



Senate Budget and Fiscal Review

Subcommittee No. 2 2004 Agendas

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California State Senate
SENATE BUDGET & FISCAL REVIEW
SUBCOMMITTEE No. 1

Agenda

March 8, 2004
Upon Adjournment of Session – Room 113

EDUCATION
JACK SCOTT, CHAIR
BOB MARGETT
JOHN VASCONCELLOS

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SUBCOMMITTEE NO. 2

Agenda

Byron Sher, Chair
Sheila Kuehl
Bruce McPherson



Thursday, March 11, 2004
10:00 am
Room 112

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Resources--Environmental Protection—Public Safety—Energy

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8550 California Horse Racing Board

The seven-member California Horse Racing Board (CHRB) supervises all race meetings in the state where pari-mutuel wagering is conducted. Principal activities of the CHRB include: protecting the betting public; licensing of racing associations; sanctioning of every person who participates in any phase of horseracing; designating racing days and charity days; acting as a quasi-judicial body in matters pertaining to horse racing meets; collecting the state's lawful share of revenue derived from horse racing meets; and enforcing laws, rules, and regulations pertaining to horse racing in California. The state's revenue from horseracing is principally derived from fees based upon a percentage of the pari-mutuel wagering pools, breakage (the odds cents not paid to winning ticket holders), and unclaimed tickets. Additional revenue is derived from licenses issued to horse owners, trainers, jockeys, grooms and others, and from fines.

Budget Request: The budget proposes \$8.4 million from special funds, an increase of \$4,000, or less than 0.1 percent from the estimated current year expenditures. Pursuant to Control Section 4.10, the CHRB was reduced by 6 positions and \$275,000 in the current year and the budget year.

Staff Recommendation: No issues have been raised with respect to the CHRB budget. This budget is funded entirely from special funds. Staff recommends approval as budgeted.

0855 California Gambling Control Commission

The California Gambling Control Commission (GCC) was established by Chapter 867, Statutes of 1997 (SB 8, Lockyer). The five-member commission is appointed by the Governor subject to Senate confirmation. The GCC is responsible for setting policy, issuing licenses, administering, adjudicating, and regulating all matters related to controlled gambling in California.

In addition, pursuant to the Tribal Gaming Compacts and Executive Order D-31-02, the GCC is responsible for (1) administering the gaming license process, (2) controlling, collecting and accounting for all gaming device license fees, (3) making findings of suitability regarding key employees of tribal gaming operations, and (4) ensuring the allocation of gaming devices among California's tribes does not exceed the allowable number in the compacts. Included with this responsibility is serving as Trustee for the Revenue Sharing Trust Fund and Administrator of the Special Distribution Fund.

Budget Request. The budget proposes total expenditures of \$52 million from special funds, which is a decrease of \$75.1 million, or 59 percent from estimated current year expenditures. Of this amount, \$6 million (\$3.8 million Special Distribution Fund and \$2.2 million Gambling Control Fund) is for state operations and \$46 million is for distribution from the Revenue Sharing Trust Fund to non-gaming tribes as specified in the compacts.

Current Year Appropriations. The reason for the budget year decrease is due to two bills that appropriated funds from the Special Distribution Fund (SDF) in the current year. Chapter 210, Statutes of 2003 (AB 673, Horton), transferred \$50.5 million from the SDF to the Revenue Sharing Trust Fund for distribution to non-gaming tribes as specified in the tribal-state compacts. In addition, Chapter 858, Statutes of 2003 (SB 621, Battin), appropriated \$25 million from the SDF for distribution to local government agencies impacted by tribal gaming. The budget projