have also increased. Many state parks are over 50 years old and have an aging infrastructure much like our state levees and wastewater infrastructures. Decades old septic systems designed for lower visitor usage are being put to the test and in many cases failing requiring more and more costly repairs to maintain. Additionally, as we increase fees for park visitors, those visitors expect amenities that are reflective of an increased cost to use the park. Even such basics as flushing toilets and garbage service have increased in cost.

One state park costing th e state millions per y ear. As an example of increased costs, one state park, the Empire Mine State Park has cost the state $31 million over the past five years due to toxic runoff from the mining operation conducted there over 50 years ago. The park was a gold mine for 100 years before it closed in 1956. The state acquired the property in Grass Valley, California with more than 850 acres of forested land, mine buildings, and historic properties in 1975. The state park was the subject of a series of lawsuits and cleanup and abatement orders related to the park's 367 miles of abandoned and flooded mine shafts and toxic legacy from gold mining. The rulings required the state to clean up toxic runoff from the gold mining legacy. The state has been in negotiations with the former owner over the cleanup since the orders were issued; however, according to the latest budget proposal, mediation has stalled while cleanup is still required.

Empire Mine State Park Funding 2007-08 to 2012-13
(dollars in thousands)

	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13
General Fund, Bond Funds and Special Funds	$3,868	$1,368	$5,765	$4,070	$11,595	$4,594
Total (all funds)						**$31,260**

How can the state maintain its current park s ystem? The greatest question for legislators is what kind of state park system can the state maintain over the long term. Acquisitions over time whether through ballot approved bond measures or donations from individuals or groups have led the state to own and manage more property than can appropriately be budgeted for. Unexpected expenses such as the Empire Mine example and an increasingly aging system have backlogged multiple millions in deferred maintenance issues. Continued increases in fees may be possible but this also comes with the risk of lower attendance numbers and reduced public access to state parks. This makes the prospect of partnering with other entities for revenue generation or simply taking over parks a costly endeavor for the entity taking over.

The administration proposed closure of 70 state parks in part or in full. The likelihood of all of those parks closing is slim given the efforts outside entities to take over certain parks. The Legislature should consider the following in the budget year:

- Are funds at the department being spent on the highest priority areas?
- What parks remain on the closure list and is there anything the Legislature can do to provide tools to the department to continue to reduce this list?
- Are there other ways to fund the department or to allocate funding within priority areas of the department?
- Are there parks that should close regardless of a funding sponsor in order to limit state liability and future costs?
- What is the department doing to increase revenues at state parks—and why is it that the National Park System and local nonprofits are able to increase fees to save parks when our state park system is unable to do so?
- Why can't we introduce entry fees rather than parking fees at all state parks?
- Is it time to change the way we budget for the parks system in general to allow for innovation locally while maintaining a robust statewide system?

ITEM PROPOSED FOR VOTE-ONLY

1. Proposition 99. The budget requests an increase of $1.4 million in Public resources Account, Cigarette and Tobacco Products Surtax Fund. This increase will support one-time statewide projects that were previously supported by State Parks and Recreation Funds due to previous Proposition 99 reductions.

2. Concessions/Operating Agreement Proposals. The department requests approval of the following concession/operating agreement budget proposals:

a. Morro Bay State Park (Café/Marina concession)
b. Old Town San Diego State Historic Park (Period style restaurant concession)
c. Morro Bay State Park and Montana de Oro State Park (Amendment to existing operating agreement with County of San Luis Obispo)
d. Language for reporting purposes for the collection of vehicle day use fees concession at the San Diego District state beaches (approved by Public Works Board on March 13, 2011).

3. Donner Memorial State Park. Requests $881,000 Proposition 84 bond funds to continue work on a long-lived interpretive and educational exhibit, and for new museum buildings at Donner Memorial State Park.

4. Prairie City SV RA—Water Tan k Infrastructure Improvement. Requests $177,000 to fund mandatory cleaning and inspection for a 500,000 steel water tank at Prairie City State Vehicular Recreation Area (SVRA).

5. Extensions of Liquidation—City of Encinitas, Moonlight State Beach project.

Recommendation: APPROVE Items 1-5

Vote: Items 1-5 to Approve as Budgeted: (3-0)

ITEM PROPOSED TO HOLD OPEN

6. Local Assistance Program. The department requests funds in the amount of $49 million for the Local Assistance Program from special and federal funds for grants to various local agencies. Each program has specific restrictions and funding requirements. The majority of funds go to local agencies and nonprofits for project work. The department is requesting:

a. $3.6 million Habitat Conservation Fund
b. $21 million Off Highway Vehicle Trust Fund
c. $15.7 million Recreational Trails Fund
d. $8.7 million Federal Trust Fund

7. El Capitan State Beach—New Lifeguard Headq uarters. The department requests $7.8 million (Proposition 84 bond funds) to demolish existing lifeguard headquarters in the campground loop at El Capital State Beach, and construct a new lifeguard headquarters near existing concession buildings in the day-use beach area.

8. Off-Highway Vehicle Opportunity Purchase and Pr e-Budget Schematics. The department requests $7.9 million (Off-Highway Vehicle Fund) of which $2.0 million is proposed for opportunity purchases and pre-budget schematics, and $5.9 million is proposed for Hollister Hills SVRA infrastructure and rehabilitation.

Staff Comments. Staff has reviewed the proposals and recommends holding these items open. Given the budget reductions of previous years and proposed trigger-cut reductions including lifeguards at state beaches, it would seem prudent to hold open these items as current parks-related legislation is discussed in the budget and policy arenas.

Recommendation: HOLD OPEN

Vote:

ITEMS PROPOSED FOR DISCUSSION

Revenue Incentive Opportunities

Governor's Budget Proposal. The budget proposes to shift $11 million State Parks and Recreation Fund (SPRF) from Budget Act to Non-Budget Act (continuous appropriation). In addition, the department is requesting $4.3 million SPRF (continuous appropriation authority) to allow the department to move towards greater self-sufficiency through enterprise projects at districts. The request is predicated on the nature of fee revenue that comes in during the last quarter of the year, after budget proposals have been well-vetted and finalized. This does not allow the department the flexibility it needs to create innovative and review projects that would increase revenue potential at Parks districts.

According to the department, a committee will be established to evaluate proposals and only the most viable projects will be funded. Proposed projects will be evaluated based on estimated revenue, enhancements to infrastructure and overall benefit to the State Park System. The proposal allows the department to move towards greater self-sufficiency, address the growing deferred maintenance backlog.

Staff Comments. As discussed in the overview, while the overall budget for the Parks Department has remained relatively steady over the past five years, the nature of the funding has changed considerably with increasing reliance on fee-based revenues for State Parks. While this trend is not unlike other areas of State government, the nature of parks fees is such that the public who pays the fee has an expectation of a product (clean bathrooms, litter removal, maintenance of historic sites) for their fee payment.

This proposal is one of many avenues the department is considering as it moves forward. Staff have some concerns about the language in the trailer bill including reporting of project progress, and the types of projects that might be included in this proposal.

Recommendation. HOLD OPEN, require the department to work with both budget and policy staff to finalize trailer bill language.

Vote: Hold Open

The department agreed to provide a report with the rationale for park closures to staff by April 9, 2012.

Staff, LAO, the department and Department of Finance will follow up to finalize trailer bill language.

Empire Mine State Park

Governor's 2011-12 Budget. The Governor requests $4.6 million in funds for continued evaluation, analysis, and implementation of remedial actions required at Empire Mine State Historic Park (SHP). These measures include, but are not limited to, removing contaminated materials and/or facilities, capping areas of contaminants, expansion of wetland remediation areas, and ongoing maintenance of current soil and water management projects at the mine.

Background. Empire Mine SHP is the site of one of the oldest, largest, deepest, longest, and richest gold mines in California. Closed in 1956, the mining operations left the land contaminated with various dangerous chemicals, including arsenic, cyanide, mercury, thallium, manganese, and iron. In order to create a park, the state purchased the mine property from Newmont Mining Corporation in 1974 and assumed all rights and responsibility to the title and interest and responsibility for the free flowing of water from the Magenta Drain tunnel running beneath. The park consists of 856 acres containing many of the mine's buildings and the entrance to 367 miles of abandoned and flooded mine shafts.

As the owner of the Empire Mine lands, Parks was sued for alleged violations of the Federal Clean Water Act. The lawsuit was settled on January 13, 2006, through a consent decree in federal court. The consent decree requires Parks to immediately implement corrective measures to mitigate the impacts from toxic soils and contaminated surface water discharges to the local watershed. The project is also under order by the Department of Toxic Substances Control (DTSC) and the Central Valley Regional Water Quality Board.

Beginning in FY 2005-06, the state began providing funding to determine the presence of contaminants at the mine, and each year since has funded corrective measures. The following is a historical perspective of costs at Empire Mine.

Empire Mine State Park Funding 2007-08 to 2012-13
(dollars in thousands)

	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13
General Fund, Bond Funds and Special Funds	$3,868	$1,368	$5,765	$4,070	$11,595	$4,594
Total (all funds)						**$31,260**

Staff Comments. The proposed request for funding, the seventh year in a multi-year plan, would respond to various regulatory orders issued both in court proceedings and by state regulatory agencies. The funding will also aid the department in its efforts to determine an appropriate mediated settlement amount with the original owner. Staff concurs that the work needs to continue to reach a settlement with the original owner, and that the state must comply with the cleanup and remediation orders.

The committee may wish to ask the department for an update on the remediation, the need to continue to use General Fund for this ongoing project, and an update on negotiations with the Responsible Parties for repayment of expenses. According to the department, negotiations with the responsible party have stalled and therefore it would seem that a change in the department's cost recovery strategy has changed.

Recommendation: APPROVE

VOTE: Approve as Budgeted (3-0)

Members:
JEAN FULLER
ALAN LOWENTHAL

California State Senate

CONSULTANTS:
BRIAN ANNIS
CATHERINE FREEMAN

COMMITTEE
ON
BUDGET AND FISCAL REVIEW

SUBCOMMITTEE #2 ON
RESOURCES, ENVIRONMENTAL PROTECTION, ENERGY AND TRANSPORTATION

COMMITTEE ASSISTANTS
GLENDA HIGGINS
MARY TEABO

ROOM 5019, STATE CAPITOL
SACRAMENTO, CA 95814

(916) 651-4103
FAX (916) 323-8386

S. Joseph Simitian, Chair

HIGH-SPEED RAIL

JOINT INFORMATIONAL HEARING OF THE

SENATE BUDGET SUBCOMMITTEE NO. 2 ON RESOURCES, ENVIRONMENTAL PROTECTION, ENERGY AND TRANSPORTATION

AND

SENATE SELECT COMMITTEE ON HIGH-SPEED RAIL

Senators S. Joseph Simitian and Alan Lowenthal, Chairs

Tuesday, March 13, 2012
Mountain View Center for the Performing Arts
500 Castro Street, Mountain View, CA 94041
7:00 PM

Agenda

7:00 p.m.	Brief Welcome: Senators Simitian, DeSaulnier, and Lowenthal
7:15 p.m.	Testimony from the High-speed Rail Authority: Dan Richard, Chairman, and Jim Hartnett, Board Member followed by questions from and discussion with Senators
8:00 p.m.	Testimony from the HSR Peer Review Group: Will Kempton, Chairman followed by questions from and discussion with Senators
8:30 p.m.	Testimony from the Legislative Analyst's Office: Farra Bracht & Brian Weatherford followed by questions from and discussion with Senators
9:00 p.m.	Comment (if any) by members of the Senate, followed by public comments (beginning with elected officials in attendance)

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 916-324-9335. Requests should be made one week in advance whenever possible.

High-Speed Rail

Staff Report for the March 13, 2012, Joint Hearing

BACKGROUND:

History: The California High-Speed Rail Authority (HSRA or Authority) was created by Chapter 796, Statutes of 1996, to direct development and implementation of inter-city high-speed rail service that is fully coordinated with other public transportation services. In its first twelve years of existence, the Authority was a small entity with a staff of under 10 and during this period it spent a cumulative amount of about $60 million on program-level environmental studies and other analyses. In 2002, the Legislature enacted, and the Governor signed, AB 1856 (Costa) that would place before voters a bond proposition that would provide $10 billion in bond financing for high-speed rail. Subsequent legislation delayed the bond vote. In 2008, AB 3034 (Galgiani) modified the provisions of the bond act and it was placed before voters as Proposition 1A (Prop 1A) in November 2008. Voters approved Prop 1A, and the project received a further boost in 2009 when the federal American Recovery and Reinvestment Act (ARRA) allocated $8 billion nationally for high-speed and intercity rail. In the last five years, the staff of the Authority and its budget have grown as the Authority has worked to complete the project-level environmental documents and complete initial design work. From its creation, through 2011-12, the HSRA will have spent about $630 million from the following funding sources: Proposition 1A bond funds (about $400 million); federal funds (about $140 million); and various state special funds and bond funds (about $90 million).

High-Speed Rail - the Organization: The Authority is governed by a nine-member Board with five members appointed by the Governor, two members appointed by the Senate Committee on Rules, and two members appointed by the Speaker of the Assembly. Appointments are not subject to Senate confirmation. Members serve four-year terms and receive limited compensation – only $100 per day for performing Authority business, not to exceed $500 in a calendar month. The Board appoints an Executive Director who serves at the pleasure of the Board. The Executive Director and six other executive positions are defined in statute and exempt from civil service – these seven positions may be paid high salaries as determined necessary by the Board and the Department of Personnel Administration to attract persons of superior qualifications. The Authority has a total of 54 authorized staff positions, but has struggled to fill positions and about half of the positions are vacant. Among currently vacant positions are key positions such as the Risk Manager and the Chief Financial Officer. The authority contracts out most of its workload, and has approximately 600 contractors (full-time equivalents) working on the project. The engineering workload is performed by regional contractors, who are managed by both state staff and a statewide program management contractor. In addition to state staff, another contractor performs oversight of the program management contractor. Other contractors and subcontractors have been hired for specialty contracts such as communications and ridership forecasting.

The High-Speed Rail Project Route: The route for the high-speed rail project is generally described in statute and was included in Prop 1A. Phase I of the system would connect the San Francisco Transbay Terminal, through the Central Valley, to Los Angeles Union Station and Anaheim. Phase II of the project would include the corridors of Sacramento–Stockton–Fresno and San Diego–Riverside–Los Angeles. Specific alignments between the listed cities are the subject of the project-level environment process, which is in various stages of completion for different corridors.

The High-Speed Rail Project Cost: The cost to build "Phase I" (from San Francisco to Anaheim) was most recently estimated in the Draft 2012 Business Plan to cost $98 billion, with a higher-cost scenario of $118 billion if more environmental mitigation and infrastructure is required. Earlier studies, carried lower cost estimates. The 2010 Business Plan estimated the Phase I cost at $43 billion (like the Draft 2012 Business plan, in year-of-expenditure dollars). The 2008 Business Plan estimated the Phase I cost at $33 billion in 2008 dollars. None of the recent Business Plans have included cost estimates for Phase II segments.

Proposition 1A of 2008: As indicated above, the Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century (Prop 1A) was approved by voters in 2008 and authorizes $9.950 billion in general obligation bonds for the project. Bonds must be appropriated by the Legislature for expenditure and the bond act lays out other requirements for reporting and expenditure of bond funds.

- Connectivity Funds: Of total Prop 1A bond funds, $950 million is set aside for capital improvements to intercity, urban, and commuter rail that provide direct connectivity to high-speed rail, or are part of the high-speed rail system or that provide capacity enhancements or safety improvements. Of this, $190 million is specifically directed to intercity rail administered by Caltrans. The remaining $760 million is allocated to urban and commuter rail by a formula based on rail miles, vehicle miles, and ridership. The California Transportation Commission (CTC) has approved a program of projects to receive the $760 million; however, both the current and prior administrations have been critical of the CTC's allocation plan. Governor Brown has indicated the projects "appear unrelated to the high-speed rail project or an integrated rail plan." Governor Schwarzenegger and Governor Brown have only approved Prop 1A connectivity funds for positive train control, which is a safety control system, and have vetoed funds appropriated by the Legislature for the other connectivity projects programmed by the CTC. The amount approved for positive train control is $136 million and it appears in Department of Transportation (Caltrans) budget.

- High-Speed Rail Funds: Of the total Prop 1A bond funds, $9.0 billion is set aside specifically for the high-speed rail project. Up to $450 million is available for general administration and up to $675 million is available for initial construction activities such as environmental studies and preliminary engineering – no match is required for this $1.1 billion. The remaining $8 billion is available for construction; however, a non-bond match of at least 50 percent is required for each corridor or segment. The bond act specifies certain characteristics for the design of the system, including electrified trains capable of sustaining speeds of no less than 200 miles per hour and capacity to achieve travel times between San Francisco and Los Angeles Union Station of 2 hours, 40 minutes.

- Requirements for Construction Expenditures: Prop 1A contains many requirements prior to the use of bond funds for construction expenditures.

    - HSRA report/certification #1: Before requesting an appropriation of bond funds for construction, the HSRA must identify a "usable segment" (a usable segment is defined in the bond act as a portion of a corridor that includes at least two stations) and among other requirements: (1) identify the sources of funds to complete the usable segment; (2) certify the segment can be completed as proposed; (3) certify one or more passenger service providers can begin using the tracks for passenger train service; (4) certify the segment can be used without an operating subsidy; and (5) certify it has completed all necessary project-level environmental clearances necessary to proceed to construction. *The plan was released November 3, 2011.*
    - Legislative appropriation: Bond funds must be appropriated by the Legislature before they can be expended.
    - HSRA report/certification #2. Prior to committing any bond funds for expenditure, the HSRA must submit to the Joint Legislative Budget Committee (JLBC) and Department of Finance (DOF) findings similar to report/certification #1 above, plus a report prepared by a financial services firm that finds the segment can be completed as proposed, would be suitable and ready for high-speed rail operation, and that upon completion, would be usable by a passenger service provider. The DOF shall review the submission and within 60 days, and after receiving any communication from the JLBC, determine if the plan can be successfully implemented.
    - Bond Committee finding: The High-Speed Passenger Train Finance Committee, composed of the Treasurer, the Director of Finance, the Controller, the Secretary of Business, Transportation and Housing, and the chairperson of the Authority, must determine if it is necessary or desirable to issue bonds to carry out the purpose of the bond act, before bonds are sold.

Since the bond act is approved by voters, the Legislature must follow the scheme and design of the bond measure, meaning the Legislature cannot redirect high-speed rail bonds to build highways or school facilities. Other statutory changes to the program may be permitted it they further the purpose of constructing a high-speed trail system in California.

Debt Service on Proposition 1A Bonds: The debt service on Proposition 1A bonds is an obligation of the State's General Fund, but current law directs transportation special funds to the General Fund as partial or full reimbursement for these costs. In the fiscal analysis for Prop 1A in 2008, the Department of Finance and the Legislative Analyst's Office (LAO) jointly estimated average annual debt costs at $647 million (over about 30 years, once all $10 billion Prop 1A bonds are sold). In a recent fiscal analysis for a currently proposed initiative to repeal Prop 1A, the Department of Finance and LAO jointly estimated average annual debt costs at $709 million for the remaining $9.4 billion in Prop 1A bonds. The LAO indicates the debt service estimates have increased in cost because most bonds are now anticipated to be taxable instead of tax exempt. With this more recent estimate and including bonds already appropriated, total average annual debt service might be about $770 million. However, it is not an absolute certainty future

Prop 1A bond sales will be taxable – federal direction may make future bond sales eligible for tax exempt status, and reduce costs to the State.

- Transportation Special Funds for Prop 1A Bonds: Pursuant to 2011 legislation (AB 105), about $950 million per year in truck weight fees is available to reimburse the General Fund for debt service on transportation-related bonds. Truck weight fees can reimburse up to the following amounts for each bond: Prop 1A (100 percent); Prop 1B - Highway Safety and Traffic Reduction (80 percent); Prop 116 – Clean Air and Transportation Improvements (28 percent); Prop 108 – Passenger Rail and Clean Air (28 percent); and Prop 192 – Seismic Retrofit (100 percent). Where the reimbursable amount is less than 100 percent, it is due to the bond funds being used for bus purchases and other purposes that are not constitutionally allowable for truck weight fees – generally truck weight fee revenue is allowable for highways, roads, and fixed-guideway rail investments. In 2011-12, and probably through 2013-14, annual truck weight fees are expected to exceed debt service for applicable bonds. When truck weight fees exceed debt costs, those revenues have been transferred to the General Fund as pre-funding for out-year bond costs. Under the Governor's plan, about $1.3 billion would be set aside as pre-funding in this manner through June 2013. The use of transportation special funds for bond debt was a component of the "fuel tax swap" package that recognized the approximately $1 billion in extra transportation revenue from higher gasoline prices and made that revenue eligible for transportation bond debt. Gasoline prices had been in a range of $1.50 to $2.00 per gallon in the first half of the last decade, but have averaged more in the $2.50 to $3.50 range since.
- Multi-year Debt Service Plan: In 2011-12, and likely through 2013-14, annual truck weight fee revenue will exceed eligible debt service from the five transportation bonds, including Prop 1A. In 2014-15 and for a period of years to approximately 2017-18, the annual truck weight fee revenue plus the truck fee revenues set aside in 2010-11 through 2013-14, will likely fully fund eligible debt service on the five transportation bonds – again including Prop 1A bonds. However, in approximately 2018-19 and for a long period thereafter, transportation special funds will likely be insufficient to fully cover eligible bond expenditures on the five bonds, and additional General Fund expenses will be incurred. So in the next period through approximately 2017-18, high-speed rail bonds will likely not put new pressure on the State General Fund – instead they will be funded with the extra transportation revenue that has come with higher gasoline prices. In a period starting in approximately 2018-19, Prop 1A and the other 4 transportation bonds will again start to place increasing pressure on the State's General Fund.

Federal Funding Awards: Federal funds have been awarded from 2009 American Recovery and Reinvestment Act (ARRA) funds and from Federal Fiscal Year 2010 Funds (FFY 2010). In addition to the original grant awards to California, the state has also received funds returned from other states and redistributed. In applying for competitive federal grants, California proposed differing levels of state matching funds. Early grant applications proposed state fund matches of 50 percent (i.e., the state funds 50 percent and the federal government funds 50 percent of project costs), and later grant applications proposed state fund matches of 20 percent. The weighted-average match for all grants is 43 percent state funding and 57 percent federal funding. The federal government awarded the grants contingent on the State fulfilling those match requirements. Included in the ARRA grant to California was $400 million received for the Transbay Terminal in San Francisco. The Transbay Terminal is the northern terminus of Phase I of the HSRA project, but that grant was directly awarded and not included in the state budget for the Authority.

Summary of Federal Grants for High-Speed Rail
(Dollars in Millions)

Federal Award	Date of Award	California HSRA	SF Transbay Terminal	Required State Match (weighted ave.)
ARRA	January 2010	$1,850	$400	50%
FFY 2010	October 2010	715	0	30%
Redistributed ARRA	December 2010	616	0	50%
Redistributed ARRA	May 2011	86	0	20%
Redistributed FFY 2010	May 2011	214	0	20%
Total ARRA		**$2,552**	**$400**	49%
Total FFY 2010		**$929**	**0**	28%
GRAND TOTAL		**$3,480**	**$400**	43%

Federal Deadlines: The ARRA legislation (Public Law 111-5, February 17, 2009) specifies that funds remain "available" through September 30, 2012, and projects must comply with the requirements of subchapter IV of chapter 31 of title 40, that requires full expenditure by the fifth fiscal year after the period of availability – so funds must be fully expended and reimbursed by September 30, 2017. Through grant agreements with the Federal Railroad Administration (FRA), all ARRA funds awarded to California have been obligated, and therefore, have already fully met the September 30, 2012, deadline. The FFY 2010 funds have a deadline of December 2018 for expenditure and reimbursement. The agreements with the FRA specify other "milestones" for the project, for example the milestone for the design-build contractor request-for-proposal (RFP) is December 2011, and the milestone for award of the design-build contract is August 2012. In signing the grant agreement, the HSRA has agreed to meet all the specified milestones, although generally the federal government continues to work with its project partners and amends cooperative agreements as needed for scheduling adjustments.

Federal Funding Restrictions: The federal grant agreement directs funding to construction in the "Initial Central Valley Section" with the exception of about $195 million which is available for preliminary engineering and design on all Phase I segments. Questions have been raised about the ability to move federal funds to other segments of the project, and the federal response is currently "no." A letter dated January 2, 2012, from Deputy Secretary of Transportation John D. Porcari, states the federal government's position that since "no other project could satisfy the statutory deadline, the Federal Railroad Administration cannot re-allocate the Recovery Act and fiscal Year 2010 funds committed to the Central Valley Project to other projects in California."

The Draft 2012 Business Plan and the Funding Plan: The HSRA released its Draft 2012 Business Plan (Draft Plan) on November 1, 2011, and released its Funding Plan on November 3,

2011. The plans included the new Phase I cost estimates of $98 billion, and also described the phased and blended construction approach which has the following components:

- Step 1 – Initial Construction Segment: Start construction in the Central Valley on a 130 mile segment running from north of Fresno to just north of Bakersfield. This segment would include two station locations of Fresno and a Kings/Tulare regional station. The Draft Plan calls this the "Initial Construction Segment (ICS)" a term which is not used in Prop 1A. This segment has available funding of $6 billion ($3.3 billion federal and $2.7 billion Prop 1A bonds). The Draft Plan indicates this segment would not initially be used for high-speed rail operations, but could be used to improve existing Amtrak service pending completion of further segments for high-speed rail.
- Step 2 – Initial Operating Segment: Complete a segment either south or north of the Central Valley segment that would connect to either San Jose or the San Fernando Valley. The cost of either segment is in the $26 billion range. The funding for this segment would be federal support of $21 billion (either grants of a tax-exempt bond program) and $5 billion Prop 1A bonds. When completed and combined with the Central Valley segment, the HSRA believes the systems would be ready to attract a high-speed rail operator who would be able to establish high-speed rail service and maintain the system without an operating subsidy.
- Step 3 – Bay to Basin Segment: Complete a segment either north or south (depending on the decision in Step 2) that would result in a line running from San Jose to the San Fernando Valley – this is described as the "Bay to Basin" segment, and would cost in the range of $22 billion. The Draft Plan indicates funding would come primarily from federal funds with a local or other match, some operating profits from the completed segment, and in one scenario some private capital investment.
- Step 4 – Phase I Blended: Implement blended operations with existing commuter rail operators and reduced infrastructure investment to connect to the Phase I endpoints of San Francisco and Anaheim. This would cost $24 billion with funding primarily federal with a local or other match.
- Step 5 – Phase I Completed: Fully build-out the Phase I segment with more infrastructure investment on the bookend segments of San Francisco to San Jose and San Fernando Valley to Anaheim. This would cost $20 billion with funding primarily federal with a local or other match.

The updated schedule in the Draft Plan indicates completion of the Initial Construction Segment in the Central Valley in 2018, with completion of the Initial Operating Segment and implementation of high-speed rail service in 2022. Bay to Basin service would begin in 2027, with full Phase I build out in 2034.

Peer Review of the Funding Plan: State law establishes a Peer Review Group to, among other duties, review the Financing Plan and prepare its independent judgment as to the feasibility and reasonableness of the plans, appropriateness of assumptions, analyses, and estimates, and any other observations or evaluations it deems necessary. The Peer Review Group provided its report on the Funding Plan in a January 3, 2012, letter to the Legislature. The report discusses a number of ways the Draft 2012 Business Plan and Funding Plan can be improved and concludes *pending review of the Final 2012 Business Plan and absent a clearer picture of where future funding is going to come from, the Peer Review Group cannot at this time recommend the*

Legislature approve the appropriation of bond proceeds for this project. Below are some of the key observations made in the Peer Review Group report:

- The phased and blended approach to construction is a good approach, but the decision should be made now whether the first Initial Operating Segment should be to the north and San Jose or to the south and the San Fernando Valley.
- The completion of the Central Valley Segment by itself may provide little independent utility if the Initial Operating Segment is not completed. Investments on the end segments (San Francisco to San Jose and Los Angeles to Anaheim) would have greater independent utility and benefit from the management experience of CalTrain and Metrolink.
- Completion of the initial operating high-speed rail segment (either San Jose to Bakersfield or Merced to the San Fernando Valley) requires an additional $24 billion to $30 billion beyond the initial $6 billion currently in hand, and the assumption that the federal government will provide these billions of additional dollars in the future is risky. The reports states: *The fact that the Funding Plan fails to identify any long term funding commitments is a fundamental flaw in the program…. The legislature could, of course, rectify this by enacting a dedicated fuel tax or some other form of added user charge that would not aggravate the existing State budget deficit. Lacking this, the project as it is currently planned is not financially "feasible."*
- The HSRA continues to suffer from lack of staff in numbers and experience and this deficiency creates risks that the HSRA can complete the Central Valley segment as scheduled.
- The business model lacks specificity on the role of a private operator and fiscal structure of a concession agreement. Additionally, a private operator should be brought in during the design-build process.
- The ridership forecast would benefit from external and public review and the revenue estimate would improve if a risk-based cost-loaded construction schedule were included.

Current Activity:

The HSRA continues project-level environmental work and initial design work on all segments. The Authority is also engaged in preliminary right-of-way work on the Central Valley Segment. The HSRA has begun the procurement process for future selection of design-build contractors – no contract award is expected until early 2012-13. The Draft 2012 Business Plan is being revised to incorporate some of the input received, and a Final 2012 Business Plan is expected in late March. If funding is approved by the Legislature, the Authority indicates it would be able in 2012-13 to proceed to purchase right-of-way for the project and proceed to construction.

GOVERNOR'S PROPOSAL:

The Governor presents only a placeholder budget for HSRA at this time. The January budget includes $15.9 million for state operations and no funding for capital outlay. The budget indicates no funding was included for capital outlay because the Department of Finance is still reviewing the Authority's Funding Plan and the 90-day review period was not concluded as the budget was finalized. The $15.9 million is primarily funded from Prop 1A bond funds and would provide $11.6 million for staff and administration and $4.3 million for external administration-related contracts. It is anticipated that the Administration will submit a budget request for capital funding after release of the Final Business Plan.

ISSUES TO CONSIDER:

Coming Soon – the Final 2012 Business Plan: By design, draft plans are released to solicit input which can be considered and included in final plans, and signs are the HSRA is adopting this approach. The Final 2012 Business Plan will hopefully respond to some of the issues raised by the Peer Review Group and others. However, it seems unlikely the Authority will be able to address all concerns. One of the biggest issues is federal funding, and it is seems unlikely the federal government will, in the short term, establish an ongoing funding stream for high-speed rail. Absent federal funds, additional state funding could be considered, but that would likely have to come from new revenues instead of more bonds. In a television interview, the Governor mentioned that "Cap and Trade" revenues associated with AB 32 implementation might be a funding source. After its release, the Final 2012 Business Plan will be the primary document for evaluation of the 2012-13 capital funding request.

Alternatives and Options: Since the Authority is unlikely to produce a final plan that includes funding commitments from the federal government beyond the funds already secured, the Legislature will likely have to take action in an environment of risk and uncertainty for the program. Given these risks, the following are some approaches to consider:

- <u>Proceed with the Central Valley segment</u>: The benefits here are federal support for this segment, environmental documents closer to final approval than with other segments, and some limited independent utility for Amtrak. Additionally, this investment would produce a 130 mile segment capable of running high-speed rail trains. The risks are that if no further investment is made to establish a track of sufficient length to support non-subsidized high-speed service, the benefit-to-cost ratio for this investment is lower than what might be achievable with other rail investments in the state. To mitigate this risk, the state could either try to expand the independent utility of this Central Valley investment, or identify other state funds to complete at least an initial operable segment.
- <u>Proceed to improve the Phase I rail corridors without completing a high-speed rail segment</u>: The benefits here are much greater independent utility for the investments made if no additional funds are identified to complete the high-speed rail system. Investments could include the electrification of CalTrain and Metrolink and perhaps some new grade separations or passing tracks. A traditional rail connector from Bakersfield to Palmdale could be explored with a possibility of a later upgrade for high-speed rail. The risk with these approaches is possible loss of federal funds, and the need to find other matching funds for Prop 1A bonds. In some cases, local funds may be available to match state bond funds. While this approach reduces risk, it would not produce a high-speed rail segment and therefore likely delay completion of an initial operating high-speed rail segment - assuming funds are later found to complete such a segment.
- <u>Delay or Suspend the Project</u>: The benefit here is that bond funds are not expended and the state's future debt-service is reduced. It is possible actions of the federal government in the future could provide funding certainty and therefore allow the Legislature to consider

resuming the project in an environment of less risk. Federal funding of $3.3 billion would be at risk in the case of a delay and presumably lost with an indefinite suspension. Should the state decide to resume at a later time, it would likely incur higher costs due to inflation and due to a recovered economy with a less favorable bond and construction market.

The options above are not necessarily mutually exclusive – some Prop 1A bonds funds (connectivity funds, or base high-speed rail funds) could be directed to other segments of the system while still beginning construction in the Central Valley. A short delay could provide additional time for alternatives to be further developed, and may not result in the loss of federal funds.

Information Received in Advance of the Final Business Plan: The Final Business Plan is expected to be released prior to the scheduled Authority Board meeting on April 5, 2012. However, Authority staff have been negotiating Memorandums of Understanding (MOU) with the Southern California Association of Government (SCAG) and with the Metropolitan Transportation Commission (MTC) in the San Francisco Bay Area. Information on these MOUs has appeared on the local government websites. The information suggests early investment in the Caltrain and Metrolink corridors of $1.3 billion and $2.0 billion respectively, with half of the funding from high-speed rail bonds. This early investment would provide shorter-term benefits for existing commuter rail service and make initial infrastructure investments for blended operation with high-speed rail.

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

S. Joseph Simitian, Chair
Jean Fuller
Alan Lowenthal

Wednesday, March 21, 2012
2:30 pm or upon adjournment of Rules Committee
Hearing Room 2040

Consultant: Catherine Freeman

Departments Proposed for Vote-Only

Departments Proposed for Discussion

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 916-324-9335. Requests should be made one week in advance whenever possible.

Departments Proposed for Vote-Only

3875 Sacramento-San Joaquin Delta Conservancy

1. **Operational Needs: Facility Lease**. Request for $75,000 (Environmental License Plate Fund) to support office space, utilities, and costs directly associated with facility operations.

2. **Public Outreach and Bay-Delta Awareness Programs.** Request for $140,000 (Federal Reimbursement Authority). The request would provide funding for mandated activities related to implementation of ecosystem restoration in the Delta in coordination with local agencies and authorities.

3885 Delta Stewardship Council

3. **Reappropriation—Implementation of the Delta Plan.** Request for reappropriation of $5.9 million (Proposition 50 bond funds) for support of the CALFED Science Program in order to fund the Delta Science Program, its successor program consistent with statute.

8570 Department of Food and Agriculture (CDFA)

4. **Used Beverage Container Importation Data Collection Program.** Request for reimbursement authority of $1.4 million from the Department of Resources Recycling and Recovery (concurrent budget proposal). CDFA would be reimbursed for participation in a cooperative agreement to detect and identify shipments of used beverage containers imported into California and illegally recycled for the California Refund Value (CRV). This proposal responds to various investigations and audits conducted regarding the recycling program.

3460 Colorado River Board

5. **Trailer Bill Language to Eliminate Board**. This item was heard under the Secretary for Resources. The Trailer Bill language eliminating the board and moving its functions to the Secretary is still being considered.

3680 Department of Boating and Waterways

Item	Issue	Funding
6	**Public Small Craft Harbor Loans.** Includes loans to Santa Barbara, tsunami repairs at Crescent City and Santa Cruz Harbors, emergency loans, planning loans, and CEQA funding.	$8 million (Harbors and Watercraft Revolving Fund [HWRF])
7	**Public Boat Launching Facility Grants.** Includes local assistance grants to Ventura Port District, County of Imperial, County of San Bernardino, County of Los Angeles, East Bay Regional Park District, City of Antioch, and various statewide programs.	$9.876 (HWRF)
8	**Federal Clean Vessel Act Grants Budget Authority.** Provides federal funding for sewage pump-out facilities statewide.	$857,000 (Federal Trust Fund)
9	**Reappropriation for City of Avalon Boating Infrastructure Grant Project.**	$1.1 million (reappropriation of Federal Trust Fund)
10	**Abandoned Watercraft Abatement Grants.** Provides funding for removal of abandoned watercraft throughout the state that create public safety and environmental hazards.	$700,000 (Abandoned Watercraft Abatement Fund)
11	**Vessel Turn-In Program Grants.** Provides public local agencies funding for the removal and disposal of surrendered recreational vessels.	$225,000 (Abandoned Watercraft Abatement Fund)
12	**Reappropriation of Approved Public Loan and Grant Funding.** Projects requesting reappropriation are City of Long Beach, Alamitos Bay Rebuild Project, and Dana Point Harbor Revitalization Project.	$2.5 million (HWRF)
13	**Privately Owned Recreational Marina Loans.** The Governor requests $5 million for loans to privately owned recreational marinas.	$5 million (HWRF)
14	**Governor's Reorganization Proposal for Department of Boating and Waterways**	None

Recommendation:

(1) **Approve:** Items 1-4, 6-12
(2) **Hold Open:** Item 5 (Colorado River Board) and Item 13 (Department of Boating and Waterways Privately Owned Recreational Marina Loans) for further discussion during May Revision.
(3) **Hold Open:** Item 14 for review by the Governor's Reorganization Process.

Vote:

Departments Proposed for Discussion

3480 Department of Conservation

The Department of Conservation (DOC) is charged with the development and management of the state's land, energy, and mineral resources. The department manages programs in the areas of: geology, seismology, and mineral resources; oil, gas, and geothermal resources; and agricultural and open-space land.

Governor's Budget. The Governor's Budget includes $74.7 million and 464 positions for support of the Department. Decreases in funding are largely due to reductions in bond expenditures ($86 million). Increases in positions are tied to a request from the Division of Oil, Gas, and Geothermal Resources to enhance onshore and offshore regulatory programs.

Items Proposed for Vote-Only

1. **Baseline Funding Adjustments and Reappropriations.** The budget includes three baseline funding adjustments to allow for continued program administration using different proportional amounts of funding. These include shifting $937,000 from the Bosco-Keene Renewable Resources Investment Fund (RRIF) and an accompanying baseline reduction of $937,000 to the Soil Conservation Fund (SCF); a one-year appropriation of $134,000 from the California Farmland Conservancy Program Fund to support the program due to decreased revenues into the Soil Conservation Fund; and reappropriation of $1.1 million in Proposition 50 bond funds to continue implementation of the department's Statewide Watershed Program.

2. **Orphan Well Elimination.** Requests a three-year limited-term appropriation of $1 million per year from the Oil, Gas , and Geothermal Administrative Fund to plug orphan wells. No position authority is requested.

3. **Information Technology Maintenance.** Baseline request for $132,000 from various special funds for maintenance of the DOC information technology infrastructure.

4. **CGS Federal Trust Fund Augmentation.** Requests $500,000 (baseline Federal Trust Fund) in order to receive grants related to the Federal Emergency Management Agency (FEMA).

Recommendation. Approve Items 1-4.

Vote:

Item Proposed for Discussion

DOGGR (Division of Oil, Gas, and Geothermal Resources) Compliance and Support Staff Augmentation

Governor's Proposal. The Governor requests 18 permanent positions and a baseline appropriation of $2.5 million ($2.3 ongoing) from the Oil, Gas, and Geothermal Administrative Fund to enhance onshore and offshore regulatory programs by improving its construction site review, environmental compliance, and underground injection control programs.

Previous Budget Actions. In May 2011, the department requested 36 positions and $4.7 million (Oil, Gas, and Geothermal Administrative Fund) for the same purpose. During discussions with the department it was clear that while the proposal had merit, the Legislature did not have enough time to review the entirety of the proposal before making its decision. Therefore, the Legislature chose to approve only half of the proposal and required the department to resubmit the second half during the 2012-13 budget session.

Staff Comments. The interim session has given staff and the administration time to meet with the Resources Agency to review the department's needs, division staffing, and permitting programs. The department has also had a change in leadership that may allow the department to move forward on this proposal in a more expedited manner.

The subcommittee may wish to have the department provide the following:

(1) What is the status of hiring for this division, including for the recently approved budget proposal?
(2) What can we expect from the department's proposed planning efforts, including its "Road Map," related to DOGGR, and how will the department communicate these changes to the Legislature?
(3) What is the status of permitting and how will this proposal decrease the existing permitting backlog?

Recommendation. Approve.

Vote:

3860 Department of Water Resources

The Department of Water Resources (DWR) protects and manages California's water resources. In this capacity, the department maintains the State Water Resources Development System, including the State Water Project (SWP). The department also maintains public safety and prevents damage through flood control operations, supervision of dams, and water projects. Historically, the department was also a major implementing agency for the CALFED Bay-Delta Program, tasked with putting in place a long-term solution to water supply reliability, water quality, flood control, and fish and wildlife problems in the San Francisco Bay Delta. As noted above, that program was abolished with SBx7 1, and CALFED responsibilities were transferred to new entities, including the Delta Stewardship Council.

Additionally, the department's California Energy Resources Scheduling (CERS) division manages billions of dollars of long-term electricity contracts. The CERS division was created in 2001 during the state's energy crisis to procure electricity on behalf of the state's three largest investor owned utilities (IOUs). The CERS division continues to be financially responsible for the long-term contracts entered into by the department. (Funding for the contracts comes from ratepayer-supported bonds.) However, the IOUs manage receipt and delivery of the energy procured by the contracts.

Governor’s Budget. The Governor’s Budget includes $2.5 billion (including infrastructure expenditures) and 3,405 positions for support of the department. The department’s proposed program budget is $2.2 billion, which represents an overall decrease of $2.6 billion and an increase of 144 positions from the 2011-12 budget. This decrease is mainly attributed to a decrease in bond funds ($1.5 billion) and a decrease in the CERS division ($832,887). The decrease in bond expenditures is mostly because the Governor’s budget did not include any new bond expenditures in anticipation of the release of the Governor’s five-year infrastructure report in the spring of 2012.

ITEMS PROPOSED FOR VOTE-ONLY

1. **Proposition 1E Stormwater Flood Management Grant Program Delivery Funds.** The Governor requests $3.1 million ($621,000 through 2015-16 and $620,000 in 2016-17) for grants that are designed to manage storm water runoff to reduce flood damage and, where feasible, provide other benefits including groundwater storage, water quality improvement, and ecosystem restoration.

2. **Urban Streams Restoration Administration and Technical Assistance.** The Governor requests about $2.6 million in reversions and reappropriations (bond funds) for administration, planning, and design assistance for the urban streams program.

3. **Safe Drinking Water Administration.** The Governor requests $125,000 from the California Safe Drinking Water Bond Law of 1988 to be used to administer the financial assistance program which enables eligible entities to meet minimum domestic water supply standards.

Staff Recommendation: Approve Items 1-3.

Vote:

ITEMS PROPOSED FOR DISCUSSION

4. FloodSAFE California Program

Background. Prior to the 1900s, the California Central Valley routinely flooded, transforming it into an inland sea. However, this changed in the mid-1900s with the completion of a vast flood control system consisting of levees, weirs, bypasses, and overflow areas. This system fueled the growth of California's agricultural sector and paved the way for millions to settle in the Valley.

However, following years of benign neglect, the state experienced a number of flood control system failures, and in the early 2000s was found liable in the *Arreola* and *Paterno* cases for damages caused by levee failures in 1995 and 1986, respectively. Subsequently, the department proposed a multi-year funding plan including both increased General Fund support as well as bond funding to improve the state's levee systems and to decrease likelihood of future state liability for levee failures.

In January of this year, the department submitted its required Central Valley Flood Protection Plan (CVFPP) to the Central Valley Flood Protection Board. The board is scheduled to review and approve the plan by July 1, 2012. The department is concurrently drafting a Statewide Integrated Flood Management Plan to prepare recommendations for reducing flood risk for areas throughout the State that are not covered by the Central Valley plan.

Governor's Budget. The Governor requests continued FloodSAFE funding of $14.5 million and an extension of 49 existing limited-term positions for two years to support FloodSAFE California.

1) **Flood Emergency Response –** $500,000 (Proposition 1E) for flood forecasting and reservoir operation improvements, flood emergency response improvement.
2) **Flood System Operations and Maintenance –** $2.5 million (Proposition 1E) for flood operations and maintenance policy development and implementation, flood system repair and rehabilitation.
3) **Floodplain Risk Management –** $792,000 (Proposition 1E) for floodplain evaluation and delineation, alluvial fan technical support, building code updates, floodplain planning.
4) **Flood Risk Reduction Projects –** $9.6 million (Proposition 1E and 13) for feasibility studies, small communities, rural and high risk urban projects, system-wide programs, federal projects and Delta projects.
5) **Flood Risk Assessment –** $290,000 (Proposition 1E) for flood system modeling and flood system engineering.
6) **Flood Investment Planning and Conservation –** $790,000 (Proposition 1E) for flood plan updates and conservation strategies.
7) **FloodSAFE Program Management –** $496,000 (Proposition 1E) for fund accountability and management, state and federal policy.

Staff Comments. Generally, this request represents a continuation of activities funded in prior years. This year represents a unique opportunity to discuss the flood management program at the department. After multiple years, the department has completed the major flood planning document designed to bring the state forward both for Central Valley flood planning and to reduce the state's liability from flood events.

The Subcommittee may wish to ask the department for updates on the following:

(1) What is the current status of the Central Valley Flood Plan and what should the Legislature expect in the coming years from the department?

(2) How much funding remains to be spent from the flood bonds and how will the department prioritize these expenditures?

(3) Is it likely that this plan will be impacted by the Delta planning and conveyance and, if so, how will these changes be incorporated into the plan?

(4) How will the department incorporate the plan into its budget proposals, and how should the Legislature judge its progress in meeting the plan's goals.

Recommendation. Approve as budgeted.

Vote:

5. Central Valley Flood Protection Board CEQA Compliance Reimbursable Authority

Background. Formerly the State Reclamation Board, the Central Valley Flood Protection Board in 2007 was designated as the lead public safety regulatory authority for flood protection in California's Central Valley. Legislation expanded the Board's responsibility to inform local governments of potential flood threat before development.

Governor's Budget. The Governor requests $8 million (reimbursement authority) to receive fees paid in advance to prepare environmental impact documents in compliance with the California Environmental Quality Act (CEQA). These reimbursements would be collected in advance from project sponsors including economically disadvantaged communities and small business.

Staff Comments. The proposal in question has merit and is intended to assist disadvantaged communities. According to the board, the cost savings would be significant, as an environmental consultant's hourly wage ranges from $150 to $300 per hour. Under standard business practice the project proponent would be paying not only the consultant's hourly wage, but also would incur the cost for the billable hours of the supervising consultant's hourly wage. As a result, a billable hour could total up to $450 per hour.

This proposal allows the Board to receive funds and complete environmental documents as a CEQA lead agency on behalf of a disadvantaged community project proponent. The disadvantaged community project proponent would avoid paying additional costs for an environmental consultant to locate, negotiate, develop, and contract with another public agency to act on their behalf as a CEQA lead agency.

Recommendation: Approve.

Vote:

6. OCAP (Operations Criteria and Plan) Biological Opinions Habitat Restoration Implementation

Background. The Governor's budget requests 10 new full-time and permanent positions in the Division of Environmental Service to implement habitat restoration required by state and federal agencies biological opinions, also called the "BiOps." These requirements identify habitat restoration, as well as other actions, to address impacts on salmon, steelhead, green sturgeon, delta smelt, and longfin smelt impacted by the operations of the State Water Project Delta Pumping Facilities.

Previous Subcommittee Actions. The Legislature approved 12 new full-time positions for implementation of the biological opinions in the previous year's budget. These positions were intended for similar activities as those proposed in this year's budget request. According to the department, the workload necessitating these new positions stems from two projects, the Prospect Island/Suisun Marsh sub-tidal habitat and Sacramento River seasonal fish rearing habitat projects.

Staff Comments. Staff recommends holding this item open in order for the department to continue working with the Legislative Analyst's Office and budget staff. It is unclear what the final workload associated with the BiOps will be or if the state needs to add permanent staff to the department rather than either extend limited-term positions or pursue outside contracting. A longer term project work plan that references other habitat and mitigation work in the Delta would assist staff in determining if these positions are justified on a permanent basis.

Recommendation: Hold Open.

Vote:

7. Delta Habitat Conservation and Conveyance Program (DHCCP)

Background. The DHCCP was established in 2008 to implement a gubernatorial directive to address both water supply issues and environmental concerns related to the Delta. Specific goals of DHCCP include protecting and restoring Delta habitat and studying improved methods to reduce the impact of water conveyance on the Delta.

Governor's Proposal. The Governor's budget requests 117 new positions to work on the Delta Habitat Conservation and Conveyance Program (DHCCP). This includes converting 18 limited-term positions to permanent.

The DHCCP's planning stage is currently being carried out by 18 limited-term positions in the Department of Water Resources (DWR) that are set to expire in June 2012. The Governor's January budget proposal requests that those 15 positions be made permanent to complete the DHCCP planning and to maintain staff continuity through the program's implementation stages. The planning stage was originally scheduled to be completed by December 2010, but has been pushed back until the end of 2011-12 due to delays in completion of the Bay Delta Conservation Plan (the Bay Delta Conservation Plan is a document that will provide the basis for the issuance of endangered species permits for the operation of the State and federal water projects, on which DHCCP's environmental impact reports depend).

Previous LAO Recommendation*.* Last year the LAO recommended against making positions permanent for the DHCCP (a request for 15 positions to be converted). This was because the Legislature did not have the Delta Plan, and could therefore not evaluate the merits of the proposal against the Plan.

Staff Comments. Staff concurs with the previous LAO recommendation. While it is clear that the department is moving forward with DHCCP, the Legislature does not have the final Delta Plan and therefore cannot evaluate the proposed permanent positions effectively. In addition, there may be merit to considering an outside contract for portions of the conveyance project similar to other water utility projects statewide.

According to the administration, the final Delta Plan will be completed in 2013. When this plan is available to the Legislature in its final form, the Legislature would be in a better position to evaluate adding significant new permanent positions to the department.

Recommendation: Extend limited-term positions by one year. Reject permanent positions.

Vote:

8. Sustainability of the California State Water Project.

Background. The Governor's January budget proposes a total of 35 new positions funded by State Water Project (SWP) funds for the support of the SWP. These positions are required for sustainability, compliance, and safety. Thirty-three of the positions will work directly on sustaining the State Water Project which includes basic operations and maintenance work. Two positions are requested to provide the resources needed to carry out studies, negotiations, and other activities associated with the preparation and filing of an application for a new license from the Federal Energy Regulatory Commission for hydropower generation along the east and west branches of the California Aqueduct in Southern California.

Last year, the Legislature approved 90 positions but rejected 33 positions proposed for future years in order to provide continuing legislative oversight of the department's activities.

Staff Comments. Staff generally concurs with the need for the new positions. The State Water Project is an aging facility requiring continued and ongoing maintenance to maintain the level of service that it was intended to provide. However, staff have concerns with the unintended consequences of adding positions for the FERC relicensing. In past years, when the department negotiated FERC relicensing at its facilities, it was unclear if the department took into consideration that it might be obligating other state funds, including the General Fund, to pay for projects related to the FERC relicensing. This discussion is taking place as it relates to Davis-Dolwig, a later agenda item.

Recommendation: Approve 33 positions. Hold open 2 FERC positions as Davis-Dolwig discussions continue (a later agenda item).

Vote:

9. Salton Sea Program Habitat Restoration: Species Conservation Habitat Implementation.

Proposal. The Governor requests $9 million (reimbursement authority) over three years for a continuation of the previously approved Salton Sea Restoration Program. This project is being produced in coordination with the Department of Fish and Game.

Background. The Department describes the proposed actions that would be funded from the requested reappropriations and reimbursements as "no-regrets" projects that would be consistent with any plan to restore the Salton Sea, including a no-action alternative. However, according to the LAO in 2011, it is unclear what the need is for immediate action on these projects. The majority of benefits of any restoration plan are likely to be realized only after the completion of the restoration many years from now, and as such, a temporary delay is unlikely to have significant negative consequences on fish and bird species.

Previous Actions. Last year, the Subcommittee rejected the Governor's proposal for Salton Sea Restoration funding under the Department of Fish and Game. According to the LAO, the Legislature has yet to formally adopt a restoration plan for the Salton Sea that clearly lays out the state's obligations and funding plan for the Sea. Ultimately, however, the Legislature approved a request for $4.2 million reimbursement authority for the Salton Sea Restoration Program.

Staff Comments. With limited funding for the Salton Sea restoration and questions remaining to be answered on the long-term plan for restoration of the sea, staff recommends holding this item open to continue dialogue with the administration on its long-term plan for the Salton Sea restoration efforts.

Recommendation: Hold Open.

Vote:

10. Davis-Dolwig Act (Funding Recreation at the State Water Project)

Background. In The Davis-Dolwig Act, passed in 1961, states the broad intent of the Legislature that SWP facilities be constructed "in a manner consistent with the full utilization of their potential for the enhancement fish and wildlife and to meet recreational needs." The LAO, Department of Finance, and legislative staff have raised concerns in the past four years about the administration of the Act by the department, and the role of the Legislature in ensuring oversight and accountability of state general purpose funding. For a background on the act, see the LAO report "Funding Recreation at the State Water Project."

Staff Comments. As part of the final budget action in 2011, the Legislature directed the administration to work with the LAO, the Legislature, and a third-party to develop solutions to ongoing funding and policy decisions related to the state's recreation enhancements at the State Water Project. The administration, including the Office of the Resources Secretary, Department of Finance, and Department of Water Resources, along with the LAO, legislative staff, and the State Water Contractors have spent a considerable amount of time in the past six months negotiating a solution to the funding problems as well as considering long-term policy solutions to the state's obligations to recreation along the project.

At this time, the working group convened by the Secretary's office is close to a final package that addresses most of the concerns raised by both LAO and the administration. While this plan is not final at this time, it is anticipated that in the next months, trailer bill language will be prepared to bring this issue to a close for the next few years.

Recommendation: Information Item.

Vote:

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

S. Joseph Simitian, Chair
Jean Fuller
Alan Lowenthal

Wednesday, March 21, 2012
2:30 pm or upon adjournment of Rules Committee
Hearing Room 2040 Outcomes

Consultant: Catherine Freeman

Departments Proposed for Vote-Only

Departments Proposed for Discussion

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 916-324-9335. Requests should be made one week in advance whenever possible.

Departments Proposed for Vote-Only

3875 Sacrament o-San Joaquin Delta Conservancy

1. **Operational Needs: Facility Lease**. Request for $75,000 (Environmental License Plate Fund) to support office space, utilities, and costs directly associated with facility operations.

2. **Public Outreach and Bay-Delta Awareness Programs.** Request for $140,000 (Federal Reimbursement Authority). The request would provide funding for mandated activities related to implementation of ecosystem restoration in the Delta in coordination with local agencies and authorities.

3885 Delta Stewardship Council

3. **Reappropriation—Implementation of the Delta Plan.** Request for reappropriation of $5.9 million (Proposition 50 bond funds) for support of the CALFED Science Program in order to fund the Delta Science Program, its successor program consistent with statute.

8570 Department of Food and Agriculture (CDFA)

4. **Used Beverage Container Importation Data Collection Program.** Request for reimbursement authority of $1.4 million from the Department of Resources Recycling and Recovery (concurrent budget proposal). CDFA would be reimbursed for participation in a cooperative agreement to detect and identify shipments of used beverage containers imported into California and illegally recycled for the California Refund Value (CRV). This proposal responds to various investigations and audits conducted regarding the recycling program.

3460 Colorado River Board

5. **Trailer Bill Language to Eliminate Board**. This item was heard under the Secretary for Resources. The Trailer Bill language eliminating the board and moving its functions to the Secretary is still being considered.

3680 Department of Boating and Waterways

Item	Issue	Funding
6	**Public Small Craft Harbor Loans.** Includes loans to Santa Barbara, tsunami repairs at Crescent City and Santa Cruz Harbors, emergency loans, planning loans, and CEQA funding.	$8 million (Harbors and Watercraft Revolving Fund [HWRF])
7	**Public Boat Launching Facility Grants.** Includes local assistance grants to Ventura Port District, County of Imperial, County of San Bernardino, County of Los Angeles, East Bay Regional Park District, City of Antioch, and various statewide programs.	$9.876 (HWRF)
8	**Federal Clean Vessel Act Grants Budget Authority.** Provides federal funding for sewage pump-out facilities statewide.	$857,000 (Federal Trust Fund)
9	**Reappropriation for City of Avalon Boating Infrastructure Grant Project.**	$1.1 million (reappropriation of Federal Trust Fund)
10	**Abandoned Watercraft Abatement Grants.** Provides funding for removal of abandoned watercraft throughout the state that create public safety and environmental hazards.	$700,000 (Abandoned Watercraft Abatement Fund)
11	**Vessel Turn-In Program Grants.** Provides public local agencies funding for the removal and disposal of surrendered recreational vessels.	$225,000 (Abandoned Watercraft Abatement Fund)
12	**Reappropriation of Approved Public Loan and Grant Funding.** Projects requesting reappropriation are City of Long Beach, Alamitos Bay Rebuild Project, and Dana Point Harbor Revitalization Project.	$2.5 million (HWRF)
13	**Privately Owned Recreational Marina Loans.** The Governor requests $5 million for loans to privately owned recreational marinas.	$5 million (HWRF)
14	**Governor's Reorganization Proposal for Department of Boating and Waterways**	None

Recommendation:

(1) **Approve:** Items 1-4, 6-12
(2) **Hold Open:** Item 5 (Colorado River Board) and Item 13 (Department of Boating and Waterways Privately Owned Recreational Marina Loans) for further discussion during May Revision.
(3) **Hold Open:** Item 14 for review by the Governor's Reorganization Process.

Vote:

APPROVE: Items 1, 2, 4, 6-12 (3-0); Item 3 (2-1) Fuller

Departments Proposed for Discussion

3480 Department of Conservation

The Department of Conservation (DOC) is charged with the development and management of the state's land, energy, and mineral resources. The department manages programs in the areas of: geology, seismology, and mineral resources; oil, gas, and geothermal resources; and agricultural and open-space land.

Governor's Budget. The Governor's Budget includes $74.7 million and 464 positions for support of the Department. Decreases in funding are largely due to reductions in bond expenditures ($86 million). Increases in positions are tied to a request from the Division of Oil, Gas, and Geothermal Resources to enhance onshore and offshore regulatory programs.

Items Proposed for Vote-Only

1. **Baseline Funding Adjustments and Reappropriations.** The budget includes three baseline funding adjustments to allow for continued program administration using different proportional amounts of funding. These include shifting $937,000 from the Bosco-Keene Renewable Resources Investment Fund (RRIF) and an accompanying baseline reduction of $937,000 to the Soil Conservation Fund (SCF); a one-year appropriation of $134,000 from the California Farmland Conservancy Program Fund to support the program due to decreased revenues into the Soil Conservation Fund; and reappropriation of $1.1 million in Proposition 50 bond funds to continue implementation of the department's Statewide Watershed Program.

2. **Orphan Well Elimin ation.** Requests a three-year limited-term appropriation of $1 million per year from the Oil, Gas , and Geothermal Administrative Fund to plug orphan wells. No position authority is requested.

3. **Information Technology Maintenance.** Baseline request for $132,000 from various special funds for maintenance of the DOC information technology infrastructure.

4. **CGS Federal Trust Fund Augmentation.** Requests $500,000 (baseline Federal Trust Fund) in order to receive grants related to the Federal Emergency Management Agency (FEMA).

Recommendation. Approve Items 1-4.

Vote:
Approve: Items 1-4 (3-0)

Item Proposed for Discussion

DOGGR (Division of Oil, Gas, and Geothermal Resources) Compliance and Support Staff Augmentation

Governor's Proposal. The Governor requests 18 permanent positions and a baseline appropriation of $2.5 million ($2.3 ongoing) from the Oil, Gas, and Geothermal Administrative Fund to enhance onshore and offshore regulatory programs by improving its construction site review, environmental compliance, and underground injection control programs.

Previous Budget Actions. In May 2011, the department requested 36 positions and $4.7 million (Oil, Gas, and Geothermal Administrative Fund) for the same purpose. During discussions with the department it was clear that while the proposal had merit, the Legislature did not have enough time to review the entirety of the proposal before making its decision. Therefore, the Legislature chose to approve only half of the proposal and required the department to resubmit the second half during the 2012-13 budget session.

Staff Comments. The interim session has given staff and the administration time to meet with the Resources Agency to review the department's needs, division staffing, and permitting programs. The department has also had a change in leadership that may allow the department to move forward on this proposal in a more expedited manner.

The subcommittee may wish to have the department provide the following:

(1) What is the status of hiring for this division, including for the recently approved budget proposal?

(2) What can we expect from the department's proposed planning efforts, including its "Road Map," related to DOGGR, and how will the department communicate these changes to the Legislature?

(3) What is the status of permitting and how will this proposal decrease the existing permitting backlog?

Recommendation. Approve.

Vote:

Item Held Open for department to submit additional workload and permitting backlog analysis in time for Open Issues hearing.

3860 Department of Water Resources

The Department of Water Resources (DWR) protects and manages California's water resources. In this capacity, the department maintains the State Water Resources Development System, including the State Water Project (SWP). The department also maintains public safety and prevents damage through flood control operations, supervision of dams, and water projects. Historically, the department was also a major implementing agency for the CALFED Bay-Delta Program, tasked with putting in place a long-term solution to water supply reliability, water quality, flood control, and fish and wildlife problems in the San Francisco Bay Delta. As noted above, that program was abolished with SBx7 1, and CALFED responsibilities were transferred to new entities, including the Delta Stewardship Council.

Additionally, the department's California Energy Resources Scheduling (CERS) division manages billions of dollars of long-term electricity contracts. The CERS division was created in 2001 during the state's energy crisis to procure electricity on behalf of the state's three largest investor owned utilities (IOUs). The CERS division continues to be financially responsible for the long-term contracts entered into by the department. (Funding for the contracts comes from ratepayer-supported bonds.) However, the IOUs manage receipt and delivery of the energy procured by the contracts.

Governor's Budget. The Governor's Budget includes $2.5 billion (including infrastructure expenditures) and 3,405 positions for support of the department. The department's proposed program budget is $2.2 billion, which represents an overall decrease of $2.6 billion and an increase of 144 positions from the 2011-12 budget. This decrease is mainly attributed to a decrease in bond funds ($1.5 billion) and a decrease in the CERS division ($832,887). The decrease in bond expenditures is mostly because the Governor's budget did not include any new bond expenditures in anticipation of the release of the Governor's five-year infrastructure report in the spring of 2012.

ITEMS PROPOSED FOR VOTE-ONLY

1. **Proposition 1E Stormwater Flood Management Grant Program Delivery Funds.** The Governor requests $3.1 million ($621,000 through 2015-16 and $620,000 in 2016-17) for grants that are designed to manage storm water runoff to reduce flood damage and, where feasible, provide other benefits including groundwater storage, water quality improvement, and ecosystem restoration.

2. **Urban Streams Restoration Administration and Technical Assistance.** The Governor requests about $2.6 million in reversions and reappropriations (bond funds) for administration, planning, and design assistance for the urban streams program.

3. **Safe Drinking Water Administration.** The Governor requests $125,000 from the California Safe Drinking Water Bond Law of 1988 to be used to administer the financial assistance program which enables eligible entities to meet minimum domestic water supply standards.

Staff Recommendation: Approve Items 1-3.

Vote:
Approve: Item 1 (2-1) Fuller
Approve: Items 2-3 (3-0)

ITEMS PROPOSED FOR DISCUSSION

4. FloodSAFE California Program

Background. Prior to the 1900s, the California Central Valley routinely flooded, transforming it into an inland sea. However, this changed in the mid-1900s with the completion of a vast flood control system consisting of levees, weirs, bypasses, and overflow areas. This system fueled the growth of California's agricultural sector and paved the way for millions to settle in the Valley.

However, following years of benign neglect, the state experienced a number of flood control system failures, and in the early 2000s was found liable in the *Arreola* and *Paterno* cases for damages caused by levee failures in 1995 and 1986, respectively. Subsequently, the department proposed a multi-year funding plan including both increased General Fund support as well as bond funding to improve the state's levee systems and to decrease likelihood of future state liability for levee failures.

In January of this year, the department submitted its required Central Valley Flood Protection Plan (CVFPP) to the Central Valley Flood Protection Board. The board is scheduled to review and approve the plan by July 1, 2012. The department is concurrently drafting a Statewide Integrated Flood Management Plan to prepare recommendations for reducing flood risk for areas throughout the State that are not covered by the Central Valley plan.

Governor's Budget. The Governor requests continued FloodSAFE funding of $14.5 million and an extension of 49 existing limited-term positions for two years to support FloodSAFE California.

1) **Flood Emergency Response** – $500,000 (Proposition 1E) for flood forecasting and reservoir operation improvements, flood emergency response improvement.
2) **Flood System Operations and Maintenance** – $2.5 million (Proposition 1E) for flood operations and maintenance policy development and implementation, flood system repair and rehabilitation.
3) **Floodplain Risk Management** – $792,000 (Proposition 1E) for floodplain evaluation and delineation, alluvial fan technical support, building code updates, floodplain planning.
4) **Flood Risk Reduction Projects** – $9.6 million (Proposition 1E and 13) for feasibility studies, small communities, rural and high risk urban projects, system-wide programs, federal projects and Delta projects.
5) **Flood Risk Assessment** – $290,000 (Proposition 1E) for flood system modeling and flood system engineering.
6) **Flood Investment Planning and Conservation** – $790,000 (Proposition 1E) for flood plan updates and conservation strategies.
7) **FloodSAFE Program Management** – $496,000 (Proposition 1E) for fund accountability and management, state and federal policy.

Staff Comments. Generally, this request represents a continuation of activities funded in prior years. This year represents a unique opportunity to discuss the flood management program at the department. After multiple years, the department has completed the major flood planning document designed to bring the state forward both for Central Valley flood planning and to reduce the state's liability from flood events.

The Subcommittee may wish to ask the department for updates on the following:

(1) What is the current status of the Central Valley Flood Plan and what should the Legislature expect in the coming years from the department?
(2) How much funding remains to be spent from the flood bonds and how will the department prioritize these expenditures?
(3) Is it likely that this plan will be impacted by the Delta planning and conveyance and, if so, how will these changes be incorporated into the plan?
(4) How will the department incorporate the plan into its budget proposals, and how should the Legislature judge its progress in meeting the plan's goals.

Recommendation. Approve as budgeted.

Vote:
Approve (3-0)

5. Central Valley Flood Protection Bo ard CEQA Compliance Reimbursable Authority

Background. Formerly the State Reclamation Board, the Central Valley Flood Protection Board in 2007 was designated as the lead public safety regulatory authority for flood protection in California's Central Valley. Legislation expanded the Board's responsibility to inform local governments of potential flood threat before development.

Governor's Budget. The Governor requests $8 million (reimbursement authority) to receive fees paid in advance to prepare environmental impact documents in compliance with the California Environmental Quality Act (CEQA). These reimbursements would be collected in advance from project sponsors including economically disadvantaged communities and small business.

Staff Comments. The proposal in question has merit and is intended to assist disadvantaged communities. According to the board, the cost savings would be significant, as an environmental consultant's hourly wage ranges from $150 to $300 per hour. Under standard business practice the project proponent would be paying not only the consultant's hourly wage, but also would incur the cost for the billable hours of the supervising consultant's hourly wage. As a result, a billable hour could total up to $450 per hour.

This proposal allows the Board to receive funds and complete environmental documents as a CEQA lead agency on behalf of a disadvantaged community project proponent. The disadvantaged community project proponent would avoid paying additional costs for an environmental consultant to locate, negotiate, develop, and contract with another public agency to act on their behalf as a CEQA lead agency.

Recommendation: Approve.

Vote:
Approve (3-0)

6. OCAP (Operations Criteria and Plan) Biological Opinions Habitat Restoration Implementation

Background. The Governor's budget requests 10 new full-time and permanent positions in the Division of Environmental Service to implement habitat restoration required by state and federal agencies biological opinions, also called the "BiOps." These requirements identify habitat restoration, as well as other actions, to address impacts on salmon, steelhead, green sturgeon, delta smelt, and longfin smelt impacted by the operations of the State Water Project Delta Pumping Facilities.

Previous Subcommittee Actions. The Legislature approved 12 new full-time positions for implementation of the biological opinions in the previous year's budget. These positions were intended for similar activities as those proposed in this year's budget request. According to the department, the workload necessitating these new positions stems from two projects, the Prospect Island/Suisun Marsh sub-tidal habitat and Sacramento River seasonal fish rearing habitat projects.

Staff Comments. Staff recommends holding this item open in order for the department to continue working with the Legislative Analyst's Office and budget staff. It is unclear what the final workload associated with the BiOps will be or if the state needs to add permanent staff to the department rather than either extend limited-term positions or pursue outside contracting. A longer term project work plan that references other habitat and mitigation work in the Delta would assist staff in determining if these positions are justified on a permanent basis.

Recommendation: Hold Open.

Vote:

Item Held Open. Department requested to work with staff and LAO on evaluation of OCAP positions, and to review the OCAP Habitat Plan available in April.

7. Delta Habitat Conservation and Conveyance Program (DHCCP)

Background. The DHCCP was established in 2008 to implement a gubernatorial directive to address both water supply issues and environmental concerns related to the Delta. Specific goals of DHCCP include protecting and restoring Delta habitat and studying improved methods to reduce the impact of water conveyance on the Delta.

Governor's Proposal. The Governor’s budget requests 117 new positions to work on the Delta Habitat Conservation and Conveyance Program (DHCCP). This includes converting 18 limited-term positions to permanent.

The DHCCP's planning stage is currently being carried out by 18 limited-term positions in the Department of Water Resources (DWR) that are set to expire in June 2012. The Governor's January budget proposal requests that those 15 positions be made permanent to complete the DHCCP planning and to maintain staff continuity through the program's implementation stages. The planning stage was originally scheduled to be completed by December 2010, but has been pushed back until the end of 2011-12 due to delays in completion of the Bay Delta Conservation Plan (the Bay Delta Conservation Plan is a document that will provide the basis for the issuance of endangered species permits for the operation of the State and federal water projects, on which DHCCP's environmental impact reports depend).

Previous LAO Recommendation . Last year the LAO recommended against making positions permanent for the DHCCP (a request for 15 positions to be converted). This was because the Legislature did not have the Delta Plan, and could therefore not evaluate the merits of the proposal against the Plan.

Staff Comments. Staff concurs with the previous LAO recommendation. While it is clear that the department is moving forward with DHCCP, the Legislature does not have the final Delta Plan and therefore cannot evaluate the proposed permanent positions effectively. In addition, there may be merit to considering an outside contract for portions of the conveyance project similar to other water utility projects statewide.

According to the administration, the final Delta Plan will be completed in 2013. When this plan is available to the Legislature in its final form, the Legislature would be in a better position to evaluate adding significant new permanent positions to the department.

Recommendation: Extend limited-term positions by one year. Reject permanent positions.

Vote:
Item Held Open for staff to work with department to get further information on the positions and to develop appropriate contingencies related to the forthcoming Delta Plan.

8. Sustainability of the California State Water Project.

Background. The Governor's January budget proposes a total of 35 new positions funded by State Water Project (SWP) funds for the support of the SWP. These positions are required for sustainability, compliance, and safety. Thirty-three of the positions will work directly on sustaining the State Water Project which includes basic operations and maintenance work. Two positions are requested to provide the resources needed to carry out studies, negotiations, and other activities associated with the preparation and filing of an application for a new license from the Federal Energy Regulatory Commission for hydropower generation along the east and west branches of the California Aqueduct in Southern California.

Last year, the Legislature approved 90 positions but rejected 33 positions proposed for future years in order to provide continuing legislative oversight of the department's activities.

Staff Comments. Staff generally concurs with the need for the new positions. The State Water Project is an aging facility requiring continued and ongoing maintenance to maintain the level of service that it was intended to provide. However, staff have concerns with the unintended consequences of adding positions for the FERC relicensing. In past years, when the department negotiated FERC relicensing at its facilities, it was unclear if the department took into consideration that it might be obligating other state funds, including the General Fund, to pay for projects related to the FERC relicensing. This discussion is taking place as it relates to Davis-Dolwig, a later agenda item.

Recommendation: Approve 33 positions. Hold open 2 FERC positions as Davis-Dolwig discussions continue (a later agenda item).

Vote:
Approve Staff Recommendation (3-0)

9. Salton Sea Program Habitat Restor ation: Species Conser vation Habitat Implementation.

Proposal. The Governor requests $9 million (reimbursement authority) over three years for a continuation of the previously approved Salton Sea Restoration Program. This project is being produced in coordination with the Department of Fish and Game.

Background. The Department describes the proposed actions that would be funded from the requested reappropriations and reimbursements as "no-regrets" projects that would be consistent with any plan to restore the Salton Sea, including a no-action alternative. However, according to the LAO in 2011, it is unclear what the need is for immediate action on these projects. The majority of benefits of any restoration plan are likely to be realized only after the completion of the restoration many years from now, and as such, a temporary delay is unlikely to have significant negative consequences on fish and bird species.

Previous Actions. Last year, the Subcommittee rejected the Governor's proposal for Salton Sea Restoration funding under the Department of Fish and Game. According to the LAO, the Legislature has yet to formally adopt a restoration plan for the Salton Sea that clearly lays out the state's obligations and funding plan for the Sea. Ultimately, however, the Legislature approved a request for $4.2 million reimbursement authority for the Salton Sea Restoration Program.

Staff Comments. With limited funding for the Salton Sea restoration and questions remaining to be answered on the long-term plan for restoration of the sea, staff recommends holding this item open to continue dialogue with the administration on its long-term plan for the Salton Sea restoration efforts.

Recommendation: Hold Open.

Vote:

Item Held Open for review of the long-term vision for the Salton Sea

10. Davis-Dolwig Act (Funding Recreation at the State Water Project)

Background. In The Davis-Dolwig Act, passed in 1961, states the broad intent of the Legislature that SWP facilities be constructed "in a manner consistent with the full utilization of their potential for the enhancement fish and wildlife and to meet recreational needs." The LAO, Department of Finance, and legislative staff have raised concerns in the past four years about the administration of the Act by the department, and the role of the Legislature in ensuring oversight and accountability of state general purpose funding. For a background on the act, see the LAO report "Funding Recreation at the State Water Project."

Staff Comments. As part of the final budget action in 2011, the Legislature directed the administration to work with the LAO, the Legislature, and a third-party to develop solutions to ongoing funding and policy decisions related to the state's recreation enhancements at the State Water Project. The administration, including the Office of the Resources Secretary, Department of Finance, and Department of Water Resources, along with the LAO, legislative staff, and the State Water Contractors have spent a considerable amount of time in the past six months negotiating a solution to the funding problems as well as considering long-term policy solutions to the state's obligations to recreation along the project.

At this time, the working group convened by the Secretary's office is close to a final package that addresses most of the concerns raised by both LAO and the administration. While this plan is not final at this time, it is anticipated that in the next months, trailer bill language will be prepared to bring this issue to a close for the next few years.

Recommendation: Information Item.

Vote:

Information Item

S. Joseph Simitian, Chair
Jean Fuller
Alan Lowenthal

Agenda

Day: Wednesday, March 28, 2012
Time: 2:30 p.m. or upon adjournment of Rules Committee
Room: Rose Ann Vuich Hearing Room (2040)

Consultant: Brian Annis

Transportation: Enforcement and Safety

Proposed Vote-only Calendar:

Proposed Discussion / Vote Calendar:

Departments Suggested for <u>Vote Only</u>

(See a consolidated staff recommendation for the vote-only departments on page 3 of the agenda)

2670 Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun

Department Overview: The Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun (Board) licenses and regulates maritime pilots who guide vessels entering or leaving those bays. The pilots, themselves, are not employees of the Board. However, the Board does pay stipends to pilot trainees.

Budget Overview: The January Governor's Budget proposed expenditures of $2.2 million (no General Fund) and 4.0 funded positions, which is similar to the adjusted 2011-12 budget. The Board is wholly funded through fees on shippers. The budget includes a reduction of $17,000 related to the Governor's 2011-12 "workforce cap" – this saving was achieved by eliminating temporary-help funding and by reducing the benefits budget.

2700 Office of Traffic Safety

Department Overview: The Office of Traffic Safety (OTS) is responsible for allocating federal grant funds to promote traffic safety. Grant recipients include State entities, such as the California Highway Patrol and the Department of Transportation, as well as local entities, such as police departments. Among other programs, the grants fund Driving Under the Influence (DUI) checkpoints, motorcycle and bicycle safety programs, and traffic-law education and enforcement.

Budget Summary: The Governor proposes total expenditures of $97.3 million (no General Fund) and 32.0 funded positions. After accounting for technical adjustments, the funding level is very similar to last year's budget. The budget includes a reduction of $123,000 related to the Governor's 2011-12 "workforce cap" – this saving was achieved by eliminating two positions and reducing the overtime budget.

Note on Government Reorganization: The January *Governor's Budget Summary* indicated an intent to merge OTS into the Department of Motor Vehicles. The Department of Finance indicates that proposal has been withdrawn and the proposal is now to merge OTS into the proposed Transportation Agency. The Administration also indicates this proposal is not part of the 2012-13 budget package and it will instead be submitted through the Little Hoover Commission, through the process outlined in Government Code starting with code section 12080.

2720 California Highway Patrol

Department Overview: The mission of the California Highway Patrol (CHP) is to ensure the safe and efficient flow of traffic on the state's highway system. The CHP also has responsibilities relating to vehicle theft prevention, commercial vehicle inspections, the safe transportation of hazardous materials, and protection and security for State employees and property.

Budget Summary: The Governor proposes total expenditures of $1.9 billion (no General Fund) and 11,316 funded positions, an increase of $8.1 million from the adjusted current-year level. The budget includes a reduction of $61.8 million and 263.6 positions related to the Governor's 2011-12 "workforce cap" and other efficiency savings. According to the Administration, an additional 82 positions are also being eliminated, but are not reflected in the budget. Looking specifically at CHP Officers (excluding uniformed management) – the Administration indicates there are 6,579 funded Officer positions in the budget, which reflects an increase of 448 positions over the 2004-05 level. In the 2010-11 budget, the Legislature had approved a plan to increase the number of Officers by a total of 780 positions over the baseline 2004-05 level; however, hiring freezes and statewide position reduction measures prohibited the CHP from ever reaching that target and the Administration supports staffing at the budgeted level.

Budget Change Proposals: The Governor proposes two budget changes for the CHP:

- Information Technology Augmentation (BCP 3): The Governor requests an augmentation of $344,000 (special funds) to allow the Department continued use of the Integrated Database Management System which is maintained by the California Technology Agency (CTA). Due to other departments discontinuing use of this database, the CTA rates for the remaining users have increased. The CHP indicates this database contains critical information such as the Vehicle Theft Information System, CHP Collision Reports, and timekeeping.
- Rent Augmentation (BCP 2): The Governor requests $3.5 million (special funds) for moving expenses and rent costs for office replacements in Grass Valley, Mojave, and Tracy. Earlier phases of these facility projects were approved in prior budgets.

Staff Comment: At the time this agenda was finalized, no concerns had been raised with the proposed budgets of the Board of Pilot Commissioners, the Office of Traffic Safety, or the California Highway Patrol.

Staff Recommendation: Approve the budgets of the three departments on the vote-only agenda.

Vote:

2740 Department of Motor Vehicles

Department Overview: The Department of Motor Vehicles (DMV) regulates the issuance and retention of driver licenses and provides various revenue collection services. The DMV also issues licenses and regulates occupations and businesses related to the instruction of drivers, as well as the manufacture, transport, sale, and disposal of vehicles.

Budget Summary: The Governor proposes total expenditures of $964 million (no General Fund) and 8,221 positions; which, after technical adjustments, is fairly similar to the adjusted 2011-12 funding level. The budget includes a reduction of $24.5 million and 213.6 positions related to the Governor's 2011-12 "workforce cap" and other efficiency savings.

Informational Update on Key Issues: While there are no budget change proposals related to these issues, they have generated significant interest in prior budgets. These issues are not suggested for discussion, but the DMV should be prepared to discuss these issues should the Subcommittee have any questions.

- Driver License Card Contract**:** Last year, significant defect rates and delays occurred with the implementation of the new driver license vendor contract. By the final Subcommittee hearing in May 2011, the backlog had been fully addressed and the defect rate was falling. The DMV indicates that since May 2011, there have been no further backlogs (i.e., all cards have been returned from the vendor within 48 hours) and the current defect rate is 0.32 percent.
- Federal Real ID Act: Federal guidance requires states to fully comply with the Real ID Act on January 13, 2013; however, national databases for birth records and state license records do not exist and are not being implemented. For most other aspects of Real ID, such as card design, California is compliant. It is unclear what action the federal government will take with Real ID given the January implementation date and the absence of national databases.
- Information Technology Modernization Project: The DMV reports it is making good progress in its multi-year $208 million IT modernization project. This project will incrementally upgrade the DMV core systems with new equipment and new system hardware and software. DMV indicates the project closeout is scheduled for June 30, 2013.

(see next page for proposed vote-only issues)

Issues Proposed for Vote-Only

1. **Business Partner Automation - Implementation of AB 1215 (Blumenfield), Chapter 329, Statutes of 2011 (BCP 13).** The Administration requests budget adjustments to reflect a net savings of $1.8 million from the implementation of AB 1215, which requires vehicle sale and lease transactions by new vehicle dealers to be processed utilizing an outside business partner. Due to the business partners performing the work, the DMV saves costs for an external contract to package and mail license plates. It is expected that the bill will also increase the revenue from the corresponding transaction fees by $5.7 million.

2. **Operation Stonegarden Grant (BCP 10).** The Administration requests $521,000 in reimbursement authority to allow DMV to continue to participate in the Operation Stonegarden Grant, a cooperative agreement with the federal Department of Homeland Security and the San Diego Sheriff's Office. In 2010-11 DMV's participation resulted in 255 felony arrests along the San Diego Border. The funds are used for DMV Investigator overtime and equipment.

3. **DMV Field Offices and Related Facilities – Leased Space.** The Administration requests $3.4 million (various special funds) in one–time funding for DMV to consolidate, relocate, and replace several of its facilities. Specifically, the budget proposes:

   - **Palmdale and Lancaster Field Offices Consolidation (BCP 4).** The Administration requests $760,000 for DMV and the Department of General Services (DGS) to plan for the consolidation of the Palmdale and Lancaster field offices. The project was initially approved in the 2010–11 budget, but funds were reverted in 2011–12 due to project delays. Funding for lease and other support costs will be needed in subsequent fiscal years and are estimated at $1.9 million in 2013-14.

   - **San Francisco Investigations Office Relocation (BCP 5).** The Administration requests $873,000 for the Department to work with DGS to relocate the San Francisco investigations office because the current lessor will not renew DMV's current lease. Funding for lease and other support costs will be needed in subsequent fiscal years and are estimated at $147,000 in 2013-14.

   - **Escondido Field Office Relocation (BCP 6).** The Administration requests $1.9 million to relocate the Escondido field office because the lessor will not renew the lease. Funding for lease and other support costs will be needed in subsequent fiscal years and are estimated at $2.2 million in 2013-14.

   - **Newhall, Reedley, and Santa Maria Field Offices (BCP 6).** The Administration requests $150,000 support planning activities to relocate the Newhall, Reedley, and Santa Maria field offices due to service capacity deficiencies. The DMV will submit additional funding requests for the Newhall, Reedley, and Santa Maria field offices once DGS has determined whether to pursue leases and/or purchase property to replace these particular field offices.

- **Northern California Commercial Driver License Office.** The Administration requests $20,000 to establish a consolidated Commercial Driver License (CDL) center in Northern California. Specifically, the proposal would consolidate the Modesto, Stockton, Vallejo, West Sacramento, and Yuba City CDL activities into one office. According to DMV, new federal regulations require that the Department provide additional space to conduct commercial driver tests. The Department plans to close the current West Sacramento CDL center and put it on the state's surplus property list to be sold or leased. The DMV will submit additional funding requests for the Northern California Commercial Driver License Office once a facility has been identified and costs determined.

4. **DMV Field Offices and Related Facilities – State-Owned Property.** The Administration requests $562,000 (various special funds) in one–time funding for DMV to replace several of its facilities. Specifically, the budget proposes:

   - **Grass Valley Field Office Replacement.** The Administration requests $562,000 to fund the working drawings phase of the Grass Valley field office replacement project. The 2011–12 budget included funding of $648,000 for the preliminary plans of this project. A budget request is anticipated next year to fund construction at a cost of $6.5 million - the total cost of the project is estimated to be $7.7 million.

Staff Recommendation: Approve the budget request on the vote-only agenda.

Vote:

Issues Proposed for Discussion and Vote

5. **Automated Appointment System (BCP 1):** The Governor requests $250,000 in 2012-13, and an additional $11.1 million over the following three years (all special funds) to replace the existing customer traffic management system with a new centralized web-based customer flow management system. According to DMV, the current system is "deteriorating rapidly" with increasing incidences of hardware failure. The new system would upgrade the functionality by integrating multiple systems and providing real-time and expanded interface for DMV customers and employees.

   Background: Currently, DMV customers can schedule a field office appointment prior to their visit by using the Customer Appointment System (CAS). Specifically, CAS allows field office staff and telephone service center staff to make appointments for DMV customers and allows customers to self–schedule certain appointments through the Internet. The department established the CAS in the mid–1980s and added the online function in 2001. In addition to CAS, the Department maintains a computer–based customer queuing system that keeps a record of real–time workload information, so that field office managers can make staffing adjustments throughout the day to meet customer needs. The system – called Customer Flow Management System (CFMS) – prints tickets and includes video displays that direct customers by ticket number to a specified window. These two systems (CAS and CFMS) do not interface.

   Detail: The budget request would begin the process of modernizing and combining CAS and the Department's customer queuing system into one IT system. This new project would use an Internet–based system to manage customers and reduce the amount of time they have to wait at a DMV field office. According to the Administration, the intent of the proposal is to reduce the number of customers that visit field offices during peak hours (typically Monday morning, the lunch hour, and workdays immediately following a holiday). The proposed project is estimated to be completed in 2015–16 at a total cost of $15.7 million. The department intends to fund $4.2 million of the project with existing resources and request the remaining $11.5 million as a budget augmentation (including the $250,000 being requested in the Governor's 2012–13 budget). Annual ongoing costs for the project are estimated to be $400,000.

   LAO Recommendation: The Legislative Analyst recommends the Legislature approve this request.

   Staff Recommendation: Approve the request.

   Vote:

6. Automated Testing (BCP 2). The Governor requests $4.1 million in federal grant spending authority to automate driver licensing exams at a limited number of DMV field offices. If future federal grants are received as anticipated, the DMV would be able to complete this project and have this functionality at all field offices. The proposal is intended to improve customer service by reducing the amount of time it takes to administer driver license tests, which would effectively reduce wait times at DMV field offices. The total cost to complete the project is estimated to be $9.7 million, with the plan that most of it will be funded with federal funds. The department estimates that the project would result in staff savings of about $1 million and 20 positions upon full implementation beginning in 2014–15.

Background: Current law requires DMV to administer knowledge tests for new applicants for various types of driver licenses. DMV administers 23 types of tests in 32 languages and prints about 8 million paper tests annually. The tests are manually graded. To reduce the incidence of cheating and due to law changes, about 25 percent of the printed tests are destroyed without being used. The DMV has studied automated testing and received proof-of-concept demonstrations by vendors that have been tested in field offices. The DMV has also developed an in-house testing system called "Automated Multiple Choice Knowledge Testing System (AMCKTS)," which they expect to test in a field office by July 2012.

Detail: The Department indicates that 36 other states have implemented some form of automation to administer written tests. The benefits of automated testing include the following:

- Reducing the time to take and score a test from 30 minutes to 17 minutes.
- Reducing fraud or cheating by allowing for unique ordering and selection of questions for each test taker.
- Reducing paper waste.
- Reducing the time it takes to modify the test for legislative or other changes.
- Provides for easy collection of statistical data.

LAO Recommendation: The Legislative Analyst recommends the Legislature approve this request, but questions whether the out-year staff savings may be greater than the estimated 20 positions.

Staff Recommendation: Approve the request.

Vote:

7. **Differential Registration Fees to Discourage Field Office Visits (BCP 3).** The Governor requests trailer bill language and budget adjustments to reduce vehicle registration fees by $5 (to $38) for DMV customers who complete vehicle registration renewal transactions through the mail, Internet, phone, business partners, auto clubs, or a self-service terminal, but maintain the fee at the full $43 for customers who come to an office and submit payment to a DMV employee. The intent of this proposal is to reduce wait times and congestion at DMV field offices by reducing the total number of vehicle registration renewal transactions that staff at field offices must process. The Governor's budget assumes that this proposal would result in a 10 percent decline in field office vehicle registration renewals. The proposal would reduce the amount of Motor Vehicle Account (MVA) revenue collected in 2012-13 by $75 million and by about $100 million each year thereafter. DMV estimates that this proposal would result in savings of about 19 positions and $531,000 in 2012–13, and 25 positions and $706,000 in 2013–14.

Detail: The highest cost vehicle registration transaction compared to other alternatives is for a vehicle owner to go to a field office. The table below shows the cost based on delivery method.

Vehicle Registration Renewals

Delivery Method	Cost
Field office	$14.74
Self–Service Terminals	$9.63 (Estimated cost)
Phone	$7.84 (Includes credit card fee)
Internet	$5.93 (Includes credit card fee)
Business Partners	$4.37 (Private business are authorized to add additional charges)
Mail	$3.57
Auto Club	$3.04

In 2010-11, 23 percent of vehicle registration renewal transactions occurred in field offices. The two tables below detail the number and percent of vehicle registrations renewal transactions by delivery method.

Vehicle Registration Renewal Transactions by Delivery Method

Fiscal Year	Mail	Field Office	Internet	Auto Club	Business Partners	Phone
2007–08	13,350,945	7,255,692	5,051,057	3,019,798	387,347	253,196
2008–09	11,756,201	7,402,845	5,824,576	3,050,544	460,523	174,404
2009–10	11,340,977	7,051,173	6,707,508	3,015,596	546,322	123,022
2010–11	9,871,197	6,228,268	6,749,406	3,386,255	666,882	136,519

Fiscal Year	Mail	Field Office	Internet	Auto Club	Business Partners	Phone
2007–08	46%	25%	17%	10%	1%	1%
2008–09	41%	26%	20%	11%	2%	1%
2009–10	39%	24%	23%	10%	2%	0%
2010–11	37%	23%	25%	13%	2%	1%

LAO Recommendation: The LAO finds that the Governor's proposal could improve DMV's efficiency by reducing customer wait times and minimizing congestion in field offices. However, the LAO recommends an alternative fee structure that would better incentivize use of less costly transactions, but not result in an ongoing loss of state revenue. Specifically, the LAO recommends:

- Increase vehicle registration fees by $7 (from $43 to $50) for customers that use the much more expensive services of field office staff to renew their vehicle registrations and;
- Reduce vehicle registration fees by $2 (from $43 to $41) for customers who complete vehicle registration renewal transactions using the much less expensive alternatives—through the mail, Internet, phone, business partners, auto clubs, or Self-Service Terminals.

The LAO's recommended approach would result in a minimal decline in Motor Vehicle Account (MVA) revenues of $1.4 million in 2012–13 and $1.8 million each year thereafter.

In addition to the recommendations on fee levels, the LAO also recommends the following:

- Expand availability of self-service terminals by installing additional units in DMV field offices statewide – DMV should report on cost and timeline at future budget hearings.
- Through adoption of supplemental report language, require the DMV to develop a plan for expanding business partnerships by allowing the business partners to perform a broader range of transactions.
- Expand outreach to customers through the Department's website and other means to ensure customers are aware of other methods to conduct DMV transactions.

Staff Comments: As this issue and agenda issues #5 and #6 on automation demonstrate, the DMV is looking at multiple ways to improve customer service and efficiency. As the Legislature considers the DMV's proposals, as well as the LAO alternatives, the following considerations may be of value:

- For proposals with an ongoing revenue loss, would the loss of revenue affect other budget priorities funded from these same dollars at the DMV, CHP, Air Resources Board, or in other areas?

- Who are the customers who use field offices – do they tend to be disproportionately elderly or poor? Should this group incur higher costs than other customers?

- Since the Governor's proposal is intended to incentivize a change in behavior, how much difference does a $5 discount make? Would a $2 or $10 differential produce significantly different results?

- As multiple efficiency efforts are underway and requested, what type of reporting and performance outcomes would be beneficial to support the oversight role of the Legislature?

- What mechanisms exist, or should exist, to annually evaluate DMV's staff need in light of both a growing population and efficiency gains?

Staff Recommendation: Hold open.

8. **Tax Gap for Private Party Used Car Sales (Staff Issue):** Last year, the budget package included statutory change to address the tax gap (or underpaid tax) for the use tax – specifically for online sales. The use-tax gap is known to be substantial, and data from the State of Washington suggests a problem also exists for use tax on used car sales. Extrapolating from Washington's data, the California tax gap in this area might be in the range of $175 million per year.

   Audit Problem: In the case of private-party used car sales, the taxes are paid by the buyer. As an example of tax fraud, a buyer may pay $5,000 for a used vehicle but report a sales price of $1,000 to the Department of Motor Vehicles – by underreporting, the buyer would save about $350 in tax payments. The DMV passes the tax information to the Board of Equalization (BOE), but there is little audit performed in this area. The audit trigger is pulled if the seller submits the "REG-138" notice of release of liability (NRL) form and indicates a different sale price than that provided by the buyer. There is no penalty for the seller if they do not submit REG-138. If the seller and buyer collude and both underreport at the same price, the best audit tool is lost. DMV's REG 138 form does include a sale price field, but emphasizes other reporting elements and does not indicate accurate price reporting is required or important.

   Tax Gap Estimate: In California, no estimate exists of the tax gap. But the State of Washington analyzed 100 transactions in 1999 that suggested underreporting of price by an average of 28 percent. In 2000, Washington implemented a new process to assess tax based on fair market value, and used presumed-value tools and appraisal requirements to assist taxpayers in complying with the tax. In the first four months of implementation, Washington reported a 21 percent jump in related use tax revenues. Today, Washington estimates a $35 million revenue gain from their tax law changes on a base of 6 million registered vehicles. California has similar tax rates, but 5 times as many registered vehicles, so the revenue benefit for California of a similar program may be $175 million (full-year). About 45 percent of this revenue gain would go to the State General Fund and would augment the Proposition 98 education-funding guarantee, the remaining 55 percent would support local governments, including 2011 Public Safety Realignment. Texas implemented a similar program in 2006, but did not have independent data and instead referred to the Washington study.

   Various Remedies

   - <u>Seller Solutions:</u> **(1)** Statute could be modified and the Department's REG-138 form could be updated to indicate that the vehicle's sale price is required reporting and the information is used for tax audits. **(2)** Statute could be amended to incentivize the seller to accurately report price by making the reporting subject to penalty of perjury for false reporting, and that successful prosecution could result in a misdemeanor and a $1,000 penalty. **(3)** Statute could be modified to add a penalty if the REG-138 form is not submitted.
   - <u>Buyer Solutions</u>: **(4)** Statute could be changed to specify that if BOE is unsuccessful in collecting the due use tax from the seller, then DMV would be

prohibited from providing a registration renewal until the outstanding balance is paid. **(5)** Statute could be modified to require a higher evidentiary standard for the buyer if the sales price of the vehicle fell below a floor value (such as 80-percent of Kelley Blue Book). The seller would have to certify the sales price is accurate on a separate BOE document that would need to be verified by a notary or in-person at a BOE office.

- <u>Tax Solution</u>: **(6)** Adopt statutory change similar to the recent measures in Washington and Texas where tax is applied to the market value of a vehicle, and that is determined by either: the actual sales price of the vehicle; or if the actual reported sales price falls below a floor set using presumed value (like 80 percent of Kelley Blue Book), then based on an appraisal of the vehicle's value determined by a licensed appraiser or a qualified state employee. Unlike the other two remedies, this solution would likely be viewed as a tax increase – because even if the tax burden did not increase on average, it would increase for certain individuals and that is one of the Prop 26 tests for a tax.

Current Law Provisions and Practice: Using the provisions of current law, about 35,000 transactions per year are identified with discrepancies between buyer and seller reporting (out of about 1.9 million private-party car sales each year). The BOE focuses on the larger dollar discrepancies and sends out letters to about 9,000 taxpayers per year that have reported a sales price lower than the price reported by the seller on the form REG-138. In cases where taxpayers do not respond to the original BOE letter, criminal prosecution is threatened, and the buyer may end up paying an additional $1,000 penalty. It should be noted, current law exempts car sales between close family members from the obligation of paying the use tax. For example, if a parent sells a car to their child, the child is exempt from the tax.

Staff Comment: Staff has asked the Board of Equalization to be present at the hearing to address any questions the Subcommittee has that DMV is unable to answer. Staff recommends the DMV and BOE address each of the "Various Remedies" listed above and discuss initial thought on the amount of the tax gap that might be addressed with each measure, as well as the implementation timeline and administrative cost for each.

Based on initial discussions with the Administration, the following remedies would have a modest administrative cost and potential to reduce the tax gap:

- Require sellers to report sale price on the REG 138 form and direct the DMV to update the form accordingly.
- Impose a $1,000 penalty for successful conviction of a seller who misstates sale price under penalty of perjury – update the DMV form accordingly.
- If BOE is unable to collect use tax for a car purchase, require DMV to withhold a renewal of registration for that car owner until the tax is paid. Providing DMV the ability to withhold registration renewals when use tax is due, may also simplify and reduce the cost of BOE collection, resulting in the BOE sending delinquent

tax notices to a greater share of the 35,000 cases where buyer/seller discrepancies are found.

The other listed remedies may be helpful in reducing the tax gap, but the Administration believes they would have higher implementation costs. If the issue is held open, the departments may be able to provide additional information and detail at a future hearing.

Staff Recommendation: Hold Open.

SUBCOMMITTEE NO. 2 Agenda

S. Joseph Simitian, Chair
Jean Fuller
Alan Lowenthal

Hearing Outcomes

Day: Wednesday, March 28, 2012
Time: 2:30 p.m. or upon adjournment of Rules Committee
Room: Rose Ann Vuich Hearing Room (2040)

Consultant: Brian Annis

Transportation: Enforcement and Safety

Proposed Vote-only Calendar:

Proposed Discussion / Vote Calendar:

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 916-324-9335. Requests should be made one week in advance whenever possible.

Departments Suggested for Vote Only

(See a consolidated action for the vote-only departments on page 3 of the agenda)

2670 Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun

Department Overview: The Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun (Board) licenses and regulates maritime pilots who guide vessels entering or leaving those bays. The pilots, themselves, are not employees of the Board. However, the Board does pay stipends to pilot trainees.

Budget Overview: The January Governor's Budget proposed expenditures of $2.2 million (no General Fund) and 4.0 funded positions, which is similar to the adjusted 2011-12 budget. The Board is wholly funded through fees on shippers. The budget includes a reduction of $17,000 related to the Governor's 2011-12 "workforce cap" – this saving was achieved by eliminating temporary-help funding and by reducing the benefits budget.

2700 Office of Traffic Safety

Department Overview: The Office of Traffic Safety (OTS) is responsible for allocating federal grant funds to promote traffic safety. Grant recipients include State entities, such as the California Highway Patrol and the Department of Transportation, as well as local entities, such as police departments. Among other programs, the grants fund Driving Under the Influence (DUI) checkpoints, motorcycle and bicycle safety programs, and traffic-law education and enforcement.

Budget Summary: The Governor proposes total expenditures of $97.3 million (no General Fund) and 32.0 funded positions. After accounting for technical adjustments, the funding level is very similar to last year's budget. The budget includes a reduction of $123,000 related to the Governor's 2011-12 "workforce cap" – this saving was achieved by eliminating two positions and reducing the overtime budget.

Note on Government Reorganization: The January *Governor's Budget Summary* indicated an intent to merge OTS into the Department of Motor Vehicles. The Department of Finance indicates that proposal has been withdrawn and the proposal is now to merge OTS into the proposed Transportation Agency. The Administration also indicates this proposal is not part of the 2012-13 budget package and it will instead be submitted through the Little Hoover Commission, through the process outlined in Government Code starting with code section 12080.

2720 California Highway Patrol

Department Overview: The mission of the California Highway Patrol (CHP) is to ensure the safe and efficient flow of traffic on the state's highway system. The CHP also has responsibilities relating to vehicle theft prevention, commercial vehicle inspections, the safe transportation of hazardous materials, and protection and security for State employees and property.

Budget Summary: The Governor proposes total expenditures of $1.9 billion (no General Fund) and 11,316 funded positions, an increase of $8.1 million from the adjusted current-year level. The budget includes a reduction of $61.8 million and 263.6 positions related to the Governor's 2011-12 "workforce cap" and other efficiency savings. According to the Administration, an additional 82 positions are also being eliminated, but are not reflected in the budget. Looking specifically at CHP Officers (excluding uniformed management) – the Administration indicates there are 6,579 funded Officer positions in the budget, which reflects an increase of 448 positions over the 2004-05 level. In the 2010-11 budget, the Legislature had approved a plan to increase the number of Officers by a total of 780 positions over the baseline 2004-05 level; however, hiring freezes and statewide position reduction measures prohibited the CHP from ever reaching that target and the Administration supports staffing at the budgeted level.

Budget Change Proposals: The Governor proposes two budget changes for the CHP:

- Information Technology Augmentation (BCP 3): The Governor requests an augmentation of $344,000 (special funds) to allow the Department continued use of the Integrated Database Management System which is maintained by the California Technology Agency (CTA). Due to other departments discontinuing use of this database, the CTA rates for the remaining users have increased. The CHP indicates this database contains critical information such as the Vehicle Theft Information System, CHP Collision Reports, and timekeeping.
- Rent Augmentation (BCP 2): The Governor requests $3.5 million (special funds) for moving expenses and rent costs for office replacements in Grass Valley, Mojave, and Tracy. Earlier phases of these facility projects were approved in prior budgets.

Staff Comment: At the time this agenda was finalized, no concerns had been raised with the proposed budgets of the Board of Pilot Commissioners, the Office of Traffic Safety, or the California Highway Patrol.

Staff Recommendation: Approve the budgets of the three departments on the vote-only agenda.

Action: Approved these vote-only budgets on a 3 – 0 vote.

2740 Department of Motor Vehicles

Department Overview: The Department of Motor Vehicles (DMV) regulates the issuance and retention of driver licenses and provides various revenue collection services. The DMV also issues licenses and regulates occupations and businesses related to the instruction of drivers, as well as the manufacture, transport, sale, and disposal of vehicles.

Budget Summary: The Governor proposes total expenditures of $964 million (no General Fund) and 8,221 positions; which, after technical adjustments, is fairly similar to the adjusted 2011-12 funding level. The budget includes a reduction of $24.5 million and 213.6 positions related to the Governor's 2011-12 "workforce cap" and other efficiency savings.

Informational Update on Key Issues: While there are no budget change proposals related to these issues, they have generated significant interest in prior budgets. These issues are not suggested for discussion, but the DMV should be prepared to discuss these issues should the Subcommittee have any questions.

- Driver License Card Contract**:** Last year, significant defect rates and delays occurred with the implementation of the new driver license vendor contract. By the final Subcommittee hearing in May 2011, the backlog had been fully addressed and the defect rate was falling. The DMV indicates that since May 2011, there have been no further backlogs (i.e., all cards have been returned from the vendor within 48 hours) and the current defect rate is 0.32 percent.
- Federal Real ID Act: Federal guidance requires states to fully comply with the Real ID Act on January 13, 2013; however, national databases for birth records and state license records do not exist and are not being implemented. For most other aspects of Real ID, such as card design, California is compliant. It is unclear what action the federal government will take with Real ID given the January implementation date and the absence of national databases.
- Information Technology Modernization Project: The DMV reports it is making good progress in its multi-year $208 million IT modernization project. This project will incrementally upgrade the DMV core systems with new equipment and new system hardware and software. DMV indicates the project closeout is scheduled for June 30, 2013.

(see next page for proposed vote-only issues)

Issues Proposed for Vote-Only

1. **Business Partner Automation - Implementation of AB 1215 (Blumenfield), Chapter 329, Statutes of 2011 (BCP 13).** The Administration requests budget adjustments to reflect a net savings of $1.8 million from the implementation of AB 1215, which requires vehicle sale and lease transactions by new vehicle dealers to be processed utilizing an outside business partner. Due to the business partners performing the work, the DMV saves costs for an external contract to package and mail license plates. It is expected that the bill will also increase the revenue from the corresponding transaction fees by $5.7 million.

2. **Operation Stonegarden Grant (BCP 10).** The Administration requests $521,000 in reimbursement authority to allow DMV to continue to participate in the Operation Stonegarden Grant, a cooperative agreement with the federal Department of Homeland Security and the San Diego Sheriff's Office. In 2010-11 DMV's participation resulted in 255 felony arrests along the San Diego Border. The funds are used for DMV Investigator overtime and equipment.

3. **DMV Field Offices and Related Facilities – Leased Space.** The Administration requests $3.4 million (various special funds) in one–time funding for DMV to consolidate, relocate, and replace several of its facilities. Specifically, the budget proposes:

   - **Palmdale and Lancaster Field Offices Consolidation (BCP 4).** The Administration requests $760,000 for DMV and the Department of General Services (DGS) to plan for the consolidation of the Palmdale and Lancaster field offices. The project was initially approved in the 2010–11 budget, but funds were reverted in 2011–12 due to project delays. Funding for lease and other support costs will be needed in subsequent fiscal years and are estimated at $1.9 million in 2013-14.
   - **San Francisco Investigations Office Relocation (BCP 5).** The Administration requests $873,000 for the Department to work with DGS to relocate the San Francisco investigations office because the current lessor will not renew DMV's current lease. Funding for lease and other support costs will be needed in subsequent fiscal years and are estimated at $147,000 in 2013-14.
   - **Escondido Field Office Relocation (BCP 6).** The Administration requests $1.9 million to relocate the Escondido field office because the lessor will not renew the lease. Funding for lease and other support costs will be needed in subsequent fiscal years and are estimated at $2.2 million in 2013-14.
   - **Newhall, Reedley, and Santa Maria Field Offices (BCP 6).** The Administration requests $150,000 support planning activities to relocate the Newhall, Reedley, and Santa Maria field offices due to service capacity deficiencies. The DMV will submit additional funding requests for the Newhall, Reedley, and Santa Maria field offices once DGS has determined whether to pursue leases and/or purchase property to replace these particular field offices.

- **Northern California Commercial Driver License Office.** The Administration requests $20,000 to establish a consolidated Commercial Driver License (CDL) center in Northern California. Specifically, the proposal would consolidate the Modesto, Stockton, Vallejo, West Sacramento, and Yuba City CDL activities into one office. According to DMV, new federal regulations require that the Department provide additional space to conduct commercial driver tests. The Department plans to close the current West Sacramento CDL center and put it on the state's surplus property list to be sold or leased. The DMV will submit additional funding requests for the Northern California Commercial Driver License Office once a facility has been identified and costs determined.

4. **DMV Field Offices and Related Facilities – State-Owned Property.** The Administration requests $562,000 (various special funds) in one–time funding for DMV to replace several of its facilities. Specifically, the budget proposes:

   - **Grass Valley Field Office Replacement.** The Administration requests $562,000 to fund the working drawings phase of the Grass Valley field office replacement project. The 2011–12 budget included funding of $648,000 for the preliminary plans of this project. A budget request is anticipated next year to fund construction at a cost of $6.5 million - the total cost of the project is estimated to be $7.7 million.

Staff Recommendation: Approve the budget request on the vote-only agenda.

Action: Held open the Northern California Commercial Driver License Office request (part of issue #3 above). Approved the remainder of the budget requests listed above on a 3 – 0 vote.

Issues Proposed for Discussion and Vote

5. **Automated Appointment System (BCP 1):** The Governor requests $250,000 in 2012-13, and an additional $11.1 million over the following three years (all special funds) to replace the existing customer traffic management system with a new centralized web-based customer flow management system. According to DMV, the current system is "deteriorating rapidly" with increasing incidences of hardware failure. The new system would upgrade the functionality by integrating multiple systems and providing real-time and expanded interface for DMV customers and employees.

Background: Currently, DMV customers can schedule a field office appointment prior to their visit by using the Customer Appointment System (CAS). Specifically, CAS allows field office staff and telephone service center staff to make appointments for DMV customers and allows customers to self–schedule certain appointments through the Internet. The department established the CAS in the mid–1980s and added the online function in 2001. In addition to CAS, the Department maintains a computer–based customer queuing system that keeps a record of real–time workload information, so that field office managers can make staffing adjustments throughout the day to meet customer needs. The system – called Customer Flow Management System (CFMS) – prints tickets and includes video displays that direct customers by ticket number to a specified window. These two systems (CAS and CFMS) do not interface.

Detail: The budget request would begin the process of modernizing and combining CAS and the Department's customer queuing system into one IT system. This new project would use an Internet–based system to manage customers and reduce the amount of time they have to wait at a DMV field office. According to the Administration, the intent of the proposal is to reduce the number of customers that visit field offices during peak hours (typically Monday morning, the lunch hour, and workdays immediately following a holiday). The proposed project is estimated to be completed in 2015–16 at a total cost of $15.7 million. The department intends to fund $4.2 million of the project with existing resources and request the remaining $11.5 million as a budget augmentation (including the $250,000 being requested in the Governor's 2012–13 budget). Annual ongoing costs for the project are estimated to be $400,000.

LAO Recommendation: The Legislative Analyst recommends the Legislature approve this request.

Staff Recommendation: Approve the request.

Action: Approved the request on a 3 – 0 vote.

6. **Automated Testing (BCP 2).** The Governor requests $4.1 million in federal grant spending authority to automate driver licensing exams at a limited number of DMV field offices. If future federal grants are received as anticipated, the DMV would be able to complete this project and have this functionality at all field offices. The proposal is intended to improve customer service by reducing the amount of time it takes to administer driver license tests, which would effectively reduce wait times at DMV field offices. The total cost to complete the project is estimated to be $9.7 million, with the plan that most of it will be funded with federal funds. The department estimates that the project would result in staff savings of about $1 million and 20 positions upon full implementation beginning in 2014–15.

Background: Current law requires DMV to administer knowledge tests for new applicants for various types of driver licenses. DMV administers 23 types of tests in 32 languages and prints about 8 million paper tests annually. The tests are manually graded. To reduce the incidence of cheating and due to law changes, about 25 percent of the printed tests are destroyed without being used. The DMV has studied automated testing and received proof-of-concept demonstrations by vendors that have been tested in field offices. The DMV has also developed an in-house testing system called "Automated Multiple Choice Knowledge Testing System (AMCKTS)," which they expect to test in a field office by July 2012.

Detail: The Department indicates that 36 other states have implemented some form of automation to administer written tests. The benefits of automated testing include the following:

- Reducing the time to take and score a test from 30 minutes to 17 minutes.
- Reducing fraud or cheating by allowing for unique ordering and selection of questions for each test taker.
- Reducing paper waste.
- Reducing the time it takes to modify the test for legislative or other changes.
- Provides for easy collection of statistical data.

LAO Recommendation: The Legislative Analyst recommends the Legislature approve this request, but questions whether the out-year staff savings may be greater than the estimated 20 positions.

Staff Recommendation: Approve the request.

Action: On a 3 – 0 vote, approved the budget request with the addition of Supplemental Report Language for a report next year to detail the related position savings.

7. **Differential Registration Fees to Discourage Field Office Visits (BCP 3).** The Governor requests trailer bill language and budget adjustments to reduce vehicle registration fees by $5 (to $38) for DMV customers who complete vehicle registration renewal transactions through the mail, Internet, phone, business partners, auto clubs, or a self-service terminal, but maintain the fee at the full $43 for customers who come to an office and submit payment to a DMV employee. The intent of this proposal is to reduce wait times and congestion at DMV field offices by reducing the total number of vehicle registration renewal transactions that staff at field offices must process. The Governor's budget assumes that this proposal would result in a 10 percent decline in field office vehicle registration renewals. The proposal would reduce the amount of Motor Vehicle Account (MVA) revenue collected in 2012-13 by $75 million and by about $100 million each year thereafter. DMV estimates that this proposal would result in savings of about 19 positions and $531,000 in 2012–13, and 25 positions and $706,000 in 2013–14.

Detail: The highest cost vehicle registration transaction compared to other alternatives is for a vehicle owner to go to a field office. The table below shows the cost based on delivery method.

Vehicle Registration Renewals

Delivery Method	Cost
Field office	$14.74
Self–Service Terminals	$9.63 (Estimated cost)
Phone	$7.84 (Includes credit card fee)
Internet	$5.93 (Includes credit card fee)
Business Partners	$4.37 (Private business are authorized to add additional charges)
Mail	$3.57
Auto Club	$3.04

In 2010-11, 23 percent of vehicle registration renewal transactions occurred in field offices. The two tables below detail the number and percent of vehicle registrations renewal transactions by delivery method.

Vehicle Registration Renewal Transactions by Delivery Method

Fiscal Year	Mail	Field Office	Internet	Auto Club	Business Partners	Phone
2007–08	13,350,945	7,255,692	5,051,057	3,019,798	387,347	253,196
2008–09	11,756,201	7,402,845	5,824,576	3,050,544	460,523	174,404
2009–10	11,340,977	7,051,173	6,707,508	3,015,596	546,322	123,022
2010–11	9,871,197	6,228,268	6,749,406	3,386,255	666,882	136,519

Fiscal Year	Mail	Field Office	Internet	Auto Club	Business Partners	Phone
2007–08	46%	25%	17%	10%	1%	1%
2008–09	41%	26%	20%	11%	2%	1%
2009–10	39%	24%	23%	10%	2%	0%
2010–11	37%	23%	25%	13%	2%	1%

LAO Recommendation: The LAO finds that the Governor's proposal could improve DMV's efficiency by reducing customer wait times and minimizing congestion in field offices. However, the LAO recommends an alternative fee structure that would better incentivize use of less costly transactions, but not result in an ongoing loss of state revenue. Specifically, the LAO recommends:

- Increase vehicle registration fees by $7 (from $43 to $50) for customers that use the much more expensive services of field office staff to renew their vehicle registrations and;
- Reduce vehicle registration fees by $2 (from $43 to $41) for customers who complete vehicle registration renewal transactions using the much less expensive alternatives—through the mail, Internet, phone, business partners, auto clubs, or Self-Service Terminals.

The LAO's recommended approach would result in a minimal decline in Motor Vehicle Account (MVA) revenues of $1.4 million in 2012–13 and $1.8 million each year thereafter.

In addition to the recommendations on fee levels, the LAO also recommends the following:

- Expand availability of self-service terminals by installing additional units in DMV field offices statewide – DMV should report on cost and timeline at future budget hearings.
- Through adoption of supplemental report language, require the DMV to develop a plan for expanding business partnerships by allowing the business partners to perform a broader range of transactions.
- Expand outreach to customers through the Department's website and other means to ensure customers are aware of other methods to conduct DMV transactions.

Staff Comments: As this issue and agenda issues #5 and #6 on automation demonstrate, the DMV is looking at multiple ways to improve customer service and efficiency. As the Legislature considers the DMV's proposals, as well as the LAO alternatives, the following considerations may be of value:

- For proposals with an ongoing revenue loss, would the loss of revenue affect other budget priorities funded from these same dollars at the DMV, CHP, Air Resources Board, or in other areas?

- Who are the customers who use field offices – do they tend to be disproportionately elderly or poor? Should this group incur higher costs than other customers?

- Since the Governor's proposal is intended to incentivize a change in behavior, how much difference does a $5 discount make? Would a $2 or $10 differential produce significantly different results?

- As multiple efficiency efforts are underway and requested, what type of reporting and performance outcomes would be beneficial to support the oversight role of the Legislature?

- What mechanisms exist, or should exist, to annually evaluate DMV's staff need in light of both a growing population and efficiency gains?

Staff Recommendation: Hold open.

Action: Issue held open.

8. **Tax Gap for Private Party Used Car Sales (Staff Issue):** Last year, the budget package included statutory change to address the tax gap (or underpaid tax) for the use tax – specifically for online sales. The use-tax gap is known to be substantial, and data from the State of Washington suggests a problem also exists for use tax on used car sales. Extrapolating from Washington's data, the California tax gap in this area might be in the range of $175 million per year.

   Audit Problem: In the case of private-party used car sales, the taxes are paid by the buyer. As an example of tax fraud, a buyer may pay $5,000 for a used vehicle but report a sales price of $1,000 to the Department of Motor Vehicles – by underreporting, the buyer would save about $350 in tax payments. The DMV passes the tax information to the Board of Equalization (BOE), but there is little audit performed in this area. The audit trigger is pulled if the seller submits the "REG-138" notice of release of liability (NRL) form and indicates a different sale price than that provided by the buyer. There is no penalty for the seller if they do not submit REG-138. If the seller and buyer collude and both underreport at the same price, the best audit tool is lost. DMV's REG 138 form does include a sale price field, but emphasizes other reporting elements and does not indicate accurate price reporting is required or important.

   Tax Gap Estimate: In California, no estimate exists of the tax gap. But the State of Washington analyzed 100 transactions in 1999 that suggested underreporting of price by an average of 28 percent. In 2000, Washington implemented a new process to assess tax based on fair market value, and used presumed-value tools and appraisal requirements to assist taxpayers in complying with the tax. In the first four months of implementation, Washington reported a 21 percent jump in related use tax revenues. Today, Washington estimates a $35 million revenue gain from their tax law changes on a base of 6 million registered vehicles. California has similar tax rates, but 5 times as many registered vehicles, so the revenue benefit for California of a similar program may be $175 million (full-year). About 45 percent of this revenue gain would go to the State General Fund and would augment the Proposition 98 education-funding guarantee, the remaining 55 percent would support local governments, including 2011 Public Safety Realignment. Texas implemented a similar program in 2006, but did not have independent data and instead referred to the Washington study.

   Various Remedies

   - <u>Seller Solutions:</u> **(1)** Statute could be modified and the Department's REG-138 form could be updated to indicate that the vehicle's sale price is required reporting and the information is used for tax audits. **(2)** Statute could be amended to incentivize the seller to accurately report price by making the reporting subject to penalty of perjury for false reporting, and that successful prosecution could result in a misdemeanor and a $1,000 penalty. **(3)** Statute could be modified to add a penalty if the REG-138 form is not submitted.
   - <u>Buyer Solutions</u>: **(4)** Statute could be changed to specify that if BOE is unsuccessful in collecting the due use tax from the seller, then DMV would be

prohibited from providing a registration renewal until the outstanding balance is paid. **(5)** Statute could be modified to require a higher evidentiary standard for the buyer if the sales price of the vehicle fell below a floor value (such as 80-percent of Kelley Blue Book). The seller would have to certify the sales price is accurate on a separate BOE document that would need to be verified by a notary or in-person at a BOE office.

- Tax Solution: **(6)** Adopt statutory change similar to the recent measures in Washington and Texas where tax is applied to the market value of a vehicle, and that is determined by either: the actual sales price of the vehicle; or if the actual reported sales price falls below a floor set using presumed value (like 80 percent of Kelley Blue Book), then based on an appraisal of the vehicle's value determined by a licensed appraiser or a qualified state employee. Unlike the other two remedies, this solution would likely be viewed as a tax increase – because even if the tax burden did not increase on average, it would increase for certain individuals and that is one of the Prop 26 tests for a tax.

Current Law Provisions and Practice: Using the provisions of current law, about 35,000 transactions per year are identified with discrepancies between buyer and seller reporting (out of about 1.9 million private-party car sales each year). The BOE focuses on the larger dollar discrepancies and sends out letters to about 9,000 taxpayers per year that have reported a sales price lower than the price reported by the seller on the form REG-138. In cases where taxpayers do not respond to the original BOE letter, criminal prosecution is threatened, and the buyer may end up paying an additional $1,000 penalty. It should be noted, current law exempts car sales between close family members from the obligation of paying the use tax. For example, if a parent sells a car to their child, the child is exempt from the tax.

Staff Comment: Staff has asked the Board of Equalization to be present at the hearing to address any questions the Subcommittee has that DMV is unable to answer. Staff recommends the DMV and BOE address each of the "Various Remedies" listed above and discuss initial thought on the amount of the tax gap that might be addressed with each measure, as well as the implementation timeline and administrative cost for each.

Based on initial discussions with the Administration, the following remedies would have a modest administrative cost and potential to reduce the tax gap:

- Require sellers to report sale price on the REG 138 form and direct the DMV to update the form accordingly.
- Impose a $1,000 penalty for successful conviction of a seller who misstates sale price under penalty of perjury – update the DMV form accordingly.
- If BOE is unable to collect use tax for a car purchase, require DMV to withhold a renewal of registration for that car owner until the tax is paid. Providing DMV the ability to withhold registration renewals when use tax is due, may also simplify and reduce the cost of BOE collection, resulting in the BOE sending delinquent

tax notices to a greater share of the 35,000 cases where buyer/seller discrepancies are found.

The other listed remedies may be helpful in reducing the tax gap, but the Administration believes they would have higher implementation costs. If the issue is held open, the departments may be able to provide additional information and detail at a future hearing.

Staff Recommendation: Hold Open.

Action: Issue held open.

S. Joseph Simitian, Chair
Jean Fuller
Alan Lowenthal

Wednesday, April 11, 2012
2:30 pm or upon adjournment of Rules Committee
Hearing Room 2040

Consultant: Catherine Freeman

Departments Proposed for Vote-Only

Departments and Issues Proposed for Discussion

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 916-324-9335. Requests should be made one week in advance whenever possible.

ITEMS PROPOSED FOR VOTE-ONLY

3640 Wildlife Conservation Board

1. **Baseline Funding and Budget Bill Language**. The board requests authority for continued baseline programs including:
    a. Minor Capital Outlay ($1.0 million, Wildlife Restoration Fund).
    b. Wildlife Protection Act of 1990 ($21 million, Habitat Conservation Fund).
    c. Reappropriation, Wildlife Protection Act of 1990 ($5 million, Habitat Conservation Fund).
    d. Proposition 12 Support Baseline Removal (fund shift from Proposition 12 funds to Wildlife Restoration Fund due to fully expended bond funds).

3340 California Conservation Corps

2. **Vehicle Replacement Plan.** Request for $2.0 million (one-time augmentation) and reappropriation of the balance from previous years (Collins Dugan Reimbursement Account) to fund replacement of crew-carrying vehicles and vans in order to meet health and safety requirements.

3. **Baseline Proposition 84 Augmentations.** Request for $475,000 of one-time augmentations for Proposition 84 appropriations. This represents the balance of respective allocations as authorized by Proposition 84 bond funds.

3720 California Coastal Commission

4. **Coastal and Marine Education Whale Tail License Plate Program.** Request for a one-year augmentation to increase the Coastal Commission's local assistance to $798,000, an increase of $257,000 over the current year. Expenditures and revenues in this account are subject to sales of the Whale Tail License Plate and fluctuate annually.

3760 State Coastal Conservancy

5. **Reversions and Reappropriations.** Request for various reversions and reappropriations from Propositions 12, 40, 50 and 84. As discussed in previous years, the Conservancy budget will shift in the forthcoming years to utilize remaining bond funds for program activities. These reversions, reappropriations and appropriations anew are consistent with the Conservancy's overall capital and administrative programs.

6. **Public Access.** Request for $950,000 ($5,000 from the Coastal Access Account and $450,000 from the California Beach and Coastal Enhancement Account) to continue implementation of the Conservancy's Public Access, Education and related programs.

3810 Santa Monica Mountains Conservancy

7. **Reversions and Reappropriations.** Request for baseline funding shift ($65,000) from Proposition 13 to Proposition 84, and a corresponding reversion of up to $75,670 from these funds.

8. **Baseline Capital Outlay, Local Assistance and Reappropriations.** Request for appropriation of $1 million (Santa Monica Mountains Conservancy Fund) for continuing capital programs. Funds are the proceeds of donations, settlements, bequests and mitigation fees which are subject to appropriation. Request for reappropriation of bond funds from 2007 to allow for completion of ongoing projects.

3825 San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy

9. **Capital Outlay Baseline Expenditure Plan, Reversions, and Reappropriations.** Request for reversion of $222,000 from Proposition 40, increase of dedicated $468,000 from Proposition 50, and reappropriation of Proposition 40 and 84 bond funds to continue the baseline capital outlay expenditure plan at the Conservancy.

3850 Coachella Valley Mountains Conservancy

10. **Proposition 84 Reversion.** Request for two reversions totaling $239,000 from two years to avoid a negative fund balance and allow oversight on Capital Outlay projects for Proposition 84 that are consistent with the Natural Communities Conservation Plan (NCCP) lands in Coachella Valley through 2015-16.

3855 Sierra Nevada Conservancy

11. **Proposition 84 Grant Program Re-Appropriation.** Request of unencumbered balance of 2009 Proposition 84 bond funds. Funds will be used for award grants and cooperative agreements to government agencies, eligible non-profit organizations, and tribal organizations consistent with the mission of the Conservancy.

7300 Agriculture Labor Relations Board

12. **General Counsel Staff Augmentation for Unfair Labor Practices Workload.** Request for four positions and $500,000 (Labor and Workforce Development Fund) to improve timeliness in investigating and adjudicating potential unfair labor practice violations. The proposal would add two attorneys and two clerical positions to a current authorized staff of 39.4 position years.

Recommendation: **APPROVE** Items 1-12

Vote:

ITEMS PROPOSED FOR DISCUSSION

3600 Department of Fish and Game

The Department of Fish and Game (DFG) administers programs and enforces laws pertaining to the fish, wildlife, and natural resources of the state. The Fish and Game Commission sets policies to guide the department in its activities and regulates fishing and hunting. The DFG currently manages about 850,000 acres including ecological reserves, wildlife management areas, hatcheries, and public access areas throughout the state.

Governor's Budget. The Governor's Budget includes $391 million and 2,466 positions for the Department, which represents an overall decrease of $113 million from the 2011-12 budget. Decreases in funding are largely due to reductions in bond expenditures ($89 million).

Items Proposed for Vote-Only

1. **Interoperable Narrowband Radio Infrastructure Modernization.** Request for $1.5 million (Environmental License Plate Fund) to complete the implementation and maintenance of the Department's in order to adhere to Federal Communications Commission requirements to migrate to Narrowband Radio by January 2013.

2. **Water Measuring Devices.** Request for $500,000 from the Fish and Game Preservation Fund (Non-Dedicated) to conduct a one-time assessment to ascertain the number and types of measurement devices that would be needed to comply with the water diversion measurements mandated by Chapter 2, Statutes of 2009 (SBx7 8). This request also refines the cost estimate for funding a subsequent phased plan for the purchase, installation, and maintenance of new infrastructure in a more cost-effective manner.

3. **Increase in Federal Trust Fund Authority.** Request for an ongoing augmentation of $6.7 million from the Federal Trust Fund for the Fisheries Restoration Grant and Law Enforcement Hunter Education programs. The funding is consistent with the federal funding authority.

4. **SB 369: Dungeness Crab.** Request for an ongoing augmentation of $702,000 and one position from the Dungeness Crab Account to implement Chapter 335, Statutes of 2011 (SB 369, Evans). The request includes funding for staff and equipment, including the purchase of crab tags.

Recommendation: APPROVE Items 1-4

ITEM PROPOSED FOR DISCUSSION

1. Advisory Group Eliminations—Trailer Bill Language

Background. The Governor's budget proposes to eliminate various entities within the department including:

- Salton Sea Restoration Council
- California Advisory Committee on Salmon and Steelhead Trout
- Commercial Salmon Review Board
- State Interagency Oil Spill Committee
- State Interagency Oil Spill Review Subcommittee
- Abalone Advisory Committee

These advisory groups provide public input and guidance to the Department in various program areas. In some cases these advisory groups may be duplicative of more recently established entities. According to the administration, the information provided by these entities is either no longer useful or can be provided through other means.

Staff Comments. The Legislature heard these issues in 2011 but did not act on the eliminations. Staff have concerns with the manner in which the trailer bill treats the abolishment of these advisory groups. For example the Commercial Salmon Review Board has a review and appellate function on commercial salmon issues. Abolishing the board may be a prudent action, however the functions of the board should be transferred to the Fish and Game Commission.

Staff Recommendation: HOLD OPEN Trailer Bill Language. Direct the administration to review the proposed eliminations for statutory functions that may be transferred to the Fish and Game Commission and return with a more comprehensive proposal.

Vote:

2. Oil Spill Prevention and Response

Background. The Governor proposes the addition of 16 permanent positions in 2012-13 and funding of $2.9 million in the budget year ($2.0 million ongoing) from the Oil Spill Prevention and Administrative Fund (OSPAF). These positions are requested to implement Chapter 583, Statutes of 2011 (AB 1112, Huffman) that establishes a three-year risk-based monitoring program for inspecting vessels that are loading and unloading fuel in California waters. Currently the main source of revenue for OSPAF is a fee levied on each barrel of oil delivered through marine terminals or through pipelines that are operated through marine waters of the state. Chapter 583 increased the per-barrel fee from $0.05 to $0.065 to implement this program.

LAO Analysis: Both the fee increase and the requirement to conduct risk-based monitoring of fuel transfers expire on January 1, 2015, unless extended by statute prior to that date. At that time, there will no longer be a need for the positions to administer the program and the funding source for these positions will no longer exist. The LAO recommends the Legislature approve the positions on a three-year limited-term basis in order to align position authority with the statute's expiration.

Staff Comments. Staff concurs with the LAO Analysis.

Staff Recommendation. APPROVE budget proposal with 3-year limited-term positions.

Vote:

3. ABx1 13: Renewable Energy Projects Permitting

Background. The Governor requests authority to establish four positions to complete land transaction for advanced mitigation in support of renewable energy development in the Interim Mitigation Strategy (IMS) program associated with the Desert Conservation Renewable Energy Program. A change in statute expanded the types of mitigation allowable in this program to include not only solar but also wind and geothermal projects as well. This will increase the number of projects participating in the IMS as will the number of new renewable projects. Funding is provided through (1) an appropriation from the non-dedicated Fish and Game preservation fund and (2) fees paid by project applicants.

Staff Comments. Staff have no concerns with the proposal itself but have questions about ongoing funding from the non-dedicated Fish and Game Preservation Fund (FGPF) for this program. Non-dedicated FGPF can be used for multiple statutory priorities at the department of which the Desert Conservation Renewable Energy Program is one. One of the goals of the Governor's proposed Cap and Trade auction revenues is to assist with the development of renewable energy projects. It would seem prudent to approve the proposal as budgeted, and to request the department return next year with a plan to redirect FGPF to other priorities while backfilling any renewable energy activities with Cap and Trade auction revenue funding.

Staff Recommendation. (1) APPROVE as budgeted. (2) APPROVE budget bill language requiring the department on or before January 10, 2012, to present the Legislature with a plan to redirect FGPF to other priorities while backfilling any renewable energy activities with Cap and Trade Funding.

Vote:

4. Timber Harvest Plan Review

Background. The Governor's January budget references a request to work with the Legislature to craft a more comprehensive Timber Harvest Plan Review process in statute. This issue has been on the table for more than 5 years and there is some thought that a final solution is close at hand.

Previous administrations have reduced budgets for activities that support healthy fisheries, including Timber Harvest Plan review. This includes the complete removal of permitting review and appropriate environmental review staff for Timber Harvest Plans at the Department for the Central Sierra Nevada.

Previous Budget Actions. In 2011, the Legislature approved the following budget bill language from the Hatcheries and Inland Fisheries Fund (HIFF) which was intended to promote healthy fisheries in the state:

- $1.5 million for Timber Harvest Planning activities that impact fisheries for 2011-12 and 2012-13 including the following budget bill language:

> "Notwithstanding Section 13007 of the Fish and Game Code (AB 7), one million five hundred thousand dollars ($1,500,000) shall be allocated by the department for Timber Harvest Plan (THP) review required under the California Environmental Quality Act (CEQA) functional equivalent certification to evaluate and mitigate the potential adverse impacts of timber operations on the public trust fish and wildlife resources of the state, including, but not limited to, salmonid fisheries."

The Governor vetoed the language on the advice that this would jeopardize federal funding for fish and game activities. However, upon further review, the federal government has indicated it has no issues with this proposed language nor would withdraw any funding should the Legislature approve this proposal.

Staff Comment. It is important to provide adequate review of Timber Harvest Plans throughout the state, not just in selected watersheds. This proposal will allow the department interim funding while a new Timber Harvest Plan funding proposal moves through the policy and budgeting process in the next 14 months.

Recommendation. Approve $1.5 million and budget bill language on a one-time basis.

5. Ocean Data Projects—Statewide Conformity

Background. The Department of Fish and Game (DFG) has developed the Biogeographic Information and Observation System (BIOS) with baseline budget authority. BIOS serves terrestrial biological data to DFG scientists and analysts, other resource managers, and research institutions. Within its existing budget authority, DFG is updating and expanding BIOS to host data gathered for the Marine Life Protection Act (MLPA) initiative and its other marine resource management activities to create "Marine BIOS" data portal.

The Ocean Protection Council (OPC), located in the State Coastal Conservancy, proposes to develop and operate an inter-agency "geoportal" that provides easy, internet based access to California's coastal and ocean geospatial data in particular for data related to the MLPA.

In discussions between state agencies, DFG has suggested that the Ocean Protection Council scale back or abandon its proposal and invest in the DFG Marine BIOS system. In return, OPC has suggested that the project would not be comprehensive enough for the breadth of data and information OPC is proposing to develop.

Staff Comments. Having reviewed the respective proposals there is merit to both sides of the issue. It is clear the OPC data portal will be more extensive and broad. However, there is a clear duplication of effort here that should be addressed. First and foremost, developing data systems or Geographic Information Systems that compete with other state agency projects is not in the best interest of the state.

Staff recommends the following trailer bill language:

> The Ocean Protection Council shall enter into a memorandum of understanding with and between the relevant departments, boards, commissions, and conservancies within the California Natural Resources Agency; the State Water Resources Control Board; and the California Technology Agency for the purposes of establishing a single web-based, publicly accessible portal for viewing, exchanging, and disseminating scientific and geospatial information about California's ocean and coast. The memorandum shall focus on coordinating the efforts of state agencies, but may provide for the participation of non-state entities including federal agencies, institutions of higher education, and non-governmental organizations with relevant expertise. The memorandum shall not adversely affect any California entity's authority to conduct independent data management activities or to develop data viewing or exchange tools for specialized applications or internal use.

Recommendation: APPROVE Trailer Bill Language

3110 Tahoe Regional Planning Agency
3125 California Tahoe Conservancy

Joint Issue—Lake Tahoe Environmental Improvement Program and Land Use Planning in the Tahoe Basin

Background. The Tahoe Environmental Improvement Program (EIP), a collaboration of over 50 state, federal, academic, local, and private interests, is a capital improvement program designed to achieve environmental standards in the Lake Tahoe basin. Program implementation began in 1997. Over a 20-year period, the program is estimated to cost approximately $1.5 billion.

The Lake Tahoe region has experienced environmental degradation for the past 100 years, most notably in the lake's water clarity and the health of the basin's forest lands. The lake's water clarity—which reflects water quality—has become the primary measure of the basin's environmental health.

To counter this degradation, the Tahoe Environmental Improvement Program (EIP) was established in 1997. The Tahoe EIP is a 20-year capital improvement program involving multiple state, federal, local, academic, and private entities. In 1997, the state signed memoranda of agreement with the federal government, Nevada, the Washoe Tribe, and the Tahoe Regional Planning Agency (TRPA) committing to implement and fund the Tahoe EIP. Over 50 entities are involved in implementing the program including the primary state agencies—the California Tahoe Conservancy and the Tahoe Regional Planning Agency (TRPA), a joint regional planning agency co-funded by the State of Nevada.

State-Level Coordination (Tahoe Conservancy). The California Tahoe Conservancy (CTC) responded to the subcommittee's 2011 request to report on state agency coordination in the basin, updates on the EIP, and development of a Sustainable Communities Strategy. They have raised the following issues as future priorities for the subcommittee's consideration:

1. Establish and maintain a Tahoe Team, an interagency group composed of all California agencies that have significant responsibilities in the Tahoe Basin, to coordinate and prioritize activities;
2. Complete and adopt the draft EIP Implementation Framework, a comprehensive management system and organizational structure for the federal, state, and local agencies involved in the EIP;
3. Develop a collaborative and comprehensive strategy to meet our water quality goals in the Basin including, but not limited to, implementation of the recently adopted Total Maximum Daily Load (TMDL) requirement;
4. Develop a "Complete Streets" funding and implementation strategy to further the development of a transportation system that provides for all users. This requires work

both at the state level and in negotiations with the federal government over funding designations for transportation dollars;
5. Complete a series of land exchanges among the federal, state, and local agencies in the Basin to streamline land management activities and expenses; and,
6. Maintain progress with partners in developing a Sustainability Plan and Sustainable Communities Strategy to provide a framework, together with the forthcoming TRPA Regional Plan, for improving and revitalizing the Tahoe Basin's Environment and economy.

Regional Plan Update (TRPA). The TRPA is currently in the process of finalizing its draft 2012 Regional Plan Update as required by both the interstate compact and state legislation in Nevada and has delayed the release of this document from prior to the budget hearing to after April 11. The agency's efforts come amidst concern about whether or not the Tahoe Compact's environmental thresholds (such as water clarity) will be met by efforts in the basin. This plan update is intended to respond to budget bill language adopted by the Legislature requiring TRPA to adopt a strategy for a Regional Plan Update that, to the maximum extent practicable, provides for attainment of the environmental thresholds.

The TRPA is also required to, in coordination with the California Natural Resource Agency and the Nevada Department of Conservation and Natural Resources, report on its progress in developing and adopting a five-year evaluation report, including peer review coordinated by the Tahoe Science Consortium, on the status of TRPA's environmental threshold carrying capacities.

Interstate Negotiations. In a recently enacted law (SB 271, Lee), the state of Nevada has threatened to withdraw from the Tahoe Compact unless the governing body of the TRPA adopts an updated Regional Plan and certain proposed amendments to the Compact including changes to the voting structure, considerations for the regional plan, and other items. In response to this, the Legislature has appointed a team of six legislators from the Senate and Assembly to provide assistance and oversight as negotiations with Nevada continue. In addition, constructive discussions are ongoing between the two state's respective Resources Agencies. There is a possibility that there will be a meeting set up over the summer or during the annual Tahoe Environmental Summit that brings together state, federal, and local public agencies to discuss matters of the Basin.

Presentations:

Overview of Tahoe Issues	Lia Moore, Legislative Analyst's Office
Update on State Basin Coordination	Patrick Wright, California Tahoe Conservancy
Local and Regional Basin Issues	City of South Lake Tahoe, Tahoe Transportation District, Tahoe Fund, Tahoe Partnership)
TRPA Regional Plan and Threshold Evaluation	Joanne Marchetta, TRPA Maureen McCarthy, Tahoe Science Consortium

Staff Comments. Both the Conservancy and TRPA have met with Senate staff to discuss their accomplishments regarding their efforts to meet the requirements of both budget and trailer bill language enacted in 2011. A great deal of progress has been made since the subcommittee heard these issues last year including in-state coordination issues, communication between states, narrowing down of transportation issues in the basin, and drafting of the Regional Plan and threshold evaluation report.

As the agencies move into the budget year, more can be done to continue the efforts by California in the basin. Specific recommendations coming from the state-level coordinating group merit legislative follow-up including those related to the implementation of the TMDL and pursuit of a land exchange in the basin. In order to preserve the state's interest in the bi-state compact, the subcommittee may wish to consider language to require TRPA to meet various standards of review for the Regional Plan Update and threshold evaluation report. In addition, since California contributes more than half of the TRPA budget, it would be appropriate that the state consider budget actions that would ensure the Regional Plan is consistent with the bi-state compact in order to preserve the integrity of the compact.

Recommendation: Adopt budget bill and trailer bill language to respond to panel issues.

8885 Commission on State Mandates

The Commission on State Mandates is charged with the duties of examining claims and determining if local agencies and school districts are entitled to reimbursement for increased costs for carrying out activities mandated by the State.

Mandate Overview

Process of Mandate Determination. Since the passage of Proposition 4 in 1979, the California Constitution generally requires the State to reimburse local governments when it mandates that they provide a new program or higher level of service. Activities or services required by the Constitution are not considered reimbursable mandates. State law assigns to COSM the authority to resolve disputes over the existence of state mandates and develop methodologies called parameters and guidelines (Ps&Gs) that local governments follow to calculate the amount they may claim as reimbursement.

Determining whether a particular requirement is a state mandated local program and the process by which the reimbursable cost is determined is an extensive, time-consuming, and multi-stage process. State and local officials have expressed significant concerns about the mandate determination process, especially its length and the complexity of the reimbursement claiming methodologies. Once the determination is made that an activity is a reimbursable mandate, the local government submits a mandate claim to the State Controller's Office.

Time Delays and Issues. According to an LAO review a few years ago, it took the Commission over five years to complete the mandate determination process for a successful local government test claimant. A review of new mandates claims by the LAO found that the Commission took almost three years from the date a test claim was filed to render a decision as to the existence of a state-reimbursable mandate. The Commission took more than another year to adopt the mandate’s claiming methodology, or Ps&Gs, and almost another year to estimate its costs and report the mandate to the Legislature. Efforts to streamline the process since this report was conducted may have led to some reduction in the duration of the process.

This lengthy period presents several difficulties, among the most important are:

- Local governments must carry out the mandated requirements without reimbursements for a period of some years, plus any additional time associated with development of the mandate test claim, appropriation of reimbursement funds and the issuance of checks.

- State mandate liabilities accumulate during the determination period and make the amount of state costs reported to the Legislature higher than they would be with an expedited process. Policy review of mandates is hindered because the Legislature receives cost information years after the debate regarding its imposition.

In addition to the delays that characterize the review and determination process, there are other significant issues. On the cost determination side, since most mandates relate to expanding existing programs (rather than instituting completely new ones), local governments have difficulty in measuring the marginal costs. The complexity of the claiming methodologies means that local governments' claimed costs frequently are not supported by source documents showing the validity of such costs or are not allowable under the mandate's reimbursement methodology. Accordingly, the State Controller's Office has disallowed a significant number of all reimbursement claims over the last few years, leading to appeals and more uncertainty and mounting bills.

The problems identified above are not new and the Legislature has taken steps to address them over the last few years. However, simply because the mandate process is currently unwieldy, results in delays, and can pose unexpected costs for the budget, does not alter the underlying principle of imposing and paying for required activities that serve important public policy purposes. Legislative priorities should continue to inform the process of proposing, evaluating, and taking action regarding requirements imposed on local governments.

Mandate Status and Options. Once a required activity or expanded activity imposed on local governments has been determined to be a mandate, the State still has some options regarding the actual funding of this mandate.

- **Fund the Mandate.** If the State chooses to keep the mandate in force, it must fund the mandate – the State is required to pay for all unpaid bills submitted since 2003 up through the most current year of cost approval.

- **Suspend the Mandate.** Suspension of a mandate through the budget process keeps the mandate on the books, but absolves the local government of responsibility of providing the service in that budget year and relieves the State of paying the cost of the service.

- **Repeal the Mandate.** To permanently end new State costs, statute can be amended to remove the mandate requirements from law or make them permissive.

Proposition 1A, adopted by the voters in 2004, requires the Legislature - in any given year - to either fund mandates and appropriate funds for payment, or suspend or repeal the mandate. Two mandates were exempt from this requirement, allowing them to remain in place even without funding. These two mandates are Peace Officer Procedural Bill of Rights (POBAR) and Local Government Employee Relations mandate. These mandates have continued and reimbursable costs due local governments are continuing to accrue. Proposition 1A also requires the Legislature to pay all pre-2004 mandate claims over a period of time. The State owes local agencies in excess of $1 billion in unpaid mandate costs. A portion of these costs is scheduled to be paid by 2021, while other costs have no payment schedule in place.

In recent decades, the Legislature has suspended numerous mandates as a form of budget relief. In the current year, some 60 mandates have been suspended. A large number of the suspensions occurred during the current period of budget difficulties, although some suspensions go back to 1990. Some have been suspended immediately after COSM reported their costs to the Legislature. Overall, the Governor's Budget for 2012-13 scores General Fund saving of $828.3 million from repeal, suspension, or payment deferral for mandates.

1. Mandate Trailer Bill

Mandates Proposed for Elimination (Trailer Bill Language). As part of the January Budget, the Administration proposed statutory change to repeal certain local government mandates. The Administration indicates that consistent with its approach to streamline government and add local discretion and flexibility, mandates were looked at individually to determine the best candidates for repeal. Generally, those slated for repeal are mandates that have been suspended for two years or more and where the required activity might be considered a best practice and might continue even if the mandate is removed. In addition, the cost of the mandate was also a selection factor. Budget savings can be achieved either through permanent repeal or through a one-year suspension in the annual budget act - annual suspension has been the past practice for these mandates.

The following mandates proposed for repeal are under this budget subcommittee's jurisdiction and will be discussed individually.

Mandates Proposed for Repeal *in Statute*

Mandate	Description and DOF Rationale	Initial Year of Suspense	Cost
Airport Land Use Commissions/ Plans	Requires counties with an airport to establish an airport and use commission or designate alternative procedures to accomplish airport land use planning. Repeal because this should be determined by local government priorities.	2005	$1.5 million (special fund)
SIDS Training for Firefighters	Requires local agencies to provide training and instruction to new and veteran firefighters on Sudden Infant Death Syndrome. Repeal because this should be standard operating procedure.	2003	$0
Local Coastal Plans	Requires local agencies that have land within the coastal zone to prepare a local coastal plan that outlines how the 1976 California Coastal Act is implemented on a local level. Repeal because most agencies already have prepared plans or must prepare a plan in order to issue permits.	1993	$0
Animal Adoption	Increases the holding period for stray and abandoned dogs, cats, and other specified animals from three days to four to six days. Repeal because local governments should determine how long to care for certain animals.	2009	$46 million (General Fund)

Mandates Proposed for Repeal *by Regulation* (no Legislative action requested)

Mandate	Description and DOF Rationale	Initial Year of Suspense	Cost
Personal Safety Alarm Devices for Firefighters	Requires local fire departments to have a personal alarm device for each of its firefighters to be used in conjunction with a self-contained breathing apparatus. Repeal because this should now be standard operating procedure.	1990	$0

Staff Comments: The question before this budget Subcommittee is whether or not to accept the trailer bill repealing the mandates. The Governor's budget (default) is to suspend these mandates as is now common practice. This action will be taken up by the Budget Subcommittee #4 on May 10.

Repeal of a mandate permanently provides local governments the discretion on the decision of whether to perform the activity. In some cases, locals may continue the activity uninterrupted if the mandate is repealed. In other cases, the function or activity may cease. For each mandate, the Legislature may want to weigh the risk of the activity ceasing versus the budget savings. Additionally, the Legislature may consider if restoring funding for these mandates would be a high priority in better economic times.

For many of these mandates, there is considerable interest in maintaining the mandates in statute, even if they must be suspended to achieve short-term budget savings. In the case of the animal adoption mandate, there are ongoing and active discussions among state legislators, the animal shelter community and other groups regarding steps to address the state concerns but alter the law in a manner that would be more cost effective. In the case of the two planning mandates, there is concern that repeal would degrade planning activity and result in adverse environmental impacts and increased safety risks.

Recommendation. Reject Trailer Bill.

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

S. Joseph Simitian, Chair
Jean Fuller
Alan Lowenthal

OUTCOMES

Wednesday, April 11, 2012
2:30 pm or upon adjournment of Rules Committee
Hearing Room 2040

Consultant: Catherine Freeman

Departments Proposed for Vote-Only

Departments and Issues Proposed for Discussion

Resources—Environmental Protection—Energy—Transportation

ITEMS PROPOSED FOR VOTE-ONLY

3640 Wildlife Conservation Board

1. **Baseline Funding and Budget Bill Language**. The board requests authority for continued baseline programs including:
    a. Minor Capital Outlay ($1.0 million, Wildlife Restoration Fund).
    b. Wildlife Protection Act of 1990 ($21 million, Habitat Conservation Fund).
    c. Reappropriation, Wildlife Protection Act of 1990 ($5 million, Habitat Conservation Fund).
    d. Proposition 12 Support Baseline Removal (fund shift from Proposition 12 funds to Wildlife Restoration Fund due to fully expended bond funds).

3340 California Conservation Corps

2. **Vehicle Replacement Plan.** Request for $2.0 million (one-time augmentation) and reappropriation of the balance from previous years (Collins Dugan Reimbursement Account) to fund replacement of crew-carrying vehicles and vans in order to meet health and safety requirements.

3. **Baseline Proposition 84 Augmentations.** Request for $475,000 of one-time augmentations for Proposition 84 appropriations. This represents the balance of respective allocations as authorized by Proposition 84 bond funds.

3720 California Coastal Commission

4. **Coastal and Marine Education Whale Tail License Plate Program.** Request for a one-year augmentation to increase the Coastal Commission's local assistance to $798,000, an increase of $257,000 over the current year. Expenditures and revenues in this account are subject to sales of the Whale Tail License Plate and fluctuate annually.

3760 State Coastal Conservancy

5. **Reversions and Reappropriations.** Request for various reversions and reappropriations from Propositions 12, 40, 50 and 84. As discussed in previous years, the Conservancy budget will shift in the forthcoming years to utilize remaining bond funds for program activities. These reversions, reappropriations and appropriations anew are consistent with the Conservancy's overall capital and administrative programs.

6. **Public Access.** Request for $950,000 ($5,000 from the Coastal Access Account and $450,000 from the California Beach and Coastal Enhancement Account) to continue implementation of the Conservancy's Public Access, Education and related programs.

3810 Santa Monica Mountains Conservancy

7. **Reversions and Reappropriations.** Request for baseline funding shift ($65,000) from Proposition 13 to Proposition 84, and a corresponding reversion of up to $75,670 from these funds.

8. **Baseline Capital Outlay, Local Assistance and Reappropriations.** Request for appropriation of $1 million (Santa Monica Mountains Conservancy Fund) for continuing capital programs. Funds are the proceeds of donations, settlements, bequests and mitigation fees which are subject to appropriation. Request for reappropriation of bond funds from 2007 to allow for completion of ongoing projects.

3825 San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy

9. **Capital Outlay Baseline Expenditure Plan, Reversions, and Reappropriations.** Request for reversion of $222,000 from Proposition 40, increase of dedicated $468,000 from Proposition 50, and reappropriation of Proposition 40 and 84 bond funds to continue the baseline capital outlay expenditure plan at the Conservancy.

3850 Coachella Valley Mountains Conservancy

10. **Proposition 84 Reversion.** Request for two reversions totaling $239,000 from two years to avoid a negative fund balance and allow oversight on Capital Outlay projects for Proposition 84 that are consistent with the Natural Communities Conservation Plan (NCCP) lands in Coachella Valley through 2015-16.

3855 Sierra Nevada Conservancy

11. **Proposition 84 Grant Program Re-Appropriation.** Request of unencumbered balance of 2009 Proposition 84 bond funds. Funds will be used for award grants and cooperative agreements to government agencies, eligible non-profit organizations, and tribal organizations consistent with the mission of the Conservancy.

7300 Agriculture Labor Relations Board

12. **General Counsel Staff Augmentation for Unfair Labor Practices Workload.** Request for four positions and $500,000 (Labor and Workforce Development Fund) to improve timeliness in investigating and adjudicating potential unfair labor practice violations. The proposal would add two attorneys and two clerical positions to a current authorized staff of 39.4 position years.

Recommendation: APPROVE Items 1-12

Vote: Approve Items 3, 4, 11: (3-0)
Approve Items (all remaining) 1, 2, 5-9, 10, 12: (2-1, Fuller)

ITEMS PROPOSED FOR DISCUSSION

3600 Department of Fish and Game

The Department of Fish and Game (DFG) administers programs and enforces laws pertaining to the fish, wildlife, and natural resources of the state. The Fish and Game Commission sets policies to guide the department in its activities and regulates fishing and hunting. The DFG currently manages about 850,000 acres including ecological reserves, wildlife management areas, hatcheries, and public access areas throughout the state.

Governor's Budget. The Governor's Budget includes $391 million and 2,466 positions for the Department, which represents an overall decrease of $113 million from the 2011-12 budget. Decreases in funding are largely due to reductions in bond expenditures ($89 million).

Items Proposed for Vote-Only

1. **Interoperable Narrowband Radio Infrastructure Modernization.** Request for $1.5 million (Environmental License Plate Fund) to complete the implementation and maintenance of the Department's in order to adhere to Federal Communications Commission requirements to migrate to Narrowband Radio by January 2013.

2. **Water Measuring Devices.** Request for $500,000 from the Fish and Game Preservation Fund (Non-Dedicated) to conduct a one-time assessment to ascertain the number and types of measurement devices that would be needed to comply with the water diversion measurements mandated by Chapter 2, Statutes of 2009 (SBx7 8). This request also refines the cost estimate for funding a subsequent phased plan for the purchase, installation, and maintenance of new infrastructure in a more cost-effective manner.

3. **Increase in Federal Trust Fund Authority.** Request for an ongoing augmentation of $6.7 million from the Federal Trust Fund for the Fisheries Restoration Grant and Law Enforcement Hunter Education programs. The funding is consistent with the federal funding authority.

4. **SB 369: Dungeness Crab.** Request for an ongoing augmentation of $702,000 and one position from the Dungeness Crab Account to implement Chapter 335, Statutes of 2011 (SB 369, Evans). The request includes funding for staff and equipment, including the purchase of crab tags.

Recommendation: APPROVE Items 1-4

Vote: Approve as budgeted: (3-0)

ITEM PROPOSED FOR DISCUSSION

1. Advisory Group Eliminations—Trailer Bill Language

Background. The Governor's budget proposes to eliminate various entities within the department including:

- Salton Sea Restoration Council
- California Advisory Committee on Salmon and Steelhead Trout
- Commercial Salmon Review Board
- State Interagency Oil Spill Committee
- State Interagency Oil Spill Review Subcommittee
- Abalone Advisory Committee

These advisory groups provide public input and guidance to the Department in various program areas. In some cases these advisory groups may be duplicative of more recently established entities. According to the administration, the information provided by these entities is either no longer useful or can be provided through other means.

Staff Comments. The Legislature heard these issues in 2011 but did not act on the eliminations. Staff have concerns with the manner in which the trailer bill treats the abolishment of these advisory groups. For example the Commercial Salmon Review Board has a review and appellate function on commercial salmon issues. Abolishing the board may be a prudent action, however the functions of the board should be transferred to the Fish and Game Commission.

Staff Recommendation: HOLD OPEN Trailer Bill Language. Direct the administration to review the proposed eliminations for statutory functions that may be transferred to the Fish and Game Commission and return with a more comprehensive proposal.

Vote: REJECT Governor's Proposal (2-1, Fuller)

Clarification—the Governor's proposal included three committees that were already eliminated by the Legislature. However, they were resubmitted without any explanation. The subcommittee's action to reject the Governor's proposal does not impact past legislative actions, but rather rejects this proposal in its entirety as it was not complete or vetted.

2. Oil Spill Prevention and Response

Background. The Governor proposes the addition of 16 permanent positions in 2012-13 and funding of $2.9 million in the budget year ($2.0 million ongoing) from the Oil Spill Prevention and Administrative Fund (OSPAF). These positions are requested to implement Chapter 583, Statutes of 2011 (AB 1112, Huffman) that establishes a three-year risk-based monitoring program for inspecting vessels that are loading and unloading fuel in California waters. Currently the main source of revenue for OSPAF is a fee levied on each barrel of oil delivered through marine terminals or through pipelines that are operated through marine waters of the state. Chapter 583 increased the per-barrel fee from $0.05 to $0.065 to implement this program.

LAO Analysis: Both the fee increase and the requirement to conduct risk-based monitoring of fuel transfers expire on January 1, 2015, unless extended by statute prior to that date. At that time, there will no longer be a need for the positions to administer the program and the funding source for these positions will no longer exist. The LAO recommends the Legislature approve the positions on a three-year limited-term basis in order to align position authority with the statute's expiration.

Staff Comments. Staff concurs with the LAO Analysis.

Staff Recommendation. APPROVE budget proposal with 3-year limited-term positions.

Vote: Approve budget proposal with 3-year limited term positions. (2-1, Fuller)

3. ABx1 13: Renewable Energy Projects Permitting

Background. The Governor requests authority to establish four positions to complete land transaction for advanced mitigation in support of renewable energy development in the Interim Mitigation Strategy (IMS) program associated with the Desert Conservation Renewable Energy Program. A change in statute expanded the types of mitigation allowable in this program to include not only solar but also wind and geothermal projects as well. This will increase the number of projects participating in the IMS as will the number of new renewable projects. Funding is provided through (1) an appropriation from the non-dedicated Fish and Game preservation fund and (2) fees paid by project applicants.

Staff Comments. Staff have no concerns with the proposal itself but have questions about ongoing funding from the non-dedicated Fish and Game Preservation Fund (FGPF) for this program. Non-dedicated FGPF can be used for multiple statutory priorities at the department of which the Desert Conservation Renewable Energy Program is one. One of the goals of the Governor's proposed Cap and Trade auction revenues is to assist with the development of renewable energy projects. It would seem prudent to approve the proposal as budgeted, and to request the department return next year with a plan to redirect FGPF to other priorities while backfilling any renewable energy activities with Cap and Trade auction revenue funding.

Staff Recommendation. (1) APPROVE as budgeted. (2) APPROVE budget bill language requiring the department on or before January 10, 2012, to present the Legislature with a plan to redirect FGPF to other priorities while backfilling any renewable energy activities with Cap and Trade Funding.

Vote:

(1) Approve as budgeted (2-0, Fuller not voting)
(2) Approve BBL in staff recommendation (due January 10, 2013). (2-1, Fuller)

4. Timber Harvest Plan Review

Background. The Governor's January budget references a request to work with the Legislature to craft a more comprehensive Timber Harvest Plan Review process in statute. This issue has been on the table for more than 5 years and there is some thought that a final solution is close at hand.

Previous administrations have reduced budgets for activities that support healthy fisheries, including Timber Harvest Plan review. This includes the complete removal of permitting review and appropriate environmental review staff for Timber Harvest Plans at the Department for the Central Sierra Nevada.

Previous Budget Actions. In 2011, the Legislature approved the following budget bill language from the Hatcheries and Inland Fisheries Fund (HIFF) which was intended to promote healthy fisheries in the state:

- $1.5 million for Timber Harvest Planning activities that impact fisheries for 2011-12 and 2012-13 including the following budget bill language:

> "Notwithstanding Section 13007 of the Fish and Game Code (AB 7), one million five hundred thousand dollars ($1,500,000) shall be allocated by the department for Timber Harvest Plan (THP) review required under the California Environmental Quality Act (CEQA) functional equivalent certification to evaluate and mitigate the potential adverse impacts of timber operations on the public trust fish and wildlife resources of the state, including, but not limited to, salmonid fisheries."

The Governor vetoed the language on the advice that this would jeopardize federal funding for fish and game activities. However, upon further review, the federal government has indicated it has no issues with this proposed language nor would withdraw any funding should the Legislature approve this proposal.

Staff Comment. It is important to provide adequate review of Timber Harvest Plans throughout the state, not just in selected watersheds. This proposal will allow the department interim funding while a new Timber Harvest Plan funding proposal moves through the policy and budgeting process in the next 14 months.

Recommendation. Approve $1.5 million and budget bill language on a one-time basis.

Vote: HOLD OPEN

5. Ocean Data Projects—Statewide Conformity

Background. The Department of Fish and Game (DFG) has developed the Biogeographic Information and Observation System (BIOS) with baseline budget authority. BIOS serves terrestrial biological data to DFG scientists and analysts, other resource managers, and research institutions. Within its existing budget authority, DFG is updating and expanding BIOS to host data gathered for the Marine Life Protection Act (MLPA) initiative and its other marine resource management activities to create "Marine BIOS" data portal.

The Ocean Protection Council (OPC), located in the State Coastal Conservancy, proposes to develop and operate an inter-agency "geoportal" that provides easy, internet based access to California's coastal and ocean geospatial data in particular for data related to the MLPA.

In discussions between state agencies, DFG has suggested that the Ocean Protection Council scale back or abandon its proposal and invest in the DFG Marine BIOS system. In return, OPC has suggested that the project would not be comprehensive enough for the breadth of data and information OPC is proposing to develop.

Staff Comments. Having reviewed the respective proposals there is merit to both sides of the issue. It is clear the OPC data portal will be more extensive and broad. However, there is a clear duplication of effort here that should be addressed. First and foremost, developing data systems or Geographic Information Systems that compete with other state agency projects is not in the best interest of the state.

Staff recommends the following trailer bill language:

> The Ocean Protection Council shall enter into a memorandum of understanding with and between the relevant departments, boards, commissions, and conservancies within the California Natural Resources Agency; the State Water Resources Control Board; and the California Technology Agency for the purposes of establishing a single web-based, publicly accessible portal for viewing, exchanging, and disseminating scientific and geospatial information about California's ocean and coast. The memorandum shall focus on coordinating the efforts of state agencies, but may provide for the participation of non-state entities including federal agencies, institutions of higher education, and non-governmental organizations with relevant expertise. The memorandum shall not adversely affect any California entity's authority to conduct independent data management activities or to develop data viewing or exchange tools for specialized applications or internal use.

Recommendation: APPROVE Trailer Bill Language

VOTE: Approve TBL (2-1, Fuller)

3110 Tahoe Regional Planning Agency
3125 California Tahoe Conservancy

Joint Issue—Lake Tahoe Environmental Improvement Program and Land Use Planning in the Tahoe Basin

Background. The Tahoe Environmental Improvement Program (EIP), a collaboration of over 50 state, federal, academic, local, and private interests, is a capital improvement program designed to achieve environmental standards in the Lake Tahoe basin. Program implementation began in 1997. Over a 20-year period, the program is estimated to cost approximately $1.5 billion.

The Lake Tahoe region has experienced environmental degradation for the past 100 years, most notably in the lake's water clarity and the health of the basin's forest lands. The lake's water clarity—which reflects water quality—has become the primary measure of the basin's environmental health.

To counter this degradation, the Tahoe Environmental Improvement Program (EIP) was established in 1997. The Tahoe EIP is a 20-year capital improvement program involving multiple state, federal, local, academic, and private entities. In 1997, the state signed memoranda of agreement with the federal government, Nevada, the Washoe Tribe, and the Tahoe Regional Planning Agency (TRPA) committing to implement and fund the Tahoe EIP. Over 50 entities are involved in implementing the program including the primary state agencies—the California Tahoe Conservancy and the Tahoe Regional Planning Agency (TRPA), a joint regional planning agency co-funded by the State of Nevada.

State-Level Coordination (Tahoe Conservancy). The California Tahoe Conservancy (CTC) responded to the subcommittee's 2011 request to report on state agency coordination in the basin, updates on the EIP, and development of a Sustainable Communities Strategy. They have raised the following issues as future priorities for the subcommittee's consideration:

1. Establish and maintain a Tahoe Team, an interagency group composed of all California agencies that have significant responsibilities in the Tahoe Basin, to coordinate and prioritize activities;
2. Complete and adopt the draft EIP Implementation Framework, a comprehensive management system and organizational structure for the federal, state, and local agencies involved in the EIP;
3. Develop a collaborative and comprehensive strategy to meet our water quality goals in the Basin including, but not limited to, implementation of the recently adopted Total Maximum Daily Load (TMDL) requirement;
4. Develop a "Complete Streets" funding and implementation strategy to further the development of a transportation system that provides for all users. This requires work

both at the state level and in negotiations with the federal government over funding designations for transportation dollars;
5. Complete a series of land exchanges among the federal, state, and local agencies in the Basin to streamline land management activities and expenses; and,
6. Maintain progress with partners in developing a Sustainability Plan and Sustainable Communities Strategy to provide a framework, together with the forthcoming TRPA Regional Plan, for improving and revitalizing the Tahoe Basin's Environment and economy.

Regional Plan Update (TRPA). The TRPA is currently in the process of finalizing its draft 2012 Regional Plan Update as required by both the interstate compact and state legislation in Nevada and has delayed the release of this document from prior to the budget hearing to after April 11. The agency's efforts come amidst concern about whether or not the Tahoe Compact's environmental thresholds (such as water clarity) will be met by efforts in the basin. This plan update is intended to respond to budget bill language adopted by the Legislature requiring TRPA to adopt a strategy for a Regional Plan Update that, to the maximum extent practicable, provides for attainment of the environmental thresholds.

The TRPA is also required to, in coordination with the California Natural Resource Agency and the Nevada Department of Conservation and Natural Resources, report on its progress in developing and adopting a five-year evaluation report, including peer review coordinated by the Tahoe Science Consortium, on the status of TRPA's environmental threshold carrying capacities.

Interstate Negotiations. In a recently enacted law (SB 271, Lee), the state of Nevada has threatened to withdraw from the Tahoe Compact unless the governing body of the TRPA adopts an updated Regional Plan and certain proposed amendments to the Compact including changes to the voting structure, considerations for the regional plan, and other items. In response to this, the Legislature has appointed a team of six legislators from the Senate and Assembly to provide assistance and oversight as negotiations with Nevada continue. In addition, constructive discussions are ongoing between the two state's respective Resources Agencies. There is a possibility that there will be a meeting set up over the summer or during the annual Tahoe Environmental Summit that brings together state, federal, and local public agencies to discuss matters of the Basin.

Presentations:

Overview of Tahoe Issues	Lia Moore, Legislative Analyst's Office
Update on State Basin Coordination	Patrick Wright, California Tahoe Conservancy
Local and Regional Basin Issues	City of South Lake Tahoe, Tahoe Transportation District, Tahoe Fund, Tahoe Partnership)
TRPA Regional Plan and Threshold Evaluation	Joanne Marchetta, TRPA Maureen McCarthy, Tahoe Science Consortium

Staff Comments. Both the Conservancy and TRPA have met with Senate staff to discuss their accomplishments regarding their efforts to meet the requirements of both budget and trailer bill language enacted in 2011. A great deal of progress has been made since the subcommittee heard these issues last year including in-state coordination issues, communication between states, narrowing down of transportation issues in the basin, and drafting of the Regional Plan and threshold evaluation report.

As the agencies move into the budget year, more can be done to continue the efforts by California in the basin. Specific recommendations coming from the state-level coordinating group merit legislative follow-up including those related to the implementation of the TMDL and pursuit of a land exchange in the basin. In order to preserve the state's interest in the bi-state compact, the subcommittee may wish to consider language to require TRPA to meet various standards of review for the Regional Plan Update and threshold evaluation report. In addition, since California contributes more than half of the TRPA budget, it would be appropriate that the state consider budget actions that would ensure the Regional Plan is consistent with the bi-state compact in order to preserve the integrity of the compact.

Recommendation: Adopt budget bill and trailer bill language to respond to panel issues.

Vote: HOLD OPEN, subcommittee informally directed staff to work on budget bill language and trailer bill language for a future subcommittee hearing.

8885 Commission on State Mandates

The Commission on State Mandates is charged with the duties of examining claims and determining if local agencies and school districts are entitled to reimbursement for increased costs for carrying out activities mandated by the State.

Mandate Overview

Process of Mandate Determination. Since the passage of Proposition 4 in 1979, the California Constitution generally requires the State to reimburse local governments when it mandates that they provide a new program or higher level of service. Activities or services required by the Constitution are not considered reimbursable mandates. State law assigns to COSM the authority to resolve disputes over the existence of state mandates and develop methodologies called parameters and guidelines (Ps&Gs) that local governments follow to calculate the amount they may claim as reimbursement.

Determining whether a particular requirement is a state mandated local program and the process by which the reimbursable cost is determined is an extensive, time-consuming, and multi-stage process. State and local officials have expressed significant concerns about the mandate determination process, especially its length and the complexity of the reimbursement claiming methodologies. Once the determination is made that an activity is a reimbursable mandate, the local government submits a mandate claim to the State Controller's Office.

Time Delays and Issues. According to an LAO review a few years ago, it took the Commission over five years to complete the mandate determination process for a successful local government test claimant. A review of new mandates claims by the LAO found that the Commission took almost three years from the date a test claim was filed to render a decision as to the existence of a state-reimbursable mandate. The Commission took more than another year to adopt the mandate's claiming methodology, or Ps&Gs, and almost another year to estimate its costs and report the mandate to the Legislature. Efforts to streamline the process since this report was conducted may have led to some reduction in the duration of the process.

This lengthy period presents several difficulties, among the most important are:

- Local governments must carry out the mandated requirements without reimbursements for a period of some years, plus any additional time associated with development of the mandate test claim, appropriation of reimbursement funds and the issuance of checks.

- State mandate liabilities accumulate during the determination period and make the amount of state costs reported to the Legislature higher than they would be with an expedited process. Policy review of mandates is hindered because the Legislature receives cost information years after the debate regarding its imposition.

In addition to the delays that characterize the review and determination process, there are other significant issues. On the cost determination side, since most mandates relate to expanding existing programs (rather than instituting completely new ones), local governments have difficulty in measuring the marginal costs. The complexity of the claiming methodologies means that local governments' claimed costs frequently are not supported by source documents showing the validity of such costs or are not allowable under the mandate's reimbursement methodology. Accordingly, the State Controller's Office has disallowed a significant number of all reimbursement claims over the last few years, leading to appeals and more uncertainty and mounting bills.

The problems identified above are not new and the Legislature has taken steps to address them over the last few years. However, simply because the mandate process is currently unwieldy, results in delays, and can pose unexpected costs for the budget, does not alter the underlying principle of imposing and paying for required activities that serve important public policy purposes. Legislative priorities should continue to inform the process of proposing, evaluating, and taking action regarding requirements imposed on local governments.

Mandate Status and Options. Once a required activity or expanded activity imposed on local governments has been determined to be a mandate, the State still has some options regarding the actual funding of this mandate.

- **Fund the Mandate.** If the State chooses to keep the mandate in force, it must fund the mandate – the State is required to pay for all unpaid bills submitted since 2003 up through the most current year of cost approval.

- **Suspend the Mandate.** Suspension of a mandate through the budget process keeps the mandate on the books, but absolves the local government of responsibility of providing the service in that budget year and relieves the State of paying the cost of the service.

- **Repeal the Mandate.** To permanently end new State costs, statute can be amended to remove the mandate requirements from law or make them permissive.

Proposition 1A, adopted by the voters in 2004, requires the Legislature - in any given year - to either fund mandates and appropriate funds for payment, or suspend or repeal the mandate. Two mandates were exempt from this requirement, allowing them to remain in place even without funding. These two mandates are Peace Officer Procedural Bill of Rights (POBAR) and Local Government Employee Relations mandate. These mandates have continued and reimbursable costs due local governments are continuing to accrue. Proposition 1A also requires the Legislature to pay all pre-2004 mandate claims over a period of time. The State owes local agencies in excess of $1 billion in unpaid mandate costs. A portion of these costs is scheduled to be paid by 2021, while other costs have no payment schedule in place.

In recent decades, the Legislature has suspended numerous mandates as a form of budget relief. In the current year, some 60 mandates have been suspended. A large number of the suspensions occurred during the current period of budget difficulties, although some suspensions go back to 1990. Some have been suspended immediately after COSM reported their costs to the Legislature. Overall, the Governor's Budget for 2012-13 scores General Fund saving of $828.3 million from repeal, suspension, or payment deferral for mandates.

1. Mandate Trailer Bill

Mandates Proposed for Elimination (Trailer Bill Language). As part of the January Budget, the Administration proposed statutory change to repeal certain local government mandates. The Administration indicates that consistent with its approach to streamline government and add local discretion and flexibility, mandates were looked at individually to determine the best candidates for repeal. Generally, those slated for repeal are mandates that have been suspended for two years or more and where the required activity might be considered a best practice and might continue even if the mandate is removed. In addition, the cost of the mandate was also a selection factor. Budget savings can be achieved either through permanent repeal or through a one-year suspension in the annual budget act - annual suspension has been the past practice for these mandates.

The following mandates proposed for repeal are under this budget subcommittee's jurisdiction and will be discussed individually.

Mandates Proposed for Repeal *in Statute*

Mandate	Description and DOF Rationale	Initial Year of Suspense	Cost
Airport Land Use Commissions/ Plans	Requires counties with an airport to establish an airport and use commission or designate alternative procedures to accomplish airport land use planning. Repeal because this should be determined by local government priorities.	2005	$1.5 million (special fund)
SIDS Training for Firefighters	Requires local agencies to provide training and instruction to new and veteran firefighters on Sudden Infant Death Syndrome. Repeal because this should be standard operating procedure.	2003	$0
Local Coastal Plans	Requires local agencies that have land within the coastal zone to prepare a local coastal plan that outlines how the 1976 California Coastal Act is implemented on a local level. Repeal because most agencies already have prepared plans or must prepare a plan in order to issue permits.	1993	$0
Animal Adoption	Increases the holding period for stray and abandoned dogs, cats, and other specified animals from three days to four to six days. Repeal because local governments should determine how long to care for certain animals.	2009	$46 million (General Fund)

Mandates Proposed for Repeal *by Regulation* (no Legislative action requested)

Mandate	Description and DOF Rationale	Initial Year of Suspense	Cost
Personal Safety Alarm Devices for Firefighters	Requires local fire departments to have a personal alarm device for each of its firefighters to be used in conjunction with a self-contained breathing apparatus. Repeal because this should now be standard operating procedure.	1990	$0

Staff Comments: The question before this budget Subcommittee is whether or not to accept the trailer bill repealing the mandates. The Governor's budget (default) is to suspend these mandates as is now common practice. This action will be taken up by the Budget Subcommittee #4 on May 10.

Repeal of a mandate permanently provides local governments the discretion on the decision of whether to perform the activity. In some cases, locals may continue the activity uninterrupted if the mandate is repealed. In other cases, the function or activity may cease. For each mandate, the Legislature may want to weigh the risk of the activity ceasing versus the budget savings. Additionally, the Legislature may consider if restoring funding for these mandates would be a high priority in better economic times.

For many of these mandates, there is considerable interest in maintaining the mandates in statute, even if they must be suspended to achieve short-term budget savings. In the case of the animal adoption mandate, there are ongoing and active discussions among state legislators, the animal shelter community and other groups regarding steps to address the state concerns but alter the law in a manner that would be more cost effective. In the case of the two planning mandates, there is concern that repeal would degrade planning activity and result in adverse environmental impacts and increased safety risks.

Recommendation. Reject Trailer Bill.

VOTE: REJECT TRAILER BILL (3-0)

Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 2 Agenda

S. Joseph Simitian, Chair
Jean Fuller
Alan Lowenthal

Agenda

Day: Wednesday, April 18, 2012
Time: 2:30 p.m. or upon adjournment of Rules Committee
Room 112

Consultant: Brian Annis

High-Speed Rail

Informational Hearing

Issues:

Attachments:

High-Speed Rail Final 2012 Business Plan

The High-Speed Rail Authority released its Final 2012 Business Plan (Final Plan) on April 2, 2012, in draft form. The draft became final on April 12, 2012, when it was adopted by the HSRA Board. The Final Plan describes the HSRA Board's vision for implementing high-speed rail service in California including how the Board would propose to use bond funds approved by voters in Proposition 1A of 2008. Among other requirements, Prop 1A bond funds can only be expended if the funds are authorized for expenditure by a legislative appropriation.

The Final Business Plan is the key document for review of the Administration's budget proposals. The document presents the Governor's plan to implement high-speed rail, and the revised 2012-13 budget proposal would: (1) appropriate $5.9 billion ($3.2 billion federal funds, $2.6 billion Prop 1A bond funds) to construct an initial segment for the high-speed rail project in the Central Valley; (2) appropriate $253 million ($48.4 million federal funds, $204.2 million Prop 1A bond funds) for completion of environmental work and preliminary design work for the remainder of the rail segments in the high-speed rail system; and (3) appropriate $812 million (all Prop 1A connectivity bond funds) for Caltrans and local rail operators to improve existing rail operations to improve connectivity to the future high-speed rail system.

Prior Hearings and Committee Summaries: The Budget Subcommittee, as well as the Transportation and Housing Committee and the Select Committee on High-Speed Rail, have had multiple hearings on prior business plans and the Draft 2012 Business Plan. The most recent hearing was held March 13 in Mountain View. The agenda for that hearing is available on the Budget Committee's website and offers additional summary information on the project and the draft plan.

Summary of the Final Business Plan and Key Changes. The Final Plan includes significant changes relative to the draft plan that the HSRA indicates are a result of input received from the public, legislators, and other interested parties. The largest change in terms of dollars is to down-scope the project to make "blended" operations in the San Francisco/San Jose and Los Angeles/Anaheim segments the final project instead of interim phases on the path to full build out – this change and others reduce costs from $98 billion to $68 billion. "Blended operations" is defined as shared use of tracks with existing regional rail providers. The plan to initiate construction on a $6 billion, 130 mile segment in the Central Valley is unchanged. Other significant changes include accelerated investment of $1.1 billion in the Caltrain and Metrolink "bookend" corridors and moving forward with $812 million in Prop 1A "connectivity" bond funds for regional and urban rail agencies. The Administration believes the revisions greatly improve the plan by reducing costs and risk, and by accelerating investment that will support high-speed rail service. These and other components of the plan are discussed in more detail on the following pages.

Summary Chart of Construction Waves including Connectivity Funds. The table below ties to the Final Plan and displays the Administration's proposed timeline for initiating work in various waves on different segments of the project. The various funding sources for each wave are also displayed. (Dollars are in billions)

		Prop 1A	Federal Funds*	Private Capital	Other / Undesignated	Net Proceeds	**TOTAL COST**
Start Construction in 2013	Initial Construction Segment (Merced to Bakersfield) 2013 – 2017	$2.7	$3.3	$0	$0	$0	**$6.0**
	Early Investment in Bookends 2013 to 2022**	1.1	0.6	0	0.5	0	**2.2**
	Connectivity funds for regional and urban rail 2013-2018	0.8	0	0	0	0	**0.8**
Start Const in 2017	Bakersfield to Palmdale priority segment 2017 – 2021	2.2	10.2	0	0.4	0	**12.7**
	Remainder of Initial Operating Segment (Merced to San Fernando Valley) 2017 – 2021	2.2	10.2	0	0.4	0	**12.7**
Start Const in 2020's	Remainder of San Jose to the San Fernando Valley 2021 – 2026	0	8.4	10.1	1.2	0.2	**19.9**
	Remainder of San Francisco to Anaheim 2023 – 2028	0	10.0	3.0	2.0	0	**15.0**
	TOTAL COST	**$9.0**	**$42.6**	**$13.1**	**$4.4**	**$0.2**	**$69.2*** **

* AB 32 Cap-and-Trade revenues are designated as a backstop if federal funding is insufficient.

** No funds requested for 2012-13 budget, anticipate request for 2013-14 budget.

*** Total is $812 million above the Final Plan because that total does not include the "connectivity" funds.

Detail on the Key Components and Changes in the Final Business Plan:

- **Blended Operations with Regional Rail on the Bookends.** Adopts a blended approach on the urban "bookends" of San Francisco/San Jose and Los Angeles/Anaheim as the final project instead of as an interim step. Adjusts project-level environmental document accordingly. The proposed blended system for the San Francisco Peninsula is primarily a two-track system where high-speed rail trains would share tracks with Caltrain. Early investment in Caltrain electrification would provide infrastructure usable to high-speed rail when that service connects to San Jose. Since the Metrolink system does not include plans for electrification, the blended system in the Los Angeles/Anaheim segment would not include high-speed rail trains on that segment – instead passengers would transfer to Metrolink or Amtrak Surfliner trains for travel in that segment. The "one-seat-ride" on the same train would apply from San Francisco's Transbay Terminal to the Los Angeles Union Station. While the adopted Final Plan does not include high-speed trains (the one-seat ride) to Anaheim, the HSRA Board approved a resolution at the April 12, 2012, hearing to pursue other avenues to electrify that segment and ultimately achieve that one-seat ride all the way the from the San Francisco Transbay Terminal to Anaheim.

- **Cost Decrease.** Largely as a result of the bullet above, the baseline cost estimate for San Francisco to Anaheim (Phase I) falls from $98 billion to $68 billion. As the table below indicates the "Phase I Blended" costs also falls between plans from $78.2 million to $68.4 million – this is due to (1) lower inflation assumption through 2015, and (2) cost savings from accelerating certain infrastructure investments. The increased construction cost scenario falls from $117 billion to $80 billion. While the Final Plan drops the concept of "full build" and adopts blended operations, it notes the revised "full build" price would be revised to $91.4 billion. The table below shows the cost change from the November draft plan to the April Final Plan by phase. (Dollars in billions)

	Business Plan Cost in November 2011	Year of Completion November Business Plan	Business Plan Cost in April 2012	Year of Completion April Business Plan
Madera to Bakersfield Segment	$ 6.0	2017	$ 6.0	2017
Initial Operating Segment (IOS)	33.2	2021	31.3	2021
Bay to Basin	54.3	2026	51.2	2026
Phase I Blended	78.2	2030	68.4	2028
Phase 1 Full Build	98.1	2033	Not applicable	Not applicable

<u>Notes</u>:

1. Cost data is year of construction
2. IOS is referred to as IOS South in November Business Plan

- **Selection of Initial Operating Segment (IOS).** Selects Merced to the San Fernando Valley as the Initial Operating Segment (instead of the alternative option of San Jose to Bakersfield) and cites the Bakersfield to Palmdale segment as a high-priority to complete a north-south rail link. The Final Plan indicates the decision to construct the southern segment first was based on a combination of factors, including environmental approvals, revenue and ridership estimates, and statewide system benefits. However, the plan also notes that if the southern extension is prevented for a significant time as a result of environmental or other delays, the Authority could proceed with extending the northern extension to San Jose. The Bakersfield to Palmdale segment is considered high priority because it would close the existing gap in passenger rail service between northern and southern California – that gap is currently bridged with bus service.

- **Early "Bookend" Investment.** Directs $1.1 billion in high-speed rail bond funds (separate from regional and urban rail connectivity bond funds) to initial investments on the bookends to improve regional service in the short term, and to make initial investments in the blended system for high-speed rail. No appropriation is proposed for this purpose in the 2012-13 budget; however, funding would likely be requested during the 2013-14 budget process. At the April 12, 2012, Authority Board meeting, the Board approved a revised Memorandum of Understanding (MOU) with the Southern California Association of Governments and a new MOU with the Bay Area's Metropolitan Transportation Commission. Generally, the MOUs outline funding commitments from each party and criteria to select investments that would benefit regional rail in the short term and both regional and intercity high-speed rail in the long term. Individual projects would be selected through future action. Prop 1A requires at least a one-to-one match for high-speed rail bonds and the MOUs would achieve this with federal, local, and other funds.

- **Connectivity Funds.** Supports allocation of $812 million in remaining Proposition 1A "connectivity" funds for the California Department of Transportation (Caltrans) intercity rail service and for regional and urban rail operators. Prop 1A includes a formula for allocation of these dollars but directs the California Transportation Commission (CTC) to develop a program of specific projects. The CTC performed this selection of projects in 2010, and the Legislature appropriated funds to support this program in both the 2010 and 2011 budget acts, but in both years, the Governor vetoed all funds except those directed to positive-train control investments. Last year's veto message suggested the selected projects were not sufficiently integrated with high-speed rail or an integrated rail plan. The CTC indicates they will initiate a new selection process consistent with the Governor's request, and that a new program of projects – selected in coordination with the High-Speed Rail Authority - could be approved as early as June, 2012. As detailed later in this agenda, the Governor proposes an appropriation of these funds in the 2012-13 budget, but only supports this appropriation, if the Legislature also approves funds for the Central Valley segment. The table below details the formula allocation to rail operators, the total allocated to date for positive train control, the amount remaining for allocation. (Dollars in millions)

Prop 1A Bonds Funds Remaining for Connectivity Projects

Eligible Recipient Agency	Prior allocations for positive train control	Remaining formula allocations*
California Dept of Transportation (Caltrans)	$83.3	$102.9
Altamont Commuter Express (ACE)	0	15.0
Los Angeles County Metropolitan Transportation Authority (LAMTA)	0	114.9
Peninsula Corridor Joint Powers Board (Caltrain)	0	41.0
Sacramento Regional Transit District	0	30.2
San Diego Trolley, Inc.	0	57.9
North Coast Transit District (NCTD)	10.5	7.3
Bay Area Transit District (BART)	0	256.6
San Francisco Municipal Railway Transit System (MUNI)	0	61.3
Santa Clara Valley Transportation Authority (VTA)	0	26.4
Southern California Regional Rail Authority (Metrolink)	35.0	88.7
TOTAL	**$128.8**	**$802.2**

* May be recalculated based on updated administrative costs.

- **Increased Stand-alone Utility for the Central Valley Segment.** Identifies interim service improvement and increased utility to be achieved by expanding existing intercity and regional rail service to link to the initial Central Valley segment. The Authority intends to negotiate memorandums of understanding (MOUs) with the San Joaquin Regional Rail Commission, Caltrans, the Capitol Corridor Joint Powers Authority, and Sacramento Regional Transit to develop a "Northern California Unified Service Concept." This concept would include higher service speeds of up to 125 miles per hour on the Madera to Bakersfield segment upon completion of initial construction, but prior to completion of the Initial Operating Segment and initiation of high-speed rail service. The plan would also call for positive train control investments and other investments on existing routes to increase speeds elsewhere in the region. Finally, the concept calls for increased service coordination and options for passengers. Unlike the MOUs for the Bay Area and Southern California, this MOU is still under development.

- **Cap and Trade Revenue.** Identifies "cap and trade" revenue from AB 32 implementation (the Global Warming Solutions Act of 2006) as backstop funding to complete the initial operating segment from Merced to the San Fernando Valley, if federal funds are insufficient. AB 32 established the goal of reducing greenhouse gas (GHG) emissions statewide to 1990 levels by 2020. The California Air Resources Board (ARB) adopted regulations to achieve this goal including the establishment of a cap-and-trade system of market-based carbon allowances that entities can buy and sell. Credits will be sold by ARB annually and the first sale is expected in August 2012. According to a recent Legislative Analyst's Office (LAO) report, the 2012-13 credit sales are expected to generate roughly $660 million to $3 billion in revenue. The Governor scores $1.0 billion in his January budget. Out-year forecasts have even greater variability – the LAO indicates the 2015-16 revenue could range somewhere between $2 billion and $14 billion. The LAO report suggest the revenue from cap-and-trade are "mitigation fees" that must be only to mitigate the harms caused by GHG emission. The Administration believes expenditures on high-speed rail is a legally allowable use of these cap-and-trade funds.

- **Ridership and Revenue forecast adjustments.** Adjusts the ridership and revenue forecasts to include a lower-gas price scenario ($2.60 per gallon) and other adjustments. Tests the model results against actual results for the Acela Amtrak service in the Northeast Corridor and found the model output was similar to actual data. The HSRA indicates these revisions to the modeling have been taken to respond to questions and comments and to continue to improve the reliability of the forecasts. The Final Plan models three scenarios for ridership – a low ridership scenario based on low gas prices, lower population growth, etc; a high scenario based on high gas prices, higher population growth, etc; and finally a medium scenario in the middle. For example possible gas prices are $2.60 per gallon, $4.23 per gallon, or $6.11 per gallon. The ridership estimates vary with each scenario, but for example for 2025 would range from 5.8 million riders in the low scenario to 10.5 million riders in the high scenario. The Final Plan suggests that even in the low-ridership scenario, service would be able to cover all operations and maintenance costs, thereby not requiring an operating subsidy.

Peer Review Group: Statute establishes an independent Peer Review Group to review the planning, engineering, financing and other elements of the Authority's plans and issue an analysis of the appropriateness and accuracy of the Authority's assumptions and an analysis of the viability of the Authority's financing plan. The Peer Review Group was critical of the November Draft Plan and indicated it could not endorse the project at that time. At the time this agenda was finalized, the Peer Review Group's analysis of the Final Plan was still pending; however, it should be released soon and provide additional analysis for the Legislature's consideration.

Suggested questions and issues for discussion. Based on prior hearings and issues raised by Legislators, the Legislative Analyst, the Peer Review Group, and the public, the Authority should be prepared to discuss the following issues.

1. **Funding.** In reviewing the November Plan, the Peer Review Group mentioned the uncertainty over future federal funds as a fundamental flaw in the program. The Final Plan attempts to mitigate this in two ways, first by reducing the overall project cost from $98 billion to $68 billion, and second, by identifying cap-and-trade funds as a backstop funding source if federal funds are not fully available.

   - *How does the Final Plan address funding risks for early phases and for the entire segment? Is this mitigation sufficient to address the risk?*

2. **Reasonableness of Estimates.** The November Plan included updated revenue and ridership estimates that were generally deemed more credible than prior estimates, but concerns were still raised about the assumptions and over the transparency of the model. The Final plan makes some modeling updates. The cost to build the system was increased substantially between the 2010 and 2012 plans, but the Peer Review Group still cited significant risk in this area.

   - *How does the Final Plan improve the quality of estimates?*

   - *Have the model inputs and assumptions been reviewed by outside parties in a transparent fashion – how so?*

3. **Benefit and Cost.** As with the Draft Plan, the Final Plan describes high-speed rail investment with a benefit exceeding its cost, and moreover, with greater benefit-to-cost gains than similar dollar investment in highways and airports.

   - *Assuming all the funding and cost estimates are determined to be reasonable, has the Authority made the case for investment in high-speed rail?*

4. **Independent Utility of Early Phases.** At prior hearings, the HSRA was asked to better articulate and define the independent utility of a stand-alone Central Valley investment. The Final Plan includes additional interim benefits from a "Northern California Unified Service Concept" and from priority investment in the Bakersfield to Palmdale segment to close the existing intercity rail gap.

   - *How has the stand-alone independent utility of the Central Valley segment changed with the Final Plan? Does independent utility sufficiently mitigate the uncertainty over future federal funding – or should cap-and-trade revenue be seen as the mitigation?*

   - *Assuming further investment closes the Bakersfield to Palmdale passenger rail gap – what is the stand-alone independent utility of the Central Valley plus Bakersfield/Palmdale segment? Does independent utility sufficiently mitigate the uncertainty over future federal funding – or should cap-and-trade revenue be seen as the mitigation?*

5. **Blended Operations and Compliance with Prop 1A.** Some of the components of the Final Plan – such as blended operations, and interim investment on the "bookends" – were not explicitly described in the language of Prop 1A.

   - *Is the Final Plan fully compliant with Prop 1A? Or, does the Administration believe any changes are sufficiently minor to be considered within the scope and purpose of the measure?*

   - *Why is the Los Angeles to Anaheim Phase I segment being re-scoped to exclude the operation of HSRA trains?*

6. **Private Sector Participation.** The Peer Review report on the November Plan cited a lack of specificity with the business model and questioned whether the operator should be brought aboard earlier to assist the design-build contractors and to ensure integration of design across different contractors.

   - *How does the Final Plan address the business model and ensure integration of design across the system?*

7. **Cap-and-Trade Revenue.** The amount of cap-and-trade revenue and allowable expenditures under a "mitigation fee" framework involve some uncertainty.

   - *What assumptions is the Administration making about the total amount of cap-and-trade revenue and what share might reasonably be directed to high-speed rail?*

8. **California Environmental Quality Act (CEQA).** The Authority's environmental work to-date has followed the CEQA process.

   - *Will the Administration continue toward completion of the full CEQA process, or are proposals to exempt this project from CEQA, or streamline CEQA for this project, under consideration?*

Detail on the Capital Outlay Budget Requests

In April 1 Finance Letters, the Governor requests new budget funding that totals $6.9 billion for three areas of rail investment related to high-speed rail. The funding requests that relate directly to the design and construction of high-speed rail would appear in the budget of the High-Speed Rail Authority. The funding request that would fund connectivity projects for regional, urban, and traditional intercity rail operators would appear in the budget for Caltrans.

1. **Funding for the Central Valley Initial Construction Segment.** The Governor requests funding of $5.9 billion ($2.6 billion Prop 1A and $3.2 billion federal funds) to construct a 130 mile segment from Madera to just north of Bakersfield. Note, the Final Business Plan refers to $6.0 billion for this segment, but includes some costs already incurred for environmental and design work. Upon completion, the segment would be ready for high-speed rail in terms of being fully grade separated, independent use (not shared with freight lines), and with curves and grades appropriate for high-speed rail. It would not be fully ready for high-speed rail in terms of electrification and positive train control. The funds would support the multi-year construction of the project and be available through June 30, 2018.

   Detail: The Authority intends to split the Madera to Bakersfield segment into four sub-segments with "construction packages 1 to 4" that will go out for a separate bid. Construction package 5 would come later and cover the entire segment and add the track to the infrastructure completed by the other contractors. The November 2011 agreement with the Federal Railroad Administration (FRA) indicates dates to advertise each contract. The FRA agreement also targets January 2013 as the date for contractor selection for the first package. According to HSRA, the remaining construction packages would be signed on the following timeline:

Construction Package	General Location	Contract Implementation Date
1	Madera to Fresno	January 2013
2	Fresno to Tulare	September 2013
3	Tulare to Delano	September 2013
4	Delano to Bakersfield	October 2013
5	Madera to Bakersfield (rail)	March 2017

   Staff Comment: The Subcommittee may want to hear from the Administration on the following issues related to the budget appropriation for the Central Valley Construction:

   - *What is the status of the environmental reviews on the Central Valley segment, and what is the current estimate for construction start for each of the five design-build contracts – is it unchanged from the November 2011 FRA agreement?*

- *What is the benefit of appropriating the full $5.8 billion now, versus appropriating annually based on the cash need or based on the contracts to be signed in a given year?*

- *The budget language describes the funds as available for the "Initial Operating Segment" without a description in law of what that is – if the intent is to use the funds only for the Central Valley, should additional budget bill language or trailer bill language be added to define the term "Initial Operating Segment" as the Madera to Bakersfield segment?*

2. **Funding for Regional and Urban Rail Connectivity to High-Speed Rail.** Proposition 1A of 2008 also includes $950 million in bond funds for existing intercity, regional, and urban rail systems to connect to high-speed rail. The Legislature has previously funded these connectivity projects, but the Governor vetoed most of the funding citing the need for a California Transportation Commission plan that is more integrated with high-speed rail. With the Final Plan and release of April 1 Finance Letters, the Governor is now requesting $812 million to be available to move forward with this program, but only after the CTC, in coordination with the Authority, has adopted a new program of projects. Pursuant to the allocation formula in Prop 1A and funds allocated to date, the remaining funds would be split with $106 million for Caltrans intercity rail and $713 million for regional and urban rail operators. Specific allocations by recipient were listed on page 5 of this agenda.

   Detail: The Administration requests that several restrictions be added to budget bill language, such that funds cannot be expended unless the conditions are met. The language is copied below:

   Provisions:
   1. *These funds shall be available for allocation by the California Transportation Commission until June 30, 2014, and available for encumbrance or liquidation until June 30, 2018.*
   2. *The funds appropriated in this item shall be available for capital improvement projects to intercity and commuter rail lines and urban rail systems that provide direct connectivity to the high-speed train system and its facilities, or that are part of the construction of the high-speed train system, pursuant to Section 2704.095 of the Streets and Highways Code.*
   3. *The funds appropriated in this item shall only be made available for expenditure upon the enactment of a $3.2 billion appropriation in Budget Act Item 2665-306-0890 and a $2.6 billion appropriation in Item 2665-306-6043 for the Initial Operating Segment of the High Speed Rail System.*
   4. *Funds appropriated in this item shall be available for expenditure no sooner than 30 days after all of the following conditions are met:*
      a. *The California Transportation Commission, in consultation with the California High-Speed Rail Authority, updates and adopts program guidelines to ensure eligible projects are consistent with the early investment in the Phase 1 blended system strategy identified the April 2012 California High-Speed Rail Revised 2012 Business Plan.*
      b. *The Commission, in consultation with the Authority, develops a draft program of projects consistent with the guidelines developed pursuant to (a).*
      c. *Commission staff presents the draft program of projects to the Authority, at a scheduled board meeting, for review and comment. Commission staff shall address and incorporate comments in the program presented to the Commission for adoption.*
      d. *Upon adoption of the program of projects by the Commission, the Department of Finance shall review the program of projects and*

notify the Joint Legislative Budget Committee in writing of a list of projects to be funded and the amount of funds to be expended.

Staff Comment: The Subcommittee may want to hear from Administration on the following issues related to the connectivity funds. Representatives from Caltrans and the California Transportation Commission have also been asked to attend the hearing to be available for questions:

- *What is the process and timeline for the selection of a new program of projects?*
- *What did the Administration find objectionable with the CTC's original program of projects, and how will the new program of projects be different?*
- *Why does the Administration support connectivity funding <u>only if</u> $5.8 billion is appropriated for the Central Valley?*

3. **Completion of Environmental Documents and Preliminary Engineering on all Segments.** The Governor requests an appropriation of $253 million ($48.4 million federal funds, $204.2 million Prop 1A bond funds) for completion of environmental work and preliminary design (at least 15-percent design) on all segments in the high-speed rail system. The budget also reflects that about $50 million from prior appropriations will remain unexpended at the end of 2011-12 and carryover for expenditure into 2012-13. This budget category funds the regional engineering contractors as well as the statewide program management contract. In prior years, the statewide management contract funding was scheduled by segment, but beginning in 2012-13, the Administration requests to separately schedule that contract. The table below shows expenditures by segment since 2010-11, when the budget began to be scheduled by segment. The prior and future costs to complete this work will total about $563 million, with $185 million from federal funds and $378 million from Proposition 1A bond funds. (Dollars in millions).

Segment/Item Number	Expenditures in 2010-11 & 2011-12	Carryover Authority	New Budget Request	Grand Total
PHASE I SEGMENTS				
San Francisco - San Jose	$37.7	$11.6	$10.4	$59.7
San Jose - Merced	36.4	14.2	0.0	$50.6
Merced - Fresno	39.2	0.9	14.6	$54.7
Fresno - Bakersfield	62.5	0.0	22.7	$85.2
Bakersfield - Palmdale	14.9	13.8	0.4	$29.1
Palmdale - Los Angeles	36.8	3.9	5.1	$45.7
Los Angeles - Anaheim	18.9	0.6	8.6	$28.1
PHASE II SEGMENTS				
Los Angeles - San Diego	3.1	4.6	56.1	$63.8
Merced - Sacramento	4.5	0.5	53.9	$58.9
Altamont Pass	5.7	0.3	36.4	$42.4
STATEWIDE CONTRACT			44.3	$44.3
Total	**$259.6**	**$50.4**	**$252.5**	**$562.5**

Issues for prehearing:

- *Last year, the Governor did not include funding for Phase II segments in his budget; however, when funding was added by the Legislature for this purpose, the Governor sustained the augmentation. What is the current view of the Administration on the benefit of completing environmental work and 15-percent design on the Phase II segments?*

- *In the past, funds have been appropriated based on the funding need in the budget year, but this year, the Administration is requesting multi-year funding to complete the contract work over several years. Why does this Administration wish to change the prior practice and instead provide a multi-year funding appropriation?*

Attachment I

Summary of the Governor's Budget for Rail and Mass Transit

The table below, and those on the following pages, summarize the Governor's overall proposed budget for rail and mass transportation. When all budget areas are included, total funding of $9.4 billion is proposed, with $6.1 billion for the High Speed Rail Authority (HSRA), $2.1 billion for the California Department of Transportation (Caltrans), and $1.3 billion for State Transit Assistance. Note, the funding for high-speed rail connectivity is budgeted in the Caltrans budget instead of HSRA. The requested funding for state operations for HSRA and Caltrans is generally baseline funding, with adjustments for continuing contracts and workload adjustments. The funding requested for capital outlay is significantly above what has been requested in prior years due to the Administration's plan to move forward with high-speed rail in the Central Valley and to support allocation of connectivity funds.

California High-Speed Rail Authority Proposed Budget

Issue		Amount (in millions)	Source*	Comment
State operations				
1	Baseline budget for staff and operations	$9.3 ($8.6 Prop 1A bonds, $0.660 federal funds)	January Governor's Budget	Supports salary and benefits for 54 positions, and other baseline administrative and operations expenses.
2	Staffing Increase	$1.9 (Prop 1A bonds)	BCP #2	Augments funding and adds 19 new positions to support the following areas: governmental affairs, legal, environmental, human resources, business services, grant administration, information technology, communications, and accounting.
3	Internal Contracts with other State Departments	$0.670 (Prop 1A bonds)	BCP #6	Augments baseline of $1.5 million for Department of Justice and Department of General Services interdepartmental contracts.
4	External Contract for Communication	$0.500 (Prop 1A bonds)	BCP #7	Funds a reduced level of external communications as 6 positions are now proposed for in-house work. Funds meetings support, web and paper publications, and strategy development.

5	External Contract for Program Management Oversight	$3.0 (Prop 1A bonds)	BCP #8	Funds the ongoing TY Lin contract for program management oversight.
6	External Contract for Financial Consulting Services	$2.5 (Prop 1A bonds)	BCP #9 and Apr FL #1	Funds the ongoing KPMG contract for financial consulting related to design-build contracts, and private and federal funding.
TOTAL State Operations		**$17.9**	**($17 million Prop 1A and $660,000 federal funds)**	
Capital Outlay				
7	Right-of-way purchase and Construction for Central Valley segment	$5,849.8 ($3.2B federal funds, $2.6B Prop 1A funds)	Apr CO FL #1	Funds multi-year cost to complete right-of-way purchase and construction for the 130 mile Central Valley segment from Madera to just north of Bakersfield.
8	Environmental review and preliminary design for all segments	$252.5 ($204 Prop 1A funds, $48.3 federal funds)	Apr CO FL #2	Funds multi-year cost to complete environmental review and preliminary design for all segments, including "phase 2" segments of Sacramento/Merced, Los Angeles/San Diego, and Altamont Corridor.
TOTAL Capital Outlay		**$6,102.3**	**($2.8 billion Prop 1A & $3.3 billion federal funds)**	
GRAND TOTAL HSRA		**$6,120.2**	**($2.8 billion Prop 1A & $3.3 billion federal funds)**	

* Key: BCP = Budget Change Proposal; FL = Finance Letter

Department of Transportation Proposed Budget for Rail & Mass Transit

Issue		Amount (in millions)	Source	Comment
State Operations				
1	Internal Contracts with High-Speed Rail for support of right-of-way acquisition workload	$3.1 (reimbursed from Prop 1A funds)	BCP #15	Funding would allow Caltrans to provide legal and other advice and services to HSRA as they acquire right-of-way for the Central Valley segment (budgeted in Caltrans Legal Program).
2	Adjusted Baseline budget for Intercity Passenger Rail Program	$136.0 (mostly Public Transportation Account (PTA))	January Governor's Budget, BCP #16 BCP #3 Apr FL #2	Supports operating subsidy for 3 routes operated in cooperation with Amtrak (Capitol Corridor, San Joaquin, and Pacific Surfliner). Includes workload adjustment to decrease $1.1 million and 13 positions for zero-based workload (part of BCP 16). Also includes the withdrawn BCP #3 (via April FL #2) – the request to augment funding by $13.9 million for Amtrak contract was withdrawn due to Amtrak delaying the increase until 2013-14.
3	Adjusted baseline budget for State and Federal Mass Transit Program	$9.7 (various, mostly state	January Governor's Budget & BCP #16	Supports state and federal mass transportation programs, including development/support of mass transportation capital projects in the State Transportation Improvement Program (STIP). Includes workload adjustment to decrease $3.9 million and 45 positions for zero-based workload (part of BCP 16).
TOTAL State Ops		**$148.8**	**(various funds, mostly Public Transportation Account)**	
Capital Outlay/Local Assistance for Intercity, Regional, and Urban Rail				
4	Prop 1A High-Speed Rail Connectivity projects	$812.0 (Prop 1A bond funds)	Apr FL #8	Appropriates remainder of $950 million Prop 1A set-aside for rail connectivity to high-speed rail, including $106 million for Caltrans Intercity Rail and $706 million for local agency rail. Budget language makes expenditure contingent on HSRA funding for Central Valley. Excludes $7.3 million Prop 1A in the baseline budget for positive train control.

5	Prop 1B and federal funds for Caltrans Intercity Rail	$628.4 (various funds, including Prop 1B transit funds)	January Governor's Budget	Funds projects on the three intercity routes operated in coordination with Amtrak.
6	Prop 1B, other state funds, and federal funds for local agency rail and other mass transit.	$465.4	January Governor's Budget & Apr FL #1	Supports state and federal mass transportation programs, including mass transportation capital projects in the State Transportation Improvement Program (STIP) and Prop 1B bond programs. Some are rail capital projects. Includes railroad grade separation projects funded from Prop 1B in the Highway Program.
TOTAL Capital Outlay / Local Assistance		**$1,906**	**(various funds, incl Prop 1A and Prop 1B)**	
GRAND TOTAL Caltrans		**$2,055**	**(various funds, incl Prop 1A and Prop 1B)**	

State Transit Assistance (STA)

Funding budgeted for local transit agencies in item 2640 (separate from Caltrans)

Issue		**Amount (in millions)**	**Source**	**Comment**
Local Assistance				
1	Transit funds available for either operations or capital.	$420.4 (Public Transportation Account (PTA))	January Governor's Budget	Funding is the statutory allocation of revenue from the sales tax on diesel fuel and is associated with the fuel tax swap of 2010. Some of the funding supports local rail.
2	Prop 1B transit funds	$829.8 (Prop 1B)	January Governor's Budget.	Funding is from prior budget act appropriations and available for 2012-13. From the Public Transportation Modernization, Improvement & Service Enhancement Account Prop 1B program. Some of the funding supports rail capital.
GRAND TOTAL Caltrans		**$1,250**	**(Public Transportation Account and Prop 1B)**	

Attachment II

High-Speed Rail Map from the Final Business Plan

SUBCOMMITTEE NO. 2 Agenda

S. Joseph Simitian, Chair
Jean Fuller
Alan Lowenthal

Agenda

Day: Thursday, April 19, 2012
Time: Upon adjournment of session
Room: 127

Consultant: Brian Annis

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 916-324-9335. Requests should be made one week in advance whenever possible.

2660 Department of Transportation

Department Overview: The Department of Transportation (Caltrans) constructs, operates, and maintains a comprehensive state system of 15,200 miles of highways and freeways and provides intercity passenger rail services under contract with Amtrak. The Department also has responsibilities for airport safety, land use, and noise standards. Caltrans' budget is divided into six primary programs: Aeronautics, Highway Transportation, Mass Transportation, Transportation Planning, Administration, and the Equipment Service Center.

January Budget Overview: The January Governor's Budget proposed total expenditures of $11.2 billion ($83 million General Fund) and 20,438.5 positions. According to the Administration, the position totals include the elimination of 1,057 positions for savings of $90.0 million – these savings are associated with last year's "workforce cap" reduction, and position reduction efforts in prior years.

Proposed Budget as Revised by April Finance Letters: In April 1 Finance Letters (FL), the Governor proposes to significantly increase 2012-13 budget funding in the areas of Proposition 1A and Proposition 1B. Proposition 1A is the High-Speed Passenger Train Bond Fund and the proposal would augment Caltran's budget by $812 million to fund capital projects that would improve connectivity to high-speed rail for intercity, regional, and urban rail operators. That proposal was heard with the High-Speed Rail Authority at the April 18 hearing. Proposition 1B includes various bond special funds and funds highway capital projects, as well as some rail and mass transit capital projects – the April proposal would augment Caltrans Prop 1B funding by $1.3 billion. Including the April requests, the revised amount requested for Caltrans expenditures in 2012-13 is $13.2 billion.

Issues proposed for Vote Only:
(see also the summary table on page 5)

1. **Continuation of Temporary Position (Budget Change Proposals [BCPs] 2, 5, and 9).** The Governor's Budget proposes to continue existing limited-term positions set to expire in 2011-12 for an additional two or three years. In total, for the three budget requests – or BCPs – 84 positions would continue as specified:

   - BCP 2 would extend for two years, 57 positions associated with oversight of Proposition 1B projects at a 2012-13 cost of $7.7 million in Prop 1B bond funds.
   - BCP 5 would extend for three years, 24 positions associated with federally-mandated oversight of federally-funded projects. The 2012-13 costs would be $2.1 million funded with federal funds.
   - BCP 9 would extend for two years, 3 positions and contracting funds to implement Phase III of the Americans with Disabilities Act (ADA) assessment program. The 2012-13 cost would be $5.4 million funded from the State Highway Account. The proposal also includes budget bill language that would allow the Director of Finance to augment funding by an additional $2.0 million (State Highway Account) if ADA grievance and access requests are higher than anticipated.

   The Administration indicates workload still exists for these programs in 2012-13; however, workload may change in the future and that is why the positions would continue to be limited term.

   Staff Recommendation: Approve this request, but modify the proposed budget language to require standard 30-day reporting to the Joint Legislative Budget Committee (JBLC) if the Administration chooses to utilize the authority to augment Americans with Disabilities Act funding by $2 million.

2. **Amtrak Contract Costs (BCP 6 was withdrawn by April FL 2).** In the January budget, the Governor requested an augmentation of $13.9 million to fund higher-charges for the Caltrans contract with Amtrak. An April Finance Letter indicates the Amtrak cost increase has been delayed to 2013-14 and the Administration withdraws the request for the augmentation. Approving BCP 6 and FL 2 has the effect of revising the budget to delete the $13.9 million funding augmentation.

   Staff Recommendation: Approve this request.

3. **Federal Funds for Pavement and Bridge Inspection (BCP 8).** The Governor requests the shift of $12.4 million of cost from State Highway Account (SHA) funds to federal funds. This shift improves the cash position of the State Highway Account.

   Staff Recommendation: Approve this request.

4. **Construction Oversight of Federal Projects Delivered by Local Agencies (BCP 13).** The Governor requests a $1.3 million federal fund increase and nine limited-term positions to oversee federally-funded project workload delivered by local agencies. These positions will provide construction oversight and address Federal Highway Administration direction to perform additional high-risk reviews on 30-percent of these projects.

   Staff Recommendation: Approve this request.

5. **Legal Assistance to High-Speed Rail Related to Right-of-Way (BCP 15):** The Governor requests reimbursement authority of $3.1 million to allow Caltrans to provide legal and other advice and services to HSRA as they acquire right-of-way for the Central Valley segment. This is a two-year request that would fund 8 positions of workload at Caltrans.

   Staff Recommendation: Conform to action in the High Speed Rail budget (when action is taken on the High-Speed Rail Authority's budget, this Caltrans issue would be adjusted in conformance).

6. **Position Reduction in the Mass Transportation Program (BCP 16).** The Governor requests a reduction of 58 positions for special-fund savings of $5.0 million in the Mass Transportation Program. The savings breaks down further to a reduction of 13 positions and $1.0 million for intercity rail and 45 position and $3.5 million for regional and urban mass transit. The Administration indicates these programs have been zero-based, and the adjusted staff reflects the staffing need based on workload and funding levels.

   Staff Recommendation: Approve this request.

7. **Project Resource and Scheduling Management System (PRSM) IT Project – Extension of Funding (April FL #5):** Caltrans requests an extension of the liquidation period for the PRSM system. Any unliquidated amount from the original $8.3 million appropriation would be available for cash expenditure through 2013-14. PRSM will enable the Department to effectively manage State employee project time in the $1.9 billion Capital Outlay Support Program that funds environmental studies, design services, construction engineering and right-of-way acquisition services for the state highway system. This project will use a commercial-off-the-shelf software system to provide project managers, and first line supervisors, information including the amount of dollars programmed for each project, amounts expended to date, dollar estimate to complete work, and amount remaining in the project budget.

   Staff Recommendation: Approve this request.

8. **Budget Savings from Contract Advertising on the Internet (April FL 3 plus trailer-bill language).** The Governor requests a funding reduction of $700,000 for the Capital Outlay Program that would correspond to savings from discontinuing contract advertising in newspapers and trade publications. Instead, the State would advertise contracts on the Caltrans website. Current law required advertising in either newspapers or trade publications. The requested trailer bill language would amend the Public Contract Code to allow advertising in any of three methods: newspapers, trade publications, or departmental websites.

   Staff Comment: The budget request is associated with Caltrans but the trailer bill language would apply to all State departments. The Subcommittee may wish to narrow the language to grant the authority only to Caltrans. If the Administration believes there would be budgetary benefit beyond Caltrans, a May Finance Letter could be submitted to reduce the budgets of other affected departments.

   Staff Recommendation: Approve this request, but amend the proposed trailer bill language so the new internet advertising authority would only apply to Caltrans.

9. **Baseline Funding for Tort Lawsuit Claims and Awards (Budget Correction):** In lieu of submitting a Finance Letter, the Department of Finance has informally requested that the Legislature take action to restore the baseline funding level for tort lawsuit claims and awards. The Administration indicates, that in error, the January budget reduced tort funding from $68.6 million to $38.6 million, and the request would be to restore funding at the current-year level of $68.6 million and make corresponding changes to budget bill language and capital appropriations. Prior proposals to reduce tort costs have involved trailer bill language to cap tort awards - most recently Governor Schwarzenegger requested trailer bill language to cap tort claims in 2010, but that trailer bill language was rejected. The current Administration is not requesting any tort cap or other changes in the tort areas, and requests that the baseline funding level be restored.

   Staff Recommendation: Restore baseline tort budget of $68.6 million and make conforming changes – pursuant to a request from the Department of Finance.

Summary of Vote Only Issues:

Issue #	Issue Description	Staff Recommendation	Vote
1	Continuation of Temporary Positions	Approve, but add the standard Joint Legislative Budget Committee reporting requirement to the requested budget bill language.	
2	Amtrak Contract Adjustment	Approve	
3	Federal Funds for Pavement and Bridge Inspection	Approve	
4	Construction Oversight for Federal Projects	Approve	
5	Reimbursements for High-Speed Rail Authority Legal Work	Conform to action for HSRA.	
6	Position Reduction for Mass Transit Program	Approve	
7	Contract Advertising Savings and Trailer Bill	Approve, but modify trailer bill to only apply to Caltrans.	
8	Project Resource and Schedule Management IT System Funding Extension	Approve	
9	Restore Tort Lawsuit Funding to Baseline	Restore tort funding to baseline level and conforming changes.	

Issues proposed for Discussion and Vote:

10. Proposition 1B Budget Request (Governor's Budget and April FL 1): The Governor requests $3.1 billion in Prop 1B bond funds for programs administered by Caltrans. This sum breaks down into $1.8 billion in carry-over funds appropriated in prior years, and $1.3 billion in new appropriations requested for 2012-13. To get a more global perspective on Prop 1B programs, the table below shows all programs across several departments including the Air Resources Board and the California Emergency Management Agency. Overall, $12.7 billion, or about two-thirds, of Prop 1B funds have been allocated and are available for project expenditures, about $6.8 billion, or about a third, has actually been expended and is no longer in the State treasury. (Dollars in millions)

Proposition 1B Category	Total 1B Amount	Total Allocated Dec 2011	2012-13 Carryover	2012-13 New Request	Total Available for 2012-13
Budgeted in Caltrans					
Corridor Mobility Improvement Account (CMIA)	$4,500	$2,789	$690	$302	$992
State Transportation Improvement Program (STIP)	2,000	1,993	46	35	81
State Highway Operations and Preservation Program (SHOPP)	750	558	41	96	137
State Route 99 Improvements	1,000	284	281	70	351
Local Bridge Seismic Retrofit	125	38	1	15	16
Intercity Rail	400	100	121	0	121
Grade Separations	250	250	1	43	44
Trade Infrastructure	2,000	581	560	214	774
State/Local Partnership	1,000	339	83	486	569
Caltrans Subtotal	**12,025**	**6,932**	**1,824**	**1,261**	**3,085**
Budgeted outside of Caltrans					
Local Streets & Roads	2,000	1,950	0	0	0
Transit	3,600	2,450	830	0	830
School Bus Retrofit	200	196	0	0	0
Trade Infrastructure Air Quality	1,000	697	178	0	178
Port Security*	100	99	0	0	0
Transit Security*	1,000	407	103	0	103
Outside Caltrans Subtotal	**7,900**	**5,799**	**1,111**	**0**	**1,111**
TOTAL	**$19,925**	**$12,731**	**$2,935**	**$1,261**	**$4,196**

* These Prop 1B Appropriations are heard in Subcommittee #4.

Staff Comment. The Administration has indicated, generally, that the bond programs are not cash constrained. Bond sales usually occur twice a year, and are scaled to generate sufficient cash to keep appropriated bond programs moving forward without delay. The Administration should be prepared to discuss the Prop 1B bond programs and indicate if any projects are delayed due to bond sales or other factors.

Staff Recommendation: Approve the requested funding for Prop 1B programs for Caltrans and State Transit Assistance.

Vote:

11. **Weight Fee / Fuel Swap Proposal (Governor's Budget Trailer Bill):** The Governor's budget includes a General Fund solution of $350 million from continuing to use truck weight fee revenue to fund transportation-related general obligation bond (GO bond) debt service. Current law permanently directs truck weight fee revenue to the General Fund for eligible debt service in a given fiscal year. However, since annual truck weight fee revenue currently exceeds eligible debt service, excess truck weight fee revenue has been transferred to the General Fund in 2010-11 and 2011-12 as a pre-funding of out-year bond debt. Both types of transfers to the General Fund – either for current-year or for out-year GO bond debt - provide a General Fund budget benefit in the year the transfer is made. Current law does not provide the authority in 2012-13 and ongoing to pre-fund out-year debt, but that is proposed by the Governor to realize a $350 million General Fund solution.

Detail / Background: Proposition 22 of 2010 further restricted eligible uses of tax revenue derived from gasoline and diesel fuel sales, and in most cases, made that revenue ineligible for payment of GO debt on transportation related bonds. AB 105, Statute of 2011, reenacted the "Fuel Swap" legislation to conform to Prop 22 and discontinue the use of fuel revenue for GO debt – substituting instead truck weight fee revenue for GO debt. In general, the Fuel Swap legislation lowered the sales tax on gasoline and increased the excise tax on gasoline. This transportation refinancing was revenue neutral for consumers but made transportation funds more flexible to fund transportation-related GO debt and to restore certain mass transportation programs. Another benefit of the Fuel Swap was that "Prop 42" funding for highways and local roads was preserved. Additional detail on the Fuel Swap is available on the Committee's website in the Transportation section of the "Redbook" Overview Summary published in February 2012.

Staff Comments: The $350 million General Fund budget solution proposed by the Governor would continue the budget solution of directing weight fee revenue for current or future GO bond costs related to transportation. Continuation of this practice seems justified in the context of the ongoing budget challenges facing the State. The trailer bill would also clarify some of the existing fuel swap language due to Controller input that the existing language is not explicit on certain points. The clarification would provide that gasoline excise revenues should fully backfill the State Highway Account for any reduction of revenues due to truck weight fee transfers. Additionally, the language would clarify that the "Prop 42" revenue for highways and local roads would be backfilled fully and not reduced for any portion of Fuel Swap revenue that could be associated with off-road use.

Staff Recommendation: Approve the Administration's placeholder trailer bill language to achieve the $350 million General Fund solution and provide clarification to the Controller on the Fuel Swap language.

Vote:

12. Repayment of Outstanding Special Fund Loans (Governor's January Budget): The Governor's January Budget reflects deferrals of certain loan repayments for a 2012-13 budget benefit of $630 million; however, other loans are proposed for repayment. The Administration proposes to continue the repayment of the transportation loans listed in the table below. Given the budget situation, the Legislature and the Governor may need to consider further repayment deferrals. The table below represents the initial Committee staff analysis of which payment could be deferred if necessary. (Dollars in thousands)

Caltrans Fund	Total Repayment Cost	Planned Repayment Date	Maximum Deferral / GF Savings	Comment
<u>2011-12 Budgeted Repayments</u>				
State Highway Account, State Transportation Fund	$219,566	06/01/2012	$109,783	Repayment of 1/2 appears necessary for solvency of TCRF fund (inter-trans loan). Other half would repay PTA fund and could be deferred - baseline allocations continued.
Bicycle Transportation Account, State Transportation Fund	$6,587	06/01/2012	$6,587	Full amount could be deferred. Baseline allocations continued.
Motor Vehicle Fuel Account	$8,783	06/01/2012	$8,783	Full amount could be deferred. This is a large feeder fund.
Environmental Enhancement and Mitigation Program Fund	$4,830	06/01/2012	$4,830	Full amount could be deferred. Baseline allocations continued.
Historic Property Maintenance Fund	$3,293	06/01/2012	$2,206	Repay 1/3 for solvency of fund.
Pedestrian Safety Account, State Transportation Fund	$1,883	06/01/2012	$1,883	Full amount could be deferred. One-time dormant special fund.
<u>2012-13 Budgeted Repayments</u>				
State Highway Account, State Transportation Fund	$140,589	06/30/2013	$140,589	Full amount could be deferred. Baseline allocations continued.
TOTALS	**$385,531**		**$274,661**	

Staff Comment: As the table indicates, transportation loans are currently scheduled for repayment through June 30, 2013, that would have a General Fund cost of $385.5 million. The initial staff analysis suggests that about $111 million in repayments may be needed to maintain the solvency of certain transportation special funds, but as much as $275 million could be deferred with repayment in 2013-14 or thereafter. Additional detail on outstanding transportation loans is available on the Committee's website in the Transportation section of the "Redbook" Overview Summary published in February 2012.

The Subcommittee may wish to hear from the Administration and the Legislative Analyst on these loans and the ability to defer repayment. Current law requires repayment of the specified loans in 2011-12 be no later than June 30, 2012; however, the Administrations repayment plan would repay these loans about 30 days prior to the deadline, on June 1, 2012. The Subcommittee may wish to ask the Administration to delay any June 1 repayment until such time the budget is adopted.

Staff Recommendation: Depending on discussion at the hearing, either (1) act now to adopt the staff deferral plan indicated on the table as a placeholder action, which could be revised by future Subcommittee action, or (2) hold open to be revisited after the Governor's May revision is released with updated revenue estimates and revised budget solutions.

Vote:

13. **Reduction in Research Expenditures (April FL 4):** The Administration requests a reduction of $7 million (State Highway Account) in the Caltrans research budget – reducing funding from $39 million to $32 million. The reduction would be achieved by eliminating 4 positions ($342,000) and by reducing research operating expenses ($6.7 million). Caltrans indicates it far exceeds its required match for federal research funds, and that State funding could be reduced while still achieving the highest-priority research. Federal funding is about $15 million per year, and would not decrease if State funding is reduced from $24 million to $17 million – the federal match requirement is only 20 percent.

Detail: According to the Administration, the Department's Research Program manages a comprehensive portfolio of research to develop, test, and evaluate transportation innovations. These innovative products and services in methods, materials, and technologies enable the Department to provide continual improvement to the management of public facilities and services; protect public investment in transportation infrastructure; and enhance mobility and safety. The Department manages between 175 and 200 research projects annually covering research topics in safety, mobility, design, construction, environmental stewardship, geotechnical, structural, maintenance, preservation, pavement, transit, and other modes.

Staff Comment: It is reasonable to evaluate the research budget to see if the funding level is appropriate given other priorities such as pavement maintenance and highway rehabilitation. A portion of research funds are directed to State universities for programs such as the Institute of Transportation Studies at UC Berkeley. Caltrans indicates that about $2.8 million per year is directed to university transportation institutes. At the time this agenda was finalized, Caltrans did not know how much of the proposed reduction would be applied to California universities. In reviewing this budget request, the Subcommittee may want to hear from Caltrans on how the reduction would affect university research and other programs.

Staff Recommendation: Depending on the outcome of discussion related to Caltrans research funding for California universities, either approve or keep open to gather more information on the impact of the reduction.

Vote:

14. Project Initiation Documents (PIDs) – Staffing and Funding (BCP 7): The Administration is proposing to increase budgeted positions for PIDs workload from 264 positions to 331 positions and fund 53 of these new positions from local reimbursements. The overall funding for PIDs would increase $2.2 million (from $33.3 million to $35.4 million) from the State Highway Account (SHA) and would increase by $8.4 million (from $265,000 to $8.7 million) from local reimbursements. A "PID" is a preliminary planning document, or tool, that includes the estimated cost, scope, and schedule of the project—information needed to decide if, how, and when to fund the project.

Recent History of PIDs Issue in the Budget: Since the 2009-10 budget, staffing for PIDs has been "zero-based" to reflect that year's anticipated workload. Caltrans worked with local agencies and the California Transportation Commission to streamline PIDs by focusing the scope to avoid duplicative work and reduce cost. While the streamlined product exists, it is unclear if it is being applied to the right number and types of projects.

During the 2011-12 budget process, the Legislature rejected the Administration's proposal to shift the fund source from state highway funds to local reimbursements for Caltrans' PIDs workload related to locally-sponsored highway projects. The 2011-12 budget enacted by the Legislature maintained state highway funds for that purpose, but Governor Brown subsequently vetoed those funds from the final budget. While the Legislature's funding level tied to the Administration's identified workload, the veto left this workload unfunded in the budget. In September 2011, the Department of Finance submitted a Section 28.00 request, which enabled Caltrans to receive reimbursement for PIDs work. This year, the Administration continues to propose that local agencies reimburse Caltrans for PIDs work for locally sponsored capital projects on the state highway system.

Legislative Analyst Findings: According to the LAO, Caltrans typically requires PIDs to contain a substantial amount of information. Generally, PIDs include:

- Review and study of geological hazards, utilities, and environmental constraints.
- Development of travel forecasts, traffic models, surveys and maps.
- Development and analysis of potential project alternatives.
- Studies of the effects of potential project alternatives on traffic, noise, scenic resources, habitat and wildlife, community impacts, water quality, hazardous waste, cultural resources, air quality, and floodplains.
- Preparation of preliminary geotechnical, structural, storm water, and construction cost estimates and reports.
- Application for permits from numerous state and federal regulatory agencies.
- Partial design of project alternatives, and preparation of design and engineering reports.

It takes a significant amount of time to produce a PID, due in part to the numerous studies and reports that must be produced to generate all the required information. Based on information from Caltrans and local agencies, the LAO indicates that PIDs generally take from one to three years to complete. The cost to produce a PID ranges from the tens of thousands to low millions of dollars. For PIDs that are programmed for construction, a portion of the PIDs analysis is repeated in the environmental review phase of the project. The LAO believes that Caltrans is not utilizing the streamlined process for enough PIDs and is therefore generating unnecessary delay and cost for projects. Additionally, the LAO indicates the Caltrans level of workload exceeds that which would be needed for the anticipated level of construction funding.

LAO Recommendations: The Legislative Analyst recommends the Legislature reject the Governor's funding augmentation and enact trailer bill language requiring steamlining of PIDs. Specifically, the LAO recommends that the Legislature reject the Governor's requested increase and maintain PID funding at the current level of $33 million (SHA) and 264 positions. Finally, the LAO recommends the Department submit a report by May 1, 2013 detailing the changes implemented and the time and cost savings achieved.

Action in Assembly Budget Subcommittee #3 on March 21: At the March 21 hearing of Assembly Subcommittee 3 chaired by Assemblymember Richard Gordon, that subcommittee voted to replace reimbursement funding with funding from the State Highway Account, but to leave the remainder of the issue open pending the results of a workgroup that Assemblymember Gordon asked Caltrans to lead. The workgroup was to include local representatives and other interested parties and provide recommendations on the PIDs steamlining issue, including those raised by the LAO. Caltrans was directed to complete the workgroup effort by May 1, 2012, so input could be provided at subsequent budget hearings.

Staff Comment: There are several relevant issues for determining the appropriate budget level and funding source for PIDs:

- What is the appropriate scope of PIDs for different types of projects?
- What is the appropriate funding source for PIDs work on locally-sponsored projects on the state highway system?
- What is the best way to set PIDs workload based on uncertainty over federal and state funding levels?
- Should the funding mechanism be designed to incentivize PIDs *preparation* by State engineers instead of local-government engineers or their contractors? (All PIDs are ultimately *reviewed* by State engineers).

Staff Recommendation: Hold open to hear the results of the PIDs workgroup formed at the request of Assemblymember Gordon – the results should be available by May 1, 2012.

Vote:

15. **Local Reimbursements for Public Private Partnerships (P3) (BCP 11):** The Administration requests an increase in reimbursement authority of $2.6 million each year for two years to receive funding from local governments to review locally-sponsored P3 proposals for the state highway system. P3 projects generally have construction financed by a private partner, with debt repaid with new toll revenues. Caltrans indicates the funds would allow the department to hire fiscal and legal consultants to review P3 proposals submitted by local agencies. The Department also requests a reduction to baseline funding of $899,000 for a new funding level of $700,000 (State Highway Account) – this funding is used to support ongoing legal work on the P3 project in San Francisco known as Doyle Drive.

Background / Detail: Senate Bill X2 4 (Statutes of 2009, Cogdill), authorized Caltrans and regional transportation agencies to enter into an unlimited number of P3 agreements until January 1, 2017. Under the provisions of SB X2 4, only one project has gone through the specified approval process – that project was Doyle Drive in San Francisco, and it was different from the traditional P3 by not generating any new revenue, but rather using existing State funds to repay the private partner over an extended period of years. The Caltrans reimbursement request assumes three new projects will be submitted by local agencies in 2012-13 for financial review and one will require a legal review. Last year, the Administration requested and the Legislature approved one-time reimbursement funding of $1.6 million, which assumed three P3s would be ready for fiscal reviews – none have been submitted for review to date. The estimated cost of fiscal reviews is the same as last year's estimate – $1.6 million – but the request totals $2.6 million this year because $967,000 is added for an assumed legal review of one P3.

<u>A list from Caltrans of potential P3 projects is Attachment I at the back of this agenda</u>.

Staff Comment: The P3 program has generated significant interest and debate. The Subcommittee may wish to hear from the Administration on the following issues:

- For the eight potential P3 projects listed on Attachment I, how many would involve "availability payment" financing and how many would involve toll revenues?
- Streets and Highways Code Section 143 specifies that Caltrans is the responsible agency for projects on the state highway system and is responsible "*for the performance of project development services, including performance specifications, preliminary engineering, prebid services, the preparation of project reports and environmental documents, and construction inspection services*". How does the department view these requirements and view its role in for the eight potential P3 projects.

Staff Recommendation: Hold open for additional review.

Vote:

2600 California Transportation Commission

Department Overview: The California Transportation Commission (CTC) is responsible for the programming and allocating of funds for the construction of highway, passenger rail, and transit improvements throughout California. The CTC also advises and assists the Secretary of the Business, Transportation and Housing Agency and the Legislature in formulating and evaluating policies and plans for California's transportation programs.

Budget Overview: The January Governor's Budget proposes expenditures of $3.5 million and 18.0 positions for the administration of the CTC (no General Fund) – which is similar to the revised current-year level. Additionally, the budget includes $25.0 million in Clean Air and Transportation Improvement Bond Act funds (Proposition 116 of 1990) that are budgeted in the CTC and allocated to local governments. The CTC's budget includes a reduction of $89,000 and the elimination of an Office Technician position related to last year's "workforce cap" position reduction.

Issues proposed for Discussion / Vote:

1. **Design Build / Public Private Partnership Review:** The Administration requests budget bill language that would authorize the Department of Finance to augment the the CTC's budget – with reporting to the Joint Legislative Budget Committee - by up to $400,000 (State Highway Account) to contract out with a financial consultant to assist in the review of proposed projects under the design build contract method and the public private partnership (P3) program. This request is related to SB X2 4 (Statutes of 2009, Cogdill), which mandates that the CTC establish criteria and review projects for inclusion in these programs. The 2011 Budget Act included this language, but the Administration inadvertently omitted it from this year's budget proposal. No Finance Letter has been submitted but the CTC and Department have indicated they support restoration of this budget bill language for the 2012 Budget Act.

   Staff Comment: The CTC spent $160,000 in consulting services to review the most-recent P3 project proposal – Doyle Drive in San Francisco. Funding authority anticipates about two P3 projects for annual review with an average cost of $200,000 each. Given the fiscal risk of these projects to the State, investing in a complete analysis of the proposed projects should be a prudent investment.

   Staff Recommendation: The Subcommittee may wish to conform action on this item to action taken in the Caltrans budget for Public Private Partnership Funding (see the issue on the prior page of this agenda).

   Vote:

Attachment I

Caltrans List of Potential Public Private Partnership (P3) Projects

Potential P3 Projects	Proposed Project Descriptions
Bay Area Express Lane Network	Bay Area highway congestion is among the worst in the nation, and the carpool lane system is fragmented by gaps that can't be closed for many decades due to lack of funds. These gaps significantly reduce the travel time savings available to carpoolers and bus riders using the lanes. The proposed Bay Area Express Lane Network will expand mobility options by creating a seamless 800-mile network of unobstructed lanes to provide a faster commute for travelers who use them.
I-710 North	Currently, I-710 stops just north of I-10. Closing the gap to connect I-710 to I-210 has been identified as the most important project in the Southern California freeway system. This project is an important project to improve traffic and air quality in the Southern California area. In addition, this gap closure will also alleviate traffic on several local and interstate freeways. The construction cost for this project will depend on several factors, including the length of the project.
I-710 Freight Corridor	As the volume of freight coming into the ports of Los Angeles and Long Beach continues to grow, more capacity is needed on the I-710 freeway to facilitate the movement of goods by rail as well as by trucks, locally and to destinations all over the United States. The expansion of the I-710 Corridor will greatly enhance goods movement, alleviate traffic and improve air quality in the area. The potential project proposes to add two "dedicated" truck lanes in each direction as well as one mixed flow lane in each direction, between the ports of Los Angeles and Long Beach and State Route 60, near downtown Los Angeles. Additionally, several interchanges along this corridor will be improved. Separating the truck traffic from auto traffic will enhance safety and reduce congestion. Due to the improved flow of traffic, air quality will also improve.
High Desert Corridor	The High Desert Corridor (HDC) will accommodate an expected three to six fold increase in traffic between the Antelope and Victor Valleys. It will provide a new level of intra-valley accessibility and carry truck and other through traffic safely around existing communities. The HDC project will construct a new 50-mile east-west freeway/expressway and possible truck toll facility between Los Angeles and San Bernardino Counties. The facility will be a six to eight lane freeway/ expressway between State Route 14 in Los Angeles County and I-15 in San Bernardino County.

Otay Mesa / SR-11	The proposed project will construct State Route (SR) 11 (a four-lane freeway) and a new U.S. Customs and Border Protection Port of Entry in the community of East Otay Mesa, San Diego. SR-11 will extend about two miles from SR-905 south to the new Otay Mesa East Port. The new freeway and port will curb traffic congestion and reduce frequent border wait times of more than six hours for commercial trucks at the nearby Otay Mesa Port and up to three hours for cars at Otay Mesa and San Ysidro ports. It will provide a efficient connection south of the border to the Tijuana-Rosarito Corridor, with links to the Tijuana-Tecate and the Tijuana-Ensenada toll roads in Baja California, Mexico.
I-5 Managed Lanes	The proposed project is to construct one additional carpool lane in each direction from Genesee Avenue to Manchester Avenue on I-5. The Department is also proposing to add two carpool/managed lanes in each direction from Manchester Avenue to Vandergrift Boulevard/Harbor Drive in Oceanside and potentially one general purpose lane in each direction from Del Mar Heights Road to State Route 78. The volume of traffic will be managed using tolls, similar to the existing express lanes on I-15. Tolls will change as lanes reach capacity to encourage high occupancy and transit users.
Route 152 Trade Corridor Project	The proposed project will develop East-West trade and mobility corridor on State Route (SR) 152 between US 101 and SR 99. The objectives of the project would be to improve the movement of goods, traffic operation and travel time reliability between Santa Clara, San Benito, and Monterey counties and the Central Valley; and, achieve full expressway standards throughout the corridor. SR 152 is the only major east-west route between I-580 to the north and SR 46 to the south, a distance of 180 miles. SR 152 is the only continuous east-west route connecting SR 99 and US 101, and also provides a viable alternative to the heavily congested I-580 (I-205)/I-238/I-880 east-west corridor. It is a vital artery for the movement of agricultural foods and other products and serves California's agricultural heartland of the San Joaquin Valley and Monterey County.
San Diego Freeway (I-405) Improvement Project	The proposed project will widen the San Diego Freeway (I-405) between State Route 73 (SR-73) and Interstate 605 (I-605). The purpose of the proposed improvement is to improve travel conditions for work, recreation, school, and commerce by increasing freeway capacity, improving traffic and interchange operations, and enhancing road safety to meet state and federal standards. The San Diego Freeway (I-405) is one of the most congested freeways in Orange County, carrying more than 300,000 vehicle trips in some sections each day. Traffic volumes on the I-405 are expected to increase significantly and the population is expected to grow 11 percent by 2040.

Senate Budget and Fiscal Review— Mark Leno, Chair

SUBCOMMITTEE NO. 2 Agenda

S. Joseph Simitian, Chair
Jean Fuller
Alan Lowenthal

Hearing Outcomes

Day: Thursday, April 19, 2012
Time: Upon adjournment of session
Room: 127

Consultant: Brian Annis

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 916-324-9335. Requests should be made one week in advance whenever possible.

2660 Department of Transportation

Department Overview: The Department of Transportation (Caltrans) constructs, operates, and maintains a comprehensive state system of 15,200 miles of highways and freeways and provides intercity passenger rail services under contract with Amtrak. The Department also has responsibilities for airport safety, land use, and noise standards. Caltrans' budget is divided into six primary programs: Aeronautics, Highway Transportation, Mass Transportation, Transportation Planning, Administration, and the Equipment Service Center.

January Budget Overview: The January Governor's Budget proposed total expenditures of $11.2 billion ($83 million General Fund) and 20,438.5 positions. According to the Administration, the position totals include the elimination of 1,057 positions for savings of $90.0 million – these savings are associated with last year's "workforce cap" reduction, and position reduction efforts in prior years.

Proposed Budget as Revised by April Finance Letters: In April 1 Finance Letters (FL), the Governor proposes to significantly increase 2012-13 budget funding in the areas of Proposition 1A and Proposition 1B. Proposition 1A is the High-Speed Passenger Train Bond Fund and the proposal would augment Caltran's budget by $812 million to fund capital projects that would improve connectivity to high-speed rail for intercity, regional, and urban rail operators. That proposal was heard with the High-Speed Rail Authority at the April 18 hearing. Proposition 1B includes various bond special funds and funds highway capital projects, as well as some rail and mass transit capital projects – the April proposal would augment Caltrans Prop 1B funding by $1.3 billion. Including the April requests, the revised amount requested for Caltrans expenditures in 2012-13 is $13.2 billion.

Issues proposed for Vote Only:

(see actions taken on page 5)

1. **Continuation of Temporary Position (Budget Change Proposals [BCPs] 2, 5, and 9).** The Governor's Budget proposes to continue existing limited-term positions set to expire in 2011-12 for an additional two or three years. In total, for the three budget requests – or BCPs – 84 positions would continue as specified:

   - BCP 2 would extend for two years, 57 positions associated with oversight of Proposition 1B projects at a 2012-13 cost of $7.7 million in Prop 1B bond funds.
   - BCP 5 would extend for three years, 24 positions associated with federally-mandated oversight of federally-funded projects. The 2012-13 costs would be $2.1 million funded with federal funds.
   - BCP 9 would extend for two years, 3 positions and contracting funds to implement Phase III of the Americans with Disabilities Act (ADA) assessment program. The 2012-13 cost would be $5.4 million funded from the State Highway Account. The proposal also includes budget bill language that would allow the Director of Finance to augment funding by an additional $2.0 million (State Highway Account) if ADA grievance and access requests are higher than anticipated.

   The Administration indicates workload still exists for these programs in 2012-13; however, workload may change in the future and that is why the positions would continue to be limited term.

   Staff Recommendation: Approve this request, but modify the proposed budget language to require standard 30-day reporting to the Joint Legislative Budget Committee (JBLC) if the Administration chooses to utilize the authority to augment Americans with Disabilities Act funding by $2 million.

2. **Amtrak Contract Costs (BCP 6 was withdrawn by April FL 2).** In the January budget, the Governor requested an augmentation of $13.9 million to fund higher-charges for the Caltrans contract with Amtrak. An April Finance Letter indicates the Amtrak cost increase has been delayed to 2013-14 and the Administration withdraws the request for the augmentation. Approving BCP 6 and FL 2 has the effect of revising the budget to delete the $13.9 million funding augmentation.

   Staff Recommendation: Approve this request.

3. **Federal Funds for Pavement and Bridge Inspection (BCP 8).** The Governor requests the shift of $12.4 million of cost from State Highway Account (SHA) funds to federal funds. This shift improves the cash position of the State Highway Account.

   Staff Recommendation: Approve this request.

4. **Construction Oversight of Federal Projects Delivered by Local Agencies (BCP 13).** The Governor requests a $1.3 million federal fund increase and nine limited-term positions to oversee federally-funded project workload delivered by local agencies. These positions will provide construction oversight and address Federal Highway Administration direction to perform additional high-risk reviews on 30-percent of these projects.

   Staff Recommendation: Approve this request.

5. **Legal Assistance to High-Speed Rail Related to Right-of-Way (BCP 15):** The Governor requests reimbursement authority of $3.1 million to allow Caltrans to provide legal and other advice and services to HSRA as they acquire right-of-way for the Central Valley segment. This is a two-year request that would fund 8 positions of workload at Caltrans.

   Staff Recommendation: Conform to action in the High Speed Rail budget (when action is taken on the High-Speed Rail Authority's budget, this Caltrans issue would be adjusted in conformance).

6. **Position Reduction in the Mass Transportation Program (BCP 16).** The Governor requests a reduction of 58 positions for special-fund savings of $5.0 million in the Mass Transportation Program. The savings breaks down further to a reduction of 13 positions and $1.0 million for intercity rail and 45 position and $3.5 million for regional and urban mass transit. The Administration indicates these programs have been zero-based, and the adjusted staff reflects the staffing need based on workload and funding levels.

   Staff Recommendation: Approve this request.

7. **Project Resource and Scheduling Management System (PRSM) IT Project – Extension of Funding (April FL #5):** Caltrans requests an extension of the liquidation period for the PRSM system. Any unliquidated amount from the original $8.3 million appropriation would be available for cash expenditure through 2013-14. PRSM will enable the Department to effectively manage State employee project time in the $1.9 billion Capital Outlay Support Program that funds environmental studies, design services, construction engineering and right-of-way acquisition services for the state highway system. This project will use a commercial-off-the-shelf software system to provide project managers, and first line supervisors, information including the amount of dollars programmed for each project, amounts expended to date, dollar estimate to complete work, and amount remaining in the project budget.

   Staff Recommendation: Approve this request.

8. **Budget Savings from Contract Advertising on the Internet (April FL 3 plus trailer-bill language).** The Governor requests a funding reduction of $700,000 for the Capital Outlay Program that would correspond to savings from discontinuing contract advertising in newspapers and trade publications. Instead, the State would advertise contracts on the Caltrans website. Current law required advertising in either newspapers or trade publications. The requested trailer bill language would amend the Public Contract Code to allow advertising in any of three methods: newspapers, trade publications, or departmental websites.

   Staff Comment: The budget request is associated with Caltrans but the trailer bill language would apply to all State departments. The Subcommittee may wish to narrow the language to grant the authority only to Caltrans. If the Administration believes there would be budgetary benefit beyond Caltrans, a May Finance Letter could be submitted to reduce the budgets of other affected departments.

   Staff Recommendation: Approve this request, but amend the proposed trailer bill language so the new internet advertising authority would only apply to Caltrans.

9. **Baseline Funding for Tort Lawsuit Claims and Awards (Budget Correction):** In lieu of submitting a Finance Letter, the Department of Finance has informally requested that the Legislature take action to restore the baseline funding level for tort lawsuit claims and awards. The Administration indicates, that in error, the January budget reduced tort funding from $68.6 million to $38.6 million, and the request would be to restore funding at the current-year level of $68.6 million and make corresponding changes to budget bill language and capital appropriations. Prior proposals to reduce tort costs have involved trailer bill language to cap tort awards - most recently Governor Schwarzenegger requested trailer bill language to cap tort claims in 2010, but that trailer bill language was rejected. The current Administration is not requesting any tort cap or other changes in the tort areas, and requests that the baseline funding level be restored.

   Staff Recommendation: Restore baseline tort budget of $68.6 million and make conforming changes – pursuant to a request from the Department of Finance.

Summary of Vote Only Issues:

Issue #	**Issue Description**	**Action Taken**	***Vote****
1	Continuation of Temporary Positions	Approved, but added the standard Joint Legislative Budget Committee reporting requirement to the requested budget bill language.	***3-0***
2	Amtrak Contract Adjustment	Approved	***3-0***
3	Federal Funds for Pavement and Bridge Inspection	Approved	***3-0***
4	Construction Oversight for Federal Projects	Approved	***3-0***
5	Reimbursements for High-Speed Rail Authority Legal Work	Conform to action for HSRA.	***2-1***
6	Position Reduction for Mass Transit Program	Approved	***3-0***
7	Contract Advertising Savings and Trailer Bill	Approved, but modified trailer bill to only apply to Caltrans.	***3-0***
8	Project Resource and Schedule Management IT System Funding Extension	Approved	***3-0***
9	Restore Tort Lawsuit Funding to Baseline	Restored tort funding to baseline level and conforming changes.	***2-1***

Where the vote is indicated as 2 – 1, Senator Fuller was the "no" vote.

Issues proposed for Discussion and Vote:

10. Proposition 1B Budget Request (Governor's Budget and April FL 1): The Governor requests $3.1 billion in Prop 1B bond funds for programs administered by Caltrans. This sum breaks down into $1.8 billion in carry-over funds appropriated in prior years, and $1.3 billion in new appropriations requested for 2012-13. To get a more global perspective on Prop 1B programs, the table below shows all programs across several departments including the Air Resources Board and the California Emergency Management Agency. Overall, $12.7 billion, or about two-thirds, of Prop 1B funds have been allocated and are available for project expenditures, about $6.8 billion, or about a third, has actually been expended and is no longer in the State treasury. (Dollars in millions)

Proposition 1B Category	Total 1B Amount	Total Allocated Dec 2011	2012-13 Carryover	2012-13 New Request	Total Available for 2012-13
Budgeted in Caltrans					
Corridor Mobility Improvement Account (CMIA)	$4,500	$2,789	$690	$302	$992
State Transportation Improvement Program (STIP)	2,000	1,993	46	35	81
State Highway Operations and Preservation Program (SHOPP)	750	558	41	96	137
State Route 99 Improvements	1,000	284	281	70	351
Local Bridge Seismic Retrofit	125	38	1	15	16
Intercity Rail	400	100	121	0	121
Grade Separations	250	250	1	43	44
Trade Infrastructure	2,000	581	560	214	774
State/Local Partnership	1,000	339	83	486	569
Caltrans Subtotal	**12,025**	**6,932**	**1,824**	**1,261**	**3,085**
Budgeted outside of Caltrans					
Local Streets & Roads	2,000	1,950	0	0	0
Transit	3,600	2,450	830	0	830
School Bus Retrofit	200	196	0	0	0
Trade Infrastructure Air Quality	1,000	697	178	0	178
Port Security*	100	99	0	0	0
Transit Security*	1,000	407	103	0	103
Outside Caltrans Subtotal	**7,900**	**5,799**	**1,111**	**0**	**1,111**
TOTAL	**$19,925**	**$12,731**	**$2,935**	**$1,261**	**$4,196**

* These Prop 1B Appropriations are heard in Subcommittee #4.

Staff Comment. The Administration has indicated, generally, that the bond programs are not cash constrained. Bond sales usually occur twice a year, and are scaled to generate sufficient cash to keep appropriated bond programs moving forward without delay. The Administration should be prepared to discuss the Prop 1B bond programs and indicate if any projects are delayed due to bond sales or other factors.

Staff Recommendation: Approve the requested funding for Prop 1B programs for Caltrans and State Transit Assistance.

Action: Approved request on a 3 – 0 vote.

11. Weight Fee / Fuel Swap Proposal (Governor's Budget Trailer Bill): The Governor's budget includes a General Fund solution of $350 million from continuing to use truck weight fee revenue to fund transportation-related general obligation bond (GO bond) debt service. Current law permanently directs truck weight fee revenue to the General Fund for eligible debt service in a given fiscal year. However, since annual truck weight fee revenue currently exceeds eligible debt service, excess truck weight fee revenue has been transferred to the General Fund in 2010-11 and 2011-12 as a pre-funding of out-year bond debt. Both types of transfers to the General Fund – either for current-year or for out-year GO bond debt - provide a General Fund budget benefit in the year the transfer is made. Current law does not provide the authority in 2012-13 and ongoing to pre-fund out-year debt, but that is proposed by the Governor to realize a $350 million General Fund solution.

Detail / Background: Proposition 22 of 2010 further restricted eligible uses of tax revenue derived from gasoline and diesel fuel sales, and in most cases, made that revenue ineligible for payment of GO debt on transportation related bonds. AB 105, Statute of 2011, reenacted the "Fuel Swap" legislation to conform to Prop 22 and discontinue the use of fuel revenue for GO debt – substituting instead truck weight fee revenue for GO debt. In general, the Fuel Swap legislation lowered the sales tax on gasoline and increased the excise tax on gasoline. This transportation refinancing was revenue neutral for consumers but made transportation funds more flexible to fund transportation-related GO debt and to restore certain mass transportation programs. Another benefit of the Fuel Swap was that "Prop 42" funding for highways and local roads was preserved. Additional detail on the Fuel Swap is available on the Committee's website in the Transportation section of the "Redbook" Overview Summary published in February 2012.

Staff Comments: The $350 million General Fund budget solution proposed by the Governor would continue the budget solution of directing weight fee revenue for current or future GO bond costs related to transportation. Continuation of this practice seems justified in the context of the ongoing budget challenges facing the State. The trailer bill would also clarify some of the existing fuel swap language due to Controller input that the existing language is not explicit on certain points. The clarification would provide that gasoline excise revenues should fully backfill the State Highway Account for any reduction of revenues due to truck weight fee transfers. Additionally, the language would clarify that the "Prop 42" revenue for highways and local roads would be backfilled fully and not reduced for any portion of Fuel Swap revenue that could be associated with off-road use.

Staff Recommendation: Approve the Administration's placeholder trailer bill language to achieve the $350 million General Fund solution and provide clarification to the Controller on the Fuel Swap language.

Action: Issue held open for additional consideration of the proposed trailer bill language.

12. Repayment of Outstanding Special Fund Loans (Governor's January Budget): The Governor's January Budget reflects deferrals of certain loan repayments for a 2012-13 budget benefit of $630 million; however, other loans are proposed for repayment. The Administration proposes to continue the repayment of the transportation loans listed in the table below. Given the budget situation, the Legislature and the Governor may need to consider further repayment deferrals. The table below represents the initial Committee staff analysis of which payment could be deferred if necessary. (Dollars in thousands)

Caltrans Fund	Total Repayment Cost	Planned Repayment Date	Maximum Deferral / GF Savings	Comment
2011-12 Budgeted Repayments				
State Highway Account, State Transportation Fund	$219,566	06/01/2012	$109,783	Repayment of 1/2 appears necessary for solvency of TCRF fund (inter-trans loan). Other half would repay PTA fund and could be deferred - baseline allocations continued.
Bicycle Transportation Account, State Transportation Fund	$6,587	06/01/2012	$6,587	Full amount could be deferred. Baseline allocations continued.
Motor Vehicle Fuel Account	$8,783	06/01/2012	$8,783	Full amount could be deferred. This is a large feeder fund.
Environmental Enhancement and Mitigation Program Fund	$4,830	06/01/2012	$4,830	Full amount could be deferred. Baseline allocations continued.
Historic Property Maintenance Fund	$3,293	06/01/2012	$2,206	Repay 1/3 for solvency of fund.
Pedestrian Safety Account, State Transportation Fund	$1,883	06/01/2012	$1,883	Full amount could be deferred. One-time dormant special fund.
2012-13 Budgeted Repayments				
State Highway Account, State Transportation Fund	$140,589	06/30/2013	$140,589	Full amount could be deferred. Baseline allocations continued.
TOTALS	**$385,531**		**$274,661**	

Staff Comment: As the table indicates, transportation loans are currently scheduled for repayment through June 30, 2013, that would have a General Fund cost of $385.5 million. The initial staff analysis suggests that about $111 million in repayments may be needed to maintain the solvency of certain transportation special funds, but as much as $275 million could be deferred with repayment in 2013-14 or thereafter. Additional detail on outstanding transportation loans is available on the Committee's website in the Transportation section of the "Redbook" Overview Summary published in February 2012.

The Subcommittee may wish to hear from the Administration and the Legislative Analyst on these loans and the ability to defer repayment. Current law requires repayment of the specified loans in 2011-12 be no later than June 30, 2012; however, the Administrations repayment plan would repay these loans about 30 days prior to the deadline, on June 1, 2012. The Subcommittee may wish to ask the Administration to delay any June 1 repayment until such time the budget is adopted.

Staff Recommendation: Depending on discussion at the hearing, either (1) act now to adopt the staff deferral plan indicated on the table as a placeholder action, which could be revised by future Subcommittee action, or (2) hold open to be revisited after the Governor's May revision is released with updated revenue estimates and revised budget solutions.

Action: Issue held open at the request of the Department of Finance so that information available with the Governor's May Revision can be considered.

13. **Reduction in Research Expenditures (April FL 4):** The Administration requests a reduction of $7 million (State Highway Account) in the Caltrans research budget – reducing funding from $39 million to $32 million. The reduction would be achieved by eliminating 4 positions ($342,000) and by reducing research operating expenses ($6.7 million). Caltrans indicates it far exceeds its required match for federal research funds, and that State funding could be reduced while still achieving the highest-priority research. Federal funding is about $15 million per year, and would not decrease if State funding is reduced from $24 million to $17 million – the federal match requirement is only 20 percent.

Detail: According to the Administration, the Department's Research Program manages a comprehensive portfolio of research to develop, test, and evaluate transportation innovations. These innovative products and services in methods, materials, and technologies enable the Department to provide continual improvement to the management of public facilities and services; protect public investment in transportation infrastructure; and enhance mobility and safety. The Department manages between 175 and 200 research projects annually covering research topics in safety, mobility, design, construction, environmental stewardship, geotechnical, structural, maintenance, preservation, pavement, transit, and other modes.

Staff Comment: It is reasonable to evaluate the research budget to see if the funding level is appropriate given other priorities such as pavement maintenance and highway rehabilitation. A portion of research funds are directed to State universities for programs such as the Institute of Transportation Studies at UC Berkeley. Caltrans indicates that about $2.8 million per year is directed to university transportation institutes. At the time this agenda was finalized, Caltrans did not know how much of the proposed reduction would be applied to California universities. In reviewing this budget request, the Subcommittee may want to hear from Caltrans on how the reduction would affect university research and other programs.

Staff Recommendation: Depending on the outcome of discussion related to Caltrans research funding for California universities, either approve or keep open to gather more information on the impact of the reduction.

Action: Held open with the request that Caltrans provide additional information on what research activity would be discontinued should the budget request be approved.

14. **Project Initiation Documents (PIDs) – Staffing and Funding (BCP 7):** The Administration is proposing to increase budgeted positions for PIDs workload from 264 positions to 331 positions and fund 53 of these new positions from local reimbursements. The overall funding for PIDs would increase $2.2 million (from $33.3 million to $35.4 million) from the State Highway Account (SHA) and would increase by $8.4 million (from $265,000 to $8.7 million) from local reimbursements. A "PID" is a preliminary planning document, or tool, that includes the estimated cost, scope, and schedule of the project—information needed to decide if, how, and when to fund the project.

Recent History of PIDs Issue in the Budget: Since the 2009-10 budget, staffing for PIDs has been "zero-based" to reflect that year's anticipated workload. Caltrans worked with local agencies and the California Transportation Commission to streamline PIDs by focusing the scope to avoid duplicative work and reduce cost. While the streamlined product exists, it is unclear if it is being applied to the right number and types of projects.

During the 2011-12 budget process, the Legislature rejected the Administration's proposal to shift the fund source from state highway funds to local reimbursements for Caltrans' PIDs workload related to locally-sponsored highway projects. The 2011-12 budget enacted by the Legislature maintained state highway funds for that purpose, but Governor Brown subsequently vetoed those funds from the final budget. While the Legislature's funding level tied to the Administration's identified workload, the veto left this workload unfunded in the budget. In September 2011, the Department of Finance submitted a Section 28.00 request, which enabled Caltrans to receive reimbursement for PIDs work. This year, the Administration continues to propose that local agencies reimburse Caltrans for PIDs work for locally sponsored capital projects on the state highway system.

Legislative Analyst Findings: According to the LAO, Caltrans typically requires PIDs to contain a substantial amount of information. Generally, PIDs include:

- Review and study of geological hazards, utilities, and environmental constraints.
- Development of travel forecasts, traffic models, surveys and maps.
- Development and analysis of potential project alternatives.
- Studies of the effects of potential project alternatives on traffic, noise, scenic resources, habitat and wildlife, community impacts, water quality, hazardous waste, cultural resources, air quality, and floodplains.
- Preparation of preliminary geotechnical, structural, storm water, and construction cost estimates and reports.
- Application for permits from numerous state and federal regulatory agencies.
- Partial design of project alternatives, and preparation of design and engineering reports.

It takes a significant amount of time to produce a PID, due in part to the numerous studies and reports that must be produced to generate all the required information. Based on information from Caltrans and local agencies, the LAO indicates that PIDs generally take from one to three years to complete. The cost to produce a PID ranges from the tens of thousands to low millions of dollars. For PIDs that are programmed for construction, a portion of the PIDs analysis is repeated in the environmental review phase of the project. The LAO believes that Caltrans is not utilizing the streamlined process for enough PIDs and is therefore generating unnecessary delay and cost for projects. Additionally, the LAO indicates the Caltrans level of workload exceeds that which would be needed for the anticipated level of construction funding.

LAO Recommendations: The Legislative Analyst recommends the Legislature reject the Governor's funding augmentation and enact trailer bill language requiring steamlining of PIDs. Specifically, the LAO recommends that the Legislature reject the Governor's requested increase and maintain PID funding at the current level of $33 million (SHA) and 264 positions. Finally, the LAO recommends the Department submit a report by May 1, 2013 detailing the changes implemented and the time and cost savings achieved.

Action in Assembly Budget Subcommittee #3 on March 21: At the March 21 hearing of Assembly Subcommittee 3 chaired by Assemblymember Richard Gordon, that subcommittee voted to replace reimbursement funding with funding from the State Highway Account, but to leave the remainder of the issue open pending the results of a workgroup that Assemblymember Gordon asked Caltrans to lead. The workgroup was to include local representatives and other interested parties and provide recommendations on the PIDs steamlining issue, including those raised by the LAO. Caltrans was directed to complete the workgroup effort by May 1, 2012, so input could be provided at subsequent budget hearings.

Staff Comment: There are several relevant issues for determining the appropriate budget level and funding source for PIDs:

- What is the appropriate scope of PIDs for different types of projects?
- What is the appropriate funding source for PIDs work on locally-sponsored projects on the state highway system?
- What is the best way to set PIDs workload based on uncertainty over federal and state funding levels?
- Should the funding mechanism be designed to incentivize PIDs *preparation* by State engineers instead of local-government engineers or their contractors? (All PIDs are ultimately *reviewed* by State engineers).

Staff Recommendation: Hold open to hear the results of the PIDs workgroup formed at the request of Assemblymember Gordon – the results should be available by May 1, 2012.

Action: Held open so the results of the workgroup can be considered.

15. Local Reimbursements for Public Private Partnerships (P3) (BCP 11): The Administration requests an increase in reimbursement authority of $2.6 million each year for two years to receive funding from local governments to review locally-sponsored P3 proposals for the state highway system. P3 projects generally have construction financed by a private partner, with debt repaid with new toll revenues. Caltrans indicates the funds would allow the department to hire fiscal and legal consultants to review P3 proposals submitted by local agencies. The Department also requests a reduction to baseline funding of $899,000 for a new funding level of $700,000 (State Highway Account) – this funding is used to support ongoing legal work on the P3 project in San Francisco known as Doyle Drive.

Background / Detail: Senate Bill X2 4 (Statutes of 2009, Cogdill), authorized Caltrans and regional transportation agencies to enter into an unlimited number of P3 agreements until January 1, 2017. Under the provisions of SB X2 4, only one project has gone through the specified approval process – that project was Doyle Drive in San Francisco, and it was different from the traditional P3 by not generating any new revenue, but rather using existing State funds to repay the private partner over an extended period of years. The Caltrans reimbursement request assumes three new projects will be submitted by local agencies in 2012-13 for financial review and one will require a legal review. Last year, the Administration requested and the Legislature approved one-time reimbursement funding of $1.6 million, which assumed three P3s would be ready for fiscal reviews – none have been submitted for review to date. The estimated cost of fiscal reviews is the same as last year's estimate – $1.6 million – but the request totals $2.6 million this year because $967,000 is added for an assumed legal review of one P3.

<u>A list from Caltrans of potential P3 projects is Attachment I at the back of this agenda</u>.

Staff Comment: The P3 program has generated significant interest and debate. The Subcommittee may wish to hear from the Administration on the following issues:

- For the eight potential P3 projects listed on Attachment I, how many would involve "availability payment" financing and how many would involve toll revenues?
- Streets and Highways Code Section 143 specifies that Caltrans is the responsible agency for projects on the state highway system and is responsible "*for the performance of project development services, including performance specifications, preliminary engineering, prebid services, the preparation of project reports and environmental documents, and construction inspection services*". How does the department view these requirements and view its role in for the eight potential P3 projects.

Staff Recommendation: Hold open for additional review.

Action: Held open for additional review.

2600 California Transportation Commission

Department Overview: The California Transportation Commission (CTC) is responsible for the programming and allocating of funds for the construction of highway, passenger rail, and transit improvements throughout California. The CTC also advises and assists the Secretary of the Business, Transportation and Housing Agency and the Legislature in formulating and evaluating policies and plans for California's transportation programs.

Budget Overview: The January Governor's Budget proposes expenditures of $3.5 million and 18.0 positions for the administration of the CTC (no General Fund) – which is similar to the revised current-year level. Additionally, the budget includes $25.0 million in Clean Air and Transportation Improvement Bond Act funds (Proposition 116 of 1990) that are budgeted in the CTC and allocated to local governments. The CTC's budget includes a reduction of $89,000 and the elimination of an Office Technician position related to last year's "workforce cap" position reduction.

Issues proposed for Discussion / Vote:

1. **Design Build / Public Private Partnership Review:** The Administration requests budget bill language that would authorize the Department of Finance to augment the the CTC's budget – with reporting to the Joint Legislative Budget Committee - by up to $400,000 (State Highway Account) to contract out with a financial consultant to assist in the review of proposed projects under the design build contract method and the public private partnership (P3) program. This request is related to SB X2 4 (Statutes of 2009, Cogdill), which mandates that the CTC establish criteria and review projects for inclusion in these programs. The 2011 Budget Act included this language, but the Administration inadvertently omitted it from this year's budget proposal. No Finance Letter has been submitted but the CTC and Department have indicated they support restoration of this budget bill language for the 2012 Budget Act.

   Staff Comment: The CTC spent $160,000 in consulting services to review the most-recent P3 project proposal – Doyle Drive in San Francisco. Funding authority anticipates about two P3 projects for annual review with an average cost of $200,000 each. Given the fiscal risk of these projects to the State, investing in a complete analysis of the proposed projects should be a prudent investment.

   Staff Recommendation: The Subcommittee may wish to conform action on this item to action taken in the Caltrans budget for Public Private Partnership Funding (see the issue on the prior page of this agenda).

   Action: Held open because the need for the CTC funding is dependent on action on the Caltrans budget request for Public Private Partnership – and that issue was held open.

Attachment I

Caltrans List of Potential Public Private Partnership (P3) Projects

Potential P3 Projects	Proposed Project Descriptions
Bay Area Express Lane Network	Bay Area highway congestion is among the worst in the nation, and the carpool lane system is fragmented by gaps that can't be closed for many decades due to lack of funds. These gaps significantly reduce the travel time savings available to carpoolers and bus riders using the lanes. The proposed Bay Area Express Lane Network will expand mobility options by creating a seamless 800-mile network of unobstructed lanes to provide a faster commute for travelers who use them.
I-710 North	Currently, I-710 stops just north of I-10. Closing the gap to connect I-710 to I-210 has been identified as the most important project in the Southern California freeway system. This project is an important project to improve traffic and air quality in the Southern California area. In addition, this gap closure will also alleviate traffic on several local and interstate freeways. The construction cost for this project will depend on several factors, including the length of the project.
I-710 Freight Corridor	As the volume of freight coming into the ports of Los Angeles and Long Beach continues to grow, more capacity is needed on the I-710 freeway to facilitate the movement of goods by rail as well as by trucks, locally and to destinations all over the United States. The expansion of the I-710 Corridor will greatly enhance goods movement, alleviate traffic and improve air quality in the area. The potential project proposes to add two "dedicated" truck lanes in each direction as well as one mixed flow lane in each direction, between the ports of Los Angeles and Long Beach and State Route 60, near downtown Los Angeles. Additionally, several interchanges along this corridor will be improved. Separating the truck traffic from auto traffic will enhance safety and reduce congestion. Due to the improved flow of traffic, air quality will also improve.
High Desert Corridor	The High Desert Corridor (HDC) will accommodate an expected three to six fold increase in traffic between the Antelope and Victor Valleys. It will provide a new level of intra-valley accessibility and carry truck and other through traffic safely around existing communities. The HDC project will construct a new 50-mile east-west freeway/expressway and possible truck toll facility between Los Angeles and San Bernardino Counties. The facility will be a six to eight lane freeway/ expressway between State Route 14 in Los Angeles County and I-15 in San Bernardino County.

Otay Mesa / SR-11	The proposed project will construct State Route (SR) 11 (a four-lane freeway) and a new U.S. Customs and Border Protection Port of Entry in the community of East Otay Mesa, San Diego. SR-11 will extend about two miles from SR-905 south to the new Otay Mesa East Port. The new freeway and port will curb traffic congestion and reduce frequent border wait times of more than six hours for commercial trucks at the nearby Otay Mesa Port and up to three hours for cars at Otay Mesa and San Ysidro ports. It will provide a efficient connection south of the border to the Tijuana-Rosarito Corridor, with links to the Tijuana-Tecate and the Tijuana-Ensenada toll roads in Baja California, Mexico.
I-5 Managed Lanes	The proposed project is to construct one additional carpool lane in each direction from Genesee Avenue to Manchester Avenue on I-5. The Department is also proposing to add two carpool/managed lanes in each direction from Manchester Avenue to Vandergrift Boulevard/Harbor Drive in Oceanside and potentially one general purpose lane in each direction from Del Mar Heights Road to State Route 78. The volume of traffic will be managed using tolls, similar to the existing express lanes on I-15. Tolls will change as lanes reach capacity to encourage high occupancy and transit users.
Route 152 Trade Corridor Project	The proposed project will develop East-West trade and mobility corridor on State Route (SR) 152 between US 101 and SR 99. The objectives of the project would be to improve the movement of goods, traffic operation and travel time reliability between Santa Clara, San Benito, and Monterey counties and the Central Valley; and, achieve full expressway standards throughout the corridor. SR 152 is the only major east-west route between I-580 to the north and SR 46 to the south, a distance of 180 miles. SR 152 is the only continuous east-west route connecting SR 99 and US 101, and also provides a viable alternative to the heavily congested I-580 (I-205)/I-238/I-880 east-west corridor. It is a vital artery for the movement of agricultural foods and other products and serves California's agricultural heartland of the San Joaquin Valley and Monterey County.
San Diego Freeway (I-405) Improvement Project	The proposed project will widen the San Diego Freeway (I-405) between State Route 73 (SR-73) and Interstate 605 (I-605). The purpose of the proposed improvement is to improve travel conditions for work, recreation, school, and commerce by increasing freeway capacity, improving traffic and interchange operations, and enhancing road safety to meet state and federal standards. The San Diego Freeway (I-405) is one of the most congested freeways in Orange County, carrying more than 300,000 vehicle trips in some sections each day. Traffic volumes on the I-405 are expected to increase significantly and the population is expected to grow 11 percent by 2040.

Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 2 Agenda

S. Joseph Simitian, Chair
Jean Fuller
Alan Lowenthal

Wednesday, April 25, 2012
2:30 pm or upon adjournment of Rules Committee
Hearing Room 2040

Consultant: Catherine Freeman

<u>Departments Proposed for Vote-Only</u>

<u>Departments and Issues Proposed for Discussion</u>

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 916-324-9335. Requests should be made one week in advance whenever possible.

ITEMS PROPOSED FOR VOTE-ONLY

3930 Department of Pesticide Regulation

1. **Pest Management Research Grant**. The department requests two permanent positions and $713,000 from the DPR Fund ($711,000 ongoing) to expand its existing pest management grant program to also fund research projects that develop effective alternatives to fumigants and other pesticides. This coincides with the withdrawal by the manufacturer of the fumigant Methyl Iodide, a product intended to replace the phased out Methyl Bromide.

3960 Department of Toxic Substances Control

2. **Electronic Waste Recycling Fraud Case Development and Prosecution.** The department requests that $558,000 in expenditure authority and five positions from the Electronic Waste Recovery and Recycling Account be transferred from the Department of Toxic Substances Control to the Department of Resources Recycling and Recovery for Electronic Waste Recycling Fraud Case Development and Prosecution. Because this is a transfer of authority and positions, it adds no additional costs or positions.

3980 Office of Environmental Health Hazard Assessment

3. **Cumulative Impact Analysis to Support Community Revitalization.** The budget proposes one position and $131,000 from the Air Resources Board to develop methods to assess the cumulative impacts of multiple environmental contaminants in communities across the state. This coordinates existing activities that are required under multiple statutes.

Recommendation: APPROVE Items 1-3

Vote:

ITEMS PROPOSED FOR DISCUSSION

0555 Secretary for Cal-EPA

The Secretary for Cal-EPA is the cabinet level agency for the protection of human health and the environment. The Secretary coordinates the state's environmental regulatory programs and oversees programs to restore, protect, and enhance environmental quality. The Secretary directly oversees the Certified Unified Program Agencies, the California–Mexico border environmental efforts, and the Education and the Environment Initiative.

Items Proposed for Vote-Only

1. **Unified Program Electronic Reporting Implementation.** Request for an additional $5.7 million in Unified Program Account authority from funds in place and already collected to continue statutory program requirements. This will allow Unified Program participants (local governments and businesses) to report electronically under the Unified Hazardous Materials and Hazardous Waste Regulatory Management Program by 2013.

Recommendation: APPROVE Item 1

ITEM PROPOSED FOR DISCUSSION

Overview of the Secretary's Office

Background. The California Environmental Protection Agency Secretary's office budget is mainly derived from special funds, fees, and reimbursements from agency programs. The budget proposes expenditures of $20.7 million, an increase of about $230,000 from the previous year.

Positions at the Secretary's Office. During the discussion of the Secretary's office in May Revision last year the subcommittee raised the issue of the number of positions at the Secretary's office. An evaluation of these positions lead to a recommendation to reduce the Secretary's office by fourteen positions and a number of programs. The subcommittee deferred this issue but clearly requested the Secretary's office to evaluate its positions and return with proposals that reflect a leaner oversight agency. The Secretary's office has made some progress reducing positions and making consolidations.

Staff Comments. Given the high profile of the Agency Secretary's role in oversight, and the changing nature of the programs under its purview, it is still relevant to discuss the composition of programs at the Agency level. In addition to the overview of Cal-EPA, the Secretary should address current and future staffing at the Agency level.

Staff Recommendation: Information Item, no action necessary.

Vote:

3900 California Air Resources Board

The Air Resources Board has primary responsibility for protecting air quality in California, as well as implementation of the California Global Warming Solutions Act of 2006 (AB 32). This responsibility includes establishing ambient air quality standards for specific pollutants, administering air pollution research studies, evaluating standards adopted by the US Environmental Protection Agency and developing and implementing plans to attain and maintain these standards. These plans include emission limitations for vehicular and industrial sources established by the Board and local air pollution control districts.

The Governor's Budget proposes $555 million and 1,223 positions for support of the board. This is an increase of 19 percent over current year expenditures. This does not include proposed expenditures of up to $1.5 billion related to the auction of greenhouse gas emissions under the Cap and Trade Program (discussed further below).

Items Proposed for Vote-Only

1. **Increased Reimbursement Authority (AB 118).** Request for an increase in reimbursement authority of $10.8 million to allow ARB to administer, via interagency agreements, existing incentive programs that are oversubscribed by consumer demand. These include the Air Quality Improvement Program, Alternative and Renewable Fuel and Vehicle Technology Program, and Enhanced Fleet Modernization Program.

2. **Carl Moyer Program Technical Adjustment.** Request for a technical adjustment to the Air Pollution Control Fund for the Carl Moyer Incentive Program by shifting the $86.4 million dollars in incentive based funding from State Operations to Local Assistance.

Recommendation: APPROVE Items 1-2.

ITEMS PROPOSED FOR DISCUSSION

AB 32 and Cap and Trade Funding

BACKGROUND:

The California Air Resources Board (ARB), along with 35 local air pollution control and air quality management districts, protects the state's air quality. The local air districts regulate stationary sources of pollution and prepare local implementation plans to achieve compliance with federal and state standards. The ARB is responsible primarily for the regulation of mobile sources of pollution, greenhouse gas emissions (GHG), and for the review of local district programs and plans.

AB 32 establishes greenhouse gas reduction levels. Assembly Bill 32, enacted in 2006, established the goal of reducing statewide GHG emissions in California to 1990 levels by 2020. It also charged the ARB with monitoring and regulating the state's sources of GHGs and identified a timeline by which ARB is to complete specified AB 32-related implementation actions. This included developing a scoping plan encompassing a set of measures that, taken together, would enable the state to achieve its 2020 GHG-reduction target. The scoping plan's measures include a combination of direct regulations and mandated requirements affecting energy efficiency and consumption, along with actions to provide price incentives for energy efficiency and GHG reductions.

Cap and Trade—One of Many CO2 Emission Reduction Measures. The state's overall goal for GHG emission reductions is the 1990 level of 427 million metric tons of carbon dioxide equivalents (MMT). The Cap and Trade program sets a statewide limit on the sources of greenhouse gases (GHGs) responsible for 85 percent of California GHG emissions. Under the cap and trade system, the ARB sets a cap on the amount of emissions (pollution) that will be allowed. After that, the ARB issues credits (license or permit to emit the pollutant), most of which are issued for free. The California Public Utilities Commission (CPUC) also will be issuing credits under this plan to the Investor Owned Utilities and has started a rulemaking proceeding for the expenditure of any proceeds. The number of credits issued establishes the level a given company may pollute. A certain amount of credits are held back to be sold. Finally, if a company pollutes under its cap, it may trade or sell its credits. If it needs to pollute over its cap, it must buy credits. Essentially, cap and trade programs establish a financial incentive for long-term investments by assessing a cost to emit a GHG. As shown in the following figure, the scoping plan estimates that cap and trade will create approximately 23 percent of the reductions needed to meet the state's reduction goals.

Scoping Plan's Greenhouse Gas (GHG) Emissions Reduction Measures

GHG Emissions in millions of metric tons of carbon dioxide equivalents.

Category of Measure [a]	2010 Analysis Target Reductions	Percent of total
Low carbon fuel standard	15	19%
High global warming potential gases [b]	6.5	8
Energy efficiency	12	15
Renewables portfolio standard (33 percent RPS) [b]	11.4	14
Pavley standards [c]	3.8	5
Other measures [b]	13.3	16
Cap-and-trade	18	23
Total	**80**	**100**

a) Source: Legislative Analyst's Office
b) Target excludes measures under this category which have not been updated for 2010 from 2008, and therefore does not reflect all measures contained in the 2008 Scoping Plan.
c) The Pavley standard refers to the state's fuel economy regulations, which are broken into two rules known as Pavley 1 and Pavley 2.

GOVERNOR'S PROPOSAL:

Governor's budget includes regulation and programs for GHG reductions. The Governor's budget includes funding for GHG reduction programs in multiple state agencies. Most of the programmatic activity is hosted at the ARB and state energy agencies including the California Public Utilities Commission. This is because ARB is charged with monitoring and regulating GHG emissions while CPUC and the Energy Commission (CEC) are charged with monitoring one of the largest sources of GHG emissions, the energy sector.

Annually, the Administration submits a cross-cut budget to help the Legislature evaluate its AB 32 activities, both compliance and direct regulation. In May 2011, the ARB submitted a required zero-based budget that detailed expenditures in each agency, complete with programmatic information and positions. A total of 181 positions and about $36 million are dedicated to AB 32 activities across state government in the budget. This does not include overlapping positions at the energy agencies that work on related programs. For example, the state has an existing law, the renewable portfolio standard (RPS), which mandates levels of renewable energy sources the state's energy sector may use. The goals of the RPS complement GHG reduction but the primary focus of this law is the reduction of traditional sources of pollution such as reduced dependence on coal-fired energy.

AB 32 Cross-Cut Budget [a]
(dollars in thousands)

Department	Fund Source	2011-12	2012-13	Total Positions
Secretary for Environmental Protection	AB 32 Cost of Implementation (COI) Fee	$1,821	$586	4
Department of General Services	Service Revolving Fund	416	416	5
Department of Housing and Community Development	AB 32 COI Fee	98	98	1
California Energy Commission	Energy Resources Program Account	590	590	5
Department of Resources Recycling and Recovery	AB 32 COI Fee	501	496	6
Department of Water Resources	State Water Project Funds/ AB 32 COI Fee	551	316	3
Air Resources Board (includes development of cap-and-trade regulations)	AB 32 COI Fee	32,932	32,932	155
State Water Resources Control Board	AB 32 COI Fee	535	555	2
Department of Public Health	AB 32 COI Fee	314	348	0
Subtotal AB 32 Cost of Implementation Fee		**$37,758**	**$36,337**	**181**
Unknown/Undetermined	Cap-and-Trade Revenues		Up to $1 billion	Unknown
California Public Utilities Commission	Cap-and-Trade Revenues		Unknown	Unknown

a) Does not include complementary programs such as RPS activities at the energy agencies.

Cap-and-Trade fee revenues are included in the budget. The ARB plans to begin auctioning GHG emission allowances as part of its market-based compliance measures in 2012. The ARB estimates that fee revenues from the first set of auctions will be $1 billion in the first year of the program which is included in the budget. These auction revenue estimates vary widely making specific budget expenditures uncertain. Actual revenues are not anticipated to be certified until late in 2012-13. A General Fund offset of $500 million is also included in the budget; however, there is no specific proposal for this expenditure. Rather than a detailed budget proposal, the budget provides general categories of spending from the proceeds of the auctions. These include:

- Clean and efficient energy
- Low-carbon transportation
- Natural resource protection
- Sustainable infrastructure development.

30-Day notification to the Legislature planned for expenditures. The budget provides that an expenditure plan for both the $500 million General Fund offset as well as the $1 billion will be jointly submitted by the Director of Finance and the Air Resources Board. The plan must include specific expenditure and will allow the Legislature not fewer than 30 days to review the plan before allocation of funding will begin.

Increased Accounting Workload and Program Expenditure Oversight. The budget includes a request for $939,000 from multiple funding sources to support existing planned workload to effectively track, record, and reconcile air quality and greenhouse gas reduction program expenditures, including anticipated necessary tracking and recording of Cap and Trade program revenues beginning in 2012-13.

Project-Level GHG Assessment Program. The budget includes a request for four limited-term positions and $643,000 (Air Pollution Control Fund) to meet increased workload from two new state requirements: AB 900 (Buchanan) and SB 292 (Padilla), Statutes of 2011. These statutes direct the ARB to evaluate greenhouse gas (GHG) emissions' impact of certain development projects to help determine eligibility for a streamlined judicial review process of California Environmental Quality Act (CEQA) challenges. The ARB has stated that they do not currently review project-level emissions analyses and does not have the resources to assess GHG emissions' impacts of individual developments at this time. The policy analysis of this issue indicated that workload for this proposal would be absorbable, and indeed given the first test of this bill, the ARB did absorb the workload and evaluated the GHG impacts using existing resources.

ISSUES TO CONSIDER:

Planned emission reductions from Cap and Trade Program were adjusted downward. The role for cap-and-trade to fill the gap between the total target and the emission reductions planned from traditional command and control measures have been reduced. The 2008 Scoping Plan initially was expected to provide 34.4 million metric tons (MMT) of carbon dioxide equivalent reductions. Revised expectations in 2010 now show a reduction of 18 MMT of emission reductions proposed from cap-and-trade. The majority of reductions will be from traditional command and control measures including to some extent existing programs in renewable energy investment and clean car standards. According to the Legislative Analyst's Office, these figures are still likely overstated because the board has not comprehensively scored the emission reductions planned to come from other complementary measures.

Cap and Trade Program is complex and subject to potential gaming of the system. Carbon markets are, by their very nature, complex. In general, the more complex the markets are, the more susceptible they become to manipulation and fraudulent activity. The cap and trade program as designed by ARB is particularly complex in that it has a multitude of design features that are intended to address various policy objectives. These policy objectives include the ARB's desire to reduce the potential for economic activity to leave the state as a result of the program implementation. In addition to this, there is no national or state oversight agency to monitor and regulate trading of compliance instruments on the spot market.

30-Day Notification means short review and little oversight of potentially $1 billion in new program spending and budget backfills. The Governor's proposal provides the Legislature with a 30-day notification to expend funds from the auction proceeds. The auction of carbon credits is highly speculative—with estimates ranging from $350 million to over $1 billion revenues in the first year. This notification would be the first time Legislators would see the Governor's detailed expenditure plan. There is no detail provided in the budget indicating specifically where funding would be directed from the proceeds, what types of grant or loan programs would be created, or what state programs would be offset. Legislative oversight of the funds related to fee nexus, GHG emission reduction achievement, and overall program selection would be extremely shortened under the Governor's plan.

Western Climate Initiative and Linkage Issues. The administration continues to move forward with a proposal to "link" auctions to the Quebec Cap and Trade system. This would allow for more credits to be auctioned in multiple jurisdictions however it poses a number of questions about the intent of the state program. In order to facilitate this multi-government auction, the ARB assisted in the creation of Western Climate Initiative, Inc. (WCI), an independent nonprofit that would develop compliance, tracking, and market monitoring functions for jurisdictions participating in the auctions. The WCI is incorporated in Delaware and both the Executive Director of ARB and Secretary for Cal-EPA sit on the board of WCI. According to ARB, no funding was paid by the state to WCI over the past several years, however this is not accurate. Through the Western Governors Association, funding was directed specifically from the State of California to WCI to facilitate this startup agency. The administration proposes to direct $3.7 million to this agency through December 2013.

LAO Analysis:

The Global Warming Solutions Act of 2006 (Chapter 488, Statutes of 2006 [AB 32, Núñez/Pavley]), commonly referred to as AB 32, established the goal of reducing greenhouse gas (GHG) emissions statewide to 1990 levels by 2020. In order to help achieve this goal, the California Air Resources Board (ARB) recently adopted regulations to establish a new cap–and–trade program that places a "cap" on aggregate GHG emissions from entities responsible for roughly 80 percent of the state's GHG emissions. The ARB will issue carbon allowances that these entities will, in turn, be able to "trade" (buy and sell) on the open market.

As part of its plan to issue allowances, ARB will hold quarterly auctions at which time a portion of these allowances will be made available for purchase. For 2012–13, ARB's auctions are estimated to generate roughly $660 million to upwards of $3 billion. The Governor's budget for 2012–13 assumes that the state will receive $1 billion from such auctions. Of this amount, the budget assumes that $500 million of the total revenue will be used to offset existing General Fund costs of current GHG mitigation activities, and the remaining revenues will be used on new or expanded programs intended to reduce GHG emissions.

Given the state's fiscal condition, we believe that the Legislature should first use the revenues in 2012–13 to offset General Fund costs of existing programs designed to mitigate GHG emissions. Since the Legislature will need to decide which General Fund costs to offset as part of the 2012–13 budget process, such decisions are best made this spring. In addition, the Legislature will need to begin the process of determining how effectively to allocate the remaining auction revenues on new or expanded programs. However, these latter decisions, which require an array of information to make, do not need to be done as part of the 2012–13 budget process.

Staff Recommendation: Staff recommends the following actions:

1. REJECT Control Section 15.11 which allows the administration to expend up to $1 billion from auction allowance proceeds with now fewer than 30-day notification to the Legislature.
2. APPROVE language in concept (Air Pollution Control Fund, auction revenues)
   a. Authorize spending of Cap and Trade revenues for purposes of AB 32 greenhouse gas emissions reduction activities to achieve at least $500 million in General Fund savings.
   b. Stipulate that any additional expenditure related to greenhouse gas emissions reductions be made pursuant to future legislation.

3. APPROVE as budgeted Accounting Office Workload: Program Expenditure Oversight budget proposal.

4. REJECT Project-Level GHG Assessment Program proposal.

Vote:

8660 California Public Utilities Commission

The California Public Utilities Commission (CPUC) is responsible for the regulation of privately owned "public utilities," such as gas, electric, telephone, and railroad corporations, as well as certain video providers and passenger and household goods carriers. The PUC's primary objective is to ensure adequate facilities and services for the public at equitable and reasonable rates. The PUC also promotes energy conservation through its various regulatory decisions. The Governor's Budget proposes $1.4 billion to support the CPUC in the budget year.

Items Proposed for Vote-Only

1. **State Electricity Regulators Assistance Project (ARRA).** Request for continuation of four limited-term positions and $372,000 from the Federal Trust Fund through December 31, 2014 to address various electricity regulatory issues. Authority for positions is currently scheduled to expire on June 30, 2012.

2. **Deaf and Disabled Telecommunications Program (AB 136).** Request for an increase of 4.5 two-year limited-term positions and $6.2 million from the Deaf and Disabled Telecommunications Program Administration Fund. Chapter 404, Statutes of 2011 (AB 136, Beall) requires the CPUC to expand the program to include speech generating devices for eligible telecommunications subscribers by January 1, 2014.

3. **Community Choice Aggregation.** Request for an increase of 4.0 two-year limited-term positions and $421,000 from the CPUC Utilities Reimbursement Account to implement Chapter 599, Statutes of 2011 (SB 790, Leno) which directs the Commission to institute a rulemaking proceeding for the purpose of adoption of rules for electrical corporations relative to community choice aggregation.

4. **Funding for Outside Legal Counsel for Energy Crisis Litigation**. Request for one-year extension of the liquidation period for continued assistance by outside counsel and economic consultants as expert witnesses in litigation by the CPUC before the FERC, which seeks refunds for overcharges during the 2000-2001 energy crisis for California Consumers in excess of $1 billion.

5. **State Broadband Data and Development Program (April Letter).** Request for continuation of four limited-term positions and $314,000 from the Federal Trust Fund through September 2014 for continued work on a federal grant under the National Telecommunications and Information Administration's State Broadband Data and Development Program.

Recommendation: APPROVE Items 1-5

Vote:

ITEMS PROPOSED FOR DISCUSSION

Cap and Trade Auction Revenues

Background (LAO). The Cap and Trade proposal (discussed earlier) assumes $650 million in California Public Utilities Commission (CPUC) directed revenues. The administration expects that these revenues will be generated in 2012-13 as a result of the free allocation of cap-and-trade allowances to the state's IOUs. The ARB plans to give 65 million allowances to IOUs, which, as a condition of the free allocation, are then mandated to sell those allowances in ARB's auction.

The CPUC, which regulates the state's IOUs, has produced estimates of potential 2012–13 revenues using both ARB's auction floor price of $10 per ton (which would generate $650 million) and its own internal estimated price of $16 per ton (which would generate roughly $1 billion). We note, however, that if allowances were sold at ARB's ceiling price of $40 per ton, revenues could be much higher—potentially up to $2.6 billion.

The CPUC has opened an official proceeding to determine how IOUs should use the above revenues. While the commission has yet to decide how these revenues should be spent, it has indicated that it believes, in general, that the funds should be used in ways that benefit electricity consumers in California (such as to augment investments in energy efficiency and renewable energy). The CPUC expects to issue a decision in April 2012.

LAO Recommendation.

> **Plan on How IOU Revenues Will Be Allocated.** The Legislature will also want to ensure that the cap–and–trade auction revenues are used in coordination with the use of the IOU cap–and–trade revenues, particularly in order to avoid unnecessary duplication of efforts. Thus, the Legislature will want to obtain information on how the CPUC intends to allocate the IOU revenues prior to approving an expenditure plan for the auction revenues. This would help ensure that these revenues are used in accordance with an overall statewide plan to mitigate GHG emissions.

Staff Comments. Staff concurs with the LAO recommendation.

Staff Recommendation: Hold Open

Vote:

Electricity Procurement Investment Charge (EPIC)

Background. In December 2011, funding for the state's Public Goods Charge (PGC) on electricity ratepayers expired. Efforts to continue the surcharge, which requires a 2/3 vote of the Legislature failed. The PGC funded energy efficiency research and development and renewable energy programs. The charge constituted about a quarter of the total energy efficiency programs funded by the state and energy utilities. Funds were collected on a volumetric basis (per kilowatt-hour) by customer class from all utilities (public and investor-owned). The benefits of these programs were then distributed generally, thus the surcharge was considered a tax for voting purposes.

In September 2011, the Governor sent a letter to the CPUC requesting that the Commission take action under the commission's authority to ensure that programs funded like those funded under the PGC would be continued, but with respect to modifications legislators discussed during the PGC renewal deliberations.

In December 2011, the CPUC initiated a rulemaking (essentially started a pathway to an new policy) to attempt to continue the programs of the PGC with a sole focus on the investor-owned utilities (IOUs). The Commission plans a two-phased deliberation. The first phase addresses the appropriate funding levels for renewables and research and development. The second phase will create a detailed program.

EPIC Draft Proposal. The Governor's budget does not include a proposal for EPIC, rather this is being done solely through the Commission's ratemaking processes which are in themselves not subject to legislative approval. As such, it is conceivable that the Legislature will not have any fiscal or budget review of the proposal unless the Commission chooses to enter into a memorandum of understanding with the California Energy Commission to continue any of its work related to the Public Interest Energy Research (PIER) or similar programs, or requests funding and position authority for administration of the program at the CPUC.

The draft proposal, as laid out by CPUC staff during the initial rulemaking, totals $142 million across four, high level areas (including Administration):

- **Applied Research—$55 million**. Research activities that relate to the development of next generation clean energy technologies, as well as related to the impacts and implications of climate change, clean energy deployment, on energy system operations and the environment.

- **Demonstration—$50 million** (at least $10 million of which is allocated to bioenergy projects). Demonstration involves providing the technical viability of a technology scaled in an operating environment that reflects real-world conditions.

- **Market Facilitation—$15 million.** Activities that address non-price, non-technical barriers that may impede technology adoption despite the technical and economic viability of a given technology.

- **Administration—$21 million for the California Energy Commission (CEC) and $7 million for CPUC staffing.** This covers the CEC's costs and incremental CPUC costs associated with overseeing all of the various program elements as proposed.

Staff Comments. The development of a rulemaking on energy efficiency at the CPUC on its surface is not problematic and is part of the regular course of work conducted by the Commission. However the Commission's current rulemaking raises a number of concerns. As a basic issue, the continuation of programs that were determined to be a tax for voting purposes without legislative review or approval is a major concern. However, other concerns have been raised by potentially impacted ratepayers and outside interests including:

1. The EPIC staff proposal is vague and does not specify what programs would be included or not in the final outcome making review of the proposal difficult.

2. The proposal seems to increase overall research and development revenues, and includes funding to the Energy Commission. Why are only investor-owned utilities paying for this when the benefit is extended to all state energy ratepayers (including publicly-owned utilities)?

3. The proposal does not include a clear investment plan that specifies how this proposal benefits ratepayers of investor-owned utilities.

4. The proposal does not clearly specify funding priorities and any balance with overall state or federal funding for these programs. For example multiple state programs are proposed to fund energy efficiency efforts including auction revenues from the Cap and Trade program. If this is the case, do we need EPIC?

Staff Recommendation: Hold Open

Vote:

Safety Programs and Proposals (Consumer Safety Division)

Background. The Governor's budget includes four proposals for enhancement of the Consumer Safety Division. This is above and beyond the additional 12 positions and about $671,000 approved by the Legislature in the 2011 budget process.

LAO Analysis.

Background. The California Public Utilities Commission (CPUC) regulates, among other things, the safety of both large and small natural gas transmission and distribution facilities, natural gas storage facilities, propane gas systems, and mobile home park master-metered gas systems. Currently, California's gas system serves about 11 million customers through 100,000 miles of gas distribution mains and 10,000 miles of gas transmission pipelines, with more than 2,300 miles of transmission pipelines located in "high-consequence" areas (meaning adjacent to significantly high population or frequently used by the public). Some of these pipeline systems were built as early as the 1920s.

On September 9, 2010, a 30-inch-diameter natural gas transmission pipeline owned and operated by Pacific Gas and Electric ruptured in a residential area in the city of San Bruno. The accident killed eight people, injured many more, and caused significant property damage in the area. The released natural gas caused a fire that destroyed 37 homes and damaged 18 other homes. In the wake of this accident, the CPUC, federal regulators, the Legislature, and Congress have undertaken a comprehensive evaluation of natural gas pipeline safety. This review has resulted in new laws and regulations for all California pipeline operators. For example, the CPUC authorized an independent review panel of experts to review the commission's Gas Safety Program and recommend actions to reduce the likelihood of future incidents. Similarly, the National Transportation Safety Board and the Pipeline and Hazardous Materials Safety Administration issued an investigation report that identified the need for additional activities and resources at both the state and federal level to better ensure pipeline safety.

Governor's Proposal. In response to the above reports, as well as recent legislation that directs the CPUC to take certain actions regarding pipeline safety, the Governor's budget for 2012-13 includes various requests that in total would provide the CPUC with $6.5 million in increased funding to support 46 additional positions in its Consumer Safety Division.

Proposals Raise Concerns. The Governor's proposal raises some concerns. First, our analysis indicates that the Consumer Safety Division currently has 31 vacant positions (out of a total of 217 positions). Moreover, we note that the CPUC, as a whole, currently has a total of 135 vacant positions. At the time of this analysis, the commission has not provided a plan on how it will address its vacancies. Given the CPUC's current vacancy rates, the requested funding may not be spent as proposed in the budget year to the extent that the requested positions for the Consumer Safety Division are not filled. In addition, the CPUC has not provided adequate information to justify the requested 46 positions on a workload basis.

LAO Recommendation. In view of the above concerns, we recommend that the Legislature reject the Governor's 2012-13 budget proposals that would provide the CPUC with a total of 46 additional positions, as well as appropriate $6.5 million to support these positions. We further recommend that the Legislature require the CPUC to provide a plan this spring on how it plans to fill its current vacancies.

Staff Comments. Staff generally concurs with the LAO analysis of the issues. In the time between the release of the LAO analysis (which was derived from information provided by the Commission) and this hearing, the Commission has provided new information on its vacancy rate in the Division, projecting only eight vacant positions. An update to the workload justification was not included in this update.

Staff generally supports the legislative proposals that were vetted through the policy process in 2011. In addition to these proposals, the CPUC also received positions to directly address the natural gas pipeline safety program in the 2011 budget. However, staff believes the CPUC should consider using existing resources and shifting program priorities to enact systematic changes to its Global Safety and Enforcement Programs as it has on numerous other occasions related to energy and climate regulation. It would seem that the most important change that needs to occur is a cultural change where the department re-focuses its efforts on safety using its current administrative resources. To the extent that the department can demonstrate this priority first, then incremental proposals, particularly those vetted through the policy process would be more appropriate.

Staff Recommendation:

1. REJECT: Global Safety and Enforcement Programs proposal (Global Safety and Enforcement Programs ($5.9 million, 41 positions).

2. APPROVE Legislative Proposals (Below, three items).
   - Chapter 520, Statutes of 2011 (SB 44, Corbett): Gas Pipeline Emergency Response Standards ($217,000, two positions).
   - Chapter 522, Statutes of 2011 (SB 705, Leno): Natural Gas Service and Safety ($102,000 and one position).
   - Chapter 519, Statutes of 2011 (AB 56, Hill and SB 216, Yee): Gas Corporations Rate Recovery-Pipeline Safety Expenditures ($322,000 and two positions).

Vote:

3360 Energy Resources Conservation Development Commission (California Energy Commission)

The Energy Resources Conservation and Development Commission (commonly referred to as the California Energy Commission or CEC) is responsible for forecasting energy supply and demand; developing and implementing energy conservation measures; conducting energy-related research and development programs; and siting major power plants.

Governor's Budget. The Governor's Budget includes $393 million (no General Fund) for support of the CEC, a decrease of approximately $161 million, due primarily to the phasing down of the Public Interest Energy Research (PIER) Program and the Renewable Resources Trust Fund (RRTF) as a result of the failure to reauthorize the Public Goods Charge.

Items Proposed for Vote-Only

1. **Smart Grid Policy Implementation.** Request to continue one existing limited-term position for two additional years to continue to support the Commission's technical analysis and standards coordination needed to implement Chapter 327, Statutes of 2009 (SB 17, Padilla). This proposal also includes activities related to renewable energy and distributed generation.

2. **Energy Information Demands of California's Energy Market.** The budget requests authority to redirect one existing Energy Resources Programs Account (ERPA) funded permanent position from the Siting, Transmission and Environmental Protection Division (Siting Division) to the Information Technology Services Branch (ITSB) to develop technical expertise in a civil service employee and address critical support needs to build energy-related information systems.

Recommendation: APPROVE Items 1-2

ITEMS PROPOSED FOR DISCUSSION

ERPA and RRTF Funded Program Requests

Background. Under current law, the CEC is authorized to impose and adjust the Energy Resources Program Account (ERPA) surcharge. At the November 8, 2010 business meeting, the commission approved an ERPA surcharge increase which became effective January 1, 2011. The rate was increased from $0.00022 to $0.00029, which was expected to generate $16.9 million in 2011-12.

The ERPA fund supports many of the basic programs of the CEC, including its siting and energy forecasting functions. State law directs electric utilities (both privately and publicly owned) to collect a state energy surcharge from all electric customers (this is a separate surcharge from the Public Goods Charge). The Board of Equalization collects the surcharge from the utilities.

The Renewable Resource Trust Fund as a fund that is continuously appropriated, with exceptions for administrative expenses, to support renewable energy resources through the public goods charge. The main source of funding for this program ended in December 2011 (see discussion under the California Public Utilities Commission).

Program Audit. In the 2011 budget, the Legislature directed $200,000 of the Commission's budget to a review of the ERPA Account and the Renewable Resources Trust Fund (RRTF). This was later narrowed to avoid duplication of a pending audit of the RRTF. As anticipated, the auditors were challenged to specify positions that were not working under current mandates because of the nature of the statute that established the Commission's work, the Warren-Alquist Act of 1974. As such, when one position is no longer used for a single purpose established by a budget proposal or otherwise, the position, under current law, often could be shifted within the broad program umbrellas given by the originating act.

The audit did report a number of mandated activities that were not being performed during the audit period including those related to AB 32 greenhouse gas emissions, technology export, energy efficiency technical assistance, and loan recipient reporting.

Budget Proposals. The Governor's budget includes two requests that impact ERPA funding:

1. **Establishing an Audit and Investigation Unit**. Request to redirect three existing permanent positions funded from the Siting Division to establish an audit and investigation unit. This unit will provide audit oversight to ensure federal and state funds across all programs are spent in accordance with applicable federal and state requirements and guidelines to prevent fraud, waste and abuse. These positions would be funded by the ERPA.

2. **Implementation of Renewable Energy Development Grants Under ABx1 13.** The budget requests two limited-term positions for one year to develop and administer $7 million in grants mandated by Chapter 10, Statutes of 2011 (ABx1 13, Perez). Grants would be issued to qualified counties for the development or revision of rules and policies that facilitate the development of eligible renewable energy resources and their associated electric transmission facilities, and the processing of permits for eligible renewable energy resources.

Staff Comments. The future organization of funding at the department is currently difficult to determine given the loss of the public goods charge as discussed earlier under the California Public Utilities Commission. A number of major structural changes have been discussed in policy committees regarding the Commission, including some that focus on future use of funds that may not be available unless alternative funding sources are identified. Ongoing discussions about how to fund the Emerging Renewables Program and the New Solar Homes Partnership Program raise questions about where funding to the agency should be directed. Funding reductions may also impact the administrative functions of the agency, the use of the Renewable Resources Trust Fund, and other grant and research functions.

According to the audit, because of the broad mandate given to the department, it is up to the Legislature to now determine how the commission must reduce its scope of work, provide specific directives, and deliverables. This discussion is better left to the policy committees to sort out, however, as the budget moves through, it is important to not hamper these future discussions by over-appropriating funding for programs that may not be the highest priority of the Legislature given the very recent discussions of the Public Goods Charge and the new Electricity Improvement Procurement Charge.

Staff Recommendation: Hold Open

Vote:

3500 Department of Resources Recycling and Recovery (Cal Recycle)

The Department of Resources Recycling and Recovery (CalRecycle) was created pursuant to Chapter 21, Statutes of 2009 (SB 63; Strickland) and is largely the merger of the Waste Board (minus the board members and associated support staff) and the Department of Conservation Division of Recycling. As such, CalRecycle protects public health and safety and the environment through the regulation of solid waste facilities, including landfills, and promotes recycling of a variety of materials, including beverage containers, electronic waste, waste tires, used oil, and other materials. CalRecycle also promotes the following waste diversion practices: (1) source reduction, (2) recycling and composting, and (3) reuse. Additional departmental activities include research, permitting, inspection, enforcement, public awareness, market development to promote recycling industries, and technical assistance to local agencies.

Governor's Budget. The Governor's Budget includes $1.4 billion (no General Fund) for the department, including $1.2 billion for the Beverage Container Recycling and Litter Reduction Program, and about $200 million for the Waste Reduction and Management Program (the old Waste Board).

Items Proposed for Vote-Only

1. **Carpet Stewardship Program.** Request for 2.75 positions and $205,000 to implement the carpet stewardship law pursuant to Chapter 681, Statutes of 2010 (AB 2398, Perez). This law establishes a private-sector designed and managed statewide Carpet Stewardship Program that provides industry with anti-trust protection. Statute allows for the collection of assessments to fund the program and for the state to be reimbursed for state oversight of the program.

2. **Architectural Paint Recovery Program.** Request for 2.75 positions and $205,000 to cover the full costs of administering and enforcing the Architectural Paint Recovery Program as established by Chapter 420, Statutes of 2010. This legislation established an industry-supported revenue stream to support the architectural paint recovery program which places primary responsibility for end-of-life paint recovery and management on the paint manufacturer, or paint stewardship organizations, and limits the state role to oversight.

3. **Electronic Waste Recycling Fraud Case Development and Prosecution.** Request for a transfer of $558,000 in expenditure authority and five positions from the Electronic Waste Recovery and Recycling Account from the Department of Toxic Substances Control to the Department of Resources Recycling and Recovery. Because this is a transfer of authority and positions, it adds no additional costs or positions.

4. **Out-of-State Beverage Container Importation Monitoring Program.** Request to annually redirect $1.4 million of existing authority to fund an Interagency Agreement with the California Department of Food and Agriculture (CDFA), border protection stations to combat Beverage Container Recycling Program fraud associated with illegal CRV redemption of beverage containers imported to California from out-of-state. The subcommittee approved a corresponding proposal at the CDFA on March 21.

Recommendation: APPROVE Items 1-4

ITEM PROPOSED FOR DISCUSSION

Special Fund Reductions for the Spring Budget Process

Background. During the 2011 budget deliberations, the Legislature passed language requiring the department to convene a monthly working group with legislative staff and the LAO related to administrative and operating issues stemming from reorganization at the department. At the time, the department's reorganization proposal did not meet statute and was in the process of being modified to meet statutory requirements. The Governor vetoed this budget bill language.

The subcommittee raised the following issues in May 2011:

a) Separation of the Division of Recycling from the former waste board functions.
b) Co-mingling between Beverage Container Recycling Fund and waste divisions.
c) Unnecessary CEA positions that duplicated Governor's appointee functions.
d) Fostering of expertise in subject areas and a return to functional programs by policy area.

Budget Proposal. The Governor's budget requests an abolishment of two CEA positions for a total reduction of $236,000 spread over multiple funds. This is part of a state-wide request by the Governor for special fund budgetary reduction plans targeted to reduce administration and program support, and is not unique to CalRecycle.

Staff Comments. The organization of the department is critical to the ability of the department to effectively manage its mandates as laid out in statute. In 2011 it was clear that the organization of the department was creating barriers both for the ongoing management of funding at the department, a long-term issue, as well as the effectiveness of personnel in their relationship with stakeholders. Because of this the subcommittee's questions regarding the solvency of the department's main funding source, the Beverage Container Recycling Fund, as well as management of individual mandates, were not sufficiently addressed in hearings.

The subcommittee may wish to have the department address the following issues:

1. What is the status of the reorganization plan?
2. Does the reduction of these CEA positions follow a statewide plan or direction from the subcommittee to reduce the possible overlap of CEA positions with Governor's appointees?
3. How has the functional expertise in subject areas changed in the past year and has the department returned to a more manageable structure of functional programs by policy area?

Staff Recommendation: Approve as budgeted.

Vote:

Beverage Container Recycling Fund

Background. The Beverage Container Recycling Program covers the majority of disposable beverage containers sold in the state. The program encourages the voluntary recycling of certain beverage containers by guaranteeing a minimum payment (termed California Redemption Value [CRV]) for each container returned to certified recyclers. In 2010-11, over 20 billion containers covered by the program were sold and about 17 billion were recycled, reflecting an 85 percent recycling rate.

The CRV is the primary source of funding for the Beverage Container Recycling Fund (BCRF). For each beverage container subject to the CRV sold to retailers, distributors make redemption payments that are collected by the department and deposited into the BCRF. This CRV cost is passed on to retailers who collect the CRV from consumers for each applicable beverage container sold. Consumers can recoup the cost of the CRV by redeeming empty recyclable beverage containers at a recycler. Recyclers are in turn reimbursed by the department for redeemed CRV.

The BCRF's expenditures fit into two main categories: (1) CRV reimbursements to recyclers and (2) program expenses (including for administration, grant programs, and education and outreach) that are funded from unredeemed CRV.

Over a number of years, the BCRF program has developed a structural deficit. Chapter 5, Statutes of 2010 (ABx8 7, Evans) addressed shortfalls in the BCRF in 2009-10 and 2010-11 by (1) accelerating the collection of CRV revenues, (2) capping some program expenses, and (3) restricting future borrowing from the BCRF. Even given these shortfall solutions, the fund has a $100 million per year structural deficit. A basic analysis would suggest the BCRF could only sustain a 60-70 percent recycling rate, while we currently have a close to 85 percent rate.

BCRF Solvency and General Fund Loan Repayment. Consistent with the recommendation in the recent CalRecycle report on the BCRF, budget trailer language is needed in order to maintain the existing "60 day" beverage distributor CRV payment schedule which otherwise sunsets. Without this language change, the Beverage Container Recycling Fund (BCRF) could potentially experience a cash shortfall of as much as $100 million during the 1st quarter of the 2012-13 fiscal year. Adoption of this language would ensure that the proposed General Fund loan payback for 2012-13 could be reduced by as much as $80 million, and paid in quarterly increments through the year as proposed.

In a recent report, CalRecycle made the following recommendation:

> "CalRecycle recommends preserving the existing bimonthly redemption Payment schedule going forward and amending Public Resources Code Section 14574 to remove the July 1, 2012 sunset provision. Additionally, further consideration should be given to adjusting reporting periods toward concurrent posting of revenue and expenditures."

Staff Comments. The subcommittee may wish to have the department address the following issues:

1. What recycling rate are we currently receiving and what can the fund sustain?
2. Statute requires some mandatory payments. Are there ways to simplify how we pay out from the BCRF without impacting programs?
3. What will happen when accelerated payments cease?
4. What is the impact of adopting the trailer bill language as proposed by CalRecycle?

Staff Recommendation: Adopt Trailer Bill Language to preserve the existing bimonthly redemption payment schedule.

Vote:

3940 State Water Resources Control Board

The State Water Resources Control Board (State Water Board) 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 $713 million and 1,502 positions for support of the Board. Decreases in funding are largely due to reductions in bond expenditures.

Items Proposed for Vote-Only

1. **Funding for Billable Legal Services Conversion.** Request for a shift of $1 million to complete a billable legal services conversion imitated in the 2011 Budget Act. The Water Board has determined that increasing the Waste Discharge Permit Fund expenditure authority by $600,000 and Water Rights Fund expenditure authority by $450,000 to cover the Department of Justice General Fund expenditures for activities billable to these special funds.

2. **GAMA Program Fund Shift.** Request for a funding shift of $233,000 and 1.5 positions in 2012-13 and $400,000 annually thereafter from Proposition 50 bond funds to the Waste Discharge Permit Fund for the Groundwater Ambient Monitoring and Assessment (GAMA) Program.

3. **Bond Position Reduction.** The budget requests to eliminate two positions and $212,000 from the State Revolving Fund Subaccount to align positions with resources. This is necessitated by a reduction in the availability of bond funds which requires fund decreases and reduction to be made to ensure resources are properly aligned.

4. **Watershed Management Initiative Program Elimination.** The Governor requests to eliminate the Watershed Management Initiative Program resulting in a reduction of 6.8 positions and $1.3 million from the Public Resources Account. The purpose of the initiative has been fulfilled and the work product is now in use by the regional water boards.

5. **State Water Pollution Control Revolving Fund Administration Redirection.** The budget proposes an increase of $2.8 million in State Operations authority for the State Water Pollution Control Revolving Administration Fund and a corresponding decrease of $2.8 million Federal Funds.

6. **Small Disadvantaged Community Wastewater Projects Planning, Design, and Construction Grants.** The budget proposes $11 million in local assistance authority for the State Water Pollution Control Revolving Fund Small Community Grant Fund for fiscal year 2012-13 to provide grants to help small disadvantaged communities achieve compliance with water quality regulations, protect surface and groundwater quality, and to help eliminate threats to public health.

7. **Underground Storage Tank Cleanup Fund Orphan Site Cleanup Fund Re-Appropriation**. The budget proposes a one-time reappropriation of $2.3 million local assistance authority from the Underground Storage Tank Petroleum Contamination Orphan Site Cleanup fund for unspent funds from the current year.

8. **SB 424—Beach Water Quality Monitoring Program.** Request for $1.0 million from the Waste Discharge Permit fund for local assistance to support best management practices and to determine beach monitoring protocols among other requirements per Chapter 592, Statutes of 2011 (SB 482, Kehoe).

9. **Continued Staff Support for Water Rights Statements of Water Diversion and Use.** Request for position authority shift to process statements related to the Water Rights division.

Staff Comments. These proposals are consistent with statute and the direction the board has taken over previous years. Item 9 is recommended to be denied without prejudice in order for the board to review its overall proposal and return in next year's budget with a proposal consistent with program direction.

Recommendation: APPROVE Items 1-8. Deny Item 9.

ITEMS PROPOSED FOR DISCUSSION

Reorganization of the Regional Water Quality Control Boards

Background. The Governor proposes trailer bill language to reorganize the regional water boards to address a number of issues including retaining quality board members on the boards. The proposals include:

- **Consolidate Regional Boards.** The Governor proposes to eliminate the Colorado Regional Water Quality Control Board and to shift its functions to both the Lahontan and San Diego regions.

- **Reduce the Number of Board Members.** The Governor proposes to reduce the number of board members on a given regional board from nine to seven.

- **Eliminate Categorical Board Members Associations.** The proposal removes categorical spots on the regional boards including those for water supply, conservation, production, irrigation agriculture, industrial water, local government, or general members of the public.

- **Regional Water Board Chair Selected by the Governor.** The proposal allows the Governor to appoint the chairperson of the regional boards rather than the board members selecting from amongst themselves.

The reorganization proposal is a product of several years of attempts to reconcile the ability of the state to attract and retain quality board members who have expertise in the field. The review of complex permits and basin plans requires a level of expertise that generally comes from those with a great deal of experience within the water quality field. There are a few issues that were included in the overall general proposal that were not included specifically in the trailer bill language. These include:

- **Conflict of Interest Rules.** Current law prohibits regional board members from acting on proposals that involves the board member or any permittee where the board member has a position of authority or financial interest. The proposal had included language to conform the Water Code to the Political Reform Act as applies to all other state officials.

- **Increased Per Diem for Regional Board Members**. The proposal had included an increase in the per diem compensation from $100 per day to $500 per day, and an increase in the annual cap from $13,500 to $60,000. This was intended to address, among other issues, the time spent by board members evaluating complex permits during board deliberations, and to attract and retain quality board members.

Staff Comments. Staff have reviewed the proposal and in general concur with the proposals to change the constitution of the regional boards, including those proposals that were not included in the trailer bill language. However, staff have some concerns with the proposed consolidation of the regional boards. It is unclear why the Colorado Regional Board was selected for elimination rather than consolidation of urban Southern California boards (such as Santa Ana and San Diego). Staff recommends reconsideration of the board consolidation proposal to ensure the proposed consolidation achieves the goal of increasing government efficiency and reducing programmatic expenses at the regional board level.

Staff Recommendation:

1. APPROVE Trailer Bill Language (including conflict of interest and per diem elements).
2. HOLD OPEN regional board consolidation (elimination of the Colorado Regional Board).

Vote:

San Diego Regional Board Office Location

Budget Proposal. The Water Board is requesting additional funding to relocate the San Diego regional office. At this time the Water Board is requesting $2.8 million (various special funds) on a one-time basis for relocation expenses and $505,000 (various special funds) on an annual basis for the anticipated rent increase. The Department of General Services has been engaged to obtain more detailed information and refine cost estimates.

According to the Administration, relocation is necessary because the current location is directly next to an industrial solar panel manufacturer that emits toxins into the air. Regional Board employees have complained and submitted Workers Compensation claims regarding headaches and nausea believed to be related to toxins entering the building. As of this date, all of these claims have been settled without litigation.

Staff Comments. The relocation of the board is expensive and the board should be directed to use all means to reduce costs during the move. That said, it is likely the relocation is necessary and should be funded. However, funding for future rent increases is not justified at this time. During an economic downturn, the board should be able to negotiate a favorable rental agreement at or close to the current rental agreement. Therefore until a new rental agreement is signed, the subcommittee should not approve an increase in rent for future years. The subcommittee should be given an opportunity to review the rental agreement achieved by the board with the Department of General Services in budget discussions next year.

Staff Recommendation:

1. APPROVE one-time relocation expenses ($2.8 million)
2. DENY ongoing future increased rent expenses ($505,000)

Vote:

Funding for Water Recycling

Background. Chapter 700, Statutes of 2010 (SB 918, Pavley) requires the State water Resources Control Board to enter into an agreement with the Department of Public Health (DPH) to investigate and report to the Legislature on the feasibility of developing uniform water recycling criteria for direct potable reuse, among other issues. Funding for this item was inadvertently diverted to other purposes in the 2011 budget including for ongoing litigation defense funding. Due to an impending water board settlement related to water quality in Hinkley, funding is now available for the purposes of this statute and should be directed to its use.

Staff Comments. Staff recommends the subcommittee require the board to fund this statutory requirement out of the existing Waste Discharge Permit Fund (as proposed in the original bill).

Staff Recommendation: Approve budget bill language in concept to direct funding to the State Board and Department of Public Health not to exceed the reasonable cost of the program or $700,000 (as specified in the fiscal analysis of the bill) from the Waste Discharge Permit Fund.

Vote:

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

S. Joseph Simitian, Chair
Jean Fuller
Alan Lowenthal

Wednesday, April 25, 2012
2:30 pm or upon adjournment of Rules Committee
Hearing Room 2040

Consultant: Catherine Freeman

OUTCOMES

Departments Proposed for Vote-Only

Departments and Issues Proposed for Discussion

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 916-324-9335. Requests should be made one week in advance whenever possible.

ITEMS PROPOSED FOR VOTE-ONLY

3930 Department of Pesticide Regulation

1. **Pest Management Research Grant**. The department requests two permanent positions and $713,000 from the DPR Fund ($711,000 ongoing) to expand its existing pest management grant program to also fund research projects that develop effective alternatives to fumigants and other pesticides. This coincides with the withdrawal by the manufacturer of the fumigant Methyl Iodide, a product intended to replace the phased out Methyl Bromide.

3960 Department of Toxic Substances Control

2. **Electronic Waste Recycling Fraud Case Development and Prosecution.** The department requests that $558,000 in expenditure authority and five positions from the Electronic Waste Recovery and Recycling Account be transferred from the Department of Toxic Substances Control to the Department of Resources Recycling and Recovery for Electronic Waste Recycling Fraud Case Development and Prosecution. Because this is a transfer of authority and positions, it adds no additional costs or positions.

3980 Office of Environmental Health Hazard Assessment

3. **Cumulative Impact Analysis to Support Community Revitalization.** The budget proposes one position and $131,000 from the Air Resources Board to develop methods to assess the cumulative impacts of multiple environmental contaminants in communities across the state. This coordinates existing activities that are required under multiple statutes.

Recommendation: APPROVE Items 1-3

Vote:
APPROVE Items 1-2 (3-0)
APPROVE Item 3 (2-1, Fuller)

ITEMS PROPOSED FOR DISCUSSION

0555 Secretary for Cal-EPA

The Secretary for Cal-EPA is the cabinet level agency for the protection of human health and the environment. The Secretary coordinates the state's environmental regulatory programs and oversees programs to restore, protect, and enhance environmental quality. The Secretary directly oversees the Certified Unified Program Agencies, the California–Mexico border environmental efforts, and the Education and the Environment Initiative.

Items Proposed for Vote-Only

1. **Unified Program Electronic Reporting Implementation.** Request for an additional $5.7 million in Unified Program Account authority from funds in place and already collected to continue statutory program requirements. This will allow Unified Program participants (local governments and businesses) to report electronically under the Unified Hazardous Materials and Hazardous Waste Regulatory Management Program by 2013.

Recommendation: APPROVE Item 1

Vote:
APPROVE Item 1 (2-1, Fuller)

ITEM PROPOSED FOR DISCUSSION

Overview of the Secretary's Office

Background. The California Environmental Protection Agency Secretary's office budget is mainly derived from special funds, fees, and reimbursements from agency programs. The budget proposes expenditures of $20.7 million, an increase of about $230,000 from the previous year.

Positions at the Secretary's Office. During the discussion of the Secretary's office in May Revision last year the subcommittee raised the issue of the number of positions at the Secretary's office. An evaluation of these positions lead to a recommendation to reduce the Secretary's office by fourteen positions and a number of programs. The subcommittee deferred this issue but clearly requested the Secretary's office to evaluate its positions and return with proposals that reflect a leaner oversight agency. The Secretary's office has made some progress reducing positions and making consolidations.

Staff Comments. Given the high profile of the Agency Secretary's role in oversight, and the changing nature of the programs under its purview, it is still relevant to discuss the composition of programs at the Agency level. In addition to the overview of Cal-EPA, the Secretary should address current and future staffing at the Agency level.

Staff Recommendation: Information Item, no action necessary.

Vote: (Information Item)

3900 California Air Resources Board

The Air Resources Board has primary responsibility for protecting air quality in California, as well as implementation of the California Global Warming Solutions Act of 2006 (AB 32). This responsibility includes establishing ambient air quality standards for specific pollutants, administering air pollution research studies, evaluating standards adopted by the US Environmental Protection Agency and developing and implementing plans to attain and maintain these standards. These plans include emission limitations for vehicular and industrial sources established by the Board and local air pollution control districts.

The Governor's Budget proposes $555 million and 1,223 positions for support of the board. This is an increase of 19 percent over current year expenditures. This does not include proposed expenditures of up to $1.5 billion related to the auction of greenhouse gas emissions under the Cap and Trade Program (discussed further below).

Items Proposed for Vote-Only

1. **Increased Reimbursement Authority (AB 118).** Request for an increase in reimbursement authority of $10.8 million to allow ARB to administer, via interagency agreements, existing incentive programs that are oversubscribed by consumer demand. These include the Air Quality Improvement Program, Alternative and Renewable Fuel and Vehicle Technology Program, and Enhanced Fleet Modernization Program.

2. **Carl Moyer Program Technical Adjustment.** Request for a technical adjustment to the Air Pollution Control Fund for the Carl Moyer Incentive Program by shifting the $86.4 million dollars in incentive based funding from State Operations to Local Assistance.

Recommendation: APPROVE Items 1-2.

Vote:
APPROVE Items 1-2 (2-1, Fuller)

ITEMS PROPOSED FOR DISCUSSION

AB 32 and Cap and Trade Funding

Staff Recommendation: Staff recommends the following actions:

1. REJECT Control Section 15.11 which allows the administration to expend up to $1 billion from auction allowance proceeds with now fewer than 30-day notification to the Legislature.
2. APPROVE language in concept (Air Pollution Control Fund, auction revenues)
    a. Authorize spending of Cap and Trade revenues for purposes of AB 32 greenhouse gas emissions reduction activities to achieve at least $500 million in General Fund savings.
    b. Stipulate that any additional expenditure related to greenhouse gas emissions reductions be made pursuant to future legislation.
3. APPROVE as budgeted Accounting Office Workload: Program Expenditure Oversight budget proposal.
4. REJECT Project-Level GHG Assessment Program proposal.

Vote:

REJECT Item 1: (3-0)
APPROVE Item 2: (2-1, Fuller)
APPROVE Item 3: (2-1, Fuller)
Item 4 (Hold Open)

Staff to work on budget bill and trailer bill language for the following items to be brought back before the subcommittee:

1. **Request from Senator Fuller for an audit of the Air Resources Board related to AB 32 by the Joint Legislative Audit Committee.**
2. **Require ARB to submit to the Joint Legislative Budget Committee all contracts related to Western Climate Initiative, Inc. for review and approval.**
3. **Language prohibiting the administration from using cap and trade auction revenues for High Speed Rail in the budget year.**

8660 California Public Utilities Commission

The California Public Utilities Commission (CPUC) is responsible for the regulation of privately owned "public utilities," such as gas, electric, telephone, and railroad corporations, as well as certain video providers and passenger and household goods carriers. The PUC's primary objective is to ensure adequate facilities and services for the public at equitable and reasonable rates. The PUC also promotes energy conservation through its various regulatory decisions. The Governor's Budget proposes $1.4 billion to support the CPUC in the budget year.

Items Proposed for Vote-Only

1. **State Electricity Regulators Assistance Project (ARRA).** Request for continuation of four limited-term positions and $372,000 from the Federal Trust Fund through December 31, 2014 to address various electricity regulatory issues. Authority for positions is currently scheduled to expire on June 30, 2012.

2. **Deaf and Disabled Telecommunications Program (AB 136).** Request for an increase of 4.5 two-year limited-term positions and $6.2 million from the Deaf and Disabled Telecommunications Program Administration Fund. Chapter 404, Statutes of 2011 (AB 136, Beall) requires the CPUC to expand the program to include speech generating devices for eligible telecommunications subscribers by January 1, 2014.

3. **Community Choice Aggregation.** Request for an increase of 4.0 two-year limited-term positions and $421,000 from the CPUC Utilities Reimbursement Account to implement Chapter 599, Statutes of 2011 (SB 790, Leno) which directs the Commission to institute a rulemaking proceeding for the purpose of adoption of rules for electrical corporations relative to community choice aggregation.

4. **Funding for Outside Legal Counsel for Energy Crisis Litigation**. Request for one-year extension of the liquidation period for continued assistance by outside counsel and economic consultants as expert witnesses in litigation by the CPUC before the FERC, which seeks refunds for overcharges during the 2000-2001 energy crisis for California Consumers in excess of $1 billion.

5. **State Broadband Data and Development Program (April Letter).** Request for continuation of four limited-term positions and $314,000 from the Federal Trust Fund through September 2014 for continued work on a federal grant under the National Telecommunications and Information Administration's State Broadband Data and Development Program.

Recommendation: APPROVE Items 1-5

Vote: **APPROVE Items 1, 2, 4, 5: (3-0)**
APPROVE Item 3: (2-1, Fuller)

ITEMS PROPOSED FOR DISCUSSION

Cap and Trade Auction Revenues

Background (LAO). The Cap and Trade proposal (discussed earlier) assumes $650 million in California Public Utilities Commission (CPUC) directed revenues. The administration expects that these revenues will be generated in 2012-13 as a result of the free allocation of cap-and-trade allowances to the state's IOUs. The ARB plans to give 65 million allowances to IOUs, which, as a condition of the free allocation, are then mandated to sell those allowances in ARB's auction.

The CPUC, which regulates the state's IOUs, has produced estimates of potential 2012–13 revenues using both ARB's auction floor price of $10 per ton (which would generate $650 million) and its own internal estimated price of $16 per ton (which would generate roughly $1 billion). We note, however, that if allowances were sold at ARB's ceiling price of $40 per ton, revenues could be much higher—potentially up to $2.6 billion.

The CPUC has opened an official proceeding to determine how IOUs should use the above revenues. While the commission has yet to decide how these revenues should be spent, it has indicated that it believes, in general, that the funds should be used in ways that benefit electricity consumers in California (such as to augment investments in energy efficiency and renewable energy). The CPUC expects to issue a decision in April 2012.

LAO Recommendation.

> **Plan on How IOU Revenues Will Be Allocated.** The Legislature will also want to ensure that the cap–and–trade auction revenues are used in coordination with the use of the IOU cap–and–trade revenues, particularly in order to avoid unnecessary duplication of efforts. Thus, the Legislature will want to obtain information on how the CPUC intends to allocate the IOU revenues prior to approving an expenditure plan for the auction revenues. This would help ensure that these revenues are used in accordance with an overall statewide plan to mitigate GHG emissions.

Staff Comments. Staff concurs with the LAO recommendation.

Staff Recommendation: Hold Open

Vote: HOLD OPEN

Electricity Procurement Investment Charge (EPIC)

Background. In December 2011, funding for the state's Public Goods Charge (PGC) on electricity ratepayers expired. Efforts to continue the surcharge, which requires a 2/3 vote of the Legislature failed. The PGC funded energy efficiency research and development and renewable energy programs. The charge constituted about a quarter of the total energy efficiency programs funded by the state and energy utilities. Funds were collected on a volumetric basis (per kilowatt-hour) by customer class from all utilities (public and investor-owned). The benefits of these programs were then distributed generally, thus the surcharge was considered a tax for voting purposes.

In September 2011, the Governor sent a letter to the CPUC requesting that the Commission take action under the commission's authority to ensure that programs funded like those funded under the PGC would be continued, but with respect to modifications legislators discussed during the PGC renewal deliberations.

In December 2011, the CPUC initiated a rulemaking (essentially started a pathway to an new policy) to attempt to continue the programs of the PGC with a sole focus on the investor-owned utilities (IOUs). The Commission plans a two-phased deliberation. The first phase addresses the appropriate funding levels for renewables and research and development. The second phase will create a detailed program.

EPIC Draft Proposal. The Governor's budget does not include a proposal for EPIC, rather this is being done solely through the Commission's ratemaking processes which are in themselves not subject to legislative approval. As such, it is conceivable that the Legislature will not have any fiscal or budget review of the proposal unless the Commission chooses to enter into a memorandum of understanding with the California Energy Commission to continue any of its work related to the Public Interest Energy Research (PIER) or similar programs, or requests funding and position authority for administration of the program at the CPUC.

The draft proposal, as laid out by CPUC staff during the initial rulemaking, totals $142 million across four, high level areas (including Administration):

- **Applied Research—$55 million**. Research activities that relate to the development of next generation clean energy technologies, as well as related to the impacts and implications of climate change, clean energy deployment, on energy system operations and the environment.

- **Demonstration—$50 million** (at least $10 million of which is allocated to bioenergy projects). Demonstration involves providing the technical viability of a technology scaled in an operating environment that reflects real-world conditions.

- **Market Facilitation—$15 million.** Activities that address non-price, non-technical barriers that may impede technology adoption despite the technical and economic viability of a given technology.

- **Administration—$21 million for the California Energy Commission (CEC) and $7 million for CPUC staffing.** This covers the CEC's costs and incremental CPUC costs associated with overseeing all of the various program elements as proposed.

Staff Comments. The development of a rulemaking on energy efficiency at the CPUC on its surface is not problematic and is part of the regular course of work conducted by the Commission. However the Commission's current rulemaking raises a number of concerns. As a basic issue, the continuation of programs that were determined to be a tax for voting purposes without legislative review or approval is a major concern. However, other concerns have been raised by potentially impacted ratepayers and outside interests including:

1. The EPIC staff proposal is vague and does not specify what programs would be included or not in the final outcome making review of the proposal difficult.

2. The proposal seems to increase overall research and development revenues, and includes funding to the Energy Commission. Why are only investor-owned utilities paying for this when the benefit is extended to all state energy ratepayers (including publicly-owned utilities)?

3. The proposal does not include a clear investment plan that specifies how this proposal benefits ratepayers of investor-owned utilities.

4. The proposal does not clearly specify funding priorities and any balance with overall state or federal funding for these programs. For example multiple state programs are proposed to fund energy efficiency efforts including auction revenues from the Cap and Trade program. If this is the case, do we need EPIC?

Staff Recommendation:

Vote: HOLD OPEN

Safety Programs and Proposals (Consumer Safety Division)

Background. The Governor's budget includes four proposals for enhancement of the Consumer Safety Division. This is above and beyond the additional 12 positions and about $671,000 approved by the Legislature in the 2011 budget process.

LAO Analysis.

Background. The California Public Utilities Commission (CPUC) regulates, among other things, the safety of both large and small natural gas transmission and distribution facilities, natural gas storage facilities, propane gas systems, and mobile home park master-metered gas systems. Currently, California's gas system serves about 11 million customers through 100,000 miles of gas distribution mains and 10,000 miles of gas transmission pipelines, with more than 2,300 miles of transmission pipelines located in "high-consequence" areas (meaning adjacent to significantly high population or frequently used by the public). Some of these pipeline systems were built as early as the 1920s.

On September 9, 2010, a 30-inch-diameter natural gas transmission pipeline owned and operated by Pacific Gas and Electric ruptured in a residential area in the city of San Bruno. The accident killed eight people, injured many more, and caused significant property damage in the area. The released natural gas caused a fire that destroyed 37 homes and damaged 18 other homes. In the wake of this accident, the CPUC, federal regulators, the Legislature, and Congress have undertaken a comprehensive evaluation of natural gas pipeline safety. This review has resulted in new laws and regulations for all California pipeline operators. For example, the CPUC authorized an independent review panel of experts to review the commission's Gas Safety Program and recommend actions to reduce the likelihood of future incidents. Similarly, the National Transportation Safety Board and the Pipeline and Hazardous Materials Safety Administration issued an investigation report that identified the need for additional activities and resources at both the state and federal level to better ensure pipeline safety.

Governor's Proposal. In response to the above reports, as well as recent legislation that directs the CPUC to take certain actions regarding pipeline safety, the Governor's budget for 2012-13 includes various requests that in total would provide the CPUC with $6.5 million in increased funding to support 46 additional positions in its Consumer Safety Division.

Proposals Raise Concerns. The Governor's proposal raises some concerns. First, our analysis indicates that the Consumer Safety Division currently has 31 vacant positions (out of a total of 217 positions). Moreover, we note that the CPUC, as a whole, currently has a total of 135 vacant positions. At the time of this analysis, the commission has not provided a plan on how it will address its vacancies. Given the CPUC's current vacancy rates, the requested funding may not be spent as proposed in the budget year to the extent that the requested positions for the Consumer Safety Division are not filled. In addition, the CPUC has not provided adequate information to justify the requested 46 positions on a workload basis.

LAO Recommendation. In view of the above concerns, we recommend that the Legislature reject the Governor's 2012-13 budget proposals that would provide the CPUC with a total of 46 additional positions, as well as appropriate $6.5 million to support these positions. We further recommend that the Legislature require the CPUC to provide a plan this spring on how it plans to fill its current vacancies.

Staff Comments. Staff generally concurs with the LAO analysis of the issues. In the time between the release of the LAO analysis (which was derived from information provided by the Commission) and this hearing, the Commission has provided new information on its vacancy rate in the Division, projecting only eight vacant positions. An update to the workload justification was not included in this update.

Staff generally supports the legislative proposals that were vetted through the policy process in 2011. In addition to these proposals, the CPUC also received positions to directly address the natural gas pipeline safety program in the 2011 budget. However, staff believes the CPUC should consider using existing resources and shifting program priorities to enact systematic changes to its Global Safety and Enforcement Programs as it has on numerous other occasions related to energy and climate regulation. It would seem that the most important change that needs to occur is a cultural change where the department re-focuses its efforts on safety using its current administrative resources. To the extent that the department can demonstrate this priority first, then incremental proposals, particularly those vetted through the policy process would be more appropriate.

Staff Recommendation:

1. REJECT: Global Safety and Enforcement Programs proposal (Global Safety and Enforcement Programs ($5.9 million, 41 positions).

2. APPROVE Legislative Proposals (Below, three items).
   - Chapter 520, Statutes of 2011 (SB 44, Corbett): Gas Pipeline Emergency Response Standards ($217,000, two positions).
   - Chapter 522, Statutes of 2011 (SB 705, Leno): Natural Gas Service and Safety ($102,000 and one position).
   - Chapter 519, Statutes of 2011 (AB 56, Hill and SB 216, Yee): Gas Corporations Rate Recovery-Pipeline Safety Expenditures ($322,000 and two positions).

Vote: APPROVE Item 2: (3-0)
HOLD OPEN Item 1

3360 Energy Resources Conservation Development Commission (California Energy Commission)

The Energy Resources Conservation and Development Commission (commonly referred to as the California Energy Commission or CEC) is responsible for forecasting energy supply and demand; developing and implementing energy conservation measures; conducting energy-related research and development programs; and siting major power plants.

Governor's Budget. The Governor's Budget includes $393 million (no General Fund) for support of the CEC, a decrease of approximately $161 million, due primarily to the phasing down of the Public Interest Energy Research (PIER) Program and the Renewable Resources Trust Fund (RRTF) as a result of the failure to reauthorize the Public Goods Charge.

Items Proposed for Vote-Only

1. **Smart Grid Policy Implementation.** Request to continue one existing limited-term position for two additional years to continue to support the Commission's technical analysis and standards coordination needed to implement Chapter 327, Statutes of 2009 (SB 17, Padilla). This proposal also includes activities related to renewable energy and distributed generation.

2. **Energy Information Demands of California's Energy Market.** The budget requests authority to redirect one existing Energy Resources Programs Account (ERPA) funded permanent position from the Siting, Transmission and Environmental Protection Division (Siting Division) to the Information Technology Services Branch (ITSB) to develop technical expertise in a civil service employee and address critical support needs to build energy-related information systems.

Recommendation: APPROVE Items 1-2

VOTE:

APPROVE Item 1: (3-0)
APPROVE Item 2: (2-1, Fuller)

ITEMS PROPOSED FOR DISCUSSION

ERPA and RRTF Funded Program Requests

Background. Under current law, the CEC is authorized to impose and adjust the Energy Resources Program Account (ERPA) surcharge. At the November 8, 2010 business meeting, the commission approved an ERPA surcharge increase which became effective January 1, 2011. The rate was increased from $0.00022 to $0.00029, which was expected to generate $16.9 million in 2011-12.

The ERPA fund supports many of the basic programs of the CEC, including its siting and energy forecasting functions. State law directs electric utilities (both privately and publicly owned) to collect a state energy surcharge from all electric customers (this is a separate surcharge from the Public Goods Charge). The Board of Equalization collects the surcharge from the utilities.

The Renewable Resource Trust Fund as a fund that is continuously appropriated, with exceptions for administrative expenses, to support renewable energy resources through the public goods charge. The main source of funding for this program ended in December 2011 (see discussion under the California Public Utilities Commission).

Program Audit. In the 2011 budget, the Legislature directed $200,000 of the Commission's budget to a review of the ERPA Account and the Renewable Resources Trust Fund (RRTF). This was later narrowed to avoid duplication of a pending audit of the RRTF. As anticipated, the auditors were challenged to specify positions that were not working under current mandates because of the nature of the statute that established the Commission's work, the Warren-Alquist Act of 1974. As such, when one position is no longer used for a single purpose established by a budget proposal or otherwise, the position, under current law, often could be shifted within the broad program umbrellas given by the originating act.

The audit did report a number of mandated activities that were not being performed during the audit period including those related to AB 32 greenhouse gas emissions, technology export, energy efficiency technical assistance, and loan recipient reporting.

Budget Proposals. The Governor's budget includes two requests that impact ERPA funding:

1. **Establishing an Audit and Investigation Unit**. Request to redirect three existing permanent positions funded from the Siting Division to establish an audit and investigation unit. This unit will provide audit oversight to ensure federal and state funds across all programs are spent in accordance with applicable federal and state requirements and guidelines to prevent fraud, waste and abuse. These positions would be funded by the ERPA.

2. **Implementation of Renewable Energy Development Grants Under ABx1 13.** The budget requests two limited-term positions for one year to develop and administer $7 million in grants mandated by Chapter 10, Statutes of 2011 (ABx1 13, Perez). Grants would be issued to qualified counties for the development or revision of rules and policies that facilitate the development of eligible renewable energy resources and their associated electric transmission facilities, and the processing of permits for eligible renewable energy resources.

Staff Comments. The future organization of funding at the department is currently difficult to determine given the loss of the public goods charge as discussed earlier under the California Public Utilities Commission. A number of major structural changes have been discussed in policy committees regarding the Commission, including some that focus on future use of funds that may not be available unless alternative funding sources are identified. Ongoing discussions about how to fund the Emerging Renewables Program and the New Solar Homes Partnership Program raise questions about where funding to the agency should be directed. Funding reductions may also impact the administrative functions of the agency, the use of the Renewable Resources Trust Fund, and other grant and research functions.

According to the audit, because of the broad mandate given to the department, it is up to the Legislature to now determine how the commission must reduce its scope of work, provide specific directives, and deliverables. This discussion is better left to the policy committees to sort out, however, as the budget moves through, it is important to not hamper these future discussions by over-appropriating funding for programs that may not be the highest priority of the Legislature given the very recent discussions of the Public Goods Charge and the new Electricity Improvement Procurement Charge.

Staff Recommendation: Hold Open

Vote: HOLD OPEN Items 1 and 2

3500 Department of Resources Recycling and Recovery (Cal Recycle)

The Department of Resources Recycling and Recovery (CalRecycle) was created pursuant to Chapter 21, Statutes of 2009 (SB 63; Strickland) and is largely the merger of the Waste Board (minus the board members and associated support staff) and the Department of Conservation Division of Recycling. As such, CalRecycle protects public health and safety and the environment through the regulation of solid waste facilities, including landfills, and promotes recycling of a variety of materials, including beverage containers, electronic waste, waste tires, used oil, and other materials. CalRecycle also promotes the following waste diversion practices: (1) source reduction, (2) recycling and composting, and (3) reuse. Additional departmental activities include research, permitting, inspection, enforcement, public awareness, market development to promote recycling industries, and technical assistance to local agencies.

Governor's Budget. The Governor's Budget includes $1.4 billion (no General Fund) for the department, including $1.2 billion for the Beverage Container Recycling and Litter Reduction Program, and about $200 million for the Waste Reduction and Management Program (the old Waste Board).

Items Proposed for Vote-Only

1. **Carpet Stewardship Program.** Request for 2.75 positions and $205,000 to implement the carpet stewardship law pursuant to Chapter 681, Statutes of 2010 (AB 2398, Perez). This law establishes a private-sector designed and managed statewide Carpet Stewardship Program that provides industry with anti-trust protection. Statute allows for the collection of assessments to fund the program and for the state to be reimbursed for state oversight of the program.

2. **Architectural Paint Recovery Program.** Request for 2.75 positions and $205,000 to cover the full costs of administering and enforcing the Architectural Paint Recovery Program as established by Chapter 420, Statutes of 2010. This legislation established an industry-supported revenue stream to support the architectural paint recovery program which places primary responsibility for end-of-life paint recovery and management on the paint manufacturer, or paint stewardship organizations, and limits the state role to oversight.

3. **Electronic Waste Recycling Fraud Case Development and Prosecution.** Request for a transfer of $558,000 in expenditure authority and five positions from the Electronic Waste Recovery and Recycling Account from the Department of Toxic Substances Control to the Department of Resources Recycling and Recovery. Because this is a transfer of authority and positions, it adds no additional costs or positions.

4. **Out-of-State Beverage Container Importation Monitoring Program.** Request to annually redirect $1.4 million of existing authority to fund an Interagency Agreement with the California Department of Food and Agriculture (CDFA), border protection stations to combat Beverage Container Recycling Program fraud associated with illegal CRV redemption of beverage containers imported to California from out-of-state. The subcommittee approved a corresponding proposal at the CDFA on March 21.

Recommendation: APPROVE Items 1-4

Vote: APPROVE Items 1-2: (2-1, Fuller)
APPROVE Items 3-4: (3-0)

ITEM PROPOSED FOR DISCUSSION

Special Fund Reductions for the Spring Budget Process

Background. During the 2011 budget deliberations, the Legislature passed language requiring the department to convene a monthly working group with legislative staff and the LAO related to administrative and operating issues stemming from reorganization at the department. At the time, the department's reorganization proposal did not meet statute and was in the process of being modified to meet statutory requirements. The Governor vetoed this budget bill language.

The subcommittee raised the following issues in May 2011:

a) Separation of the Division of Recycling from the former waste board functions.
b) Co-mingling between Beverage Container Recycling Fund and waste divisions.
c) Unnecessary CEA positions that duplicated Governor's appointee functions.
d) Fostering of expertise in subject areas and a return to functional programs by policy area.

Budget Proposal. The Governor's budget requests an abolishment of two CEA positions for a total reduction of $236,000 spread over multiple funds. This is part of a state-wide request by the Governor for special fund budgetary reduction plans targeted to reduce administration and program support, and is not unique to CalRecycle.

Staff Comments. The organization of the department is critical to the ability of the department to effectively manage its mandates as laid out in statute. In 2011 it was clear that the organization of the department was creating barriers both for the ongoing management of funding at the department, a long-term issue, as well as the effectiveness of personnel in their relationship with stakeholders. Because of this the subcommittee's questions regarding the solvency of the department's main funding source, the Beverage Container Recycling Fund, as well as management of individual mandates, were not sufficiently addressed in hearings.

The subcommittee may wish to have the department address the following issues:

1. What is the status of the reorganization plan?
2. Does the reduction of these CEA positions follow a statewide plan or direction from the subcommittee to reduce the possible overlap of CEA positions with Governor's appointees?
3. How has the functional expertise in subject areas changed in the past year and has the department returned to a more manageable structure of functional programs by policy area?

Staff Recommendation: Approve as budgeted.

Vote: APPROVE as budgeted: (3-0)

Beverage Container Recycling Fund

Background. The Beverage Container Recycling Program covers the majority of disposable beverage containers sold in the state. The program encourages the voluntary recycling of certain beverage containers by guaranteeing a minimum payment (termed California Redemption Value [CRV]) for each container returned to certified recyclers. In 2010-11, over 20 billion containers covered by the program were sold and about 17 billion were recycled, reflecting an 85 percent recycling rate.

The CRV is the primary source of funding for the Beverage Container Recycling Fund (BCRF). For each beverage container subject to the CRV sold to retailers, distributors make redemption payments that are collected by the department and deposited into the BCRF. This CRV cost is passed on to retailers who collect the CRV from consumers for each applicable beverage container sold. Consumers can recoup the cost of the CRV by redeeming empty recyclable beverage containers at a recycler. Recyclers are in turn reimbursed by the department for redeemed CRV.

The BCRF's expenditures fit into two main categories: (1) CRV reimbursements to recyclers and (2) program expenses (including for administration, grant programs, and education and outreach) that are funded from unredeemed CRV.

Over a number of years, the BCRF program has developed a structural deficit. Chapter 5, Statutes of 2010 (ABx8 7, Evans) addressed shortfalls in the BCRF in 2009-10 and 2010-11 by (1) accelerating the collection of CRV revenues, (2) capping some program expenses, and (3) restricting future borrowing from the BCRF. Even given these shortfall solutions, the fund has a $100 million per year structural deficit. A basic analysis would suggest the BCRF could only sustain a 60-70 percent recycling rate, while we currently have a close to 85 percent rate.

BCRF Solvency and General Fund Loan Repayment. Consistent with the recommendation in the recent CalRecycle report on the BCRF, budget trailer language is needed in order to maintain the existing "60 day" beverage distributor CRV payment schedule which otherwise sunsets. Without this language change, the Beverage Container Recycling Fund (BCRF) could potentially experience a cash shortfall of as much as $100 million during the 1st quarter of the 2012-13 fiscal year. Adoption of this language would ensure that the proposed General Fund loan payback for 2012-13 could be reduced by as much as $80 million, and paid in quarterly increments through the year as proposed.

In a recent report, CalRecycle made the following recommendation:

> "CalRecycle recommends preserving the existing bimonthly redemption Payment schedule going forward and amending Public Resources Code Section 14574 to remove the July 1, 2012 sunset provision. Additionally, further consideration should be given to adjusting reporting periods toward concurrent posting of revenue and expenditures."

Staff Comments. The subcommittee may wish to have the department address the following issues:

1. What recycling rate are we currently receiving and what can the fund sustain?
2. Statute requires some mandatory payments. Are there ways to simplify how we pay out from the BCRF without impacting programs?
3. What will happen when accelerated payments cease?
4. What is the impact of adopting the trailer bill language as proposed by CalRecycle?

Staff Recommendation: Adopt Trailer Bill Language to preserve the existing bimonthly redemption payment schedule.

Vote: APPROVE TBL: (2-1, Fuller)

Informal request for the department to return by next year with a plan to implement structural reform, including review of recommendations by the Legislative Analyst's Office.

3940 State Water Resources Control Board

The State Water Resources Control Board (State Water Board) 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 $713 million and 1,502 positions for support of the Board. Decreases in funding are largely due to reductions in bond expenditures.

Items Proposed for Vote-Only

1. **Funding for Billable Legal Services Conversion.** Request for a shift of $1 million to complete a billable legal services conversion imitated in the 2011 Budget Act. The Water Board has determined that increasing the Waste Discharge Permit Fund expenditure authority by $600,000 and Water Rights Fund expenditure authority by $450,000 to cover the Department of Justice General Fund expenditures for activities billable to these special funds.

2. **GAMA Program Fund Shift.** Request for a funding shift of $233,000 and 1.5 positions in 2012-13 and $400,000 annually thereafter from Proposition 50 bond funds to the Waste Discharge Permit Fund for the Groundwater Ambient Monitoring and Assessment (GAMA) Program.

3. **Bond Position Reduction.** The budget requests to eliminate two positions and $212,000 from the State Revolving Fund Subaccount to align positions with resources. This is necessitated by a reduction in the availability of bond funds which requires fund decreases and reduction to be made to ensure resources are properly aligned.

4. **Watershed Management Initiative Program Elimination.** The Governor requests to eliminate the Watershed Management Initiative Program resulting in a reduction of 6.8 positions and $1.3 million from the Public Resources Account. The purpose of the initiative has been fulfilled and the work product is now in use by the regional water boards.

5. **State Water Pollution Control Revolving Fund Administration Redirection.** The budget proposes an increase of $2.8 million in State Operations authority for the State Water Pollution Control Revolving Administration Fund and a corresponding decrease of $2.8 million Federal Funds.

6. **Small Disadvantaged Community Wastewater Projects Planning, Design, and Construction Grants.** The budget proposes $11 million in local assistance authority for the State Water Pollution Control Revolving Fund Small Community Grant Fund for fiscal year 2012-13 to provide grants to help small disadvantaged communities achieve compliance with water quality regulations, protect surface and groundwater quality, and to help eliminate threats to public health.

7. **Underground Storage Tank Cleanup Fund Orphan Site Cleanup Fund Re-Appropriation**. The budget proposes a one-time reappropriation of $2.3 million local assistance authority from the Underground Storage Tank Petroleum Contamination Orphan Site Cleanup fund for unspent funds from the current year.

8. **SB 424—Beach Water Quality Monitoring Program.** Request for $1.0 million from the Waste Discharge Permit fund for local assistance to support best management practices and to determine beach monitoring protocols among other requirements per Chapter 592, Statutes of 2011 (SB 482, Kehoe).

9. **Continued Staff Support for Water Rights Statements of Water Diversion and Use.** Request for position authority shift to process statements related to the Water Rights division.

Staff Comments. These proposals are consistent with statute and the direction the board has taken over previous years. Item 9 is recommended to be denied without prejudice in order for the board to review its overall proposal and return in next year's budget with a proposal consistent with program direction.

Recommendation: APPROVE Items 1-8. Deny Item 9.

Vote: **APPROVE Items 1, 2, 8: (2-1, Fuller)**
APPROVE Items 3-7: (3-0)
DENY Item 9: (3-0)

ITEMS PROPOSED FOR DISCUSSION

Reorganization of the Regional Water Quality Control Boards

Background. The Governor proposes trailer bill language to reorganize the regional water boards to address a number of issues including retaining quality board members on the boards. The proposals include:

- **Consolidate Regional Boards.** The Governor proposes to eliminate the Colorado Regional Water Quality Control Board and to shift its functions to both the Lahontan and San Diego regions.

- **Reduce the Number of Board Members.** The Governor proposes to reduce the number of board members on a given regional board from nine to seven.

- **Eliminate Categorical Board Members Associations.** The proposal removes categorical spots on the regional boards including those for water supply, conservation, production, irrigation agriculture, industrial water, local government, or general members of the public.

- **Regional Water Board Chair Selected by the Governor.** The proposal allows the Governor to appoint the chairperson of the regional boards rather than the board members selecting from amongst themselves.

The reorganization proposal is a product of several years of attempts to reconcile the ability of the state to attract and retain quality board members who have expertise in the field. The review of complex permits and basin plans requires a level of expertise that generally comes from those with a great deal of experience within the water quality field. There are a few issues that were included in the overall general proposal that were not included specifically in the trailer bill language. These include:

- **Conflict of Interest Rules.** Current law prohibits regional board members from acting on proposals that involves the board member or any permittee where the board member has a position of authority or financial interest. The proposal had included language to conform the Water Code to the Political Reform Act as applies to all other state officials.

- **Increased Per Diem for Regional Board Members**. The proposal had included an increase in the per diem compensation from $100 per day to $500 per day, and an increase in the annual cap from $13,500 to $60,000. This was intended to address, among other issues, the time spent by board members evaluating complex permits during board deliberations, and to attract and retain quality board members.

Staff Comments. Staff have reviewed the proposal and in general concur with the proposals to change the constitution of the regional boards, including those proposals that were not included in the trailer bill language. However, staff have some concerns with the proposed consolidation of the regional boards. It is unclear why the Colorado Regional Board was selected for elimination rather than consolidation of urban Southern California boards (such as Santa Ana and San Diego). Staff recommends reconsideration of the board consolidation proposal to ensure the proposed consolidation achieves the goal of increasing government efficiency and reducing programmatic expenses at the regional board level.

Staff Recommendation:

1. APPROVE Trailer Bill Language (including conflict of interest and per diem elements).
2. HOLD OPEN regional board consolidation (elimination of the Colorado Regional Board).

Vote: HOLD OPEN

San Diego Regional Board Office Location

Budget Proposal. The Water Board is requesting additional funding to relocate the San Diego regional office. At this time the Water Board is requesting $2.8 million (various special funds) on a one-time basis for relocation expenses and $505,000 (various special funds) on an annual basis for the anticipated rent increase. The Department of General Services has been engaged to obtain more detailed information and refine cost estimates.

According to the Administration, relocation is necessary because the current location is directly next to an industrial solar panel manufacturer that emits toxins into the air. Regional Board employees have complained and submitted Workers Compensation claims regarding headaches and nausea believed to be related to toxins entering the building. As of this date, all of these claims have been settled without litigation.

Staff Comments. The relocation of the board is expensive and the board should be directed to use all means to reduce costs during the move. That said, it is likely the relocation is necessary and should be funded. However, funding for future rent increases is not justified at this time. During an economic downturn, the board should be able to negotiate a favorable rental agreement at or close to the current rental agreement. Therefore until a new rental agreement is signed, the subcommittee should not approve an increase in rent for future years. The subcommittee should be given an opportunity to review the rental agreement achieved by the board with the Department of General Services in budget discussions next year.

Staff Recommendation:

1. APPROVE one-time relocation expenses ($2.8 million)
2. DENY ongoing future increased rent expenses ($505,000)

Vote: HOLD OPEN

Funding for Water Recycling

Background. Chapter 700, Statutes of 2010 (SB 918, Pavley) requires the State water Resources Control Board to enter into an agreement with the Department of Public Health (DPH) to investigate and report to the Legislature on the feasibility of developing uniform water recycling criteria for direct potable reuse, among other issues. Funding for this item was inadvertently diverted to other purposes in the 2011 budget including for ongoing litigation defense funding. Due to an impending water board settlement related to water quality in Hinkley, funding is now available for the purposes of this statute and should be directed to its use.

Staff Comments. Staff recommends the subcommittee require the board to fund this statutory requirement out of the existing Waste Discharge Permit Fund (as proposed in the original bill).

Staff Recommendation: Approve budget bill language in concept to direct funding to the State Board and Department of Public Health not to exceed the reasonable cost of the program or $700,000 (as specified in the fiscal analysis of the bill) from the Waste Discharge Permit Fund.

Vote: APPROVE Staff Recommendation (2-1, Fuller)
(Clarification that this is a one-year appropriation with the intent to continue for the four-year program. The department should submit a budget proposal with the cost of the program for the remaining three years in the 2013-14 budget process.)

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

S. Joseph Simitian, Chair
Jean Fuller
Alan Lowenthal

Wednesday, May 9, 2012
2:30 pm or upon adjournment of Rules Committee
Hearing Room 4203

Consultant: Catherine Freeman

Items Proposed for Vote-Only (Including Spring Finance Letters)

Departments and Issues Proposed for Discussion (Open Issues)

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 916-324-9335. Requests should be made one week in advance whenever possible.

ITEMS PROPOSED FOR VOTE-ONLY (TECHNICAL SPRING FINANCE LETTERS)

0540 Secretary for Natural Resources

1. **Reappropriation: Strategic Growth Council Modeling Incentives Program—Proposition 84**. The Secretary requests reappropriation of funds for data gathering and model projects in compliance with Chapter 728, Statutes of 2008 (SB 375).

2. **Reappropriation: Proposition 50 Bond Funds.** The Secretary requests reappropriation of funds for the River Parkways grant program to allow ongoing projects to be completed and remaining funds to be awarded in the final round of program funding.

3340 California Conservation Corps

3. **Increase Reimbursement Authority.** The department requests an increase of $354,000 (Collins-Dugan Reimbursement Account) to enable the Corps to support proposed contracts for the elimination of noxious weeds in agriculture and grazing lands and for the Backcountry Trails program.

4. **Capital Outlay Reappropriations: Delta Service Center Acquisition and Construction.** The department requests two reappropriations for an ongoing project to include acquisition, preliminary plans, working drawings, and construction.

5. **Capital Outlay Reappropriation: Tahoe Base Center Relocation.** The department requests reappropriation of funds for an ongoing project that is under construction. Regional permitting will require a minor redesign of the project. This reappropriation will permit the remainder of the project to continue through construction.

3600 Department of Fish and Game

6. **Bond Fund Realignment.** The budget proposes a realignment of bond funds to align expenditure authority with anticipated expenditures and available resources. These include reappropriation of the Delta Ecosystem Restoration Program and Natural Community Conservation Plan.

3680 Boating and Waterways

7. **Technical Correction to Budget Bill Language.** The budget proposes a technical change to correct an existing reappropriation's budget year reference.

3680 San Francisco Bay Conservation Development Commission

8. **Reimbursements.** The budget proposes to increase reimbursements by $242,000 to provide funding for the Coastal Impact Assistance Program. Funds for this program are from federal sources and administered by the Secretary for Natural Resources.

3885 Delta Stewardship Council

9. **Reimbursements.** The budget requests extension of six existing limited-term positions until June 30, 2014 (no new funding is required). A previous reappropriation proposal provides the funding for these continued positions.

3680 Santa Monica Mountains Conservancy

10. **Various Bond Funds: Capital Outlay Funding Reversion.** The budget proposes to revert $4.7 million (Proposition 12) and $1.4 million (Proposition 50) bond funds to align program expenditures with existing projects.

11. **Capital Outlay Funding (including proposed Budget Bill Language):** The budget proposes to appropriate funding from a proposed reversion (see previous item) to be used for high priority projects in the Santa Monica Mountains Zone and Rim of the Valley Trail Corridor consistent with the adopted Santa Monica Mountains Conservancy Work Program. The proposal also requests Budget Bill Language (BBL) to authorize the expenditure of funds only after verification that the Conservancy has adequately addressed specified bond audit findings. Department of Finance has informed Staff that "the conditions that led us to propose the language have been resolved and the language is no longer necessary." However, the Department is not planning to formally withdraw the language.

12. **Various Bond Funds: Capital Outlay Extension of Liquidation Period (including proposed Budget Bill Language).** The budget requests an extension of liquidation for various bond funds until June 30, 2013. The proposal also requests Budget Bill Language (BBL) to authorize the expenditure of funds only after verification that the Conservancy has adequately addressed specified bond audit findings. Department of Finance has informed Staff that "the conditions that led us to propose the language have been resolved and the language is no longer necessary." However, the Department is not planning to formally withdraw the language.

3680 Baldwin Hills Conservancy

13. **Proposition 84 Program: Position Extension.** The budget proposes amending an existing appropriation to extend a limited-term position until June 20, 2015, to align the position with existing bond expenditure programs.

3860 Department of Water Resources

14. **FloodSAFE California Program.** The budget requests continued funding from Proposition 1E and Proposition 84 to continue funding for the seven functional areas identified in the FloodSAFE proposal. The majority of funding continues work on flood risk reduction projects.

15. **Water Management.** The budget requests reversion of $45 million and appropriation of $102 million from Proposition 1E Stormwater flood management local assistance funds to continue a second round of grants and to finalize the first round of local grants. The budget also requests reversions and appropriations to align funding for Integrated Regional Water Management grants.

16. **Implementation of the Delta Stewardship Council's Delta Plan.** The budget requests $1.05 million from Proposition 1E bond funds and the State Water Project funds as well as six positions to implement mandated programs and projects within the areas of the state affected by the Delta Stewardship Council's Delta Plan.

17. **Technical Support (Reappropriations, Extension of Liquidation, Reversions).** The budget requests various technical changes to continue previously approved projects including the Yuba Feather Flood Protection Program, the Stockton Deep Water Ship Channel, Water Use Efficiency Grant Program, and various water management programs.

18. **Provisional Language Revision.** The budget requests minor changes to provisional language that allows the department to move forward with projects when federal cost-sharing is not possible.

19. **Capital Outlay Expenditures.** The department requests continued funding for capital projects including one technical change to allow for dollars inadvertently identified as support to be used for capital projects as anticipated. Budget year funding for all projects totals $169 million from various bond funded sources.

3960 Department of Toxic Substances Control

20. Capital Outlay—Stringfellow New Pre-Treatment Plant. The budget requests $7.8 million (capital funds) to reflect the final design estimate for the construction phase of the Stringfellow New Pre-Treatment Plant project. This new design includes costs related to inspection, material testing, special consultants, and a five-month increase in the estimated construction duration.

8570 Department of Food and Agriculture

21. Reimbursements. The budget requests reappropriations for two previously approved capital projects, the California Animal Health and Food Safety Laboratory (Tulare/Fresno County), and the Yermo Agriculture Inspection Station. Both of these projects are anticipated to start construction in the budget year.

Trailer Bill Language:

22. Trailer Bill Language (Stand Alone). The Department of Finance has posted a number of trailer bills to its trailer bill website. A few of these directly tie to budget proposals received by budget staff (for example Orphan Well Cleanup at the Department of Conservation). The majority these bills do not tie directly to a budget proposal and have no supporting documents other than the trailer bill itself.

Staff Comments (including Trailer Bill Language): Staff concurs with the need for items 1-21. Staff has also reviewed a number of trailer bills posted by the Department of Finance to its trailer bill website. Those items without budget proposals are not recommended to be taken up by the budget subcommittee and are recommended to be moved to policy committees.

Recommendation:

1. APPROVE Items 1-21.
2. REJECT Budget Bill Language for items 11-12 (Santa Monica Mountains Conservancy) that is no longer necessary.
3. MOVE trailer bills without budget proposals to policy committee (Item 21).

Vote:

ITEMS PROPOSED FOR DISCUSSION

3790 Department of Parks and Recreation

The Department of Parks and Recreation (Parks) acquires, develops, and manages the natural, cultural, and recreational resources in the state park system and the off-highway vehicle trail system. In addition, the department administers state and federal grants to local entities that help provide parks and open-space areas throughout the state.

The state park system consists of 277 units, including 31 units administered by local and regional agencies. The system contains approximately 1.4 million acres, which includes 3,800 miles of trails, 300 miles of coastline, 800 miles of lake and river frontage, and about 14,800 campsites. Over 80 million visitors travel to state parks each year.

Governor's Budget. The Governor's Budget includes $423 million, a decrease of $745,933 and 18 positions from the 2011-12 budget. The decreases are mainly related to bond expenditures ($654,851 million), reductions in Off-Highway Motor Vehicle Division ($10 million) and General Fund ($10 million).

ITEMS PROPOSED FOR VOTE-ONLY (SPRING FINANCE LETTERS)

1. **Air Quality Compliance—State Vehicular Recreation Areas.** Request for $4.8 million from the Off Highway Vehicle Trust Fund to provide funding to implement dust management plans at various state vehicular recreation areas for compliance with fugitive dust emission regulations.

2. **Water Quality Compliance—State Vehicular Recreation Areas.** Request for $1 million from the Off Highway Vehicle Trust Fund to implement a storm water management plan and compete a meta assessment plan at Carnegie State Vehicular Recreation Area for compliance with water quality standards.

3. **Americans with Disabilities Act Program.** Request for $2.6 million from the Proposition 84 to provide funding for projects as required by the Americans with Disabilities Act per a consent decree.

4. **Technical Adjustment to Bond-Funded Program Delivery**. The budget proposes a decrease in funding from various bond funds to align Proposition 12 and Proposition 40 expenditures with reduced program delivery activities.

5. **Proposition 84: Reappropriations to Extend Encumbrance Availability.** Two proposals to re-appropriate $50.8 million Proposition 84 bond funds until June 30, 2014, and to appropriate for $1.8 million funding to complete construction of the People Coordinated Services' Youth and Family Center. The first request will extend the encumbrance period for critical projects impacted by timing, delays in bond fund availability. This proposal is consistent with the department's plan to shift resources as needed to avoid park closures and further service reductions.

6. **Local Assistance Funding Reappropriation.** The budget proposes to extend encumbrance availability consistent with last year's legislative action for bond funded local assistance projects. This would extend the encumbrance and liquidation periods under the Nature Education Facilities Grant Projects program.

7. **Concessions Program.** The department requests approval of concession and operating agreements for Old Town San Diego Historic Park and Morrow Bay Historic Park.

8. **Off-Highway Vehicle Pre-Budget Schematics**. The budget proposes $5.9 million for Hollister Hills SVRA infrastructure and rehabilitation.

Staff Comments: The above proposals do not include any new acquisitions or new projects and are consistent with discussions related to park closures and the need to focus funding on existing and current projects.

Recommendation: APPROVE Items 1-8

ITEM PROPOSED FOR DISCUSSION

State Parks and Recreation—Ongoing Sustainable Funding Proposal

Previous Subcommittee Actions. The Senate Budget Subcommittee #2 heard proposals from the Department of Parks and Recreation on March 7 of this year. The department answered questions from members of the Committee and Senator Evans on the department's response to implement budget reductions and the proposal to close state parks. The subcommittee held open the following: (1) the local assistance program including off-highway vehicle funds, recreational trail funds and federal trust funds; (2) lifeguard headquarters; (3) off-highway vehicle opportunity purchases; and (4) the department's proposal for revenue incentive opportunities. The Subcommittee required the department to submit by April 9 a list of the rationale for park closures which was received on April 9.

Background. As of April 26, the department has reduced the number of parks slated for closure from 70 to 54. While this doesn't mean the parks remaining open will continue to be open in exactly the same manner, the effort of the department and particularly the efforts of the hundreds of local organizations stepping up to support parks is commendable.

Options to Provide Ongoing and Sustainable Support. As referenced in the Senate Red book and testimony by the Department, it is clear that simply funding the department at previous year levels is not sufficient to address structural problems inherent at the department. The breadth of the problem includes a deferred maintenance backlog in excess of $1 billion, increasing operations and maintenance costs, collapse of septic and wastewater systems designed for a much lower capacity, restrictive funding sources, and a need for a cultural shift to match the changed funding streams at the department.

Rather than look for one-time solutions solely, this subcommittee proposes a suite of changes, some in statute, and others in budget actions, designed to address the structural funding problem and promote cultural shift within the department. This proposal will still require short-term closures of a smaller number of parks in order to provide time to ramp up some of these programs. In the long run, implementing these changes this will go far towards providing a more stable and long-term solution. This proposal can dramatically reduce the number of full park closures necessary in the budget year, and ensure that the number of parks to be reopened in future budget years increases substantially.

These proposals are intended to complement other legislative proposals currently being considered by the policy committees including SB 1078—the State Parks Revenue Generation Act and SB 974 (Evans) —The State Parks Closure Review Act.

Senate Sustainable Parks Proposal—Recommendations

The following are a series of seven proposals to address problems identified by the Legislature, the Legislative Analyst's Office (LAO), and the administration that are barriers to a sustainable Parks program. The solution statements constitute the staff recommendation, in consultation with Senator Simitian and Senator Evans, including an eighth proposal discussed separately that introduces a transportation funding proposal.

Problem 1: **Department needs funding flexibility to become more entrepreneurial.**
Solution: Approve administration's two-year pilot proposal for continuous appropriation authority including trailer bill language requiring the department to report uses of the fund, and to require at least 50 percent of the funding received from district entrepreneurial projects to remain within that district.

Problem 2: **Personnel structure at the department restricts ability for the department to direct peace officers to the highest priorities.**
Solution: Approve LAO recommendation (trailer bill language) in part to add position authority to allow non-peace officers to administer certain non-law enforcement tasks. This proposal would be phased-in over a period of two years.

Problem 3: **The department should be collecting entrance fees in more locations and utilizing concession agreements in as many areas as practical.**
Solution: Approve LAO recommendation to approve entrance fee proposals and concession agreements. Require a percentage to remain in the district for revenue-related projects (budget bill language).

Problem 4: **Department needs more varied funding sources and Parks supporters need a more visible way to show support for the department.**
Solution: As mentioned in the LAO report, approve trailer bill language for both (1) an opt-in fee for vehicle renewal and (2) a specialty plate for parks alone.

Problem 5: **According to a report by the department in May 2011, at least 20 parks were put on the closure list in part due to water, wastewater, and septic system problems. Many of these are due to both aging facilities and increased visitor-ship beyond the capacity of these older systems.**
Solution: Approve budget bill language appropriating $10 million annually as long-term loans from the Clean Water Revolving Loan Fund for five years to replace the State Parks and Recreation Funding and to complement bond funding for water quality and septic system repairs. Recommend funding be prioritized to allow for re-opening of parks and directed to lower income areas to the extent possible.

Problem 6: **Local nonprofits who step up to take over parks may be subject to additional liability risk which could deter their efforts to help support State Parks.**
Solution: Approve trailer bill language to extend limited liability coverage to local and nonprofit agencies who partner with State Parks to take over functions or management of parks or park properties.

Problem 7: **Restrictive funding streams and categorical allocations reduce the flexibility of the department to more creatively apply state dollars while maximizing both federal and local matching funds.**

Solution: Approve trailer bill language to extend the eligible uses of funds for trails, multi-purpose off-highway vehicle funds (with the exception of direct fees), and local assistance dollars. The intent is to allow greater flexibility for decision-making across the entire State Parks system. This includes amending the Local Assistance Program proposal to allow the department to utilize these funds more broadly for state purposes, so long as federal matching funds and constitutional requirements are not jeopardized.

Transportation Funding at State Parks. The department is responsible for construction and maintenance of roads, construction and maintenance of fixed facilities related to roads, and enforcement of traffic laws on public roads (essentially all roads within the park system including certain vehicle-accessed trails). The state annually transfers about $3.4 million from the Highway Users Tax Account (HUTA) to the department per a longstanding agreement for roads maintenance. However, the department's ongoing costs related to public roads is much higher with a conservative annual funding amount at about $15 million. This does not include enforcement of laws on public roads or deferred maintenance which brings the total higher. This type of gap in funding is part of the structural deficit the department has incurred annually for multiple years.

As this Subcommittee has jurisdiction over transportation funding, it became clear in a recent hearing for Department of Motor Vehicles that there are funds held in balance (about $500 million) well beyond the prudent reserve in the Motor Vehicle Account. The eligible use of these funds is restricted by Article XIX of the California Constitution, which requires the funds to be used for maintenance and enforcement of laws on public roads.

Problem 8: **State Parks has an ongoing gap of up to $15 million for roads and trail maintenance, and for service provided by Park Rangers related to motor vehicles.**

Solution: Approve provisional budget bill language to utilize only a portion of the reserve of funding related to proceeds of the Motor Vehicle Account annually. Up to $10 million of this item shall only be expended in units of the State Park System and only for enforcement of traffic laws on public roads, construction and maintenance of public roads and their fixed facilities, and any other purpose allowable by Article XIX of the California Constitution.

Staff Recommendation. Adopt Senate Sustainable Parks Proposal.

Vote:

3460 Colorado River Board

The Colorado River Board was established by statute in 1943 to protect California's rights and interests in Colorado River water and power resources. Its membership includes representatives from the six major public agencies with Colorado River water entitlements as well as from the Departments of Water Resources and Fish and Game. The budget proposes expenditures of $1.6 million fully funded by member agencies.

ITEM PROPOSED FOR DISCUSSION

Elimination of the Colorado River Board (CRB)

The Proposal. The Governor's budget proposes eliminating the CRB as part of a larger initiative to streamline state government. The administration argues that CRB's duties are better carried out by the Secretary for Natural Resources

Background. California is unique among the western states that are allocated Colorado River water in that the US Department of the Interior (DOI) has signed contracts with the individual local water agencies in the state, as opposed to with the state directly, to determine water allocations. In all other Colorado River Basin states, DOI contracts directly with each state. Because the contracts are with the individual agencies, the state's role in the board is a partnership with the contracting agencies.

Staff Comments. The Governor's proposal does not lay out a clear plan that would address the concerns raised by the Legislature, the board, and its member agencies. Until such a plan is clearly identified, it would not be prudent to move forward with elimination of the board.

Staff Recommendation: DENY Proposal.

Vote:

3480 Department of Conservation

The Department of Conservation (DOC) is charged with the development and management of the state's land, energy, and mineral resources. The department manages programs in the areas of: geology, seismology, and mineral resources; oil, gas, and geothermal resources; and agricultural and open-space land.

Governor's Budget. The Governor's Budget includes $74.7 million and 464 positions for support of the Department. Decreases in funding are largely due to reductions in bond expenditures ($86 million). Increases in positions are tied to a request from the Division of Oil, Gas, and Geothermal Resources to enhance onshore and offshore regulatory programs.

ITEMS PROPOSED FOR DISCUSSION

State Mining and Geology Board (SMGB) Elimination

Background. The SMGB represents the State's interest in the development, utilization and conservation of mineral resources; reclamation of mined lands; development of geologic and seismic hazard information; and to provide a forum for public redress.

Governor's Proposal. The Governor proposes trailer bill language to eliminate the Board and move the appeals process to the Office of Administrative Hearings, and the balance of the Board's responsibilities to the Office of Mine Reclamation within the Department of Conservation. This will allow for necessary functions of the board to continue while eliminating the need for the board itself.

Staff Comments. This proposal is in line with past-year recommendations by the Legislative Analyst's Office. While certain functions of the board are statutorily required, these can be combined with existing offices to streamline government. This proposal will result in minor savings to the department from special fund resources that may be re-dedicated to high priority projects through the budget process.

Recommendation. APPROVE Trailer Bill Language.

DOGGR (Division of Oil, Gas, and Geothermal Resources) Compliance and Support Staff Augmentation

Governor's Proposal. The Governor requests 18 permanent positions and a baseline appropriation of $2.5 million ($2.3 ongoing) from the Oil, Gas, and Geothermal Administrative Fund to enhance onshore and offshore regulatory programs by improving its construction site review, environmental compliance, and underground injection control programs.

Previous Budget Actions. The subcommittee heard this item in March of this year and held the item open. The Chair requested the department address concerns with (1) workload analysis, and (2) a roadmap that describes how the department plans to move forward with hydraulic fracturing regulations.

Staff Comments. On April 30, 2012, the Department submitted a workload analysis to the Subcommittee, both of its existing division resources as well as proposed positions. At a meeting with Department staff on May 1, the Department gave a brief overview of its soon-to-be released roadmap and also described the public process it plans to pursue leading to regulation of hydraulic fracturing.

Staff have reviewed the roadmap and position request. While it is clear that under the current plan there would likely be workload associated with the positions, it is not clear whether or not this workload will change with: (1) the adoption of hydraulic fracturing regulation; and (2) a cautionary approach to permitting prior to a more in-depth review of the department's roadmap. Given that, the Legislature may wish to direct the department to work on hydraulic fracturing regulations and development of a related database. The Legislature should also ensure sufficient staff to accomplish this goal.

Recommendation. (1) APPROVE 12 positions. (2) REJECT 6 Associated Oil and Gas Engineer positions. (3) ADOPT the following Budget Bill Language to ensure the department follows legislative direction clearly.

1. On or before January 1, 2014, the department shall adopt rules and regulations for the implementation of this division specific to hydraulic fracturing. The regulations shall include, but are not limited to, all of the following:
   a) The operations and maintenance of wells, including well location, fracture depth, and reporting of well casing failures.
   b) The tracking of injection and disposal of hydraulic fracturing fluids and the associated produced water.
   c) The location of any known seismic faults within five miles of the well.
2. Develop a hydraulic fracturing database available for the public.

Vote:

0540 Secretary for Natural Resources (Tahoe Issues)

This item includes recommendations for agencies under the Secretary for Natural Resources as they relate to Lake Tahoe issues including the California Tahoe Conservancy and Special Resources Programs (Tahoe Regional Planning Agency).

The Secretary for Natural Resources heads the Natural Resources Agency. The Secretary is responsible for overseeing and coordinating the activities of the boards, departments, and conservancies under the jurisdiction of the Natural Resources Agency. The mission of the Resources Agency is to restore, protect, and manage the State's natural, historical, and cultural resources for current and future generations using creative approaches and solutions based on science, collaboration, and respect for all involved communities. The Secretary for Resources, a member of the Governor's cabinet, sets the policies and coordinates the environmental preservation and restoration activities of 27 various departments, boards, commissions, and conservancies.

Governor's Budget. The Governor's January Budget includes $47.7 million to support the Secretary for Natural Resources. This is a $125 million decrease under current year estimated expenditures primarily due to reduced bond fund expenditures.

ITEMS PROPOSED FOR DISCUSSION

Lake Tahoe Issues

Background. On April 11 of this year, the Senate Budget Subcommittee #2 heard proposals from agencies funded by the state within the Lake Tahoe Basin. The subcommittee heard testimony from the California Tahoe Conservancy, Tahoe Transportation District, Mayor of South Lake Tahoe, Tahoe Regional Planning Agency, a variety of local interests, and the California Tahoe Consortium. The purpose of the hearing was to get a better understanding of some of the more complex issues related to management of lands in the Basin, receive updates to legislative requests for information from previous years, and to discuss funding for projects in the basin. The subcommittee was also updated on the potential impacts of recent legislation in Nevada that would withdraw Nevada from the Bi-State Tahoe Compact should certain criteria not be met in the coming years.

The Secretary for Natural Resources and the Legislature have made it a priority to resolve these issues that were brought up at the hearing on April 11. The Secretary has taken the lead role for the administration both in resolving state-only issues as well as interacting with the State of Nevada on inter-state and Tahoe Compact issues.

Staff Comments. Based on testimony submitted both in person and written by state and local agencies as well as stakeholders in the Basin, and due to the timing of the public release of documents impacting the Basin by the Tahoe Regional Planning Agency, staff recommends the following actions to ensure continued collaboration in the Basin.

Recommendation: Adopt the following budget bill language (3 items).

0540 Natural Resources Agency

a. The Natural Resources Agency shall, by September 1, 2012, in coordination with the Tahoe Conservancy and the Department of Parks and Recreation, complete an agreement to consolidate and exchange state lands, and to share personnel, facilities, and other resources to more efficiently manage state-owned land in the Tahoe basin. The agreement shall include, but not be limited to, the long-term consolidation and transfer of land from the Conservancy to State Parks at Van Sickle Bi-State Park, Washoe Meadows State Park, Emerald Bay State Park, and Burton Creek State Park, and from State Parks to the Conservancy at Kings Beach State Recreation Area and Ward Creek. The agreement shall also provide for an interim multi-year operating agreement and sharing of personnel to ensure that the transfer does not increase management costs to either State Parks or the Conservancy.
b. The Secretary, in consultation with the Attorney General, shall determine that the Regional Plan update is consistent with the compact and submit this to the relevant fiscal and policy committees by April 1, 2013.

3110 Special Resources Programs (Tahoe Regional Planning Agency)

TRPA shall, by December 31, 2012:

1. In coordination with the California Natural Resources Agency and the Nevada Department of Conservation and Natural Resources, establish 4-year measurable performance benchmarks for all of the implementation measures and programmatic provisions included in the 2012 Regional Plan Update; and

2. In coordination with the Tahoe Science Consortium (TSC), CARB, SWRCB, Caltrans, Fish and Game, Tahoe Conservancy, CalFire, and other state and federal agencies, develop a comprehensive monitoring, evaluation, and reporting plan, including a scope, schedule, and budget for:
   a. monitoring all environmental threshold standards;
   b. TSC review of the scientific basis of the threshold standards and indicators;
   c. TSC development of annual reports on the Regional Plan performance benchmarks and a 4-year report (with an independent peer review) on the status of the threshold standards. Both reports shall be independently issued by the Tahoe Science Consortium.

3125 California Tahoe Conservancy

The Tahoe Conservancy shall, no later than February 15, 2013, prepare and submit an interagency cross-cut budget, including a summary of:

1. Federal, State, local, and private expenditures in the preceding fiscal year to implement the Environmental Improvement Program (EIP);
2. Accomplishments in the preceding fiscal year to implement the EIP; and
3. The proposed budget for the projects and programs of each State agency involved in implementing the EIP.

3540 Department of Forestry and Fire Protection

The California Department of Forestry and Fire Protection (DFFP) or "CalFIRE," under the policy direction of the Board of Forestry, provides fire protection services directly or through contracts for timberlands, rangelands, and brushlands owned privately or by state or local agencies. In addition, DFFP: (1) regulates timber harvesting on forestland owned privately or by the state and (2) provides a variety of resource management services for owners of forestlands, rangelands, and brushlands.

Governor's Budget. Excluding capital outlay, where the amount of carryover makes year-to-year comparisons less meaningful, the Governor's Budget includes $1.1 billion, which represents an overall decrease of $11.3 million and 41 positions from the 2011-12 budget. Decreases in funding are largely the result of re-benching the department's Emergency Fund (E-Fund).

ITEM PROPOSED FOR VOTE-ONLY (SPRING FINANCE LETTERS)

1. **Carbon Sequestration Research and Analysis.** Request for $290,000 from the Air Pollution Control Fund to enable CalFIRE to conduct research studies and technical analyses as required by Chapter 534, Statutes of 2010 (AB 1504). AB 1504 requires the Board of Forestry to ensure that its rules and regulations that govern timber harvesting consider the capacity of forest researches to sequester carbon in an effort to meet greenhouse gas emission targets outlined in Chapter 488, Statutes of 2006 (AB 32).

2. **Capital Outlay Ongoing Proposals.** Request for various reappropriations to provide ongoing funding for capital projects, including acquisition, working drawings and construction. Projects include the Ventura Youth Conservation Camp, Bautista Conservation Camp, North Regional Fire Stations, South Operations Area Headquarters, among others.

3. **Unemployment Insurance Funding.** The department submitted a proposal requesting $5.3 million General Fund to increase costs associated with Unemployment Insurance for seasonal firefighters. Although CalFIRE's budget includes funding from previous year proposals, more funding is proposed because of a federal UI extension statute.

Staff Comments. Staff has reviewed the proposals and recommends approval of items one and two. However, upon further discussion with the department, it is not clear that the Unemployment Insurance Funding is required for the budget year. Out of an abundance of caution for General Fund expenditures, the administration has withdrawn this proposal.

Recommendation: APPROVE Items 1-2; DENY Item 3

Vote:

ITEMS PROPOSED FOR DISCUSSION

4. Firefighter I Separation Costs

Background. CalFIRE hires seasonal firefighters to staff its fire engines, Air Attack Bases and Helitack Bases. The department staffing guideline calls for the three Southern units to begin staffing the first engine at all fire stations with seasonal firefighters before the spring equinox. As the fire season winds down seasonal firefighters separate from state employment. Once they separate they are entitled to a lump-sum payment at the time of separation for any unused or accumulated vacation or annual leave. As a result of a lawsuit, a change in practice was made starting in the current year when calculating the lump-sum payment that significantly impacts the base budget for annual seasonal firefighters.

On August 20, 2007, a lawsuit was filed by the CDF Firefighters (CDFF) Union alleging a violation of Government Code Section 19839. The Union contended that Section 19839(a) requires the state to include extended duty week compensation when calculating the lump-sum payments for accumulated leave credits. Until the lawsuit was settled, CalFIRE did not pay out extended duty week compensation. Although Section 19839 does not specifically require the extended duty week compensation to be included when calculating the lump-sum payment upon separation, the court ruled in favor of the Union.

Spring Finance Letter. The department requests an increase of $2.1 million (General Fund) to cover an increase in costs as a result of a negotiated settlement in the afore-mentioned lawsuit. This will cover lump-sum buyout costs associated with the annual separation of the departments seasonal Firefighter I staffing. This amount may increase in future years.

Staff Comments. The department's alternatives analysis includes various ways of funding the extended duty week compensation. However it is not clear if this was an intended compensation package when the union negotiated pay, nor if the Department of Personnel Administration (DPA) has exhausted its efforts to work with the union to negotiate a more cost-effective approach. The department is facing unprecedented budget reductions, both in the current year as well as part of the budget year trigger cuts. The state also is unable to increase General Fund expenditures when alternatives are available.

Recommendation. DENY Funding. Require the department and DPA to draft trailer bill language amending Government Code Section 19839(a) to more clearly reflect the intent of the union negotiations that did not include the extended duty work week lump sum payout. The trailer bill language would be due to this committee on May 14, 2012, for adoption at the May Revision hearing. The department, at that time, should provide a revised funding estimate for this proposal.

Vote:

State Responsibility Area Fire Prevention Fee

Governor's Budget. The budget proposes $9.3 million in 2012-13 and ongoing funding of $6.1 million, and 29 positions to implement ABx1 29 of 2011. This legislation authorizes a fee to be assessed on structures located within State Responsibility Areas (SRA) in order to pay for fire prevention activities in the SRA that specifically benefit owners of structures within the SRA. In a companion budget proposal, the Board of Equalization, charged with collection of the fee, is requesting 56 positions and $6 million in order to establish the fee base and collection program.

The proposal also requests Trailer Bill Language that changes to the eligible use of the fee to include additional fire prevention activities and requires regular reporting on the status and use of the fund.

Background. The State Board of Forestry and Fire Protection (BOF), as required by ABx1 29, adopted emergency regulations to establish the fire prevention fee. The pending BOF regulations establish a $150 fee for all habitable structures, as defined, with a $35 credit for those applicable structures within a local fire protection district. Under the legislation, CalFIRE is required to submit to the Board of Equalization a list of the appropriate names and addresses of those required to pay the fee.

Staff Comments. The proposal is consistent with statements made by CalFIRE when the fee legislation passed in 2011. However, staff are concerned that the expansion of the fee to include suppression does not meet the nexus for a fee and therefore out of an abundance of caution should be denied. Absent a written legal opinion that clearly specifies that this is an eligible use of the fund, staff recommends denying the expanded use of the fund for suppression.

Recommendation. (1) APPROVE Budget Proposal. (2) DENY Trailer Bill Language expanding the use of the fee for suppression.

Vote:

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

S. Joseph Simitian, Chair
Jean Fuller
Alan Lowenthal

OUTCOMES
Wednesday, May 9, 2012
2:30 pm or upon adjournment of Rules Committee
Hearing Room 4203

Consultant: Catherine Freeman

Items Proposed for Vote-Only (Including Spring Finance Letters)

Departments and Issues Proposed for Discussion (Open Issues)

Resources—Environmental Protection—Energy—Transportation

ITEMS PROPOSED FOR VOTE-ONLY (TECHNICAL SPRING FINANCE LETTERS)

0540 Secretary for Natural Resources

1. **Reappropriation: Strategic Growth Council Modeling Incentives Program—Proposition 84**. The Secretary requests reappropriation of funds for data gathering and model projects in compliance with Chapter 728, Statutes of 2008 (SB 375).

2. **Reappropriation: Proposition 50 Bond Funds.** The Secretary requests reappropriation of funds for the River Parkways grant program to allow ongoing projects to be completed and remaining funds to be awarded in the final round of program funding.

3340 California Conservation Corps

3. **Increase Reimbursement Authority.** The department requests an increase of $354,000 (Collins-Dugan Reimbursement Account) to enable the Corps to support proposed contracts for the elimination of noxious weeds in agriculture and grazing lands and for the Backcountry Trails program.

4. **Capital Outlay Reappropriations: Delta Service Center Acquisition and Construction.** The department requests two reappropriations for an ongoing project to include acquisition, preliminary plans, working drawings, and construction.

5. **Capital Outlay Reappropriation: Tahoe Base Center Relocation.** The department requests reappropriation of funds for an ongoing project that is under construction. Regional permitting will require a minor redesign of the project. This reappropriation will permit the remainder of the project to continue through construction.

3600 Department of Fish and Game

6. **Bond Fund Realignment.** The budget proposes a realignment of bond funds to align expenditure authority with anticipated expenditures and available resources. These include reappropriation of the Delta Ecosystem Restoration Program and Natural Community Conservation Plan.

3680 Boating and Waterways

7. **Technical Correction to Budget Bill Language.** The budget proposes a technical change to correct an existing reappropriation's budget year reference.

3680 San Francisco Bay Conservation Development Commission

8. **Reimbursements.** The budget proposes to increase reimbursements by $242,000 to provide funding for the Coastal Impact Assistance Program. Funds for this program are from federal sources and administered by the Secretary for Natural Resources.

3885 Delta Stewardship Council

9. **Reimbursements.** The budget requests extension of six existing limited-term positions until June 30, 2014 (no new funding is required). A previous reappropriation proposal provides the funding for these continued positions.

3680 Santa Monica Mountains Conservancy

10. **Various Bond Funds: Capital Outlay Funding Reversion.** The budget proposes to revert $4.7 million (Proposition 12) and $1.4 million (Proposition 50) bond funds to align program expenditures with existing projects.

11. **Capital Outlay Funding (including proposed Budget Bill Language):** The budget proposes to appropriate funding from a proposed reversion (see previous item) to be used for high priority projects in the Santa Monica Mountains Zone and Rim of the Valley Trail Corridor consistent with the adopted Santa Monica Mountains Conservancy Work Program. The proposal also requests Budget Bill Language (BBL) to authorize the expenditure of funds only after verification that the Conservancy has adequately addressed specified bond audit findings. Department of Finance has informed Staff that "the conditions that led us to propose the language have been resolved and the language is no longer necessary." However, the Department is not planning to formally withdraw the language.

12. **Various Bond Funds: Capital Outlay Extension of Liquidation Period (including proposed Budget Bill Language).** The budget requests an extension of liquidation for various bond funds until June 30, 2013. The proposal also requests Budget Bill Language (BBL) to authorize the expenditure of funds only after verification that the Conservancy has adequately addressed specified bond audit findings. Department of Finance has informed Staff that "the conditions that led us to propose the language have been resolved and the language is no longer necessary." However, the Department is not planning to formally withdraw the language.

3680 Baldwin Hills Conservancy

13. **Proposition 84 Program: Position Extension.** The budget proposes amending an existing appropriation to extend a limited-term position until June 20, 2015, to align the position with existing bond expenditure programs.

3860 Department of Water Resources

14. **FloodSAFE California Program.** The budget requests continued funding from Proposition 1E and Proposition 84 to continue funding for the seven functional areas identified in the FloodSAFE proposal. The majority of funding continues work on flood risk reduction projects.

15. **Water Management.** The budget requests reversion of $45 million and appropriation of $102 million from Proposition 1E Stormwater flood management local assistance funds to continue a second round of grants and to finalize the first round of local grants. The budget also requests reversions and appropriations to align funding for Integrated Regional Water Management grants.

16. **Implementation of the Delta Stewardship Council's Delta Plan.** The budget requests $1.05 million from Proposition 1E bond funds and the State Water Project funds as well as six positions to implement mandated programs and projects within the areas of the state affected by the Delta Stewardship Council's Delta Plan.

17. **Technical Support (Reappropriations, Extension of Liquidation, Reversions).** The budget requests various technical changes to continue previously approved projects including the Yuba Feather Flood Protection Program, the Stockton Deep Water Ship Channel, Water Use Efficiency Grant Program, and various water management programs.

18. **Provisional Language Revision.** The budget requests minor changes to provisional language that allows the department to move forward with projects when federal cost-sharing is not possible.

19. **Capital Outlay Expenditures.** The department requests continued funding for capital projects including one technical change to allow for dollars inadvertently identified as support to be used for capital projects as anticipated. Budget year funding for all projects totals $169 million from various bond funded sources.

3960 Department of Toxic Substances Control

20. **Capital Outlay—Stringfellow New Pre-Treatment Plant.** The budget requests $7.8 million (capital funds) to reflect the final design estimate for the construction phase of the Stringfellow New Pre-Treatment Plant project. This new design includes costs related to inspection, material testing, special consultants, and a five-month increase in the estimated construction duration.

8570 Department of Food and Agriculture

21. **Reimbursements.** The budget requests reappropriations for two previously approved capital projects, the California Animal Health and Food Safety Laboratory (Tulare/Fresno County), and the Yermo Agriculture Inspection Station. Both of these projects are anticipated to start construction in the budget year.

Trailer Bill Language:

22. **Trailer Bill Language (Stand Alone).** The Department of Finance has posted a number of trailer bills to its trailer bill website. A few of these directly tie to budget proposals received by budget staff (for example Orphan Well Cleanup at the Department of Conservation). The majority these bills do not tie directly to a budget proposal and have no supporting documents other than the trailer bill itself.

Staff Comments (including Trailer Bill Language): Staff concurs with the need for items 1-21. Staff has also reviewed a number of trailer bills posted by the Department of Finance to its trailer bill website. Those items without budget proposals are not recommended to be taken up by the budget subcommittee and are recommended to be moved to policy committees.

Recommendation:

1. APPROVE Items 1-21.
2. REJECT Budget Bill Language for items 11-12 (Santa Monica Mountains Conservancy) that is no longer necessary.
3. MOVE trailer bills without budget proposals to policy committee (Item ~~21~~22).

Vote:

APPROVE Items 2-7, 10, 14, 17, 20, 21— (3-0)
APPROVE Items 1, 8, 9, 11-13, 15, 18, 19, (including reject BBL) — (2-1, Fuller)
APPROVE Item 16— (2-1, Fuller)
MOVE Trailer Bill to Policy Committee (Item 22)—(3-0)

ITEMS PROPOSED FOR DISCUSSION

3790 Department of Parks and Recreation

The Department of Parks and Recreation (Parks) acquires, develops, and manages the natural, cultural, and recreational resources in the state park system and the off-highway vehicle trail system. In addition, the department administers state and federal grants to local entities that help provide parks and open-space areas throughout the state.

The state park system consists of 277 units, including 31 units administered by local and regional agencies. The system contains approximately 1.4 million acres, which includes 3,800 miles of trails, 300 miles of coastline, 800 miles of lake and river frontage, and about 14,800 campsites. Over 80 million visitors travel to state parks each year.

Governor's Budget. The Governor's Budget includes $423 million, a decrease of $745,933 and 18 positions from the 2011-12 budget. The decreases are mainly related to bond expenditures ($654,851 million), reductions in Off-Highway Motor Vehicle Division ($10 million) and General Fund ($10 million).

ITEMS PROPOSED FOR VOTE-ONLY (SPRING FINANCE LETTERS)

1. **Air Quality Compliance—State Vehicular Recreation Areas.** Request for $4.8 million from the Off Highway Vehicle Trust Fund to provide funding to implement dust management plans at various state vehicular recreation areas for compliance with fugitive dust emission regulations.

2. **Water Quality Compliance—State Vehicular Recreation Areas.** Request for $1 million from the Off Highway Vehicle Trust Fund to implement a storm water management plan and compete a meta assessment plan at Carnegie State Vehicular Recreation Area for compliance with water quality standards.

3. **Americans with Disabilities Act Program.** Request for $2.6 million from the Proposition 84 to provide funding for projects as required by the Americans with Disabilities Act per a consent decree.

4. **Technical Adjustment to Bond-Funded Program Delivery**. The budget proposes a decrease in funding from various bond funds to align Proposition 12 and Proposition 40 expenditures with reduced program delivery activities.

5. **Proposition 84: Reappropriations to Extend Encumbrance Availability.** Two proposals to re-appropriate $50.8 million Proposition 84 bond funds until June 30, 2014, and to appropriate for $1.8 million funding to complete construction of the People Coordinated Services' Youth and Family Center. The first request will extend the encumbrance period for critical projects impacted by timing, delays in bond fund availability. This proposal is consistent with the department's plan to shift resources as needed to avoid park closures and further service reductions.

6. **Local Assistance Funding Reappropriation.** The budget proposes to extend encumbrance availability consistent with last year's legislative action for bond funded local assistance projects. This would extend the encumbrance and liquidation periods under the Nature Education Facilities Grant Projects program.

7. **Concessions Program.** The department requests approval of concession and operating agreements for Old Town San Diego Historic Park and Morrow Bay Historic Park.

8. **Off-Highway Vehicle Pre-Budget Schematics**. The budget proposes $5.9 million for Hollister Hills SVRA infrastructure and rehabilitation.

Staff Comments: The above proposals do not include any new acquisitions or new projects and are consistent with discussions related to park closures and the need to focus funding on existing and current projects.

Recommendation: APPROVE Items 1-8

Vote: **Items 1-7—(3-0)**
Item 8—(3-0)

ITEM PROPOSED FOR DISCUSSION

State Parks and Recreation—Ongoing Sustainable Funding Proposal

Previous Subcommittee Actions. The Senate Budget Subcommittee #2 heard proposals from the Department of Parks and Recreation on March 7 of this year. The department answered questions from members of the Committee and Senator Evans on the department's response to implement budget reductions and the proposal to close state parks. The subcommittee held open the following: (1) the local assistance program including off-highway vehicle funds, recreational trail funds and federal trust funds; (2) lifeguard headquarters; (3) off-highway vehicle opportunity purchases; and (4) the department's proposal for revenue incentive opportunities. The Subcommittee required the department to submit by April 9 a list of the rationale for park closures which was received on April 9.

Background. As of April 26, the department has reduced the number of parks slated for closure from 70 to 54. While this doesn't mean the parks remaining open will continue to be open in exactly the same manner, the effort of the department and particularly the efforts of the hundreds of local organizations stepping up to support parks is commendable.

Options to Provide Ongoing and Sustainable Support. As referenced in the Senate Red book and testimony by the Department, it is clear that simply funding the department at previous year levels is not sufficient to address structural problems inherent at the department. The breadth of the problem includes a deferred maintenance backlog in excess of $1 billion, increasing operations and maintenance costs, collapse of septic and wastewater systems designed for a much lower capacity, restrictive funding sources, and a need for a cultural shift to match the changed funding streams at the department.

Rather than look for one-time solutions solely, this subcommittee proposes a suite of changes, some in statute, and others in budget actions, designed to address the structural funding problem and promote cultural shift within the department. This proposal will still require short-term closures of a smaller number of parks in order to provide time to ramp up some of these programs. In the long run, implementing these changes this will go far towards providing a more stable and long-term solution. This proposal can dramatically reduce the number of full park closures necessary in the budget year, and ensure that the number of parks to be reopened in future budget years increases substantially.

These proposals are intended to complement other legislative proposals currently being considered by the policy committees including SB 1078—the State Parks Revenue Generation Act and SB 974 (Evans) —The State Parks Closure Review Act.

Senate Sustainable Parks Proposal—Recommendations

The following are a series of seven proposals to address problems identified by the Legislature, the Legislative Analyst's Office (LAO), and the administration that are barriers to a sustainable Parks program. The solution statements constitute the staff recommendation, in consultation with Senator Simitian and Senator Evans, including an eighth proposal discussed separately that introduces a transportation funding proposal.

Problem 1: **Department needs funding flexibility to become more entrepreneurial.**
Solution: Approve administration's two-year pilot proposal for continuous appropriation authority including trailer bill language requiring the department to report uses of the fund, and to require at least 50 percent of the funding received from district entrepreneurial projects to remain within that district.

Problem 2: **Personnel structure at the department restricts ability for the department to direct peace officers to the highest priorities.**
Solution: Approve LAO recommendation (trailer bill language) in part to add position authority to allow non-peace officers to administer certain non-law enforcement tasks. This proposal would be phased-in over a period of two years.

Problem 3: **The department should be collecting entrance fees in more locations and utilizing concession agreements in as many areas as practical.**
Solution: Approve LAO recommendation to approve entrance fee proposals and concession agreements. Require a percentage to remain in the district for revenue-related projects (budget bill language).

Problem 4: **Department needs more varied funding sources and Parks supporters need a more visible way to show support for the department.**
Solution: As mentioned in the LAO report, approve trailer bill language for both (1) an opt-in fee for vehicle renewal and (2) a specialty plate for parks alone.

Problem 5: **According to a report by the department in May 2011, at least 20 parks were put on the closure list in part due to water, wastewater, and septic system problems. Many of these are due to both aging facilities and increased visitor-ship beyond the capacity of these older systems.**
Solution: Approve budget bill language appropriating $10 million annually as long-term loans from the Clean Water Revolving Loan Fund for five years to replace the State Parks and Recreation Funding and to complement bond funding for water quality and septic system repairs. Recommend funding be prioritized to allow for re-opening of parks and directed to lower income areas to the extent possible.

Problem 6: **Local nonprofits who step up to take over parks may be subject to additional liability risk which could deter their efforts to help support State Parks.**
Solution: Approve trailer bill language to extend limited liability coverage to local and nonprofit agencies who partner with State Parks to take over functions or management of parks or park properties.

Problem 7: **Restrictive funding streams and categorical allocations reduce the flexibility of the department to more creatively apply state dollars while maximizing both federal and local matching funds.**

Solution: Approve trailer bill language to extend the eligible uses of funds for trails, multi-purpose off-highway vehicle funds (with the exception of direct fees), and local assistance dollars. The intent is to allow greater flexibility for decision-making across the entire State Parks system. This includes amending the Local Assistance Program proposal to allow the department to utilize these funds more broadly for state purposes, so long as federal matching funds and constitutional requirements are not jeopardized.

Transportation Funding at State Parks. The department is responsible for construction and maintenance of roads, construction and maintenance of fixed facilities related to roads, and enforcement of traffic laws on public roads (essentially all roads within the park system including certain vehicle-accessed trails). The state annually transfers about $3.4 million from the Highway Users Tax Account (HUTA) to the department per a longstanding agreement for roads maintenance. However, the department's ongoing costs related to public roads is much higher with a conservative annual funding amount at about $15 million. This does not include enforcement of laws on public roads or deferred maintenance which brings the total higher. This type of gap in funding is part of the structural deficit the department has incurred annually for multiple years.

As this Subcommittee has jurisdiction over transportation funding, it became clear in a recent hearing for Department of Motor Vehicles that there are funds held in balance (about $500 million) well beyond the prudent reserve in the Motor Vehicle Account. The eligible use of these funds is restricted by Article XIX of the California Constitution, which requires the funds to be used for maintenance and enforcement of laws on public roads.

Problem 8: **State Parks has an ongoing gap of up to $15 million for roads and trail maintenance, and for service provided by Park Rangers related to motor vehicles.**

Solution: Approve provisional budget bill language to utilize only a portion of the reserve of funding related to proceeds of the Motor Vehicle Account annually. Up to $10 million of this item shall only be expended in units of the State Park System and only for enforcement of traffic laws on public roads, construction and maintenance of public roads and their fixed facilities, and any other purpose allowable by Article XIX of the California Constitution.

Staff Recommendation. Adopt Senate Sustainable Parks Proposal.

Vote: (HOLD OPEN)

3460 Colorado River Board

The Colorado River Board was established by statute in 1943 to protect California's rights and interests in Colorado River water and power resources. Its membership includes representatives from the six major public agencies with Colorado River water entitlements as well as from the Departments of Water Resources and Fish and Game. The budget proposes expenditures of $1.6 million fully funded by member agencies.

ITEM PROPOSED FOR DISCUSSION

Elimination of the Colorado River Board (CRB)

The Proposal. The Governor's budget proposes eliminating the CRB as part of a larger initiative to streamline state government. The administration argues that CRB's duties are better carried out by the Secretary for Natural Resources

Background. California is unique among the western states that are allocated Colorado River water in that the US Department of the Interior (DOI) has signed contracts with the individual local water agencies in the state, as opposed to with the state directly, to determine water allocations. In all other Colorado River Basin states, DOI contracts directly with each state. Because the contracts are with the individual agencies, the state's role in the board is a partnership with the contracting agencies.

Staff Comments. The Governor's proposal does not lay out a clear plan that would address the concerns raised by the Legislature, the board, and its member agencies. Until such a plan is clearly identified, it would not be prudent to move forward with elimination of the board.

Staff Recommendation: DENY Proposal.

Vote: DENY (3-0)

3480 Department of Conservation

The Department of Conservation (DOC) is charged with the development and management of the state's land, energy, and mineral resources. The department manages programs in the areas of: geology, seismology, and mineral resources; oil, gas, and geothermal resources; and agricultural and open-space land.

Governor's Budget. The Governor's Budget includes $74.7 million and 464 positions for support of the Department. Decreases in funding are largely due to reductions in bond expenditures ($86 million). Increases in positions are tied to a request from the Division of Oil, Gas, and Geothermal Resources to enhance onshore and offshore regulatory programs.

ITEMS PROPOSED FOR DISCUSSION

State Mining and Geology Board (SMGB) Elimination

Background. The SMGB represents the State's interest in the development, utilization and conservation of mineral resources; reclamation of mined lands; development of geologic and seismic hazard information; and to provide a forum for public redress.

Governor's Proposal. The Governor proposes trailer bill language to eliminate the Board and move the appeals process to the Office of Administrative Hearings, and the balance of the Board's responsibilities to the Office of Mine Reclamation within the Department of Conservation. This will allow for necessary functions of the board to continue while eliminating the need for the board itself.

Staff Comments. This proposal is in line with past-year recommendations by the Legislative Analyst's Office. While certain functions of the board are statutorily required, these can be combined with existing offices to streamline government. This proposal will result in minor savings to the department from special fund resources that may be re-dedicated to high priority projects through the budget process.

Recommendation. APPROVE Trailer Bill Language.

Vote: REJECT (3-0)

DOGGR (Division of Oil, Gas, and Geothermal Resources) Compliance and Support Staff Augmentation

Governor's Proposal. The Governor requests 18 permanent positions and a baseline appropriation of $2.5 million ($2.3 ongoing) from the Oil, Gas, and Geothermal Administrative Fund to enhance onshore and offshore regulatory programs by improving its construction site review, environmental compliance, and underground injection control programs.

Previous Budget Actions. The subcommittee heard this item in March of this year and held the item open. The Chair requested the department address concerns with (1) workload analysis, and (2) a roadmap that describes how the department plans to move forward with hydraulic fracturing regulations.

Staff Comments. On April 30, 2012, the Department submitted a workload analysis to the Subcommittee, both of its existing division resources as well as proposed positions. At a meeting with Department staff on May 1, the Department gave a brief overview of its soon-to-be released roadmap and also described the public process it plans to pursue leading to regulation of hydraulic fracturing.

Staff have reviewed the roadmap and position request. While it is clear that under the current plan there would likely be workload associated with the positions, it is not clear whether or not this workload will change with: (1) the adoption of hydraulic fracturing regulation; and (2) a cautionary approach to permitting prior to a more in-depth review of the department's roadmap. Given that, the Legislature may wish to direct the department to work on hydraulic fracturing regulations and development of a related database. The Legislature should also ensure sufficient staff to accomplish this goal.

Recommendation. (1) APPROVE 12 positions. (2) REJECT 6 Associated Oil and Gas Engineer positions. (3) ADOPT the following Budget Bill Language to ensure the department follows legislative direction clearly.

1. On or before January 1, 2014, the department shall adopt rules and regulations for the implementation of this division specific to hydraulic fracturing. The regulations shall include, but are not limited to, all of the following:
   a) The operations and maintenance of wells, including well location, fracture depth, and reporting of well casing failures.
   b) The tracking of injection and disposal of hydraulic fracturing fluids and the associated produced water.
   c) The location of any known seismic faults within five miles of the well.
2. Develop a hydraulic fracturing database available for the public.

Vote: APPROVE 18 Positions (3-0)
APPROVE BBL adding 1. d) content and ingredients in hydraulic fracturing and their impact on public health and safety. (2-1, Fuller)

0540 Secretary for Natural Resources (Tahoe Issues)

This item includes recommendations for agencies under the Secretary for Natural Resources as they relate to Lake Tahoe issues including the California Tahoe Conservancy and Special Resources Programs (Tahoe Regional Planning Agency).

The Secretary for Natural Resources heads the Natural Resources Agency. The Secretary is responsible for overseeing and coordinating the activities of the boards, departments, and conservancies under the jurisdiction of the Natural Resources Agency. The mission of the Resources Agency is to restore, protect, and manage the State's natural, historical, and cultural resources for current and future generations using creative approaches and solutions based on science, collaboration, and respect for all involved communities. The Secretary for Resources, a member of the Governor's cabinet, sets the policies and coordinates the environmental preservation and restoration activities of 27 various departments, boards, commissions, and conservancies.

Governor's Budget. The Governor's January Budget includes $47.7 million to support the Secretary for Natural Resources. This is a $125 million decrease under current year estimated expenditures primarily due to reduced bond fund expenditures.

ITEMS PROPOSED FOR DISCUSSION

Lake Tahoe Issues

Background. On April 11 of this year, the Senate Budget Subcommittee #2 heard proposals from agencies funded by the state within the Lake Tahoe Basin. The subcommittee heard testimony from the California Tahoe Conservancy, Tahoe Transportation District, Mayor of South Lake Tahoe, Tahoe Regional Planning Agency, a variety of local interests, and the California Tahoe Consortium. The purpose of the hearing was to get a better understanding of some of the more complex issues related to management of lands in the Basin, receive updates to legislative requests for information from previous years, and to discuss funding for projects in the basin. The subcommittee was also updated on the potential impacts of recent legislation in Nevada that would withdraw Nevada from the Bi-State Tahoe Compact should certain criteria not be met in the coming years.

The Secretary for Natural Resources and the Legislature have made it a priority to resolve these issues that were brought up at the hearing on April 11. The Secretary has taken the lead role for the administration both in resolving state-only issues as well as interacting with the State of Nevada on inter-state and Tahoe Compact issues.

Staff Comments. Based on testimony submitted both in person and written by state and local agencies as well as stakeholders in the Basin, and due to the timing of the public release of documents impacting the Basin by the Tahoe Regional Planning Agency, staff recommends the following actions to ensure continued collaboration in the Basin.

Recommendation: Adopt the following budget bill language (3 items).

0540 Natural Resources Agency

a. The Natural Resources Agency shall, by September 1, 2012, in coordination with the Tahoe Conservancy and the Department of Parks and Recreation, complete an agreement to consolidate and exchange state lands, and to share personnel, facilities, and other resources to more efficiently manage state-owned land in the Tahoe basin. The agreement shall include, but not be limited to, the long-term consolidation and transfer of land from the Conservancy to State Parks at Van Sickle Bi-State Park, Washoe Meadows State Park, Emerald Bay State Park, and Burton Creek State Park, and from State Parks to the Conservancy at Kings Beach State Recreation Area and Ward Creek. The agreement shall also provide for an interim multi-year operating agreement and sharing of personnel to ensure that the transfer does not increase management costs to either State Parks or the Conservancy.

b. The Secretary, in consultation with the Attorney General, shall determine that the Regional Plan update is consistent with the compact and submit this to the relevant fiscal and policy committees by April 1, 2013.

3110 Special Resources Programs (Tahoe Regional Planning Agency)

TRPA shall, by December 31, 2012:

1. In coordination with the California Natural Resources Agency and the Nevada Department of Conservation and Natural Resources, establish 4-year measurable performance benchmarks for all of the implementation measures and programmatic provisions included in the 2012 Regional Plan Update; and

2. In coordination with the Tahoe Science Consortium (TSC), CARB, SWRCB, Caltrans, Fish and Game, Tahoe Conservancy, CalFire, and other state and federal agencies, develop a comprehensive monitoring, evaluation, and reporting plan, including a scope, schedule, and budget for:
   a. monitoring all environmental threshold standards;
   b. TSC review of the scientific basis of the threshold standards and indicators;
   c. TSC development of annual reports on the Regional Plan performance benchmarks and a 4-year report (with an independent peer review) on the status of the threshold standards. Both reports shall be independently issued by the Tahoe Science Consortium.

3125 California Tahoe Conservancy

The Tahoe Conservancy shall, no later than February 15, 2013, prepare and submit an interagency cross-cut budget, including a summary of:

1. Federal, State, local, and private expenditures in the preceding fiscal year to implement the Environmental Improvement Program (EIP);
2. Accomplishments in the preceding fiscal year to implement the EIP; and
3. The proposed budget for the projects and programs of each State agency involved in implementing the EIP.

Vote: APPROVE (2-0, Lowenthal) adding the following language to Item 0540 (Natural Resources Agency)

1. **a) The agreement shall also provide for parking for and access to the North Tahoe Event Center owned and operated by the North Tahoe Utility District by deed or easement.**

3540 Department of Forestry and Fire Protection

The California Department of Forestry and Fire Protection (DFFP) or "CalFIRE," under the policy direction of the Board of Forestry, provides fire protection services directly or through contracts for timberlands, rangelands, and brushlands owned privately or by state or local agencies. In addition, DFFP: (1) regulates timber harvesting on forestland owned privately or by the state and (2) provides a variety of resource management services for owners of forestlands, rangelands, and brushlands.

Governor's Budget. Excluding capital outlay, where the amount of carryover makes year-to-year comparisons less meaningful, the Governor's Budget includes $1.1 billion, which represents an overall decrease of $11.3 million and 41 positions from the 2011-12 budget. Decreases in funding are largely the result of re-benching the department's Emergency Fund (E-Fund).

ITEM PROPOSED FOR VOTE-ONLY (SPRING FINANCE LETTERS)

1. **Carbon Sequestration Research and Analysis.** Request for $290,000 from the Air Pollution Control Fund to enable CalFIRE to conduct research studies and technical analyses as required by Chapter 534, Statutes of 2010 (AB 1504). AB 1504 requires the Board of Forestry to ensure that its rules and regulations that govern timber harvesting consider the capacity of forest researches to sequester carbon in an effort to meet greenhouse gas emission targets outlined in Chapter 488, Statutes of 2006 (AB 32).

2. **Capital Outlay Ongoing Proposals.** Request for various reappropriations to provide ongoing funding for capital projects, including acquisition, working drawings and construction. Projects include the Ventura Youth Conservation Camp, Bautista Conservation Camp, North Regional Fire Stations, South Operations Area Headquarters, among others.

3. **Unemployment Insurance Funding.** The department submitted a proposal requesting $5.3 million General Fund to increase costs associated with Unemployment Insurance for seasonal firefighters. Although CalFIRE's budget includes funding from previous year proposals, more funding is proposed because of a federal UI extension statute.

Staff Comments. Staff has reviewed the proposals and recommends approval of items one and two. However, upon further discussion with the department, it is not clear that the Unemployment Insurance Funding is required for the budget year. Out of an abundance of caution for General Fund expenditures, the administration has withdrawn this proposal.

Recommendation: APPROVE Items 1-2; DENY Item 3

Vote:

APPROVE Item 1 (2-1, Fuller)
APPROVE Item 2 (3-0)
REJECT Item 3 (3-0)

ITEMS PROPOSED FOR DISCUSSION

4. Firefighter I Separation Costs

Background. CalFIRE hires seasonal firefighters to staff its fire engines, Air Attack Bases and Helitack Bases. The department staffing guideline calls for the three Southern units to begin staffing the first engine at all fire stations with seasonal firefighters before the spring equinox. As the fire season winds down seasonal firefighters separate from state employment. Once they separate they are entitled to a lump-sum payment at the time of separation for any unused or accumulated vacation or annual leave. As a result of a lawsuit, a change in practice was made starting in the current year when calculating the lump-sum payment that significantly impacts the base budget for annual seasonal firefighters.

On August 20, 2007, a lawsuit was filed by the CDF Firefighters (CDFF) Union alleging a violation of Government Code Section 19839. The Union contended that Section 19839(a) requires the state to include extended duty week compensation when calculating the lump-sum payments for accumulated leave credits. Until the lawsuit was settled, CalFIRE did not pay out extended duty week compensation. Although Section 19839 does not specifically require the extended duty week compensation to be included when calculating the lump-sum payment upon separation, the court ruled in favor of the Union.

Spring Finance Letter. The department requests an increase of $2.1 million (General Fund) to cover an increase in costs as a result of a negotiated settlement in the afore-mentioned lawsuit. This will cover lump-sum buyout costs associated with the annual separation of the departments seasonal Firefighter I staffing. This amount may increase in future years.

Staff Comments. The department's alternatives analysis includes various ways of funding the extended duty week compensation. However it is not clear if this was an intended compensation package when the union negotiated pay, nor if the Department of Personnel Administration (DPA) has exhausted its efforts to work with the union to negotiate a more cost-effective approach. The department is facing unprecedented budget reductions, both in the current year as well as part of the budget year trigger cuts. The state also is unable to increase General Fund expenditures when alternatives are available.

Recommendation. DENY Funding. Require the department and DPA to draft trailer bill language amending Government Code Section 19839(a) to more clearly reflect the intent of the union negotiations that did not include the extended duty work week lump sum payout. The trailer bill language would be due to this committee on May 14, 2012, for adoption at the May Revision hearing. The department, at that time, should provide a revised funding estimate for this proposal.

Vote: HOLD OPEN

State Responsibility Area Fire Prevention Fee

Governor's Budget. The budget proposes $9.3 million in 2012-13 and ongoing funding of $6.1 million, and 29 positions to implement ABx1 29 of 2011. This legislation authorizes a fee to be assessed on structures located within State Responsibility Areas (SRA) in order to pay for fire prevention activities in the SRA that specifically benefit owners of structures within the SRA. In a companion budget proposal, the Board of Equalization, charged with collection of the fee, is requesting 56 positions and $6 million in order to establish the fee base and collection program.

The proposal also requests Trailer Bill Language that changes to the eligible use of the fee to include additional fire prevention activities and requires regular reporting on the status and use of the fund.

Background. The State Board of Forestry and Fire Protection (BOF), as required by ABx1 29, adopted emergency regulations to establish the fire prevention fee. The pending BOF regulations establish a $150 fee for all habitable structures, as defined, with a $35 credit for those applicable structures within a local fire protection district. Under the legislation, CalFIRE is required to submit to the Board of Equalization a list of the appropriate names and addresses of those required to pay the fee.

Staff Comments. The proposal is consistent with statements made by CalFIRE when the fee legislation passed in 2011. However, staff are concerned that the expansion of the fee to include suppression does not meet the nexus for a fee and therefore out of an abundance of caution should be denied. Absent a written legal opinion that clearly specifies that this is an eligible use of the fund, staff recommends denying the expanded use of the fund for suppression.

Recommendation. (1) APPROVE Budget Proposal. (2) DENY Trailer Bill Language expanding the use of the fee for suppression.

Vote:

APPROVE Budget Proposal: (2-1, Fuller)
DENY Trailer Bill Language: (3-0)

Senate Budget and Fiscal Review— Mark Leno, Chair

SUBCOMMITTEE NO. 2 Agenda

S. Joseph Simitian, Chair
Jean Fuller
Alan Lowenthal

Day: Wednesday, May 23, 2012
9:00 a.m.
Room: 2040
Consultant: Mark Ibele

Agenda
Part 1

Transportation

Proposed Vote-only Calendar:

Proposed Discussion / Vote Calendar:

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.

Items Suggested for Vote Only:

2720 California Highway Patrol

Department Overview: The mission of the California Highway Patrol (CHP) is to ensure the safe and efficient flow of traffic on the state's highway system. The CHP also has responsibilities relating to vehicle theft prevention, commercial vehicle inspections, the safe transportation of hazardous materials, and protection and security for State employees and property.

Budget Summary: In the January Budget, the Governor proposed total expenditures of $1.9 billion (no General Fund) and 11,316 funded positions, an increase of $8.1 million from the adjusted current-year level. The baseline budget of the CHP was approved by the Subcommittee at the March 28 hearing. The budget request below was submitted as an April Finance Letter.

April Finance Letter Budget Request: The Governor proposes one budget change for the CHP to be considered under vote-only.

1. **Vehicle Insurance Augmentation.** The Governor requests an augmentation of $5.6 million (special funds) to fund a cost increase for vehicle insurance. The program is administered by the Department of General Services and the CHP's pro rata share is increasing from $7.7 million in 2011-12 to $13.3 million in 2012-13. According to the Administration, the increase stems from 395 claims against the CHP, which resulted in $12.1 million of incurred auto liability costs for 2010-11.

May Revision Requests: The Governor has proposed various changes to the CHP budget as part of his May Revision request to be considered under vote-only.

2. **Budget Bill Language for Capitalized Leases.** The Governor proposes budget bill language to allow the Department of General Services, with the consent of the CHP, to enter into a lease, lease-purchase with the option to build-to-suit facilities to replace area offices in Santa Ana, Santa Barbara, Stockton, Truckee, Ventura and Westminster, subject to Department of Finance approval of the terms of agreement. Under the language, thirty days prior to entering into any agreement, the DGS must notify the chairs of the Appropriations committee in each house and the Joint Legislative Budget Committee. No costs would be incurred until occupancy by CHP, anticipated to be 2014-15

3. **Reappropriation for Various Capital Projects.** The Governor requests that various appropriations for capital projects be reappropriated. These are: (1) Reappropriation of $18.3 million provided in 2011-12 for the construction phase of the Oceanside Area office replacement project. This was delayed due to the complexity of the Essential Services Building Act and the Division of State Architect needing additional time to review. No additional funds are requested. (2) Reappropriation of $548,000 provided in 2009-10 for working drawings and $3.9 million provided in 2010-11 for

construction of the California Highway Patrol Enhanced Radio System (CHPERS). Two of the sites have faced delays due to a lease required from the US Forest Service which requires a National Environmental Protection Act Review process, and lease negotiations with a private party to ensure state access have proved problematic and may require relocation. (3) Reappropriation of $796,000 provided in 2010-11 for the working drawings at four sites for the CHPERS, two sites of which have been delayed. One site is delayed due to a delay in the completion by the US Forest Service of the National Environmental Protection Act Review process; an additional site has been delayed due to the established need for an extended California Environmental Quality Act (CEQA) review process, including 3-deminsional modeling of the final project.

4. **Reversion of Capital Project Funding.** The May Revision calls for the reversion of $19.6 million in funding for the construction phase of the Santa Fe Area office replacement project. The project had difficulties with the terms of the acquisition agreement and is pursuing an alternative site. Given the delay, the construction funding is not required at this time.

Staff Comment: At the time this agenda was finalized, no concerns had been raised with the proposed April and May budget adjustments for the CHP.

Staff Recommendation: Approve the above CHP budget requests regarding vehicle insurance, capitalized leases, reappropriation for capital projects and reversion of capital funding.

Vote:

2740 Department of Motor Vehicles

Department Overview: The Department of Motor Vehicles (DMV) regulates the issuance and retention of driver licenses and provides various revenue collection services. The DMV also issues licenses and regulates occupations and businesses related to the instruction of drivers, as well as the manufacture, transport, sale, and disposal of vehicles.

Budget Summary: The Governor proposes total expenditures of $964 million (no General Fund) and 8,221 positions; which, after technical adjustments, is fairly similar to the adjusted 2011-12 funding level. The budget includes a reduction of $24.5 million and 213.6 positions related to the Governor's 2011-12 "workforce cap" and other efficiency savings.

May Revision Requests: The Governor has proposed changes to the DMV budget as part of his May Revision request.

1. **Capital Outlay Adjustments.** As part of the May Revision, DMV has requested that $2.9 million in capital outlay funds to be used for the Redding Field Office Reconfiguration Project be reappropriated. These funds were part of the 2010 Budget Act. During the review of working drawings, it was determined that the approach on the HVAC system was not the most cost effective. This is being reconfigured and will lead to delays. It is apparent that the project will not be able to proceed prior to the end of the fiscal year.

2. **Fund Reversion.** The DMV requests the reversion of $2.1 million in funds that were appropriated as part of the 2010 Budget Act for the construction phase of the Oakland Field Office Reconfiguration Project. The space is no longer required.

Staff Comment: At the time this agenda was finalized, no concerns had been raised with the proposed May Revision budget adjustments for the DMV.

Staff Recommendation: Approve the capital outlay and fund reversion budget requests from DMV.

<u>**Vote:**</u>

2660 Department of Transportation

Department Overview: The Department of Transportation (Caltrans) constructs, operates, and maintains a comprehensive state system of 15,200 miles of highways and freeways and provides intercity passenger rail services under contract with Amtrak. The Department also has responsibilities for airport safety, land use, and noise standards. Caltrans' budget is divided into six primary programs: Aeronautics, Highway Transportation, Mass Transportation, Transportation Planning, Administration, and the Equipment Service Center.

January Budget Overview: The January Governor's Budget proposed total expenditures of $11.2 billion ($83 million General Fund) and 20,438.5 positions. According to the Administration, the position totals include the elimination of 1,057 positions for savings of $90.0 million – these savings are associated with last year's "workforce cap" reduction, and position reduction efforts in prior years.

Proposed Budget as Revised: In April 1 Finance Letters (FL), the Governor proposes to significantly increase 2012-13 budget funding in the areas of Proposition 1A and Proposition 1B. Proposition 1A is the High-Speed Passenger Train Bond Fund and the proposal would augment Caltrans' budget by $812 million to fund capital projects that would improve connectivity to high-speed rail for intercity, regional, and urban rail operators. That proposal was heard with the High-Speed Rail Authority at the April 18 hearing. Proposition 1B includes various bond special funds and funds highway capital projects, as well as some rail and mass transit capital. Additional proposals in the May Revision would reduce staffing and budget authority as well as result in the shift in special funds to the General Fund for budget relief.

April 19 Subcommittee Hearing: The Subcommittee heard the Governor's budget for Caltrans at the hearing held on April 19. Action was taken on many of the budget requests. The issues on this agenda for Caltrans are those held open at the April 19 hearing to allow for additional review or so that additional information could be provided by the Administration. In addition, the agenda will address the new items proposed in the May Revision.

May Revision Requests: The Governor has proposed changes to the Department of Transportation budget as part of his May Revision request.

1. **Amtrak Fuel Cost Increase:** The May Revision includes a proposal to add budget bill language to allow the transfer savings from the Public Transportation Account to fund an unanticipated increase in its intercity rail operations agreement with Amtrak in order to fund unanticipated fuel costs.

   The budget bill language would apply to Item 2660-001-0046 (Public Transportation Account):

Provisions:
X.XX Of the funds appropriated in this item, the Department of Finance may transfer expenditure authority among schedules to accommodate increases in Amtrak contract costs related to fuel.

Staff Comment: As of the date of the Agenda, there were no concerns raised regarding this proposal.

Staff Recommendation: Adopt Administration's proposed budget bill language.

Vote:

Summary of Vote-Only Issues:

Page	Department	Item	Recommendation
1	California Highway Patrol: Issue 1	April Finance Letter—Vehicle Insurance Augmentation	Approve
1	California Highway Patrol: Issue 2	May Revision Request—Budget Bill Language for Capitalized Leases	Approve
1	California Highway Patrol: Issue 3	May Revision Request—Reappropriation for Capital Projects	Approve
2	California Highway Patrol: Issue 4	May Revision Request—Reversion of Capital Project Funding	Approve
3	Department of Motor Vehicles: Issue 1	May Revision Request—Capital Outlay Adjustments	Approve
3	Department of Motor Vehicles: Issue 2	May Revision Request—Fund Reversion for Oakland Field Office	Approve
4	Department of Transportation: Issue 1	May Revision Request—Amtrak Fuel Cost Increase Budget Bill Language	Approve

Items Suggested for Discussion and Vote:

2740 Department of Motor Vehicles

Issues proposed for Discussion and Vote:

1. **General Fund Loan from Motor Vehicle Account.** As part of the2012-13 budget solutions, the Governor proposes in the May Revision to transfer $300 million from the Motor Vehicle Account (MVA) to the General Fund a loan.

   January Proposal: In January, the Governor requests trailer bill language and budget adjustments to reduce vehicle registration fees by $5 (to $38) for DMV customers who complete vehicle registration renewal transactions through the mail, Internet, phone, business partners, auto clubs, or a self-service terminal, but maintain the fee at the full $43 for customers who come to an office and submit payment to a DMV employee. The Governor's budget assumed that this proposal would result in a 10 percent decline in field office vehicle registration renewals. The proposal would have reduced the amount of Motor Vehicle Account (MVA) revenue collected in 2012-13 by $75 million and by about $100 million each year thereafter, while resulting in savings of about 19 positions and $531,000 in 2012–13, and 25 positions and $706,000 in 2013–14. This issue was heard March 28.

   May Revision: Under the new borrowing proposal, the $300 million loan will be repaid no later than June 30, 2016. According to the analysis conducted by the Department of Finance, the loan would not hinder the activities funded by the account. It is expected that the loan would draw down the balance of the fund from the forecasted balance of approximately $505 million in 2012-13. The estimated balance for 2011-12 is $427 million, as of the January budget. Consistent with the May Revision proposal, the administration has withdrawn its January plan regarding the reduced fee for internet and mail vehicle registration transactions. Since this January proposal also reduced staff requirements, the May Revision requests an increase of 18.8 positions and $531,000.

   Staff Comment: The Governor's original proposal on the reduced fee had merit. LAO also commented on the possibilities in this regard, and offered an alternative approach. The May proposal reflects the continuing stress in the General Fund and recognizes that despite the attractive qualities of the original proposal, the revenue loss is too great to absorb at this time. The May Revision uses the increase in revenues from the elimination of the reduced fee as a component of the new borrowing. The May Revision proposal is a prudent response to the continuing General Fund stress.

   Staff Recommendation: Approve the May Revision request.

   <u>Vote:</u>

2660 Department of Transportation

Issues proposed for Discussion and Vote:

1. **Reduction in Research Expenditures:** The Administration requests a reduction of $7 million (State Highway Account) in the Caltrans research budget – reducing funding from $39 million to $32 million. The reduction would be achieved by eliminating 4 positions ($342,000) and by reducing research operating expenses ($6.7 million). Caltrans indicates it far exceeds its required match for federal research funds, and that State funding could be reduced while still achieving the highest-priority research. Federal funding is about $15 million per year, and would not decrease if State funding is reduced from $24 million to $17 million – the federal match requirement is only 20 percent. The subcommittee first heard this issue at its April 19 hearing.

   Background and Detail: According to the Administration, the Department's Research Program manages a comprehensive portfolio of research to develop, test, and evaluate transportation innovations. These innovative products and services in methods, materials, and technologies enable the Department to provide continual improvement to the management of public facilities and services; protect public investment in transportation infrastructure; and enhance mobility and safety. The Department manages between 175 and 200 research projects annually covering research topics in safety, mobility, design, construction, environmental stewardship, geotechnical, structural, maintenance, preservation, pavement, transit, and other modes.

   Additional Information from Caltrans: At the request of the subcommittee, on Caltrans submitted a letter on May 16th that provided additional information regarding the nature of the proposed research cuts. According to this letter, the $7 million reduction would be achieved as follows:

Item	Amount (millions)
Research Support Centers	$1.6
Defer Seismic Research	1.3
Reduce and Delay Developmental Research Activities	1.0
Suspend 15 Research Projects	2.0
Use Federal Funds for Projections	0.8
Research Staff Reduction	0.3
Total	**$7.0**

   Staff Comment: It is reasonable to evaluate the research budget to see if the funding level is appropriate given other priorities such as pavement maintenance and highway rehabilitation. A portion of research funds are directed to State universities for programs such as the Institute of Transportation Studies at UC

Berkeley. In reviewing this budget request, the Subcommittee may want to hear from Caltrans on how the reduction would affect university research and other programs. In particular, the reduction to Research Support Centers without information may be unwise, particularly in view of the potential impact on other funds that universities may leverage with these monies to generate innovative transportation research. The Subcommittee should have a clearer understanding of how the Centers will function overall prior to taking steps to reduce funding for this component. The Caltrans letter also included a detail of potential seismic projects delayed due to the proposed reduction. Given California's transportation network's vulnerability to seismic events and the potential impact on health and safety of the traveling public, this component should be retained.

Staff Recommendation: Adopt $4.1 million reduction to Research funding, but retain $2.9 million for Research Support Centers and Seismic projects.

Vote:

2. **Project Initiation Documents (PIDs)—Staffing and Funding:** The Administration is proposing to increase budgeted positions for PIDs workload from 264 positions to 331 positions and fund 53 of these new positions from local reimbursements. The overall funding for PIDs would increase $2.2 million (from $33.3 million to $35.4 million) from the State Highway Account (SHA) and would increase by $8.4 million (from $265,000 to $8.7 million) from local reimbursements. A "PID" is a preliminary planning document, or tool, that includes the estimated cost, scope, and schedule of the project—information needed to decide if, how, and when to fund the project. The subcommittee first heard this issue at its April 19 hearing.

   Recent History of PIDs Issue in the Budget: Since the 2009-10 budget, staffing for PIDs has been "zero-based" to reflect that year's anticipated workload. Caltrans worked with local agencies and the California Transportation Commission to streamline PIDs by focusing the scope to avoid duplicative work and reduce cost. While the streamlined product exists, it is unclear if it is being applied to the right number and types of projects.

   During the 2011-12 budget process, the Legislature rejected the Administration's proposal to shift the fund source from state highway funds to local reimbursements for Caltrans' PIDs workload related to locally-sponsored highway projects. The 2011-12 budget enacted by the Legislature maintained state highway funds for that purpose, but Governor Brown subsequently vetoed those funds from the final budget. While the Legislature's funding level tied to the Administration's identified workload, the veto left this workload unfunded in the budget. In September 2011, the Department of Finance submitted a Section 28.00 request, which enabled Caltrans to receive reimbursement for PIDs work. This year, the Administration continues to propose that local agencies reimburse Caltrans for PIDs work for locally sponsored capital projects on the state highway system.

   Legislative Analyst Findings: According to the LAO, Caltrans typically requires PIDs to contain a substantial amount of information. Generally, PIDs include:

   - Review and study of geological hazards, utilities, and environmental constraints.
   - Development of travel forecasts, traffic models, surveys and maps.
   - Development and analysis of potential project alternatives.
   - Studies of the effects of potential project alternatives on traffic, noise, scenic resources, habitat and wildlife, community impacts, water quality, hazardous waste, cultural resources, air quality, and floodplains.
   - Preparation of preliminary geotechnical, structural, storm water, and construction cost estimates and reports.
   - Application for permits from numerous state and federal regulatory agencies.
   - Partial design of project alternatives, and preparation of design and engineering reports.

It takes a significant amount of time to produce a PID, due in part to the numerous studies and reports that must be produced to generate all the required information. Based on information from Caltrans and local agencies, the LAO indicates that PIDs generally take from one to three years to complete. The cost to produce a PID ranges from the tens of thousands to low millions of dollars. For PIDs that are programmed for construction, a portion of the PIDs analysis is repeated in the environmental review phase of the project. The LAO believes that Caltrans is not utilizing the streamlined process for enough PIDs and is therefore generating unnecessary delay and cost for projects. Additionally, the LAO indicates the Caltrans level of workload exceeds that which would be needed for the anticipated level of construction funding.

LAO Recommendations: The LAO has recommended the Legislature reject the Governor's funding augmentation and enact trailer bill language requiring streamlining of PIDs. Specifically, the LAO recommends that the Legislature reject the Governor's requested increase and maintain PID funding at the current level of $33 million (SHA) and 264 positions. Finally, the LAO recommends the Department submit a report by May 1, 2013 detailing the changes implemented and the time and cost savings achieved.

Action in Assembly Budget Subcommittee #3 on March 21: At the March 21 hearing, Assembly Subcommittee 3 voted to replace reimbursement funding with funding from the State Highway Account, but to leave the remainder of the issue open pending the results of a workgroup led by Caltrans. The workgroup included local representatives and other interested parties and was to provide recommendations on the PIDs streamlining issue, including those raised by the LAO. Caltrans was directed to complete the working group effort by May 1, 2012.

Working Group Report: Caltrans convened a PIDS Working Group Meeting on April 12, 2012. For the meeting, Caltrans brought a group of local transportation agencies as well as state staff. The workgroup achieved consensus that significant progress had been made towards streamlining PIDs. According to Caltrans, some local agencies were hoping that the streamlining efforts would have more immediate reductions in costs and schedule savings, but it was acknowledged that the new PIDs process has been in effect for less than six months.

On April 27, 2012, Caltrans submitted a letter to the Subcommittee that documented the workgroup meeting and included a seven-page report on progress of the PIDs streamlining effort. According to Caltrans, the Department has implemented 18 of the 21 recommendations of the 2010 PIDs streamlining report. The report also included information about the extent to which the streamlined PIDs will be used in the budget year.

Staff Comment: Caltrans has reduced the size and scope of PIDs in response to oversight from the Legislature and feedback from local partners. Since PIDs inform funding decisions and identify project risks, the deliberative process insures that due diligence of the PID is still intact. As more state transportation projects are funded with local funds, it is worth revisiting state interest in PID for projects with limited to no state financial participation. Staff believes that regardless of funding source, insuring that project risks are known to the extent possible through a consistent and verifiable process is an essential role for the State. The proposal to use local funds for expanded PIDs has been twice rejected by the Legislature. Given the integrated nature of the state highway system, it would seem reasonable to fund these using state resources. The State should continue to pay for PID review with state funds.

Staff Recommendation: For the budget proposal, replace local reimbursement with state funding from state highway account, conforming with Assembly action.

Vote:

3. **Capital Outlay Support Reduction:** The May Revision proposes a reduction to Capital Outlay Support staff to reflect a decline in workload from the expiration of Americans Recovery and Reinvestment Act (ARRA) funds. Due to mid-year adjustments and removal of one-time ARRA funds included in the Governor's budget, support requirement will drop. The proposal will reduce the number of state staff in the capital outlay support program from the existing 2011-12 Governor's Budget level.

   Background and Detail: The May Revision proposes a reduction to Caltrans Capital Outlay Support staff to reflect a decline in workload primarily associated with the completion of projects funded by the American Recovery and Reinvestment Act. It is requested that the Capital Outlay Support Program be decreased by $14,527,000 and 340.0 full-time equivalents, including 330.0 state staff positions.

   Caltrans indicates that the request fully takes into consideration the statutory deadlines for contract awards for bond projects, the need to fully obligate federal funds, creation of jobs generated by delivering state and federal capital outlay programs, utilization of available capital funding, and the need to work on the development of projects to be delivered in future years.

   The department has maintained a ratio of 90/10 of state employees to contract staff. This proposed level of staffing will establish an 89/11 percent split of state staff to architectural and engineering consultant contracts. According to the Department of Finance, this is consistent with the State Auditor's recommendation that Caltrans utilize flexible contract-staff resources to ramp down state staff based on future workload needs, which are expected to decrease as Proposition 1B projects approach completion.

   This request also includes Budget Bill language to enable Caltrans to seek an increase in additional reimbursement authority of up to $4.2 million for additional workload associated with these projects to the extent work proceeds to later phases earlier than currently anticipated.

   Staff Comments: The proposal results in a disproportionate impact on state staff as opposed to contract staff and works against previous budget actions by the Legislature. Given this established approach, the reductions could be applied equally to both contractors and staff. If the Subcommittee choses to adopt this proposal, contracts and staffing level should be adjusted to return to this ratio. The remainder of the proposal is a reasonable means to address anticipated additional workload.

   Staff Recommendation: Adopt May Revision Proposal and budget bill language but adjust capital support staff and contracting in order to maintain traditional state staff/contracting ratio of 90/10.

   <u>Vote:</u>

4. **Special Fund Loan Extensions—General Fund Solution:** As part of the May Revision, the Governor proposed significant adjustments regarding internal borrowing. As part the Governor's solutions for the budget year is a proposal to delay the repayment of certain special fund loans. These loans remain obligations of the General Fund, but to the extent repayment is delayed, the use of the funds can help provide a solution for the 2012-13 budget. The special fund loans continue to accrue interest, which must also be paid.

   Detail of Proposal: The proposal will result in additional General Fund relief by extending the repayment of $307.1 million of special fund loans. The specific loans are listed below along with proposed repayment dates:

   <u>Loans currently due June 30, 2011</u>

   - Extend repayment of $150.0 million from the State Highway Account until June 30, 2014.
   - Extend repayment of $6.0 million from the Bicycle Transportation Account until June 30, 2017.
   - Extend repayment of $8.0 million from the Motor Vehicle Fuel Account until June 30, 2017.
   - Extend repayment of $4.4 million from the Environmental Enhancement and Mitigation Fund until June 30, 2017.
   - Extend repayment of $2.0 million from the Historic Property Maintenance Fund until June 30, 2014.
   - Extend repayment of $1,715,000 from the Pedestrian Safety Account until June 30, 2017.

   <u>Loans currently due June 30, 2012</u>

   - Extend repayment of $135.0 million from the State Highway Account until June 30, 2015.

   Staff Comments: Department of Finance has indicated that it has reviewed fund activities associated with the various accounts and has determined that the additional repayment terms should not impair activities funded by the various accounts. Given the continuing stress on the state's General Fund, the additional time for repayment is a reasonable alternative.

   Staff Recommendation: Approve budget bill language allowing for additional time for various special fund loan repayments.

   <u>Vote:</u>

5. **Weight Fee and Special Fund Transfer Proposed Trailer Bill:** The Governor has proposed trailer bill language that would provide substantial General Fund relief through mechanisms to offset General Fund debt service obligations and transfer certain unrestricted revenue generated by the fuel tax swap to the General Fund.

   January Budget Proposal: The Governor's budget included a General Fund solution of $350 million from continuing to use truck weight fee revenue to fund transportation-related general obligation bond (GO bond) debt service. Current law permanently directs truck weight fee revenue to the General Fund for eligible debt service in a given fiscal year. In the absence of this provision, the weight fee revenue would otherwise be used to fund highway repair projects and the administration of Caltrans. Annual truck weight fee revenue currently exceeds eligible debt service, but excess truck weight fee revenue has been transferred to the General Fund in 2010-11 and 2011-12 as a pre-funding of out-year bond debt. Both types of transfers to the General Fund, either for current-year or for out-year GO bond debt, provide a General Fund budget benefit in the year the transfer is made. Current law does not provide the authority in 2012-13 and ongoing to pre-fund out-year debt, but that is proposed by the Governor to realize a General Fund solution.

   In addition, the January budget proposal included language meant to clarify that existing law requires gasoline excise tax revenues fully backfill the State Highway Account for any reduction of revenues due to truck weight fee transfers to the General Fund. Also, the language provides that any excise revenue from the fuel swap that was generated from gasoline purchased for off-highway vehicles is intended to be deposited in funds used for state and local highway and road improvements, not off-road programs or other uses.

   May Revision Proposal: The May Revision maintains the plan to shift weight fees to the General Fund for current and future debt service payments. This action is now estimated to result in a benefit of $385 million for the budget year 2012-13. In addition, new language proposed in the trailer bill would instead direct that fuel-swap excise taxes that are generated from gasoline purchased for off-highway vehicles be transferred to the General Fund. These transfers will result in additional General Fund relief of $184 million in 2011-12 (constituting a combination of 2010-11 and 2011-12 revenues) and $128.2 million in the budget year and on-going. These off-highway funds are not restricted by the Constitution, unlike the on-highway funds that are restricted by Article XIX to transportation purposes. This proposal would leave in place the backfill of the former Proposition 42 allocation, with $708.5 million for cities and counties for local roads, and $901.7 million for highways. Likewise, revenues for off-highway vehicle programs – those funded from the base 18 cent excise tax – would not be affected by this proposal.

   Background: Proposition 22 of 2010 imposed additional restrictions regarding eligible uses of tax revenue derived from gasoline and diesel fuel sales, and in most cases, made that revenue ineligible for payment of GO debt on transportation related bonds. (Earlier reforms had already directed the sales tax on gasoline to be used for transportation purposes, rather than just going to the General Fund). AB 105, Statutes of 2011, reenacted the “Fuel Swap” legislation to conform to Prop 22 and discontinue the use of fuel revenue for GO debt. Instead, truck weight fee revenue was substituted as a source of payment for GO debt. In general, the Fuel Swap legislation lowered the sales tax on gasoline and increased the excise tax on gasoline. This transportation refinancing was revenue neutral for consumers but made transportation funds more flexible to fund a greater variety of transportation programs, including restoration of certain mass transportation programs. Another benefit of the Fuel Swap was that “Prop 42” funding for highways and local roads was preserved. Additional detail on the Fuel Swap is available on the Committee’s website in the Transportation section of the “Redbook” Overview Summary published in February 2012.

Staff Comments: The $385 million General Fund budget solution proposed by the Governor would continue the budget solution of directing weight fee revenue for future GO bond costs related to transportation. Continuation of this practice seems justified in the context of the ongoing budget challenges facing the State. The trailer bill language would also clarify some of the existing fuel swap language to specify that gasoline excise revenues fully backfill the State Highway Account for any reduction of revenues due to truck weight fee transfers. Finally, the trailer bill language would direct that any off-highway fuel purchases associated with the fuel swap be transferred to the General Fund – this solution totals $312 million.

Staff Recommendation: Approve the Administration’s placeholder trailer bill language to achieve General Fund solutions totaling $697 million.

<u>Vote:</u>

Senate Budget and Fiscal Review— Mark Leno, Chair

SUBCOMMITTEE NO. 2 Agenda

S. Joseph Simitian, Chair
Jean Fuller
Alan Lowenthal

Day: Wednesday, May 23, 2012
9:00 a.m.
Room: 2040
Consultant: Mark Ibele

Agenda
Part 1

Addendum

Transportation

Proposed Vote-only Calendar:

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.

Addendum

Items Suggested for Vote Only:

2740 Department of Motor Vehicles

1. **January Budget Proposal: Northern California Commercial Driver License Office.** The Administration requests $20,000 to establish a consolidated Commercial Driver License (CDL) center in Northern California. Specifically, the proposal would consolidate the Modesto, Stockton, Vallejo, West Sacramento, and Yuba City CDL activities into one office. According to DMV, new federal regulations require that the Department provide additional space to conduct commercial driver tests. The Department plans to close the current West Sacramento CDL center and put it on the state's surplus property list to be sold or leased. The DMV will submit additional funding requests for the Northern California Commercial Driver License Office once a facility has been identified and costs determined.

   Staff Comment: This item was held open at the Subcommittee at its Hearing on March 28th in response to questions relating to operations at the various CDL locations. These questions were addressed by the department on May 3rd. No additional concerns have been raised regarding this issue

   Staff Recommendation: Approve the budget request.

   Vote:

Senate Budget and Fiscal Review— Mark Leno, Chair

SUBCOMMITTEE NO. 2 Agenda

S. Joseph Simitian, Chair
Jean Fuller
Alan Lowenthal

<u>ACTIONS</u>

Day: Wednesday, May 23, 2012
9:00 a.m.
Room: 2040
Consultant: Mark Ibele

Agenda
Part 1 and Addendum

Transportation

Proposed Vote-only Calendar:

1. **VEHICLE INSURANCE AUGMENTATION: APPROVE AS BUDGETED 3-0**
2. **BUDGET BILL LANGUAGE FOR CAPITALIZED LEASES: APPROVE AS BUDGETED 3-0**
3. **REAPPROPRIATION FOR CAPITAL PROJECTS: APPROVE AS BUDGETED 3-0**
4. **REVERSION OF CAPITAL PROJECT FUNDING: APPROVE AS BUDGETED: 3-0**

1. **CAPITAL OUTLAY ADJUSTMENTS: APPROVE AS BUDGETED 3-0**
2. **FUND REVERSION FOR OAKLAND FIELD OFFICE: APPROVE AS BUDGETED 3-0**

2660 Department of Transportation 4

1. **AMTRAK FUEL COST INCREASE BUDGET BILL LANGUAGE: APPROVE AS BUDGETED 2-1 (FULLER)**

Proposed Discussion / Vote Calendar:

2740 Department of Motor Vehicles.. 7

1. **GENERAL FUND LOAN FROM MOTOR VEHICLE ACCOUNT: APPROVE AS BUDGETED 2-1 (FULLER)**

2660 Department of Transportation 8

1. **REDUCTION IN RESEARCH EXPENDITURES: APPROVE STAFF RECOMMENDATION TO REDUCE BY $4.1 MILLION WITH BUDGET BILL LANGUAGE TO MAINTAIN FUNDING FOR RESEARCH SUPPORT CENTERS AND SEISMIC PROJECTS: 3-0**

2. **PROJECT INITIATION DOCUMENTS (PIDS)—STAFFING AND FUNDING: APPROVE STAFF RECOMMENDATION TO FUND INCREASE WITH STATE HIGHWAY ACCOUNT FUNDS, CONFORMING TO ASSEMBLY ACTION: 2-1 (FULLER)**

3. **CAPITAL OUTLAY SUPPORT REDUCTION: APPROVE STAFF RECOMMENDATION TO APPROVE FUNDING BUT MAINTAIN 90/10 RATIO OF STATE/CONTRACTS: 2-1 (FULLER)**

4. **SPECIAL FUND LOAN REPAYMENT EXTENSIONS: APPROVE AS BUDGETED 2-1 (FULLER)**

5. **WEIGHT FEE AND SPECIAL FUND TRANSFER TRAILER BILL: APPROVE TRAILER BILL WITH A 2-YEAR SUNSET PROVISION: 2-1 (FULLER)**

Addendum

2740 Department of Motor Vehicles.. 1

1. **NORTHERN CALIFORNIA COMMERCIAL DRIVER LICENSE OFFICE: APPROVE AS BUDGETED 2-1 (FULLER)**

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.

Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 2 **Agenda**

S. Joseph Simitian, Chair
Jean Fuller
Alan Lowenthal

Part II
Wednesday, May 23, 2012
9:00 am—Upon Adjournment of Part I (Transportation)
Hearing Room 2040

Consultant: Catherine Freeman

Items Proposed for Vote-Only (Including Spring Finance Letters)

Departments Proposed for Discussion (Open Issues and May Revision)

Resources—Environmental Protection—Energy—Transportation

ITEMS PROPOSED FOR VOTE-ONLY

0540 Secretary for Natural Resources

1. **Extension of Repayment Dates of Existing Loans**. The Secretary requests reappropriation of funds for the River Parkways grant program to allow ongoing projects to be completed and remaining funds to be awarded in the final round of program funding.

3500 Department of Resources Recycling and Recovery

2. **May Revision Proposed Trailer Bill Language—Redemption Payments**. The department requests trailer bill language to amend Section 14574 of the Public Resources Code to require beverage container distributors to submit redemption payments by the last day of the first month following the sale. This proposal will better align revenue cash flow with expenditure cash flow. This is a revision to the Senate Action on April 25.

3. **AB 341 Cleanup**. Chapter 476, Statutes of 2011 (AB 341, Chesbro), a bill related to implementation of AB 32 Scoping Plan for recycling, inadvertently defined the "volume threshold" triggering when a commercial enterprise must implement recycling inadvertently transposed the phrase "four or more" with "more than four." Because four cubic yard dumpsters tend to be an industry standard, this may prove to be a substantial distinction and impact local compliance with the law. This proposal is to clarify that Public Resources Code Section 42649 applies to "four or more" cubic yards.

3600 Department of Fish and Game

4. **Updated Oil Spill Response Program:** The Governor proposes the addition of 16 permanent positions in 2012-13 and funding of $2.9 million in the budget year ($2.0 million ongoing) from the Oil Spill Prevention and Administrative Fund (OSPAF). These positions are requested to implement Chapter 583, Statutes of 2011 (AB 1112, Huffman) that establishes a risk-based monitoring program for inspecting vessels that are loading and unloading fuel in California waters. These positions are subject to elimination should the funding expire. This updates an April 25 action of the Subcommittee given new information from the Administration.

5. **Trailer Bill Language—Suction Dredge Cleanup Language:** The Resources Omnibus Trailer Bill of 2011 included an item regarding the use of Suction Dredge equipment in waterways of the state. The language inadvertently created a confusing requirement both to create a temporary moratorium and require an environmental review of the practice, with an arbitrary timeframe for both. Trailer Bill Language is necessary to clarify that the department shall produce an environmental review per statute prior to the use of any vacuum or suction dredge equipment in any river, stream, or lake in the state that is certified by the director of Fish and Game to the Secretary of State under Section 5653.1 of the Fish and Game Code.

3680 Department of Boating and Waterways

6. **Boating Infrastructure Grant Increases:** The May Revision requests an increased appropriation to the Federal Trust Fund (Sport Fish Restoration Account) for the Boating Infrastructure Grant program. The request is for an additional $250,000 in the budget year in addition to the baseline appropriation of $100,000. The additional $250,000 is the federal cost-share for the County of San Mateo—Oyster Point Visitor Dock Project.

3900 Air Resources Board

7. **Extension of Liquidation: Lower Emission School Bus Funds.** Proposal to extend the liquidation of Lower Emission School Bus Funding. In 2006, the voters approved Proposition 1B which authorized $200 million in bond funding to replace and retrofit older, high-polluting buses. A total of $194 million in funds were distributed to local air districts over a period of several years, as bonds were issued and funds became available. Funds were allocated according to the population of school buses to ensure that the oldest, most polluting buses were replaced first. This language requires air districts to transfer remaining funds that are not committed by an executed contract by June 30, 2012, to another local air district that has demonstrated the ability to expend funds by January 1, 2014.

7300 Agriculture Labor Relations Board

8. **Technical Cleanup—Budget Allocation:** The January budget proposal, approved by the subcommittee, includes $500,000 for General Counsel staff augmentation. Adequate funding of the General Counsel should also include a $200,000 baseline shift to this item.

8570 California Department of Food and Agriculture

9. **Unallocated General Fund Reduction:** The May Revision requests a $2.5 million unallocated reduction to the department's General Fund programs. The proposal also includes budget bill language to allow appropriate flexibility to allocate the reduction between state operations and local assistance. The administration will use a similar stakeholder process as was utilized when previous budget reductions were proposed.

10. **CDFA Milk and Dairy Trailer Bill Language:** The Governor requests trailer bill language necessary to implement the General Fund reduction adopted in 2011-12. This trailer bill will minimize the impact to the Milk and Dairy stakeholders. The reduction and trailer bill proposals were developed in a multi-stakeholder process in the current year.

Recommendation: APPROVE Items 1-10.

Vote:

ITEMS PROPOSED FOR DISCUSSION

3360 Energy Resources Conservation Development Commission (California Energy Commission)

The Energy Resources Conservation and Development Commission (commonly referred to as the California Energy Commission or CEC) is responsible for forecasting energy supply and demand; developing and implementing energy conservation measures; conducting energy-related research and development programs; and siting major power plants.

Governor's Budget. The Governor's Budget includes $393 million (no General Fund) for support of the CEC, a decrease of approximately $161 million, due primarily to the phasing down of the Public Interest Energy Research (PIER) Program and the Renewable Resources Trust Fund (RRTF) as a result of the failure to reauthorize the Public Goods Charge.

Items Proposed for Vote-Only

1. **Establishing an Audit and Investigation Unit**. Request to redirect three existing permanent positions funded from the Siting Division to establish an audit and investigation unit. This unit will provide audit oversight to ensure federal and state funds across all programs are spent in accordance with applicable federal and state requirements and guidelines to prevent fraud, waste, and abuse.

2. **Implementation of Renewable Energy Development Grants Under ABx1 13.** The budget requests two limited-term positions for one year to develop and administer $7 million in grants mandated by Chapter 10, Statutes of 2011 (ABx1 13, Perez). Grants would be issued to qualified counties for the development or revision of rules and policies that facilitate the development of eligible renewable energy resources and their associated electric transmission facilities, and the processing of permits for eligible renewable energy resources.

3. **Alternative and Renewable Fuel and Vehicle Technology Fund Loan Repayment Extension.** The Governor's budget requests to change the date of the $8.3 million loan repayment from June 30, 2012 to fiscal year 2014-15. The program does not require repayment before that date.

Recommendation: APPROVE Items 1-3.

Vote:

ITEMS PROPOSED FOR DISCUSSION

Electricity Procurement Investment Charge (EPIC)

Background. This issue was heard as an informational item on April 25 under the California Public Utilities Commission. In December 2011, funding for the state's Public Goods Charge (PGC) on electricity ratepayers expired. Efforts to continue the surcharge, which requires a 2/3 vote of the Legislature, failed. The PGC funded energy efficiency research and development and renewable energy programs. The charge constituted about a quarter of the total energy efficiency programs funded by the state and energy utilities. Funds were collected on a volumetric basis (per kilowatt-hour) by customer class from all utilities (public and investor-owned). The benefits of these programs were then distributed generally, thus the surcharge was considered a tax for voting purposes.

In September 2011, the Governor sent a letter to the CPUC requesting that the Commission take action under the commission's authority to ensure that programs funded like those funded under the PGC would be continued, but with respect to modifications legislators discussed during the PGC renewal deliberations. In December 2011, the CPUC initiated a rulemaking (essentially started a pathway to an new policy) to attempt to continue the programs of the PGC with a sole focus on the investor-owned utilities (IOUs). The Commission plans a two-phased deliberation. The first phase addresses the appropriate funding levels for renewables and research and development. The second phase will create a detailed program.

Budget Proposal. The Governor's CEC budget requests nine new positions and $2.2 million for the initial year buildup to develop and administer $127.8 million from off-budget, investor-owned utility ratepayer funds under the California Public Utilities Commission EPIC program. Funding for the proposal will be derived directly from Investor Owned Utilities and paid to the Energy Commission (bypassing the CPUC).

Staff Comments. The subcommittee raised several concerns regarding the forthcoming proposal at its April 25 hearing including: (1) lack of legislative oversight; (2) potential violation of Proposition 26 by approving funding that should appropriately be a tax; (3) vagueness and lack of specificity of the funding proposal itself.

The submitted budget proposal does little to answer these questions. For example, the budget proposal states that despite the fact that the public goods charge was not reauthorized, the policy case for public and/or ratepayer support of clean energy technology development remains strong. While this may be true, ratepayers already pay for multiple energy efficiency programs including potentially those forthcoming in the Cap and Trade program administered by the Air Resources Board. In addition, the programs proposed to be funded would be determined by a CPUC Triennial Investment Plan developed outside of the legislative process. The use of the funds would be reported by the CPUC through an annual program status report and used to develop an appropriation plan for the Energy Commission.

The LAO, and others, have raised concerns about the nature of this program, including the potential violation of Proposition 26, the circumvention of the Legislature in the development of the program, the lack of legislative oversight over the program in general, and finally a lack of understanding of the consequences to ratepayers for the multiple energy efficiency related programs currently being developed and implemented by the State.

LAO Comments:

The original PGC enabling legislation required approval of a 2/3 vote of both houses of the Legislature because it changed state taxes for the purposes of increasing state revenues. The legislation included a provision which expressly terminated the CPUC's authority to collect funds on January 1, 2012 unless reauthorized by the Legislature. During the 2011-12 legislative session, while several bills were proposed to extend the PGC, none received the requisite 2/3 super majority vote needed to pass. Thus, authorization to collect the PGC expired on January 1, 2012.

Based on our initial analysis of the Governor's proposal, we have identified two serious concerns. First, given that the above authority for the PGC expired, it is unclear whether the CPUC has the legal authority to collect this surcharge (absent a two-thirds vote of the Legislature). We are in the process of consulting with Legislative Counsel on this issue and will share its findings with you. Second, under the Governor's proposal, the CPUC and CEC would have complete control over how the funds for the EPIC program would be allocated. In other words, the Legislature would have very little opportunity to provide guidance and oversight over how the funds are used for R&D and renewable energy programs. Given these concerns, we recommend that the Legislature not approve the Governor's proposal at this time. To the extent that the Legislature wants to approve the EPIC program, we believe it would be more appropriate to specifically authorize the collection of the charge and the implementation of the program (including guidelines and parameters on the use of the funds) in statute.

Recommendation: DENY Proposal. Adopt the following draft budget bill language:

> The Legislative Analyst's Office shall, with the full cooperation of the administration, develop a report listing all energy-efficiency, climate change and AB 32-related activities in state government including their funding sources. The list shall include but not be limited to: funding directed by the California Public Utilities Commission to its regulated Investor Owned Utilities (including the Electricity Procurement Investment Charge); AB 118 funds; California Energy Commission funds; Air Resources Program funds (both existing and future Cap and Trade Programs). The report shall list all programs funded by these multiple resources and shall include a preliminary assessment of priority, overlap and redundancy. The report shall be submitted to the relevant Policy Committees and Joint Legislative Budget Committee by January 1, 2013.

Vote:

3540 Department of Forestry and Fire Protection

The California Department of Forestry and Fire Protection (DFFP) or "CalFIRE," under the policy direction of the Board of Forestry, provides fire protection services directly or through contracts for timberlands, rangelands, and brushlands owned privately or by state or local agencies. In addition, DFFP: (1) regulates timber harvesting on forestland owned privately or by the state and (2) provides a variety of resource management services for owners of forestlands, rangelands, and brushlands.

Governor's Budget. Excluding capital outlay, where the amount of carryover makes year-to-year comparisons less meaningful, the Governor's Budget includes $1.1 billion, which represents an overall decrease of $11.3 million and 41 positions from the 2011-12 budget. Decreases in funding are largely the result of re-benching the department's Emergency Fund (E-Fund).

ITEMS PROPOSED FOR DISCUSSION

Timber Harvest Plan Reform

Governor's May Revision Proposal. The Governor's May Revision proposes a comprehensive change to the timber harvest plan review process that includes the following elements:

- **Lumber Assessment—**the new assessment will be collected on retail sales of certain wood products sold in California and will be collected by the Board of Equalization. The assessment will generate approximately $30 million annually and will be used to support the regulatory activities of CalFIRE, Department of Fish and Game, Department of Conservation, and the State Water Resources Control Board related to timber harvest plan review. The assessment will provide a sustainable, long-term funding stream that does not disadvantage the California timber industry, fully funds the regulatory agencies, and provides opportunities for restoration of California forests.

- **Extension of the Current Timber Harvest Plans—**Certain timber harvest plan documents are currently effective for three years with two one-year extensions. This proposal would extend that timeframe to five years with one two-year extension and would include plans approved in 2012. This timeframe will optimize the length and scope of standard timber harvest plans while retaining appropriate protective measures for fish and wildlife.

- **Limit damages from wildfire liability—**California law allows recovery of up to double the cost for damages related to wildfires. This leads to claims for damages far exceeding restoration costs. This proposal will limit the scope of damages for fire cases and prohibit double damages in order to better align state law with current state policy goals. This would apply to public entities.

- **Redding Pilot Project—**Development and implementation of a year-long pilot project to test procedures to improve the efficiency of a multi-agency Timber Harvest Plan review team.

- **Timber Harvest Plan Documentation Review—**A review of the current content and organization of the Timber Harvest Plan application document to improve ease of preparation, continuity of plan content, and reduction of applicant errors. The review will also explore the ability to use e-forms.

The proposal was developed in a multi-year multi-stakeholder working group along with the administration and all of the departments involved in forest practice activities, including CalFIRE. The proposal is designed to promote and encourage sustainable forest practices consistent with statute; replace the current piecemeal funding structure with a single funding source; support in-state production of timber; and promote transparency in regulatory costs through the creation of performance measures and accountability.

Staff Comments. Staff concurs with the administration's assessment of the proposal. The proposal follows a lengthy stakeholder process that vetted multiple revisions to the Timber Harvest Plan review process. This subcommittee raised the issue of funding timber harvest plans multiple times over the past several years and this proposal goes a long way toward satisfying those issues.

Recommendation. APPROVE Budget Proposal and Trailer Bill Language.

Vote:

Bargaining Unit Settlements at CalFIRE

Previous Subcommittee Actions. The Subcommittee heard an introduction to this issue at its May 9 Open Issues hearing. The item was held open in part to determine if there were other ways to negotiate these settlements with the Bargaining Units, and to get a full update on the total amount of required settlements the Administration has made related to these proposals. The three issues are listed below:

1. **Spring Finance Letter (Firefighter 1 Separation Costs).** The department requests an increase of $2.1 million (General Fund) to cover an increase in costs as a result of a negotiated settlement in the lawsuit described on May 9. This will cover lump-sum buyout costs associated with the annual separation of the department's seasonal Firefighter I staffing. This amount may increase in future years.

2. **May Revision Proposal (Extended Duty Week Compensation Lump-Sum Buyouts).** The Administration requests a one-time General Fund augmentation of $15.7 million to cover the retroactive Extended Duty Week Compensation lump-sum buyout costs associated with the separation of the Department's Bargaining Unit 8 fire protection employees, as required by a class action settlement.

3. **May Revision Proposal (Firefighter 1 Compensation).** The Administration requests a two-year General Fund augmentation to account for the increased costs associated with maintaining a five percent differential between steps for the Department's seasonal Firefighter classification of the last minimum wage increase, as required by the current Bargaining Unit 8 Memorandum of Understanding.

Staff Comments. Staff has met with the Administration and concurs with the need for these proposals. However, since these MOUs will expire at the end of the budget year, staff recommends that the ongoing proposals be limited to a two-year term to allow for a baseline discussion when future MOUs are determined. This would be in keeping with the status of the overall state General Fund condition, and the unprecedented budget reductions facing the department should the tax initiatives fail.

In addition, there may be existing budget authority in the current year to accommodate these proposals since they were unanticipated increases in personnel expenses.

Recommendation.

1. APPROVE Items 1 and 3 as budgeted for two years.
2. APPROVE Item 2 with modifications. Direct DOF to budget this item in the current year under Item 9840-001-0001.

Vote:

3790 Department of Parks and Recreation

The Department of Parks and Recreation (Parks) acquires, develops, and manages the natural, cultural, and recreational resources in the state park system and the off-highway vehicle trail system. In addition, the department administers state and federal grants to local entities that help provide parks and open-space areas throughout the state.

The state park system consists of 277 units, including 31 units administered by local and regional agencies. The system contains approximately 1.4 million acres, which includes 3,800 miles of trails, 300 miles of coastline, 800 miles of lake and river frontage, and about 14,800 campsites. Over 80 million visitors travel to state parks each year.

Governor's Budget. The Governor's Budget includes $423 million, a decrease of $745,933 and 18 positions from the 2011-12 budget. The decreases are mainly related to bond expenditures ($654,851 million), reductions in Off-Highway Motor Vehicle Division ($10 million) and General Fund ($10 million).

Items Proposed for Vote-Only (May Revision Capital Outlay and Open Issues)

1. **Capital Outlay (Non-Off-Highway Vehicle Projects)—$16.9 Million.** Request reappropriation of funds for ongoing capital projects within the State Parks system working drawings and construction. Examples of projects include restoration of buildings, completion of interpretive centers, environmental compliance, and recreational trails programs.

2. **Off-Highway Vehicle and State Vehicular Area Capital Outlay—$15.2 Million.** Request reappropriation of funds including for the following specific State Vehicular Area projects: Prairie City State Vehicular Recreation Area (SVRA), Oceano Dunes SVRA, Carnegie SVRA, and Hollister Hills SVRA.

Recommendation: APPROVE Items 1-2.

Vote:

ITEM PROPOSED FOR DISCUSSION

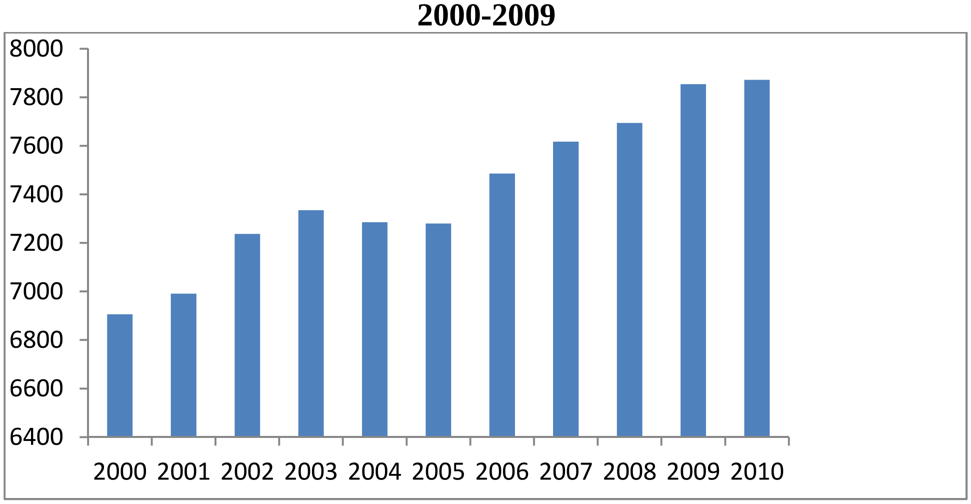
State Parks and Recreation—Ongoing Sustainable Funding Proposal

Previous Subcommittee Actions. The Senate Budget Subcommittee #2 heard proposals from the Department of Parks and Recreation on March 7 of this year. On May 9, the Subcommittee presented an eight part plan to develop ongoing sustainable funding for the department. The proposal was vetted and responses were received from the Administration, Legislative Analyst's Office (LAO) and the public.

The LAO had questions about potential availability of funds for park purposes rather than General Fund relief after May Revision, the potential to go further than the proposal in the agenda regarding concessions, and the need to reclassify positions at the department. The administration withheld recommendation pending further review. In general however, neither the LAO nor the administration voiced strong opposition to any one element of the proposal.

Public testimony was taken on a number of issues. A good deal of support for liability relief for nonprofits operating state parks was heard. Concerns were raised about the potential pressures on the Motor Vehicle Account funding and the use of this money for law enforcement and transportation-related expenditures at State Parks. Legislative Counsel has confirmed that the proposed use of the funds is Constitutional. Also, while growth in California Highway Patrol (CHP) was presented as "flat," the LAO has confirmed that in fact over the past ten years, CHP positions have grown by nearly 1,000 positions. This does not discount the likelihood that there will be requests for funding for law enforcement activities from this source in the forthcoming years.

California Highway Patrol Uniformed Officers Authorized Positions 2000-2009



Staff also determined that State Parks law enforcement has issued over 6,100 citations for violations of various sections of the Vehicle Code, and an additional nearly 26,000 citations related to other vehicle-related regulations.

Concerns were raised regarding the idea of requiring the department to reprioritize local assistance funding (including funding directed to local off-highway vehicle recreation areas) to maximize re-opening of all state parks. However, the Subcommittee was also provided with multiple reports citing the loss of local funding and local business dollars should any one state park close. In addition, the department has requested reappropriation of funding for multiple state and local off-highway vehicle park projects that is not subject to reprioritization, and would keep the program moving for several years.

Senate Ongoing Sustainable Parks Proposal—Recommendations

The following are a series of seven specific proposals to address problems identified by the department, the Legislative Analyst's Office (LAO), the Legislature and the Administration. The actions highlighted constitute the refined staff recommendation as actions for the budget.

Item 1: **Department needs funding flexibility to become more entrepreneurial.**
Solution: Approve Administration's two-year pilot proposal for continuous appropriation authority including trailer bill language requiring the department to report uses of the fund, and to require at least 50 percent of the funding received from district entrepreneurial projects to remain within that district.

Item 2: **Personnel structure at the department restricts ability for the department to direct peace officers to the highest priorities.**
Solution: Approve LAO recommendation (trailer bill language) in part to add position authority to allow non-peace officers to administer certain non-law enforcement tasks. This proposal would be phased-in over a period of two years.

Item 3: **The department should be collecting entrance fees in more locations and utilizing concession agreements in as many areas as practical.**
Solution: Approve LAO recommendation to approve entrance fee proposals and concession agreements. Require a percentage to remain in the district for revenue-related projects (budget bill language).

Item 4: **Department needs more varied funding sources and Parks supporters need a more visible way to show support for the department.**
Solution: As mentioned in the LAO report, approve trailer bill language for both (1) an opt-in fee for vehicle renewal and (2) a specialty plate for parks alone.

Item 5: **According to a report by the department in May 2011, at least 20 parks were put on the closure list in part due to water, wastewater, and septic system problems. Many of these are due to both aging facilities and increased visitor-ship beyond the capacity of these older systems.**
Solution: Approve budget bill language appropriating $10 million annually as long-term loans from the Clean Water Revolving Loan Fund for five years to replace the State Parks and Recreation Funding and to complement bond funding for water quality and septic system repairs. Recommend funding be prioritized to allow for re-opening of parks and directed to lower income areas to the extent possible.

Item 6: **Local nonprofits who step up to take over parks may be subject to additional liability risk which could deter their efforts to help support State Parks.**

Solution: Approve trailer bill language to extend limited liability coverage to local and nonprofit agencies who partner with State Parks to take over functions or management of parks or park properties.

Item 7: **Restrictive funding streams and categorical allocations reduce the flexibility of the department to more creatively apply state dollars while maximizing both federal and local matching funds.**

Solution: Approve trailer bill language to extend the eligible uses of funds for trails, multi-purpose off-highway vehicle funds (with the exception of direct fees), and local assistance dollars. The intent is to allow greater flexibility for decision-making across the entire State Parks system. This includes amending the Local Assistance Program proposal to allow the department to utilize these funds more broadly for state purposes, so long as federal matching funds and constitutional requirements are not jeopardized.

Item 8: **State Parks has an ongoing gap of up to $15 million for roads and trail maintenance, and for service provided by Park Rangers related to motor vehicles.**

Solution: Approve provisional budget bill language to utilize only a portion of the reserve of funding related to proceeds of the Motor Vehicle Account annually. Up to $10 million of this item shall only be expended in units of the State Park System and only for enforcement of traffic laws on public roads, construction and maintenance of public roads and their fixed facilities, and any other purpose allowable by Article XIX of the California Constitution.

Staff Comments. In order to provide a more robust plan with as broad consensus as possible, staff was directed to meet with policy and budget staff in the Assembly, budget, and department staff at the Administration and multiple stakeholders on the proposal set forth by Senators Simitian and Evans. In general, there is a great deal of support for a long-term solution to parks funding. There have been a number of good suggestions to improve the proposal that incorporate ideas currently being considered by the Legislature and the Administration. These are listed in the following recommendations section (next page).

Staff Recommendation. Adopt Senate ongoing sustainable Parks proposals 1-8 with the following amendments.

Item 2: **Personnel Classifications:** This language shall be drafted as intent in order to accommodate the personnel administration process currently undertaken by the department that compliments this action.

Item 3: **Increasing Park User Fees and Entrance Fee Collections**: In conjunction with Assembly budget and policy staff, modify the department's reappropriation proposal from April to instead shift $10 million from bond funds to pay for the capital costs of this proposal (including increasing park user fees and entrance fees) and other revenue generating projects. This would be deposited in a proposed Enterprise Fund in coordination with Item 1. As part of this proposal the department shall develop a prioritized action plan to increase revenues and collection of user fees and report back to the Legislature on the plan by January 10, 2013.

Item 4: **1) Opt-In Fee:** In coordination with the State Parks Foundation, Assembly budget and policy staff, and other stakeholders, considered alternatives to an opt-in fee for discussion in the 2013-14 budget cycle including such ideas as regional park passes and alternative ways to purchase annual parks passes.
2) Vehicle License Plates: In coordination with Assembly budget and policy staff, this language should be drafted per AB 1589 (Huffman).

Item 7: **Local Assistance Funding:** To address concerns raised by stakeholders, this item should be amended to allow for the shift of up to $21 million from the Motor Vehicle Fuel Account prior to deposit into the Off-Highway Vehicle Trust Fund (OHVTF). The Local Assistance proposal should be reduced by $11 million, and $10 million should be made available from the OHVTF fund balance (currently projected at over $60 million) for high priority law-enforcement related local assistance grants. The department will be required to consult with the OHV Division prior to taking this action. This item also should sunset after five years.

The Department will explore to what extent funding from the AB 32 Cap and Trade funding may be appropriately used for restoration projects on Off-Highway Vehicle use lands (local assistance) in an amount up to $10 million.

Vote:

3860 Department of Water Resources

The Department of Water Resources (DWR) protects and manages California's water resources. In this capacity, the department maintains the State Water Resources Development System, including the State Water Project (SWP). The department also maintains public safety and prevents damage through flood control operations, supervision of dams, and water projects. Historically, the department was also a major implementing agency for the CALFED Bay-Delta Program, tasked with putting in place a long-term solution to water supply reliability, water quality, flood control, and fish and wildlife problems in the San Francisco Bay Delta. As noted above, that program was abolished with SBx7 1, and CALFED responsibilities were transferred to new entities, including the Delta Stewardship Council.

Additionally, the department's California Energy Resources Scheduling (CERS) division manages billions of dollars of long-term electricity contracts. The CERS division was created in 2001 during the state's energy crisis to procure electricity on behalf of the state's three largest investor owned utilities (IOUs). The CERS division continues to be financially responsible for the long-term contracts entered into by the department. (Funding for the contracts comes from ratepayer-supported bonds.) However, the IOUs manage receipt and delivery of the energy procured by the contracts.

Governor’s Budget. The Governor’s Budget includes $2.5 billion (including infrastructure expenditures) and 3,405 positions for support of the department. The department’s proposed program budget is $2.2 billion, which represents an overall decrease of $2.6 billion and an increase of 144 positions from the 2011-12 budget. This decrease is mainly attributed to a decrease in bond funds ($1.5 billion) and a decrease in the CERS division ($832,887). The decrease in bond expenditures is mostly because the Governor’s budget did not include any new bond expenditures in anticipation of the release of the Governor’s five-year infrastructure report in the spring of 2012.

ITEMS PROPOSED FOR VOTE-ONLY

1. **Implementation of the Delta Stewardship Council's Delta Plan.** The budget requests $1.05 million from Proposition 1E bond funds and the State Water Project funds as well as six positions to implement mandated programs and projects within the areas of the state affected by the Delta Stewardship Council's Delta Plan.

Staff Comments: Staff has received assurances from the Delta Stewardship Council, Department of Finance, and Department of Water Resources that this proposal is not necessary in the budget year.

Recommendation: DENY Item 1.

Vote:

ITEMS PROPOSED FOR DISCUSSION

OCAP (Operations Criteria and Plan) Biological Opinions Habitat Restoration Implementation

Background. The Governor's budget requests 10 new full-time and permanent positions in the Division of Environmental Service to implement habitat restoration required by state and federal agencies biological opinions, also called the "BiOps." These requirements identify habitat restoration, as well as other actions, to address impacts on salmon, steelhead, green sturgeon, delta smelt, and longfin smelt impacted by the operations of the State Water Project Delta Pumping Facilities.

Previous Subcommittee Actions. The Legislature approved 12 new full-time positions for implementation of the biological opinions in the previous year's budget. These positions were intended for similar activities as those proposed in this year's budget request. According to the department, the workload necessitating these new positions stems from two projects, the Prospect Island/Suisun Marsh sub-tidal habitat and Sacramento River seasonal fish rearing habitat projects.

Staff Comments. This item was held open in order for the department to continue working with the Legislative Analyst's Office and budget staff on the final workload analysis, the OCAP Habitat Plan, and the need for the positions. Staff concurs with the need for the positions.

Recommendation: APPROVE.

Vote:

Delta Habitat Conservation and Conveyance Program (DHCCP)

Background. The DHCCP was established in 2008 to implement a gubernatorial directive to address both water supply issues and environmental concerns related to the Delta. Specific goals of DHCCP include protecting and restoring Delta habitat and studying improved methods to reduce the impact of water conveyance on the Delta.

Governor's Proposal. The Governor's budget requests 117 new positions to work on the Delta Habitat Conservation and Conveyance Program (DHCCP). This includes converting 18 limited-term positions to permanent.

The DHCCP's planning stage is currently being carried out by 18 limited-term positions in the Department of Water Resources (DWR) that are set to expire in June 2012. The Governor's January budget proposal requests that those positions be made permanent to complete the DHCCP planning and to maintain staff continuity through the program's implementation stages. The planning stage was originally scheduled to be completed by December 2010, but has been pushed back until the end of 2012-13 due to delays in completion of the Bay Delta Conservation Plan (the Bay Delta Conservation Plan is a document that will provide the basis for the issuance of endangered species permits for the operation of the State and federal water projects, on which DHCCP's environmental impact reports depend).

Staff Comments. This item was held open in order to get further information on the positions and to develop appropriate contingencies related to the forthcoming Delta Plan. Given the uncertainty regarding the number of temporary and permanent positions needed, it seems reasonable that the Committee approve a limited mix of temporary and permanent positions and adopt budget bill language to direct the Department to move forward with preliminary design and construction work associated with the DHCCP after:

1. The public draft of the DHCCP Environmental Impact Report/Environmental Impact Statement is released;
2. The Department has provided notice to the Joint Legislative Budget Committee (JLBC) of the release of the public draft and the Department's intent to begin filling the positions; and,
3. 30 days has passed from the date of the notice to the JLBC.

This allows the department to return to the Legislature for additional position authority after the DHCCP EIR/EIS received final certification.

Recommendation: 1) APPROVE 37 permanent positions and 38 2-year, limited-term positions. 2) APPROVE proposed budget bill language. 3) REJECT remaining 60 positions.

Vote:

Salton Sea Program Habitat Restoration: Species Conservation Habitat Implementation.

Proposal. The Governor requests $9 million (reimbursement authority) over three years for a continuation of the previously approved Salton Sea Restoration Program. This project is being produced in coordination with the Department of Fish and Game.

Background. The Department describes the proposed actions that would be funded from the requested reappropriations and reimbursements as "no-regrets" projects that would be consistent with any plan to restore the Salton Sea, including a no-action alternative. However, according to the LAO in 2011, it is unclear what the need is for immediate action on these projects. The majority of benefits of any restoration plan are likely to be realized only after the completion of the restoration many years from now, and as such, a temporary delay is unlikely to have significant negative consequences on fish and bird species.

Previous Actions. Last year, the Subcommittee rejected the Governor's proposal for Salton Sea Restoration funding under the Department of Fish and Game. According to the LAO, the Legislature has yet to formally adopt a restoration plan for the Salton Sea that clearly lays out the state's obligations and funding plan for the Sea. Ultimately, however, the Legislature approved a request for $4.2 million in reimbursement authority for the Salton Sea Restoration Program.

Staff Comments. This item was held open to allow a continued dialogue with the Administration on its long-term plan for the Salton Sea restoration efforts.

Recommendation: APPROVE

Vote:

Davis-Dolwig Act (Funding Recreation at the State Water Project)

Joint Item—Department of Boating and Waterways (3680) and Department of Water Resources (3860)

Background. The Davis-Dolwig Act, passed in 1961, states the broad intent of the Legislature that State Water Project (SWP) facilities be constructed "in a manner consistent with the full utilization of their potential for the enhancement of fish and wildlife and to meet recreational needs." The LAO, Department of Finance, and legislative staff have raised concerns in the past four years about the administration of the Act by the department, and the role of the Legislature in ensuring oversight and accountability of state general purpose funding. For a background on the act, see the LAO report "Funding Recreation at the State Water Project."

Budget Proposal. The department proposes a $10 million annual appropriation from the Harbors and Watercraft Fund (HWRCF) for continued recreational costs at SWP facilities and statutory changes to clarify legislative authority for allocation of the state's share of Recreation, Fish and Wildlife Enhancement. This is consistent with the primary recreational use at state water project facilities of boating and watercraft. This proposal will require the Department of Boating and Waterways to reprioritize its funding.

Staff Comments. The working group met over the course of the year and discussed varying amounts of funding that would be required to provide both ongoing funding for the State Water Project under the current contract requirements as well as repayment of obligations. The funding options ranged from $3 million to $15 million annually as well as proposals for future capital projects. The proposal by the administration attempts to address as many of the concerns raised in the working group meetings as is possible during this budget. The proposal does require the administration to reprioritize HWRCF funding. Therefore, staff recommends denying the proposal for Private Marina Funding to allow for a prudent reserve in the fund. This program would be eligible for funding again in the 2013-14 budget year.

Recommendation: APPROVE Budget Proposal including trailer bill language proposed by the administration. DENY Department of Boating and Waterways proposal for Private Marina Funding. ADOPT additional trailer bill language (draft):

> Consistent with Attachment D of the Monterey Agreement Settlement, as part of the Department's public process for review of the long-term water supply contracts (for project-wide contract amendments and contract amendments), the department shall conduct at least one of the required public hearings in an informational Legislative hearing of the policy and budget committees of both houses. The public contracts shall be submitted to the Joint Legislative Budget Committee for review at least 60 days prior to final approval by the parties to the contract.

Vote:

3960 Department of Toxic Substances Control
3980 Office of Environmental Health Hazard Assessment

ITEMS PROPOSED FOR DISCUSSION

Special Fund Reductions and Fund Restructuring from the Toxic Substances Control Account

Background. The Department of Toxic Substances Control (DTSC) funds several programs out of the Toxic Substances Control Account (TSCA) including the Site Mitigation and Brownfields Reuse Program, Pollution Prevention and Green Technology Program, California Environmental Biomonitoring Program (including programs at the Office of Environmental Health Hazard Assessment and Department of Public Health), and the Green Chemistry Program. Over the past five years, the revenues into the TSCA have declined by $14 million annually while expenditures have increased by about $5 million. In addition to this, several new programs including Green Chemistry have yet to be fully funded as they are not past the regulatory phase of development. Historically, DTSC has used carry-over reserves and reduced expenditures to address immediate imbalances in the fund. However, a more thoughtful approach to future funding is necessary and has been anticipated by the Legislature.

Budget Proposal. The Governor's May Revision proposes a series of fund shifts and reductions to align expenditure authority in the Toxic Substances Control Account (TSCA) with projected revenues. Specifically, the department proposes four major funding changes.

1. **Department of Toxic Substances Control (DTSC) Toxic Substances Control Account Reduction Proposal:** The May Revision proposes to**:** 1) shift $2.3 million and 18 positions to the Federal Trust Fund to support federal grants funded by the Department of Defense and the US Environmental Protection Agency; 2) shift $780,000 and 6 positions to reimbursements; 3) shift $3 million and 28.3 positions to the Hazardous Waste Control Account; 4) shift $167,000 to support the California Environmental Contaminant Biomonitoring Program to the Childhood Lead Poisoning Prevention Fund ($45,000), Birth Defects Monitoring Program Fund ($45,000), Department of Pesticide Regulation Fund ($39,000), and Air Pollution Control Fund ($38,000); 6) decrease $2.9 million and 24 positions in fiscal year 2012-13; and 7) decrease an additional $3.5 million and 36 positions in fiscal year 2013-14.

2. **Office of Environmental Health Hazard Assessment Funding Shift from Toxic Substances Control Account to Other Special Funds:** The May Revision proposes a funding shift through a reduction of $461,000 from the Toxic Substances Control Account (TSCA) and an augmentation of $125,000 from the Childhood Lead Poisoning Prevention fund; $106,000 from the Department of Pesticide Regulation Fund; $105,000 from the Air Pollution Control Fund; and $125,000 from the Birth Defects Monitoring Program Fund. This fund shift will not change OEHHA's overall expenditure authority and will continue to support the California Environmental Biomonitoring Program.

3. **Department of Toxic Substances Control Hazardous Waste Special Fund Reductions.** The May Revision proposes to shift Hazardous Waste Control Account (HWCA) funded positions to federally funded projects and reduces other HWCA funded positions and operating expenses. Specifically, DTSC proposes to: 1) shift $735,000 and 6 positions to the Federal Trust Fund to support federal grants funded by the Department of Energy and National Aeronautics and Space Administration (NASA); and 2) decrease $2.3 million and 12 positions.

4. **Trailer Bill Language to Eliminate Un- and Under-utilized Programs.** The department proposes to eliminate seven programs that are underutilized, have had no grant or loan requests, or have been replaced by updated programs and revised statutes. The trailer bill language is required to clean up these programs in statute.

Staff Comments. Staff concurs with the need for the anticipated budget proposal. Reducing funding pressures overall will allow the department to move forward with higher priority programs. However, staff have concerns with the proposal to shift funding from the Air Pollution Control Fund (APCF) to the Biomonitoring Program. This program, while broad-based, can appropriately be funded by a mix of fee and tax funding. However, staff are still reviewing the proposed funding from the APCF and the expenditures proposed for the Biomonitoring Program and as such should not be approved in this budget cycle.

Staff Recommendation: APPROVE proposals as budgeted less the following changes to the California Environmental Biomonitoring Program:

1. DENY fund shift of $38,000 from the Toxic Substances Control Account to the Air Pollution Control Fund in the Department of Toxic Substances Control.
2. DENY fund shift of $105,000 from the Toxic Substances Control Account to the Air Pollution Control Fund in the Office of Environmental Health Hazard Assessment.

Vote:

Green Chemistry: Ensuring Safer Consumer Products

Background. The Legislature, after years of considering individual chemical bans and broader chemical policies, developed a broader, more comprehensive approach to chemicals policy. Two bills, Chapter 559, Statutes of 2008 (AB 1879, Feuer) and Chapter 560, Statutes of 2008 (SB 509, Simitian) require the department to create a comprehensive and public approach to chemicals policy and lead to the development of the Green Chemistry Program at DTSC. Specifically, AB 1879 requires DTSC to adopt regulations to identify and prioritize chemicals of concern in consumer products, to evaluate alternatives, and to specify regulatory responses to reduce exposure to chemicals of concern in products. AB 1879 also created the Green Ribbon Science Panel to provide consultation to DTSC on the development of the regulations. SB 509 provides specific mandates to DTSC concerning the creation of an online, public Toxics Information Clearinghouse that includes science-based information on the toxicity and hazard traits of chemicals used in daily life.

Governor's Proposal. The Governor requests approval to redirect positions and funding for the department to implement the Safer Consumer Products regulations mandated by the two statutes. The Safer Consumer Products regulations provide a systematic and consistent approach for DTSC to evaluate chemicals in products sold in California to identify product-chemical combinations that are of high concern because of the potential for exposure to the chemical in the product and the potential for adverse public health or environmental impacts resulting from such exposures.

This process will lead to the identification/listing of products as Priority Products. Manufacturers of products listed as Priority Products will be required to conduct an alternatives analysis to compare the existing product with potential alternatives (e.g., chemical substitution or product redesign) using 13 factors evaluated at each stage of the product's life cycle. Upon conclusion of the alternatives analysis, the manufacturer will select an alternative chemical ingredient or alternative product design, or decide to retain the existing product-chemical. At this point, DTSC will evaluate the chosen alternative, or the existing product if no alternative is selected, using the information contained in the alternative analysis and other sources of information. The purpose of DTSC's evaluation will be to determine if there are adverse public health or environmental impacts associated with the product that can and need to be ameliorated by one or more regulatory responses.

Specifically this proposal is requesting to permanently redirect positions and funding identified below. Funding to support these redirections is from the Toxic Substances Control Account.

- Redirect 39.0 positions and $4.8 million associated with these positions.
- Redirect $1.4 million for contracts and laboratory equipment and supplies.

Staff Comments. Staff concurs with the need for the proposal. However, the proposal does not provide for a long-term stable funding source for the Green Chemistry Program. Existing law requires the department to adopt regulations to establish a process to identify and prioritize chemicals or chemical ingredients in consumer products, to establish a process for evaluating chemicals of concern in consumer products and their potential alternatives for the purposes of limiting exposure or to reduce the level of hazard posed by chemicals of concern identified in the required alternative analysis, and to specify a range of regulatory responses that the department may take following the alternatives analysis.

Staff recommends adoption of trailer bill language that would require the department to impose a fee on those who, in accordance with the regulations implementing the alternatives process, are required by the department to prepare and submit to the department for review an alternatives analysis, to cover the reasonable costs to the department in reviewing the submitted alternatives analysis and formulating and imposing a regulatory response. The trailer bill would require the department to adopt regulations establishing a fee schedule and would allow the department to reduce the amount of the fee based upon the size and market share of the fee payer.

Staff Recommendation: APPROVE the budget proposal with proposed Trailer Bill Language outlined in the Staff Comments.

Vote:

3900 California Air Resources Board

The Air Resources Board has primary responsibility for protecting air quality in California, as well as implementation of the California Global Warming Solutions Act of 2006 (AB 32). This responsibility includes establishing ambient air quality standards for specific pollutants, administering air pollution research studies, evaluating standards adopted by the US Environmental Protection Agency and developing and implementing plans to attain and maintain these standards. These plans include emission limitations for vehicular and industrial sources established by the Board and local air pollution control districts.

The Governor's Budget proposes $555 million and 1,223 positions for support of the board. This is an increase of 19 percent over current year expenditures. This does not include proposed expenditures of up to $1.5 billion related to the auction of greenhouse gas emissions under the Cap and Trade Program (discussed further below).

Items Proposed for Vote-Only

1. **Project-Level GHG Assessment Program.** The budget includes a request for four limited-term positions and $643,000 (Air Pollution Control Fund) to meet increased workload from two new state requirements: AB 900 (Buchanan) and SB 292 (Padilla), Statutes of 2011. These statutes direct the ARB to evaluate greenhouse gas (GHG) emissions' impact of certain development projects to help determine eligibility for a streamlined judicial review process of California Environmental Quality Act (CEQA) challenges. The ARB has stated that they do not currently review project-level emissions analyses and does not have the resources to assess GHG emissions' impacts of individual developments at this time. The policy analysis of this issue indicated that workload for this proposal would be absorbable, and indeed given the first test of this bill, the ARB did absorb the workload and evaluated the GHG impacts using existing resources.

Staff Comments. This item was held open at the April 25 hearing to give further time for review of the workload analysis. The administration has not yet justified the need for further positions for this proposal which is consistent with the policy analysis of the bill as it moved through the Legislature.

Recommendation: DENY Proposal.

Vote:

ITEMS PROPOSED FOR DISCUSSION

AB 32 and Cap and Trade Funding

Background. On April 25, the subcommittee heard extensive testimony from the Board and Administration on its plans for the use of, and management of, cap and trade funding. As background, the ARB plans to begin auctioning GHG emission allowances as part of its market-based compliance measures in 2012. The ARB estimates that fee revenues from the first set of auctions will be $1 billion in the first year of the program which is included in the budget. These auction revenue estimates vary widely making specific budget expenditures uncertain. Actual revenues are not anticipated to be certified until late in 2012-13. A General Fund offset of $500 million is also included in the budget; however, there is no specific proposal for this expenditure. Rather than a detailed budget proposal, the budget provides general categories of spending from the proceeds of the auctions. These include:

- Clean and efficient energy
- Low-carbon transportation
- Natural resource protection
- Sustainable infrastructure development

Western Climate Initiative and Linkage Issues. The Administration continues to move forward with a proposal to "link" auctions to the Quebec Cap and Trade system. This would allow for more credits to be auctioned in multiple jurisdictions however it poses a number of questions about the intent of the state program. In order to facilitate this multi-government auction, the ARB assisted in the creation of the Western Climate Initiative, Inc. (WCI), an independent nonprofit that would develop compliance, tracking, and market monitoring functions for jurisdictions participating in the auctions. The WCI is incorporated in Delaware and both the Executive Director of ARB and Secretary for Cal-EPA sit on the board of WCI. According to ARB, no funding was paid by the state to WCI over the past several years, however this is not accurate. Through the Western Governors Association, funding was directed specifically from the State of California to WCI to facilitate this startup agency. The Administration proposes to direct $3.7 million to this agency through December 2013.

It has also come to the attention of the subcommittee that the ARB has begun to direct funding to the WCI, Inc., for contracting outside of the state contracts rules. In addition, recent information from WCI, Inc., would suggest that it intends to engage in activities outside of the parameters that were initially described to the Legislature, including delving into policy recommendations for specific offset protocols.

Previous Subcommittee Actions. The subcommittee acted on April 25 to:

1. Reject Control Section 15.11 which allows the Administration to expend up to $1 billion from auction allowance proceeds with now fewer than 30-day notification to the Legislature.
2. Approve language in concept (Air Pollution Control Fund, auction revenues):
   a. Authorize spending of Cap and Trade revenues for purposes of AB 32 greenhouse gas emissions reduction activities to achieve at least $500 million in General Fund savings.
   b. Stipulate that any additional expenditure related to greenhouse gas emissions reductions be made pursuant to future legislation.

Staff was directed to work with appropriate policy and budget staff to begin drafting language related to concerns about the Western Climate Initiative, Inc., legislative oversight, fee nexus issues, a proposed audit of the AB 32 implementation fee, and the control sections related to the overall expenditure of funds from cap and trade revenues.

Staff Comments. Staff recommends a series of actions in response to the subcommittee's direction. To the extent possible, language is included in this agenda, however, some pieces will need to be developed with Legislative Counsel in coordination with actions taken by the Assembly Budget Subcommittee for final approval in the budget and trailer bills.

Recommendations:

1. **APPROVE Trailer Bill Language (in concept):**

   a. (Government Code) There shall be created in the state treasury the Greenhouse Gas Reduction Fund as a separate Fund for the collection of monies derived from the sale of greenhouse gas emission allowances.
   b. Include findings that all expenditures related to Cap and Trade revenues must meet both AB 32 and Sinclair fee nexus.
   c. Absent legislation directing the use of Cap and Trade revenues in statute, the Administration shall submit on January 10, 2013, a proposed statute for the expenditure of funds under this item.
   d. The department shall provide notice to the Joint Legislative Budget Committee of any funds over $25,000 provided to the Western Climate Initiative, Western Climate Initiative, Inc., or its derivatives or subcontractors no later than 30-days prior to transfer or expenditure of these funds.
   e. No person employed by the State of California shall be a board member of the Western Climate Initiative, Inc., without approval by the California State Senate. Appointments shall be made by the Governor and subject to Senate approval.
   f. The State of California, California Air Resources Board, and California Environmental Protection Agency, including its contractors (specifically Western Climate Initiative, Inc.) shall not allow for linkage under the Cap and Trade program with any other state, province or sovereign nation until November 30, 2013, unless approved by the California Legislature in future statute.

g. Additional reporting regarding the administrative record related to the expenditure of funds as determined by both the Assembly and Senate budget and policy committees.

h. Direct the ARB and the California Public Utilities Commission, upon delivery of auction credits to the Investor Owned Utilities, to rebate any cap and trade revenues collected by the utilities (those off-budget funds) to be refunded to ratepayers in the form of a "climate dividend" rebate.

2. APPROVE the following Control Section 15.11:

SEC. 15.11. (a) Notwithstanding any other provision of law, the Director of Finance may allocate or otherwise use an amount of up to $500,000,000 from monies derived from the sale of greenhouse gas emission allowances, which are deposited to the credit of the Greenhouse Gas Reduction Fund. These funds shall be available to support the regulatory purposes of AB 32.

(b) Not fewer than sixty days prior to allocating any funds pursuant to (a), the Air Resources Board and the Director of Finance shall submit a plan for the expenditure or use of the funds to the chairpersons of the committees in each house of the Legislature that consider appropriations and the Chairperson of the Joint Legislative Budget Committee for approval. This plan, in the judgment of the Board and the Director, shall provide for the expenditure of funds to assist in achieving the goal of reducing greenhouse gas emissions.

(d) The Director of Finance will not allocate funds until he or she has determined that sufficient cash has been deposited into the Greenhouse Gas Reduction Fund.

(e) Any Agency, board or department receiving funds from this item shall be required to demonstrate, through a series of duties, a strong administrative record to justify proposed expenditures.

(f) No funds in this item shall be used for the purposes of the development of a High-Speed Rail System for two years.

3940 State Water Resources Control Board

The State Water Resources Control Board (State Water Board) 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 $713 million and 1,502 positions for support of the Board. Decreases in funding are largely due to reductions in bond expenditures.

Items Proposed for Vote-Only

1. **Re-Appropriation and Sunset Extension: Underground Storage Tank Cleanup Tank Fund, School District Account.** Proposal to extend the sunset date and re-appropriating funds to the Underground Storage Tank Cleanup Fund School District Account. Currently, there is approximately $11 million remaining in the School District Account. To-date, the State Water Resources Control Board has received approximately 170 eligible claims from school districts for reimbursement from the Account, and the Board continues to receive additional claims from school districts for reimbursement from the Account on an on-going basis.

Staff Comments. Staff concurs with the need for this proposal.

Recommendation: APPROVE Item 1.

Vote:

ITEMS PROPOSED FOR DISCUSSION

Reorganization of the Regional Water Quality Control Boards

Background. The subcommittee heard this issue on April 25 and held the issue open for further review. The Governor proposes trailer bill language to reorganize the regional water boards to address a number of issues including retaining quality board members on the boards. The proposals include:

- **Consolidate Regional Boards.** The Governor proposes to eliminate the Colorado Regional Water Quality Control Board and to shift its functions to both the Lahontan and San Diego regions.

- **Reduce the Number of Board Members.** The Governor proposes to reduce the number of board members on a given regional board from nine to seven.

- **Eliminate Categorical Board Members Associations.** The proposal removes categorical spots on the regional boards including those for water supply, conservation, production, irrigation agriculture, industrial water, local government, or general members of the public.

- **Regional Water Board Chair Selected by the Governor.** The proposal allows the Governor to appoint the chairperson of the regional boards rather than the board members selecting from amongst themselves.

The reorganization proposal is a product of several years of attempts to reconcile the ability of the state to attract and retain quality board members who have expertise in the field. The review of complex permits and basin plans requires a level of expertise that generally comes from those with a great deal of experience within the water quality field. There are a few issues that were included in the overall general proposal that were not included specifically in the trailer bill language. These include:

- **Conflict of Interest Rules.** Current law prohibits regional board members from acting on proposals that involves the board member or any permittee where the board member has a position of authority or financial interest. The proposal had included language to conform the Water Code to the Political Reform Act as applies to all other state officials.

- **Increased Per Diem for Regional Board Members**. The proposal had included an increase in the per diem compensation from $100 per day to $500 per day, and an increase in the annual cap from $13,500 to $60,000. This was intended to address, among other issues, the time spent by board members evaluating complex permits during board deliberations, and to attract and retain quality board members.

Staff Comments. Staff have reviewed the proposal and in general concur with the proposals to change the constitution of the regional boards, including those proposals that were not included in the trailer bill language. However, staff have some concerns with the proposed consolidation of the regional boards and the appointment of the chair by the Governor's office rather than the regional boards. It is unclear why the Colorado Regional Board was selected for elimination rather than consolidation of urban Southern California boards (such as Santa Ana and San Diego). Staff recommends reconsideration of the board consolidation proposal to ensure the proposed consolidation achieves the goal of increasing government efficiency and reducing programmatic expenses at the regional board level.

Staff Recommendation:

1. APPROVE Trailer Bill Language (including conflict of interest and per diem elements).
2. DENY regional board consolidation (elimination of the Colorado Regional Board) and appointment of chair by the Governor.

Vote:

San Diego Regional Board Office Location

Budget Proposal. The subcommittee heard this issue on April 25 and held the item open to get a better idea about the costs associated with the office move. The Water Board is requesting additional funding to relocate the San Diego regional office. Originally, the Water Board requested $2.8 million (various special funds) on a one-time basis for relocation expenses and $505,000 (various special funds) on an annual basis for the anticipated rent increase.

The May Revision proposal reduces the original request significantly and updated its estimates for future rent costs. The cost of the move and the budget request is $1.5 million. The existing rent is $822,000 and the increase in rent is $408,000 for a total annual rent cost of $1.2 million. The reason for the rent increase is a move from a light industrial area to an area designated for business use resulting in an increase in cost per square foot. To mitigate these costs, the board is reducing its footprint and total square footage required.

Background. According to the Administration, relocation is necessary because the current location is directly next to an industrial solar panel manufacturer that emits toxins into the air. Regional Board employees have complained and submitted Workers Compensation claims regarding headaches and nausea believed to be related to toxins entering the building. As of this date, all of these claims have been settled without litigation.

Staff Comments. The relocation of the board is expensive and the board should be directed to use all means to reduce costs during the move. That said, it is likely the relocation is necessary and should be funded. Staff concurs with the need for the move and the modified and reduced funding request.

Recommendation: APPROVE as proposed.

Vote:

Lahontan Regional Water Quality Control Board—Tahoe Issues

Background. There is a need to coordinate and integrate the mandates of Tahoe's recently adopted bi-state Total Maximum Daily Load (TMDL) program with the Tahoe Regional Planning Agency's (TRPA) environmental threshold standards, and the goals of Tahoe's Environmental Improvement Program. The California Tahoe Conservancy and other federal, state, and local agencies responsible for implementing these mandates are developing a comprehensive implementation plan for the Tahoe TMDL and related EIP water quality and watershed restoration programs on the California side of the Tahoe basin. The plan includes:

- A description of the roles and responsibilities of all responsible federal, state, and local land management and implementing agencies;
- A description of the key programs and projects necessary to meet the NPDES Permit requirements and associated TMDL load reduction targets for the forest, air and stream bank erosion sources along with EIP watershed and water quality goals;
- A financing strategy describing the levels of federal, state, and local funding expected to be available and necessary to implement the plan;
- A comprehensive monitoring and assessment program which may be developed in conjunction with TRPA or the Tahoe Science Consortium or other public agencies; and
- A schedule to develop the appropriate methods and protocols to establish load reduction measures for floodplain management and other elements of stream restoration projects.

Staff Comments. The Lahontan Regional Water Quality Control Board is the lead agency responsible for establishing and developing near-shore water quality objectives under existing statute. However, when the original environmental reports, including the TMDL, were released it was not clear whether near-shore water quality was addressed sufficiently in the requirements. Rather than focus solely on deep water quality and clarity, the water board is also charged with near-shore water quality, particularly as it impacts human and environmental health. In order to ensure this is addressed, staff recommends the following draft budget bill language:

> The Lahontan Water Board shall, within 90 days of receipt of the above-described plan, establish a schedule for the development and adoption of near-shore water quality objectives to improve near-shore water quality conditions along with a comprehensive implementation strategy describing the nature of actions and associated timelines that will be necessary to implement the plan or its component parts.

In addition, given the sensitivity of the state's activities related to Lake Tahoe and the ongoing concerns about interactions with the planning and permitting agencies of both California and Nevada, staff recommends the following Supplemental Reporting Language related to Lake Tahoe:

> To prepare for the possible eventuality of Nevada withdrawing from the Tahoe Regional Compact as set forth in Nevada Senate Bill 271 and instead establishing a Nevada Tahoe Regional Planning Agency, the California Research Bureau is directed to report to the Legislature by February 1, 2013 on the advisability and the necessary steps to be taken in case it is necessary for California to consider re-establishing the statutes that created the California Tahoe Regional Planning Agency in order to protect the economic growth and environmental attributes in the region.

Recommendation: APPROVE budget bill language and Supplemental Reporting Language.

Vote:

8660 California Public Utilities Commission

The California Public Utilities Commission (CPUC) is responsible for the regulation of privately owned "public utilities," such as gas, electric, telephone, and railroad corporations, as well as certain video providers and passenger and household goods carriers. The PUC's primary objective is to ensure adequate facilities and services for the public at equitable and reasonable rates. The PUC also promotes energy conservation through its various regulatory decisions. The Governor's Budget proposes $1.4 billion to support the CPUC in the budget year.

ITEM PROPOSED FOR DISCUSSION

Safety Programs and Proposals (Consumer Safety Division)

Background. The Governor's budget includes four proposals for enhancement of the Consumer Safety Division. This is above and beyond the additional 12 positions and about $671,000 approved by the Legislature in the 2011 budget process. The subcommittee heard these proposals on April 25 and held open one item, the Global Safety and Enforcement Programs proposal (Global Safety and Enforcement Programs [$5.9 million, 41 positions]) in order to give staff and the LAO more time to review the workload analysis and need for the positions. Staff had raised concerns about whether or not these positions would produce the necessary cultural change at the CPUC required to more comprehensively enforce safety standards.

Updated LAO Analysis.

> **LAO Assessment.** Our analysis indicates that some of the workload identified in the Governor's proposal is justified. Specifically, some of the additional workload related to gas and rail safety activities was recommended by the National Transportation Safety Board as part of its evaluation the CPUC's safety programs. However, we find that the other workload included as part of the proposal is not justified. For example, the CPUC plans to use some of the requested resources to develop power line standards in order to reduce fire hazards. However, as indicated above, CalFIRE already maintains a power line prevention program. We also note that the CPUC has been unable to explain how it would coordinate with CalFIRE to avoid any duplication of efforts. In addition, the safety inspections that would be conducted by the CPUC may be duplicative of the inspections that are currently conducted by Cal/OSHA. Since most of the proposed activities are possibly outside the jurisdiction of the CPUC, it's not clear whether it would have enforcement authority and thus need additional legal and ALJ positions.
>
> Finally, we note that the CPUC, as a whole, currently has roughly 70 vacant positions. At the time of this analysis, the commission has not provided a plan on how it will address its vacancies. Given the CPUC's current vacancy rate, the requested funding may not be spent as proposed in the budget year.

> **LAO Recommendation.** In view of the above concerns, we recommend that the Legislature reject the Governor's January budget proposal to provide the CPUC with 41 additional positions and a $5.9 million augmentation to support these positions, as well as the $1.3 million proposed on a one-time basis for consulting services. In order to address some of the gas and railroad safety activities that are justified on a workload basis, we recommend—given the CPUC's current vacancy rate—that the Legislature direct the administration to redirect existing resources within CPUC to support these activities. Finally, we recommend that the Legislature direct the CPUC to coordinate with CalFIRE and Cal/OSHA to first determine where possible duplication of efforts and inadequacies exist in the area of safety, and provide a report to the Legislature on its findings.

Staff Comments. Staff generally concurs with the LAO analysis of the issues that there is a need for the 19 positions requested for gas and railroad safety activities. These positions are clearly justified on a workload basis. However, staff disagrees that current vacant positions should be used for these purposes. It would be more appropriate for the CPUC to focus on filling necessary vacant positions for the purposes for which the Legislature approved them, than to redirect them to other purposes without ensuring statutory mandates are fulfilled. These positions, along with the three proposals already approved by the subcommittee on April 25, will put the CPUC in a position to improve its public safety program.

Staff Recommendation:

1) APPROVE 19 requested positions in the gas and rail safety program.
2) DENY remaining 22 positions.
3) DENY $300,000 in one-time consulting service.
4) APPROVE access to $960,000 in federal funds to strengthen safety oversight and enforcement of gas, electric, communications, and rail public utilities.
5) APPROVE Supplemental Reporting Language requiring the Commission to submit, by February 1, 2013, a report on milestones achieved with these positions. This should include, but not be limited to: additional miles of gas and rail lines inspected, additional corrective actions directed by the Commission, and generally the actions the Commission has taken using these positions to improve gas, rail and public utility safety in the State.

Vote:

Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 2 **Agenda**

S. Joseph Simitian, Chair
Jean Fuller
Alan Lowenthal

Part II--OUTCOMES
Wednesday, May 23, 2012
9:00 am—Upon Adjournment of Part I (Transportation)
Hearing Room 2040

Consultant: Catherine Freeman

Items Proposed for Vote-Only (Including Spring Finance Letters)

Departments Proposed for Discussion (Open Issues and May Revision)

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 916-324-9335. Requests should be made one week in advance whenever possible.

ITEMS PROPOSED FOR VOTE-ONLY

0540 Secretary for Natural Resources

1. **Extension of Repayment Dates of Existing Loans**. The Secretary requests reappropriation of funds for the River Parkways grant program to allow ongoing projects to be completed and remaining funds to be awarded in the final round of program funding.

3500 Department of Resources Recycling and Recovery

2. **May Revision Proposed Trailer Bill Language—Redemption Payments**. The department requests trailer bill language to amend Section 14574 of the Public Resources Code to require beverage container distributors to submit redemption payments by the last day of the first month following the sale. This proposal will better align revenue cash flow with expenditure cash flow. This is a revision to the Senate Action on April 25.

3. **AB 341 Cleanup**. Chapter 476, Statutes of 2011 (AB 341, Chesbro), a bill related to implementation of AB 32 Scoping Plan for recycling, inadvertently defined the "volume threshold" triggering when a commercial enterprise must implement recycling inadvertently transposed the phrase "four or more" with "more than four." Because four cubic yard dumpsters tend to be an industry standard, this may prove to be a substantial distinction and impact local compliance with the law. This proposal is to clarify that Public Resources Code Section 42649 applies to "four or more" cubic yards.

3600 Department of Fish and Game

4. **Updated Oil Spill Response Program:** The Governor proposes the addition of 16 permanent positions in 2012-13 and funding of $2.9 million in the budget year ($2.0 million ongoing) from the Oil Spill Prevention and Administrative Fund (OSPAF). These positions are requested to implement Chapter 583, Statutes of 2011 (AB 1112, Huffman) that establishes a risk-based monitoring program for inspecting vessels that are loading and unloading fuel in California waters. These positions are subject to elimination should the funding expire. This updates an April 25 action of the Subcommittee given new information from the Administration.

5. **Trailer Bill Language—Suction Dredge Cleanup Language:** The Resources Omnibus Trailer Bill of 2011 included an item regarding the use of Suction Dredge equipment in waterways of the state. The language inadvertently created a confusing requirement both to create a temporary moratorium and require an environmental review of the practice, with an arbitrary timeframe for both. Trailer Bill Language is necessary to clarify that the department shall produce an environmental review per statute prior to the use of any vacuum or suction dredge equipment in any river, stream, or lake in the state that is certified by the director of Fish and Game to the Secretary of State under Section 5653.1 of the Fish and Game Code.

3680 Department of Boating and Waterways

6. **Boating Infrastructure Grant Increases:** The May Revision requests an increased appropriation to the Federal Trust Fund (Sport Fish Restoration Account) for the Boating Infrastructure Grant program. The request is for an additional $250,000 in the budget year in addition to the baseline appropriation of $100,000. The additional $250,000 is the federal cost-share for the County of San Mateo—Oyster Point Visitor Dock Project.

3900 Air Resources Board

7. **Extension of Liquidation: Lower Emission School Bus Funds.** Proposal to extend the liquidation of Lower Emission School Bus Funding. In 2006, the voters approved Proposition 1B which authorized $200

million in bond funding to replace and retrofit older, high-polluting buses. A total of $194 million in funds were distributed to local air districts over a period of several years, as bonds were issued and funds became available. Funds were allocated according to the population of school buses to ensure that the oldest, most polluting buses were replaced first. This language requires air districts to transfer remaining funds that are not committed by an executed contract by June 30, 2012, to another local air district that has demonstrated the ability to expend funds by January 1, 2014.

7300 Agriculture Labor Relations Board

8. **Technical Cleanup—Budget Allocation:** The January budget proposal, approved by the subcommittee, includes $500,000 for General Counsel staff augmentation. Adequate funding of the General Counsel should also include a $200,000 baseline shift to this item.

8570 California Department of Food and Agriculture

9. **Unallocated General Fund Reduction:** The May Revision requests a $2.5 million unallocated reduction to the department's General Fund programs. The proposal also includes budget bill language to allow appropriate flexibility to allocate the reduction between state operations and local assistance. The administration will use a similar stakeholder process as was utilized when previous budget reductions were proposed.

10. **CDFA Milk and Dairy Trailer Bill Language:** The Governor requests trailer bill language necessary to implement the General Fund reduction adopted in 2011-12. This trailer bill will minimize the impact to the Milk and Dairy stakeholders. The reduction and trailer bill proposals were developed in a multi-stakeholder process in the current year.

Recommendation: APPROVE Items 1-10.

Vote:

Items 1, 6, 7, 10	**APPROVE (3-0)**
Items 3, 4, 5, 8, 9	**APPROVE (2-1, Fuller)**
ITEM 2	**HOLD OPEN**

ITEMS PROPOSED FOR DISCUSSION

3360 Energy Resources Conservation Development Commission (California Energy Commission)

The Energy Resources Conservation and Development Commission (commonly referred to as the California Energy Commission or CEC) is responsible for forecasting energy supply and demand; developing and implementing energy conservation measures; conducting energy-related research and development programs; and siting major power plants.

Governor's Budget. The Governor's Budget includes $393 million (no General Fund) for support of the CEC, a decrease of approximately $161 million, due primarily to the phasing down of the Public Interest Energy Research (PIER) Program and the Renewable Resources Trust Fund (RRTF) as a result of the failure to reauthorize the Public Goods Charge.

Items Proposed for Vote-Only

1. **Establishing an Audit and Investigation Unit**. Request to redirect three existing permanent positions funded from the Siting Division to establish an audit and investigation unit. This unit will provide audit oversight to ensure federal and state funds across all programs are spent in accordance with applicable federal and state requirements and guidelines to prevent fraud, waste, and abuse.

2. **Implementation of Renewable Energy Development Grants Under ABx1 13.** The budget requests two limited-term positions for one year to develop and administer $7 million in grants mandated by Chapter 10, Statutes of 2011 (ABx1 13, Perez). Grants would be issued to qualified counties for the development or revision of rules and policies that facilitate the development of eligible renewable energy resources and their associated electric transmission facilities, and the processing of permits for eligible renewable energy resources.

3. **Alternative and Renewable Fuel and Vehicle Technology Fund Loan Repayment Extension.** The Governor's budget requests to change the date of the $8.3 million loan repayment from June 30, 2012 to fiscal year 2014-15. The program does not require repayment before that date.

Recommendation: APPROVE Items 1-3.

Vote:

ITEMS 1, 3	**APPROVE (2-1, Fuller)**
ITME 2	**APPROVE (2-0, Fuller not voting)**

ITEMS PROPOSED FOR DISCUSSION

Electricity Procurement Investment Charge (EPIC)

Background. This issue was heard as an informational item on April 25 under the California Public Utilities Commission. In December 2011, funding for the state's Public Goods Charge (PGC) on electricity ratepayers expired. Efforts to continue the surcharge, which requires a 2/3 vote of the Legislature, failed. The PGC funded energy efficiency research and development and renewable energy programs. The charge constituted about a quarter of the total energy efficiency programs funded by the state and energy utilities. Funds were collected on a volumetric basis (per kilowatt-hour) by customer class from all utilities (public and investor-owned). The benefits of these programs were then distributed generally, thus the surcharge was considered a tax for voting purposes.

In September 2011, the Governor sent a letter to the CPUC requesting that the Commission take action under the commission's authority to ensure that programs funded like those funded under the PGC would be continued, but with respect to modifications legislators discussed during the PGC renewal deliberations. In December 2011, the CPUC initiated a rulemaking (essentially started a pathway to an new policy) to attempt to continue the programs of the PGC with a sole focus on the investor-owned utilities (IOUs). The Commission plans a two-phased deliberation. The first phase addresses the appropriate funding levels for renewables and research and development. The second phase will create a detailed program.

Budget Proposal. The Governor's CEC budget requests nine new positions and $2.2 million for the initial year buildup to develop and administer $127.8 million from off-budget, investor-owned utility ratepayer funds under the California Public Utilities Commission EPIC program. Funding for the proposal will be derived directly from Investor Owned Utilities and paid to the Energy Commission (bypassing the CPUC).

Staff Comments. The subcommittee raised several concerns regarding the forthcoming proposal at its April 25 hearing including: (1) lack of legislative oversight; (2) potential violation of Proposition 26 by approving funding that should appropriately be a tax; (3) vagueness and lack of specificity of the funding proposal itself.

The submitted budget proposal does little to answer these questions. For example, the budget proposal states that despite the fact that the public goods charge was not reauthorized, the policy case for public and/or ratepayer support of clean energy technology development remains strong. While this may be true, ratepayers already pay for multiple energy efficiency programs including potentially those forthcoming in the Cap and Trade program administered by the Air Resources Board. In addition, the programs proposed to be funded would be determined by a CPUC Triennial Investment Plan developed outside of the legislative process. The use of the funds would be reported by the CPUC through an annual program status report and used to develop an appropriation plan for the Energy Commission.

The LAO, and others, have raised concerns about the nature of this program, including the potential violation of Proposition 26, the circumvention of the Legislature in the development of the program, the lack of legislative oversight over the program in general, and finally a lack of understanding of the consequences to ratepayers for the multiple energy efficiency related programs currently being developed and implemented by the State.

LAO Comments:

The original PGC enabling legislation required approval of a 2/3 vote of both houses of the Legislature because it changed state taxes for the purposes of increasing state revenues. The legislation included a provision which expressly terminated the CPUC's authority to collect funds on January 1, 2012 unless reauthorized by the Legislature. During the 2011-12 legislative session, while several bills were proposed to extend the PGC, none received the requisite 2/3 super majority vote needed to pass. Thus, authorization to collect the PGC expired on January 1, 2012.

Based on our initial analysis of the Governor's proposal, we have identified two serious concerns. First, given that the above authority for the PGC expired, it is unclear whether the CPUC has the legal authority to collect this surcharge (absent a two-thirds vote of the Legislature). We are in the process of consulting with Legislative Counsel on this issue and will share its findings with you. Second, under the Governor's proposal, the CPUC and CEC would have complete control over how the funds for the EPIC program would be allocated. In other words, the Legislature would have very little opportunity to provide guidance and oversight over how the funds are used for R&D and renewable energy programs. Given these concerns, we recommend that the Legislature not approve the Governor's proposal at this time. To the extent that the Legislature wants to approve the EPIC program, we believe it would be more appropriate to specifically authorize the collection of the charge and the implementation of the program (including guidelines and parameters on the use of the funds) in statute.

Recommendation: DENY Proposal. Adopt the following draft budget bill language:

> The Legislative Analyst's Office shall, with the full cooperation of the administration, develop a report listing all energy-efficiency, climate change and AB 32-related activities in state government including their funding sources. The list shall include but not be limited to: funding directed by the California Public Utilities Commission to its regulated Investor Owned Utilities (including the Electricity Procurement Investment Charge); AB 118 funds; California Energy Commission funds; Air Resources Program funds (both existing and future Cap and Trade Programs). The report shall list all programs funded by these multiple resources and shall include a preliminary assessment of priority, overlap and redundancy. The report shall be submitted to the relevant Policy Committees and Joint Legislative Budget Committee by January 1, 2013.

Vote:

MOTION TO Adopt BBL Language in Staff Recommendation. Approve $1,000 for the item (with intent to send to reconciliation with the Assembly).

Vote: 3-0 on the motion

3540 Department of Forestry and Fire Protection

The California Department of Forestry and Fire Protection (DFFP) or "CalFIRE," under the policy direction of the Board of Forestry, provides fire protection services directly or through contracts for timberlands, rangelands, and brushlands owned privately or by state or local agencies. In addition, DFFP: (1) regulates timber harvesting on forestland owned privately or by the state and (2) provides a variety of resource management services for owners of forestlands, rangelands, and brushlands.

Governor's Budget. Excluding capital outlay, where the amount of carryover makes year-to-year comparisons less meaningful, the Governor's Budget includes $1.1 billion, which represents an overall decrease of $11.3 million and 41 positions from the 2011-12 budget. Decreases in funding are largely the result of re-benching the department's Emergency Fund (E-Fund).

ITEMS PROPOSED FOR DISCUSSION

Timber Harvest Plan Reform

Governor's May Revision Proposal. The Governor's May Revision proposes a comprehensive change to the timber harvest plan review process that includes the following elements:

- **Lumber Assessment—**the new assessment will be collected on retail sales of certain wood products sold in California and will be collected by the Board of Equalization. The assessment will generate approximately $30 million annually and will be used to support the regulatory activities of CalFIRE, Department of Fish and Game, Department of Conservation, and the State Water Resources Control Board related to timber harvest plan review. The assessment will provide a sustainable, long-term funding stream that does not disadvantage the California timber industry, fully funds the regulatory agencies, and provides opportunities for restoration of California forests.

- **Extension of the Current Timber Harvest Plans—**Certain timber harvest plan documents are currently effective for three years with two one-year extensions. This proposal would extend that timeframe to five years with one two-year extension and would include plans approved in 2012. This timeframe will optimize the length and scope of standard timber harvest plans while retaining appropriate protective measures for fish and wildlife.

- **Limit damages from wildfire liability**—California law allows recovery of up to double the cost for damages related to wildfires. This leads to claims for damages far exceeding restoration costs. This proposal will limit the scope of damages for fire cases and prohibit double damages in order to better align state law with current state policy goals. This would apply to public entities.

- **Redding Pilot Project**—Development and implementation of a year-long pilot project to test procedures to improve the efficiency of a multi-agency Timber Harvest Plan review team.

- **Timber Harvest Plan Documentation Review**—A review of the current content and organization of the Timber Harvest Plan application document to improve ease of preparation, continuity of plan content, and reduction of applicant errors. The review will also explore the ability to use e-forms.

The proposal was developed in a multi-year multi-stakeholder working group along with the administration and all of the departments involved in forest practice activities, including CalFIRE. The proposal is designed to promote and encourage sustainable forest practices consistent with statute; replace the current piecemeal funding structure with a single funding source; support in-state production of timber; and promote transparency in regulatory costs through the creation of performance measures and accountability.

Staff Comments. Staff concurs with the administration's assessment of the proposal. The proposal follows a lengthy stakeholder process that vetted multiple revisions to the Timber Harvest Plan review process. This subcommittee raised the issue of funding timber harvest plans multiple times over the past several years and this proposal goes a long way toward satisfying those issues.

Recommendation. APPROVE Budget Proposal and Trailer Bill Language.

Vote: **(2-0, Fuller) to:**
APPROVE Budget Proposal
APPROVE Trailer Bill (in concept, staff to work with the administration to ensure the trailer bill reflects the budget proposal).

Bargaining Unit Settlements at CalFIRE

Previous Subcommittee Actions. The Subcommittee heard an introduction to this issue at its May 9 Open Issues hearing. The item was held open in part to determine if there were other ways to negotiate these settlements with the Bargaining Units, and to get a full update on the total amount of required settlements the Administration has made related to these proposals. The three issues are listed below:

1. **Spring Finance Letter (Firefighter 1 Separation Costs).** The department requests an increase of $2.1 million (General Fund) to cover an increase in costs as a result of a negotiated settlement in the lawsuit described on May 9. This will cover lump-sum buyout costs associated with the annual separation of the department's seasonal Firefighter I staffing. This amount may increase in future years.

2. **May Revision Proposal (Extended Duty Week Compensation Lump-Sum Buyouts).** The Administration requests a one-time General Fund augmentation of $15.7 million to cover the retroactive Extended Duty Week Compensation lump-sum buyout costs associated with the separation of the Department's Bargaining Unit 8 fire protection employees, as required by a class action settlement.

3. **May Revision Proposal (Firefighter 1 Compensation).** The Administration requests a two-year General Fund augmentation to account for the increased costs associated with maintaining a five percent differential between steps for the Department's seasonal Firefighter classification of the last minimum wage increase, as required by the current Bargaining Unit 8 Memorandum of Understanding.

Staff Comments. Staff has met with the Administration and concurs with the need for these proposals. However, since these MOUs will expire at the end of the budget year, staff recommends that the ongoing proposals be limited to a two-year term to allow for a baseline discussion when future MOUs are determined. This would be in keeping with the status of the overall state General Fund condition, and the unprecedented budget reductions facing the department should the tax initiatives fail.

In addition, there may be existing budget authority in the current year to accommodate these proposals since they were unanticipated increases in personnel expenses.

Recommendation.

1. APPROVE Items 1 and 3 as budgeted for two years.
2. APPROVE Item 2 with modifications. Direct DOF to budget this item in the current year under Item 9840-001-0001.

Vote: **(3-0) to:**
APPROVE Items 1, 3 as proposed for two years
APPROVE Item 2 (as proposed in recommendation)

3790 Department of Parks and Recreation

The Department of Parks and Recreation (Parks) acquires, develops, and manages the natural, cultural, and recreational resources in the state park system and the off-highway vehicle trail system. In addition, the department administers state and federal grants to local entities that help provide parks and open-space areas throughout the state.

The state park system consists of 277 units, including 31 units administered by local and regional agencies. The system contains approximately 1.4 million acres, which includes 3,800 miles of trails, 300 miles of coastline, 800 miles of lake and river frontage, and about 14,800 campsites. Over 80 million visitors travel to state parks each year.

Governor's Budget. The Governor's Budget includes $423 million, a decrease of $745,933 and 18 positions from the 2011-12 budget. The decreases are mainly related to bond expenditures ($654,851 million), reductions in Off-Highway Motor Vehicle Division ($10 million) and General Fund ($10 million).

Items Proposed for Vote-Only (May Revision Capital Outlay and Open Issues)

1. **Capital Outlay (Non-Off-Highway Vehicle Projects)—$16.9 Million.** Request reappropriation of funds for ongoing capital projects within the State Parks system working drawings and construction. Examples of projects include restoration of buildings, completion of interpretive centers, environmental compliance, and recreational trails programs.

2. **Off-Highway Vehicle and State Vehicular Area Capital Outlay—$15.2 Million.** Request reappropriation of funds including for the following specific State Vehicular Area projects: Prairie City State Vehicular Recreation Area (SVRA), Oceano Dunes SVRA, Carnegie SVRA, and Hollister Hills SVRA.

Recommendation: APPROVE Items 1-2.

Vote: APPROVE ITEMS 1-2 (3-0)

ITEM PROPOSED FOR DISCUSSION

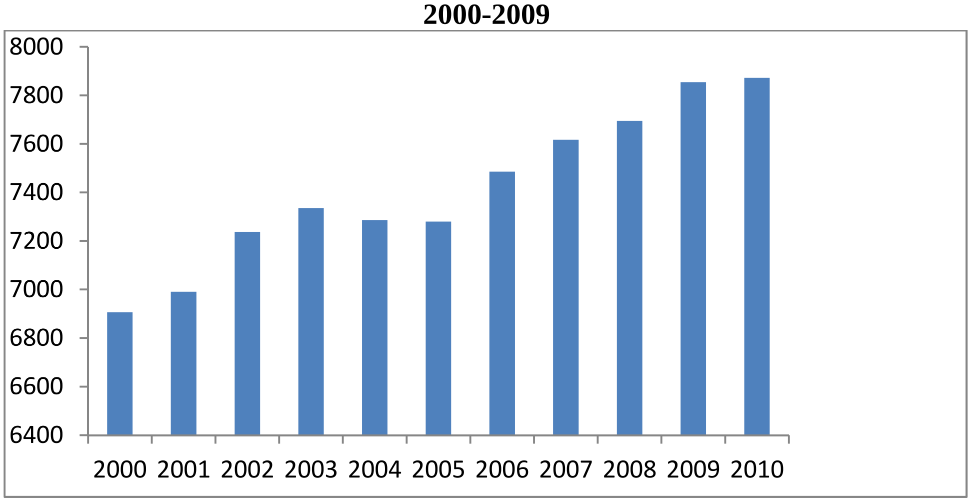
State Parks and Recreation—Ongoing Sustainable Funding Proposal

Previous Subcommittee Actions. The Senate Budget Subcommittee #2 heard proposals from the Department of Parks and Recreation on March 7 of this year. On May 9, the Subcommittee presented an eight part plan to develop ongoing sustainable funding for the department. The proposal was vetted and responses were received from the Administration, Legislative Analyst's Office (LAO) and the public.

The LAO had questions about potential availability of funds for park purposes rather than General Fund relief after May Revision, the potential to go further than the proposal in the agenda regarding concessions, and the need to reclassify positions at the department. The administration withheld recommendation pending further review. In general however, neither the LAO nor the administration voiced strong opposition to any one element of the proposal.

Public testimony was taken on a number of issues. A good deal of support for liability relief for nonprofits operating state parks was heard. Concerns were raised about the potential pressures on the Motor Vehicle Account funding and the use of this money for law enforcement and transportation-related expenditures at State Parks. Legislative Counsel has confirmed that the proposed use of the funds is Constitutional. Also, while growth in California Highway Patrol (CHP) was presented as "flat," the LAO has confirmed that in fact over the past ten years, CHP positions have grown by nearly 1,000 positions. This does not discount the likelihood that there will be requests for funding for law enforcement activities from this source in the forthcoming years.

California Highway Patrol Uniformed Officers Authorized Positions 2000-2009



Staff also determined that State Parks law enforcement has issued over 6,100 citations for violations of various sections of the Vehicle Code, and an additional nearly 26,000 citations related to other vehicle-related regulations.

Concerns were raised regarding the idea of requiring the department to reprioritize local assistance funding (including funding directed to local off-highway vehicle recreation areas) to maximize re-opening of all state parks. However, the Subcommittee was also provided with multiple reports citing the loss of local funding and local business dollars should any one state park close. In addition, the department has requested reappropriation of funding for multiple state and local off-highway vehicle park projects that is not subject to reprioritization, and would keep the program moving for several years.

Senate Ongoing Sustainable Parks Proposal—Recommendations

The following are a series of seven specific proposals to address problems identified by the department, the Legislative Analyst's Office (LAO), the Legislature and the Administration. The actions highlighted constitute the refined staff recommendation as actions for the budget.

Item 1: **Department needs funding flexibility to become more entrepreneurial.**
Solution: Approve Administration's two-year pilot proposal for continuous appropriation authority including trailer bill language requiring the department to report uses of the fund, and to require at least 50 percent of the funding received from district entrepreneurial projects to remain within that district.

Item 2: **Personnel structure at the department restricts ability for the department to direct peace officers to the highest priorities.**
Solution: Approve LAO recommendation (trailer bill language) in part to add position authority to allow non-peace officers to administer certain non-law enforcement tasks. This proposal would be phased-in over a period of two years.

Item 3: **The department should be collecting entrance fees in more locations and utilizing concession agreements in as many areas as practical.**
Solution: Approve LAO recommendation to approve entrance fee proposals and concession agreements. Require a percentage to remain in the district for revenue-related projects (budget bill language).

Item 4: **Department needs more varied funding sources and Parks supporters need a more visible way to show support for the department.**
Solution: As mentioned in the LAO report, approve trailer bill language for both (1) an opt-in fee for vehicle renewal and (2) a specialty plate for parks alone.

Item 5: **According to a report by the department in May 2011, at least 20 parks were put on the closure list in part due to water, wastewater, and septic system problems. Many of these are due to both aging facilities and increased visitor-ship beyond the capacity of these older systems.**
Solution: Approve budget bill language appropriating $10 million annually as long-term loans from the Clean Water Revolving Loan Fund for five years to replace the State Parks and Recreation Funding and to complement bond funding for water quality and septic system repairs. Recommend funding be prioritized to allow for re-opening of parks and directed to lower income areas to the extent possible.

Item 6: **Local nonprofits who step up to take over parks may be subject to additional liability risk which could deter their efforts to help support State Parks.**

Solution: Approve trailer bill language to extend limited liability coverage to local and nonprofit agencies who partner with State Parks to take over functions or management of parks or park properties.

Item 7: **Restrictive funding streams and categorical allocations reduce the flexibility of the department to more creatively apply state dollars while maximizing both federal and local matching funds.**

Solution: Approve trailer bill language to extend the eligible uses of funds for trails, multi-purpose off-highway vehicle funds (with the exception of direct fees), and local assistance dollars. The intent is to allow greater flexibility for decision-making across the entire State Parks system. This includes amending the Local Assistance Program proposal to allow the department to utilize these funds more broadly for state purposes, so long as federal matching funds and constitutional requirements are not jeopardized.

Item 8: **State Parks has an ongoing gap of up to $15 million for roads and trail maintenance, and for service provided by Park Rangers related to motor vehicles.**

Solution: Approve provisional budget bill language to utilize only a portion of the reserve of funding related to proceeds of the Motor Vehicle Account annually. Up to $10 million of this item shall only be expended in units of the State Park System and only for enforcement of traffic laws on public roads, construction and maintenance of public roads and their fixed facilities, and any other purpose allowable by Article XIX of the California Constitution.

Staff Comments. In order to provide a more robust plan with as broad consensus as possible, staff was directed to meet with policy and budget staff in the Assembly, budget, and department staff at the Administration and multiple stakeholders on the proposal set forth by Senators Simitian and Evans. In general, there is a great deal of support for a long-term solution to parks funding. There have been a number of good suggestions to improve the proposal that incorporate ideas currently being considered by the Legislature and the Administration. These are listed in the following recommendations section (next page).

Staff Recommendation. Adopt Senate ongoing sustainable Parks proposals 1-8 with the following amendments.

Item 2: **Personnel Classifications:** This language shall be drafted as intent in order to accommodate the personnel administration process currently undertaken by the department that compliments this action.

Item 3: **Increasing Park User Fees and Entrance Fee Collections**: In conjunction with Assembly budget and policy staff, modify the department's reappropriation proposal from April to instead shift $10 million from bond funds to pay for the capital costs of this proposal (including increasing park user fees and entrance fees) and other revenue generating projects. This would be deposited in a proposed Enterprise Fund in coordination with Item 1. As part of this proposal the department shall develop a prioritized action plan to increase revenues and collection of user fees and report back to the Legislature on the plan by January 10, 2013.

Item 4: **1) Opt-In Fee:** In coordination with the State Parks Foundation, Assembly budget and policy staff, and other stakeholders, considered alternatives to an opt-in fee for discussion in the 2013-14 budget cycle including such ideas as regional park passes and alternative ways to purchase annual parks passes.
2) Vehicle License Plates: In coordination with Assembly budget and policy staff, this language should be drafted per AB 1589 (Huffman).

Item 7: **Local Assistance Funding:** To address concerns raised by stakeholders, this item should be amended to allow for the shift of up to $21 million from the Motor Vehicle Fuel Account prior to deposit into the Off-Highway Vehicle Trust Fund (OHVTF). The Local Assistance proposal should be reduced by $11 million, and $10 million should be made available from the OHVTF fund balance (currently projected at over $60 million) for high priority law-enforcement related local assistance grants. The department will be required to consult with the OHV Division prior to taking this action. This item also should sunset after five years.

The Department will explore to what extent funding from the AB 32 Cap and Trade funding may be appropriately used for restoration projects on Off-Highway Vehicle use lands (local assistance) in an amount up to $10 million.

Votes:
ITEM 1: (3-0)
ITEM 2 as amended: (3-0)
ITEM 3 as amended: (3-0)
ITEM 4 as amended: (3-0)
ITEM 5: (2-1, Fuller). Staff directed to work on language with administration.
ITEM 6: (2-0, Fuller not voting). Staff directed to work on language.
ITEM 7: (2-1, Fuller). Motion to adopt as amended plus 3-year sunset date. Staff directed to draft language specifically to ensure money is directed to the Department of Parks and Recreation and that no "Green Sticker" fee funding shall be included in any shift of funds.
ITEM 8: (2-1, Fuller)

3860 Department of Water Resources

The Department of Water Resources (DWR) protects and manages California's water resources. In this capacity, the department maintains the State Water Resources Development System, including the State Water Project (SWP). The department also maintains public safety and prevents damage through flood control operations, supervision of dams, and water projects. Historically, the department was also a major implementing agency for the CALFED Bay-Delta Program, tasked with putting in place a long-term solution to water supply reliability, water quality, flood control, and fish and wildlife problems in the San Francisco Bay Delta. As noted above, that program was abolished with SBx7 1, and CALFED responsibilities were transferred to new entities, including the Delta Stewardship Council.

Additionally, the department's California Energy Resources Scheduling (CERS) division manages billions of dollars of long-term electricity contracts. The CERS division was created in 2001 during the state's energy crisis to procure electricity on behalf of the state's three largest investor owned utilities (IOUs). The CERS division continues to be financially responsible for the long-term contracts entered into by the department. (Funding for the contracts comes from ratepayer-supported bonds.) However, the IOUs manage receipt and delivery of the energy procured by the contracts.

Governor’s Budget. The Governor’s Budget includes $2.5 billion (including infrastructure expenditures) and 3,405 positions for support of the department. The department’s proposed program budget is $2.2 billion, which represents an overall decrease of $2.6 billion and an increase of 144 positions from the 2011-12 budget. This decrease is mainly attributed to a decrease in bond funds ($1.5 billion) and a decrease in the CERS division ($832,887). The decrease in bond expenditures is mostly because the Governor’s budget did not include any new bond expenditures in anticipation of the release of the Governor’s five-year infrastructure report in the spring of 2012.

ITEMS PROPOSED FOR VOTE-ONLY

1. **Implementation of the Delta Stewardship Council's Delta Plan.** The budget requests $1.05 million from Proposition 1E bond funds and the State Water Project funds as well as six positions to implement mandated programs and projects within the areas of the state affected by the Delta Stewardship Council's Delta Plan.

Staff Comments: Staff has received assurances from the Delta Stewardship Council, Department of Finance, and Department of Water Resources that this proposal is not necessary in the budget year.

Recommendation: DENY Item 1.

Vote: DENY ITEM 1: (3-0)

ITEMS PROPOSED FOR DISCUSSION

OCAP (Operations Criteria and Plan) Biological Opinions Habitat Restoration Implementation

Background. The Governor's budget requests 10 new full-time and permanent positions in the Division of Environmental Service to implement habitat restoration required by state and federal agencies biological opinions, also called the "BiOps." These requirements identify habitat restoration, as well as other actions, to address impacts on salmon, steelhead, green sturgeon, delta smelt, and longfin smelt impacted by the operations of the State Water Project Delta Pumping Facilities.

Previous Subcommittee Actions. The Legislature approved 12 new full-time positions for implementation of the biological opinions in the previous year's budget. These positions were intended for similar activities as those proposed in this year's budget request. According to the department, the workload necessitating these new positions stems from two projects, the Prospect Island/Suisun Marsh sub-tidal habitat and Sacramento River seasonal fish rearing habitat projects.

Staff Comments. This item was held open in order for the department to continue working with the Legislative Analyst's Office and budget staff on the final workload analysis, the OCAP Habitat Plan, and the need for the positions. Staff concurs with the need for the positions.

Recommendation: APPROVE.

Vote: APPROVE (3-0)

Delta Habitat Conservation and Conveyance Program (DHCCP)

Background. The DHCCP was established in 2008 to implement a gubernatorial directive to address both water supply issues and environmental concerns related to the Delta. Specific goals of DHCCP include protecting and restoring Delta habitat and studying improved methods to reduce the impact of water conveyance on the Delta.

Governor's Proposal. The Governor's budget requests 117 new positions to work on the Delta Habitat Conservation and Conveyance Program (DHCCP). This includes converting 18 limited-term positions to permanent.

The DHCCP's planning stage is currently being carried out by 18 limited-term positions in the Department of Water Resources (DWR) that are set to expire in June 2012. The Governor's January budget proposal requests that those positions be made permanent to complete the DHCCP planning and to maintain staff continuity through the program's implementation stages. The planning stage was originally scheduled to be completed by December 2010, but has been pushed back until the end of 2012-13 due to delays in completion of the Bay Delta Conservation Plan (the Bay Delta Conservation Plan is a document that will provide the basis for the issuance of endangered species permits for the operation of the State and federal water projects, on which DHCCP's environmental impact reports depend).

Staff Comments. This item was held open in order to get further information on the positions and to develop appropriate contingencies related to the forthcoming Delta Plan. Given the uncertainty regarding the number of temporary and permanent positions needed, it seems reasonable that the Committee approve a limited mix of temporary and permanent positions and adopt budget bill language to direct the Department to move forward with preliminary design and construction work associated with the DHCCP after:

1. The public draft of the DHCCP Environmental Impact Report/Environmental Impact Statement is released;
2. The Department has provided notice to the Joint Legislative Budget Committee (JLBC) of the release of the public draft and the Department's intent to begin filling the positions; and,
3. 30 days has passed from the date of the notice to the JLBC.

This allows the department to return to the Legislature for additional position authority after the DHCCP EIR/EIS received final certification.

Recommendation: 1) APPROVE 37 permanent positions and 38 2-year, limited-term positions. 2) APPROVE proposed budget bill language. 3) REJECT remaining 60 positions.

Vote: APPROVE STAFF RECOMMENDATION (3-0)

Salton Sea Program Habitat Restoration: Species Conservation Habitat Implementation.

Proposal. The Governor requests $9 million (reimbursement authority) over three years for a continuation of the previously approved Salton Sea Restoration Program. This project is being produced in coordination with the Department of Fish and Game.

Background. The Department describes the proposed actions that would be funded from the requested reappropriations and reimbursements as "no-regrets" projects that would be consistent with any plan to restore the Salton Sea, including a no-action alternative. However, according to the LAO in 2011, it is unclear what the need is for immediate action on these projects. The majority of benefits of any restoration plan are likely to be realized only after the completion of the restoration many years from now, and as such, a temporary delay is unlikely to have significant negative consequences on fish and bird species.

Previous Actions. Last year, the Subcommittee rejected the Governor's proposal for Salton Sea Restoration funding under the Department of Fish and Game. According to the LAO, the Legislature has yet to formally adopt a restoration plan for the Salton Sea that clearly lays out the state's obligations and funding plan for the Sea. Ultimately, however, the Legislature approved a request for $4.2 million in reimbursement authority for the Salton Sea Restoration Program.

Staff Comments. This item was held open to allow a continued dialogue with the Administration on its long-term plan for the Salton Sea restoration efforts.

Recommendation: APPROVE

Vote: DENY PROPOSAL (3-0)

Davis-Dolwig Act (Funding Recreation at the State Water Project)

Joint Item—Department of Boating and Waterways (3680) and Department of Water Resources (3860)

Background. The Davis-Dolwig Act, passed in 1961, states the broad intent of the Legislature that State Water Project (SWP) facilities be constructed "in a manner consistent with the full utilization of their potential for the enhancement of fish and wildlife and to meet recreational needs." The LAO, Department of Finance, and legislative staff have raised concerns in the past four years about the administration of the Act by the department, and the role of the Legislature in ensuring oversight and accountability of state general purpose funding. For a background on the act, see the LAO report "Funding Recreation at the State Water Project."

Budget Proposal. The department proposes a $10 million annual appropriation from the Harbors and Watercraft Fund (HWRCF) for continued recreational costs at SWP facilities and statutory changes to clarify legislative authority for allocation of the state's share of Recreation, Fish and Wildlife Enhancement. This is consistent with the primary recreational use at state water project facilities of boating and watercraft. This proposal will require the Department of Boating and Waterways to reprioritize its funding.

Staff Comments. The working group met over the course of the year and discussed varying amounts of funding that would be required to provide both ongoing funding for the State Water Project under the current contract requirements as well as repayment of obligations. The funding options ranged from $3 million to $15 million annually as well as proposals for future capital projects. The proposal by the administration attempts to address as many of the concerns raised in the working group meetings as is possible during this budget. The proposal does require the administration to reprioritize HWRCF funding. Therefore, staff recommends denying the proposal for Private Marina Funding to allow for a prudent reserve in the fund. This program would be eligible for funding again in the 2013-14 budget year.

Recommendation: (1) APPROVE Budget Proposal including trailer bill language proposed by the administration. (2) DENY Department of Boating and Waterways proposal for Private Marina Funding. (3) ADOPT additional trailer bill language (draft):

> Consistent with Attachment D of the Monterey Agreement Settlement, as part of the Department's public process for review of the long-term water supply contracts (for project-wide contract amendments and contract amendments), the department shall conduct at least one of the required public hearings in an informational Legislative hearing of the policy and budget committees of both houses. The public contracts shall be submitted to the Joint Legislative Budget Committee for review at least 60 days prior to final approval by the parties to the contract.

Vote:

1. **APPROVE Budget proposal, administration TBL, Recommended TBL (2-1, Fuller)**
2. **APPROVE Boating and Waterways Private Marina Loans as proposed in budget (3-0)**

3960 Department of Toxic Substances Control
3980 Office of Environmental Health Hazard Assessment

ITEMS PROPOSED FOR DISCUSSION

Special Fund Reductions and Fund Restructuring from the Toxic Substances Control Account

Background. The Department of Toxic Substances Control (DTSC) funds several programs out of the Toxic Substances Control Account (TSCA) including the Site Mitigation and Brownfields Reuse Program, Pollution Prevention and Green Technology Program, California Environmental Biomonitoring Program (including programs at the Office of Environmental Health Hazard Assessment and Department of Public Health), and the Green Chemistry Program. Over the past five years, the revenues into the TSCA have declined by $14 million annually while expenditures have increased by about $5 million. In addition to this, several new programs including Green Chemistry have yet to be fully funded as they are not past the regulatory phase of development. Historically, DTSC has used carry-over reserves and reduced expenditures to address immediate imbalances in the fund. However, a more thoughtful approach to future funding is necessary and has been anticipated by the Legislature.

Budget Proposal. The Governor's May Revision proposes a series of fund shifts and reductions to align expenditure authority in the Toxic Substances Control Account (TSCA) with projected revenues. Specifically, the department proposes four major funding changes.

1. **Department of Toxic Substances Control (DTSC) Toxic Substances Control Account Reduction Proposal:** The May Revision proposes to**:** 1) shift $2.3 million and 18 positions to the Federal Trust Fund to support federal grants funded by the Department of Defense and the US Environmental Protection Agency; 2) shift $780,000 and 6 positions to reimbursements; 3) shift $3 million and 28.3 positions to the Hazardous Waste Control Account; 4) shift $167,000 to support the California Environmental Contaminant Biomonitoring Program to the Childhood Lead Poisoning Prevention Fund ($45,000), Birth Defects Monitoring Program Fund ($45,000), Department of Pesticide Regulation Fund ($39,000), and Air Pollution Control Fund ($38,000); 6) decrease $2.9 million and 24 positions in fiscal year 2012-13; and 7) decrease an additional $3.5 million and 36 positions in fiscal year 2013-14.

2. **Office of Environmental Health Hazard Assessment Funding Shift from Toxic Substances Control Account to Other Special Funds:** The May Revision proposes a funding shift through a reduction of $461,000 from the Toxic Substances Control Account (TSCA) and an augmentation of $125,000 from the Childhood Lead Poisoning Prevention fund; $106,000 from the Department of Pesticide Regulation Fund; $105,000 from the Air Pollution Control Fund; and $125,000 from the Birth Defects Monitoring Program Fund. This fund shift will not change OEHHA's overall expenditure authority and will continue to support the California Environmental Biomonitoring Program.

3. **Department of Toxic Substances Control Hazardous Waste Special Fund Reductions.** The May Revision proposes to shift Hazardous Waste Control Account (HWCA) funded positions to federally funded projects and reduces other HWCA funded positions and operating expenses. Specifically, DTSC proposes to: 1) shift $735,000 and 6 positions to the Federal Trust Fund to support federal grants funded by the Department of Energy and National Aeronautics and Space Administration (NASA); and 2) decrease $2.3 million and 12 positions.

4. **Trailer Bill Language to Eliminate Un- and Under-utilized Programs.** The department proposes to eliminate seven programs that are underutilized, have had no grant or loan requests, or have been replaced by updated programs and revised statutes. The trailer bill language is required to clean up these programs in statute.

Staff Comments. Staff concurs with the need for the anticipated budget proposal. Reducing funding pressures overall will allow the department to move forward with higher priority programs. However, staff have concerns with the proposal to shift funding from the Air Pollution Control Fund (APCF) to the Biomonitoring Program. This program, while broad-based, can appropriately be funded by a mix of fee and tax funding. However, staff are still reviewing the proposed funding from the APCF and the expenditures proposed for the Biomonitoring Program and as such should not be approved in this budget cycle.

Staff Recommendation: APPROVE proposals as budgeted less the following changes to the California Environmental Biomonitoring Program:

1. DENY fund shift of $38,000 from the Toxic Substances Control Account to the Air Pollution Control Fund in the Department of Toxic Substances Control.
2. DENY fund shift of $105,000 from the Toxic Substances Control Account to the Air Pollution Control Fund in the Office of Environmental Health Hazard Assessment.

Vote:
ITEMS 1-2: APPROVE AS PROPOSED SPRING FINANCE LETTER (2-1, Fuller)
ITEMS 3-4: APPROVE AS PROPOSED SPRING FINANCE LETTER (3-0)
Staff and department directed to ensure clear nexus between funding sources and programs.

Green Chemistry: Ensuring Safer Consumer Products

Background. The Legislature, after years of considering individual chemical bans and broader chemical policies, developed a broader, more comprehensive approach to chemicals policy. Two bills, Chapter 559, Statutes of 2008 (AB 1879, Feuer) and Chapter 560, Statutes of 2008 (SB 509, Simitian) require the department to create a comprehensive and public approach to chemicals policy and lead to the development of the Green Chemistry Program at DTSC. Specifically, AB 1879 requires DTSC to adopt regulations to identify and prioritize chemicals of concern in consumer products, to evaluate alternatives, and to specify regulatory responses to reduce exposure to chemicals of concern in products. AB 1879 also created the Green Ribbon Science Panel to provide consultation to DTSC on the development of the regulations. SB 509 provides specific mandates to DTSC concerning the creation of an online, public Toxics Information Clearinghouse that includes science-based information on the toxicity and hazard traits of chemicals used in daily life.

Governor's Proposal. The Governor requests approval to redirect positions and funding for the department to implement the Safer Consumer Products regulations mandated by the two statutes. The Safer Consumer Products regulations provide a systematic and consistent approach for DTSC to evaluate chemicals in products sold in California to identify product-chemical combinations that are of high concern because of the potential for exposure to the chemical in the product and the potential for adverse public health or environmental impacts resulting from such exposures.

This process will lead to the identification/listing of products as Priority Products. Manufacturers of products listed as Priority Products will be required to conduct an alternatives analysis to compare the existing product with potential alternatives (e.g., chemical substitution or product redesign) using 13 factors evaluated at each stage of the product's life cycle. Upon conclusion of the alternatives analysis, the manufacturer will select an alternative chemical ingredient or alternative product design, or decide to retain the existing product-chemical. At this point, DTSC will evaluate the chosen alternative, or the existing product if no alternative is selected, using the information contained in the alternative analysis and other sources of information. The purpose of DTSC's evaluation will be to determine if there are adverse public health or environmental impacts associated with the product that can and need to be ameliorated by one or more regulatory responses.

Specifically this proposal is requesting to permanently redirect positions and funding identified below. Funding to support these redirections is from the Toxic Substances Control Account.

- Redirect 39.0 positions and $4.8 million associated with these positions.
- Redirect $1.4 million for contracts and laboratory equipment and supplies.

Staff Comments. Staff concurs with the need for the proposal. However, the proposal does not provide for a long-term stable funding source for the Green Chemistry Program. Existing law requires the department to adopt regulations to establish a process to identify and prioritize chemicals or chemical ingredients in consumer products, to establish a process for evaluating chemicals of concern in consumer products and their potential alternatives for the purposes of limiting exposure or to reduce the level of hazard posed by chemicals of concern identified in the required alternative analysis, and to specify a range of regulatory responses that the department may take following the alternatives analysis.

Staff recommends adoption of trailer bill language that would require the department to impose a fee on those who, in accordance with the regulations implementing the alternatives process, are required by the department to prepare and submit to the department for review an alternatives analysis, to cover the reasonable costs to the department in reviewing the submitted alternatives analysis and formulating and imposing a regulatory response. The trailer bill would require the department to adopt regulations establishing a fee schedule and would allow the department to reduce the amount of the fee based upon the size and market share of the fee payer.

Staff Recommendation: APPROVE the budget proposal with proposed Trailer Bill Language outlined in the Staff Comments.

Vote: APPROVE Budget Proposal and proposed Trailer Bill Language (2-1, Fuller)

3900 California Air Resources Board

The Air Resources Board has primary responsibility for protecting air quality in California, as well as implementation of the California Global Warming Solutions Act of 2006 (AB 32). This responsibility includes establishing ambient air quality standards for specific pollutants, administering air pollution research studies, evaluating standards adopted by the US Environmental Protection Agency and developing and implementing plans to attain and maintain these standards. These plans include emission limitations for vehicular and industrial sources established by the Board and local air pollution control districts.

The Governor's Budget proposes $555 million and 1,223 positions for support of the board. This is an increase of 19 percent over current year expenditures. This does not include proposed expenditures of up to $1.5 billion related to the auction of greenhouse gas emissions under the Cap and Trade Program (discussed further below).

Items Proposed for Vote-Only

1. **Project-Level GHG Assessment Program.** The budget includes a request for four limited-term positions and $643,000 (Air Pollution Control Fund) to meet increased workload from two new state requirements: AB 900 (Buchanan) and SB 292 (Padilla), Statutes of 2011. These statutes direct the ARB to evaluate greenhouse gas (GHG) emissions' impact of certain development projects to help determine eligibility for a streamlined judicial review process of California Environmental Quality Act (CEQA) challenges. The ARB has stated that they do not currently review project-level emissions analyses and does not have the resources to assess GHG emissions' impacts of individual developments at this time. The policy analysis of this issue indicated that workload for this proposal would be absorbable, and indeed given the first test of this bill, the ARB did absorb the workload and evaluated the GHG impacts using existing resources.

Staff Comments. This item was held open at the April 25 hearing to give further time for review of the workload analysis. The administration has not yet justified the need for further positions for this proposal which is consistent with the policy analysis of the bill as it moved through the Legislature.

Recommendation: DENY Proposal.

Vote: DENY PROPOSAL (3-0)

ITEMS PROPOSED FOR DISCUSSION

AB 32 and Cap and Trade Funding

Background. On April 25, the subcommittee heard extensive testimony from the Board and Administration on its plans for the use of, and management of, cap and trade funding. As background, the ARB plans to begin auctioning GHG emission allowances as part of its market-based compliance measures in 2012. The ARB estimates that fee revenues from the first set of auctions will be $1 billion in the first year of the program which is included in the budget. These auction revenue estimates vary widely making specific budget expenditures uncertain. Actual revenues are not anticipated to be certified until late in 2012-13. A General Fund offset of $500 million is also included in the budget; however, there is no specific proposal for this expenditure. Rather than a detailed budget proposal, the budget provides general categories of spending from the proceeds of the auctions. These include:

- Clean and efficient energy
- Low-carbon transportation
- Natural resource protection
- Sustainable infrastructure development

Western Climate Initiative and Linkage Issues. The Administration continues to move forward with a proposal to "link" auctions to the Quebec Cap and Trade system. This would allow for more credits to be auctioned in multiple jurisdictions however it poses a number of questions about the intent of the state program. In order to facilitate this multi-government auction, the ARB assisted in the creation of the Western Climate Initiative, Inc. (WCI), an independent nonprofit that would develop compliance, tracking, and market monitoring functions for jurisdictions participating in the auctions. The WCI is incorporated in Delaware and both the Executive Director of ARB and Secretary for Cal-EPA sit on the board of WCI. According to ARB, no funding was paid by the state to WCI over the past several years, however this is not accurate. Through the Western Governors Association, funding was directed specifically from the State of California to WCI to facilitate this startup agency. The Administration proposes to direct $3.7 million to this agency through December 2013.

It has also come to the attention of the subcommittee that the ARB has begun to direct funding to the WCI, Inc., for contracting outside of the state contracts rules. In addition, recent information from WCI, Inc., would suggest that it intends to engage in activities outside of the parameters that were initially described to the Legislature, including delving into policy recommendations for specific offset protocols.

Previous Subcommittee Actions. The subcommittee acted on April 25 to:

1. Reject Control Section 15.11 which allows the Administration to expend up to $1 billion from auction allowance proceeds with now fewer than 30-day notification to the Legislature.
2. Approve language in concept (Air Pollution Control Fund, auction revenues):
    a. Authorize spending of Cap and Trade revenues for purposes of AB 32 greenhouse gas emissions reduction activities to achieve at least $500 million in General Fund savings.
    b. Stipulate that any additional expenditure related to greenhouse gas emissions reductions be made pursuant to future legislation.

Staff was directed to work with appropriate policy and budget staff to begin drafting language related to concerns about the Western Climate Initiative, Inc., legislative oversight, fee nexus issues, a proposed audit of the AB 32 implementation fee, and the control sections related to the overall expenditure of funds from cap and trade revenues.

Staff Comments. Staff recommends a series of actions in response to the subcommittee's direction. To the extent possible, language is included in this agenda, however, some pieces will need to be developed with Legislative Counsel in coordination with actions taken by the Assembly Budget Subcommittee for final approval in the budget and trailer bills.

Recommendations:

1. **APPROVE Trailer Bill Language (in concept):**

    a. (Government Code) There shall be created in the state treasury the Greenhouse Gas Reduction Fund as a separate Fund for the collection of monies derived from the sale of greenhouse gas emission allowances.
    b. Include findings that all expenditures related to Cap and Trade revenues must meet both AB 32 and Sinclair fee nexus.
    c. Absent legislation directing the use of Cap and Trade revenues in statute, the Administration shall submit on January 10, 2013, a proposed statute for the expenditure of funds under this item.
    d. The department shall provide notice to the Joint Legislative Budget Committee of any funds over $25,000 provided to the Western Climate Initiative, Western Climate Initiative, Inc., or its derivatives or subcontractors no later than 30-days prior to transfer or expenditure of these funds.
    e. No person employed by the State of California shall be a board member of the Western Climate Initiative, Inc., without approval by the California State Senate. Appointments shall be made by the Governor and subject to Senate approval.
    f. The State of California, California Air Resources Board, and California Environmental Protection Agency, including its contractors (specifically Western Climate Initiative, Inc.) shall not allow for linkage under the Cap and Trade program with any other state, province or sovereign nation until November 30, 2013, unless approved by the California Legislature in future statute.
    g. Additional reporting regarding the administrative record related to the expenditure of funds as determined by both the Assembly and Senate budget and policy committees.
    h. Direct the ARB and the California Public Utilities Commission, upon delivery of auction credits to the Investor Owned Utilities, to rebate any cap and trade revenues collected by the utilities (those off-budget funds) to be refunded to ratepayers in the form of a "climate dividend" rebate.

2. APPROVE the following Control Section 15.11:

SEC. 15.11. (a) Notwithstanding any other provision of law, the Director of Finance may allocate or otherwise use an amount of up to $500,000,000 from monies derived from the sale of greenhouse gas emission allowances, which are deposited to the credit of the Greenhouse Gas Reduction Fund. These funds shall be available to support the regulatory purposes of AB 32.

(b) Not fewer than sixty days prior to allocating any funds pursuant to (a), the Air Resources Board and the Director of Finance shall submit a plan for the expenditure or use of the funds to the chairpersons of the committees in each house of the Legislature that consider appropriations and the Chairperson of the Joint Legislative Budget Committee for approval. This plan, in the judgment of the Board and the Director, shall provide for the expenditure of funds to assist in achieving the goal of reducing greenhouse gas emissions.

(d) The Director of Finance will not allocate funds until he or she has determined that sufficient cash has been deposited into the Greenhouse Gas Reduction Fund.

(e) Any Agency, board or department receiving funds from this item shall be required to demonstrate, through a series of duties, a strong administrative record to justify proposed expenditures.

(f) No funds in this item shall be used for the purposes of the development of a High-Speed Rail System for two years.

VOTE:
ITEMS 1-2: APPROVE Trailer Bill Language and Control Section Language as described in agenda (2-1, Fuller)

MOTION by Senator Fuller: " I move that staff prepare language that will require an audit of CARB's fee based programs, that would include at a minimum, the scope and objectives as outlined in the State Auditor's Job No.: 2012-102, dated February 21, 2012."
APPROVE (3-0)

3940 State Water Resources Control Board

The State Water Resources Control Board (State Water Board) 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 $713 million and 1,502 positions for support of the Board. Decreases in funding are largely due to reductions in bond expenditures.

Items Proposed for Vote-Only

1. **Re-Appropriation and Sunset Extension: Underground Storage Tank Cleanup Tank Fund, School District Account.** Proposal to extend the sunset date and re-appropriating funds to the Underground Storage Tank Cleanup Fund School District Account. Currently, there is approximately $11 million remaining in the School District Account. To-date, the State Water Resources Control Board has received approximately 170 eligible claims from school districts for reimbursement from the Account, and the Board continues to receive additional claims from school districts for reimbursement from the Account on an on-going basis.

Staff Comments. Staff concurs with the need for this proposal.

Recommendation: APPROVE Item 1.

Vote: APPROVE (3-0)

ITEMS PROPOSED FOR DISCUSSION

Reorganization of the Regional Water Quality Control Boards

Background. The subcommittee heard this issue on April 25 and held the issue open for further review. The Governor proposes trailer bill language to reorganize the regional water boards to address a number of issues including retaining quality board members on the boards. The proposals include:

- **Consolidate Regional Boards.** The Governor proposes to eliminate the Colorado Regional Water Quality Control Board and to shift its functions to both the Lahontan and San Diego regions.

- **Reduce the Number of Board Members.** The Governor proposes to reduce the number of board members on a given regional board from nine to seven.

- **Eliminate Categorical Board Members Associations.** The proposal removes categorical spots on the regional boards including those for water supply, conservation, production, irrigation agriculture, industrial water, local government, or general members of the public.

- **Regional Water Board Chair Selected by the Governor.** The proposal allows the Governor to appoint the chairperson of the regional boards rather than the board members selecting from amongst themselves.

The reorganization proposal is a product of several years of attempts to reconcile the ability of the state to attract and retain quality board members who have expertise in the field. The review of complex permits and basin plans requires a level of expertise that generally comes from those with a great deal of experience within the water quality field. There are a few issues that were included in the overall general proposal that were not included specifically in the trailer bill language. These include:

- **Conflict of Interest Rules.** Current law prohibits regional board members from acting on proposals that involves the board member or any permittee where the board member has a position of authority or financial interest. The proposal had included language to conform the Water Code to the Political Reform Act as applies to all other state officials.

- **Increased Per Diem for Regional Board Members**. The proposal had included an increase in the per diem compensation from $100 per day to $500 per day, and an increase in the annual cap from $13,500 to $60,000. This was intended to address, among other issues, the time spent by board members evaluating complex permits during board deliberations, and to attract and retain quality board members.

Staff Comments. Staff have reviewed the proposal and in general concur with the proposals to change the constitution of the regional boards, including those proposals that were not included in the trailer bill language. However, staff have some concerns with the proposed consolidation of the regional boards and the appointment of the chair by the Governor's office rather than the regional boards. It is unclear why the Colorado Regional Board was selected for elimination rather than consolidation of urban Southern California boards (such as Santa Ana and San Diego). Staff recommends reconsideration of the board consolidation proposal to ensure the proposed consolidation achieves the goal of increasing government efficiency and reducing programmatic expenses at the regional board level.

Staff Recommendation:

1. APPROVE Trailer Bill Language (including conflict of interest and per diem elements).
2. DENY regional board consolidation (elimination of the Colorado Regional Board) and appointment of chair by the Governor.

Vote: APPROVE STAFF RECOMMENDATION (3-0)

San Diego Regional Board Office Location

Budget Proposal. The subcommittee heard this issue on April 25 and held the item open to get a better idea about the costs associated with the office move. The Water Board is requesting additional funding to relocate the San Diego regional office. Originally, the Water Board requested $2.8 million (various special funds) on a one-time basis for relocation expenses and $505,000 (various special funds) on an annual basis for the anticipated rent increase.

The May Revision proposal reduces the original request significantly and updated its estimates for future rent costs. The cost of the move and the budget request is $1.5 million. The existing rent is $822,000 and the increase in rent is $408,000 for a total annual rent cost of $1.2 million. The reason for the rent increase is a move from a light industrial area to an area designated for business use resulting in an increase in cost per square foot. To mitigate these costs, the board is reducing its footprint and total square footage required.

Background. According to the Administration, relocation is necessary because the current location is directly next to an industrial solar panel manufacturer that emits toxins into the air. Regional Board employees have complained and submitted Workers Compensation claims regarding headaches and nausea believed to be related to toxins entering the building. As of this date, all of these claims have been settled without litigation.

Staff Comments. The relocation of the board is expensive and the board should be directed to use all means to reduce costs during the move. That said, it is likely the relocation is necessary and should be funded. Staff concurs with the need for the move and the modified and reduced funding request.

Recommendation: APPROVE as proposed.

Vote: APPROVE AS PROPOSED (2-1, Fuller)

Lahontan Regional Water Quality Control Board—Tahoe Issues

Background. There is a need to coordinate and integrate the mandates of Tahoe's recently adopted bi-state Total Maximum Daily Load (TMDL) program with the Tahoe Regional Planning Agency's (TRPA) environmental threshold standards, and the goals of Tahoe's Environmental Improvement Program. The California Tahoe Conservancy and other federal, state, and local agencies responsible for implementing these mandates are developing a comprehensive implementation plan for the Tahoe TMDL and related EIP water quality and watershed restoration programs on the California side of the Tahoe basin. The plan includes:

- A description of the roles and responsibilities of all responsible federal, state, and local land management and implementing agencies;
- A description of the key programs and projects necessary to meet the NPDES Permit requirements and associated TMDL load reduction targets for the forest, air and stream bank erosion sources along with EIP watershed and water quality goals;
- A financing strategy describing the levels of federal, state, and local funding expected to be available and necessary to implement the plan;
- A comprehensive monitoring and assessment program which may be developed in conjunction with TRPA or the Tahoe Science Consortium or other public agencies; and
- A schedule to develop the appropriate methods and protocols to establish load reduction measures for floodplain management and other elements of stream restoration projects.

Staff Comments. The Lahontan Regional Water Quality Control Board is the lead agency responsible for establishing and developing near-shore water quality objectives under existing statute. However, when the original environmental reports, including the TMDL, were released it was not clear whether near-shore water quality was addressed sufficiently in the requirements. Rather than focus solely on deep water quality and clarity, the water board is also charged with near-shore water quality, particularly as it impacts human and environmental health. In order to ensure this is addressed, staff recommends the following draft budget bill language:

> The Lahontan Water Board shall, **within ~~90~~ 120 days** of receipt of the above-described plan, establish a schedule for the development and adoption of near-shore water quality objectives to improve near-shore water quality conditions along with a comprehensive implementation strategy describing the nature of actions and associated timelines that will be necessary to implement the plan or its component parts.

In addition, given the sensitivity of the state's activities related to Lake Tahoe and the ongoing concerns about interactions with the planning and permitting agencies of both California and Nevada, staff recommends the following Supplemental Reporting Language related to Lake Tahoe:

> To prepare for the possible eventuality of Nevada withdrawing from the Tahoe Regional Compact as set forth in Nevada Senate Bill 271 and instead establishing a Nevada Tahoe Regional Planning Agency, the California Research Bureau is directed to report to the Legislature by February 1, 2013 on the advisability and the necessary steps to be taken in case it is necessary for California to consider re-establishing the statutes that created the California Tahoe Regional Planning Agency in order to protect the economic growth and environmental attributes in the region.

Recommendation: APPROVE budget bill language and Supplemental Reporting Language.

Vote: APPROVE budget bill language (as amended below) and Supplemental Reporting Language (2-1, Fuller)

> The Lahontan Water Board shall, **within ~~90~~ 120 days** of receipt of the above-described plan, establish a schedule for the development and adoption of near-shore water quality objectives to improve near-shore water quality conditions along with a comprehensive implementation strategy describing the nature of actions and associated timelines that will be necessary to implement the plan or its component parts.

8660 California Public Utilities Commission

The California Public Utilities Commission (CPUC) is responsible for the regulation of privately owned "public utilities," such as gas, electric, telephone, and railroad corporations, as well as certain video providers and passenger and household goods carriers. The PUC's primary objective is to ensure adequate facilities and services for the public at equitable and reasonable rates. The PUC also promotes energy conservation through its various regulatory decisions. The Governor's Budget proposes $1.4 billion to support the CPUC in the budget year.

ITEM PROPOSED FOR DISCUSSION

Safety Programs and Proposals (Consumer Safety Division)

Background. The Governor's budget includes four proposals for enhancement of the Consumer Safety Division. This is above and beyond the additional 12 positions and about $671,000 approved by the Legislature in the 2011 budget process. The subcommittee heard these proposals on April 25 and held open one item, the Global Safety and Enforcement Programs proposal (Global Safety and Enforcement Programs [$5.9 million, 41 positions]) in order to give staff and the LAO more time to review the workload analysis and need for the positions. Staff had raised concerns about whether or not these positions would produce the necessary cultural change at the CPUC required to more comprehensively enforce safety standards.

Updated LAO Analysis.

> **LAO Assessment.** Our analysis indicates that some of the workload identified in the Governor's proposal is justified. Specifically, some of the additional workload related to gas and rail safety activities was recommended by the National Transportation Safety Board as part of its evaluation the CPUC's safety programs. However, we find that the other workload included as part of the proposal is not justified. For example, the CPUC plans to use some of the requested resources to develop power line standards in order to reduce fire hazards. However, as indicated above, CalFIRE already maintains a power line prevention program. We also note that the CPUC has been unable to explain how it would coordinate with CalFIRE to avoid any duplication of efforts. In addition, the safety inspections that would be conducted by the CPUC may be duplicative of the inspections that are currently conducted by Cal/OSHA. Since most of the proposed activities are possibly outside the jurisdiction of the CPUC, it's not clear whether it would have enforcement authority and thus need additional legal and ALJ positions.
>
> Finally, we note that the CPUC, as a whole, currently has roughly 70 vacant positions. At the time of this analysis, the commission has not provided a plan on how it will address its vacancies. Given the CPUC's current vacancy rate, the requested funding may not be spent as proposed in the budget year.

> **LAO Recommendation.** In view of the above concerns, we recommend that the Legislature reject the Governor's January budget proposal to provide the CPUC with 41 additional positions and a $5.9 million augmentation to support these positions, as well as the $1.3 million proposed on a one-time basis for consulting services. In order to address some of the gas and railroad safety activities that are justified on a workload basis, we recommend—given the CPUC's current vacancy rate—that the Legislature direct the administration to redirect existing resources within CPUC to support these activities. Finally, we recommend that the Legislature direct the CPUC to coordinate with CalFIRE and Cal/OSHA to first determine where possible duplication of efforts and inadequacies exist in the area of safety, and provide a report to the Legislature on its findings.

Staff Comments. Staff generally concurs with the LAO analysis of the issues that there is a need for the 19 positions requested for gas and railroad safety activities. These positions are clearly justified on a workload basis. However, staff disagrees that current vacant positions should be used for these purposes. It would be more appropriate for the CPUC to focus on filling necessary vacant positions for the purposes for which the Legislature approved them, than to redirect them to other purposes without ensuring statutory mandates are fulfilled. These positions, along with the three proposals already approved by the subcommittee on April 25, will put the CPUC in a position to improve its public safety program.

Staff Recommendation:

1) APPROVE 19 requested positions in the gas and rail safety program.
2) DENY remaining 22 positions.
3) DENY $300,000 in one-time consulting service.
4) APPROVE access to $960,000 in federal funds to strengthen safety oversight and enforcement of gas, electric, communications, and rail public utilities.
5) APPROVE Supplemental Reporting Language requiring the Commission to submit, by February 1, 2013, a report on milestones achieved with these positions. This should include, but not be limited to: additional miles of gas and rail lines inspected, additional corrective actions directed by the Commission, and generally the actions the Commission has taken using these positions to improve gas, rail and public utility safety in the State.

Vote:
APPROVE STAFF RECOMMENDATION WITH THE FOLLOWING CHANGE:

1) APPROVE ~~**19**~~ **13** requested positions in the gas and rail safety program.

(2-0, Lowenthal not voting)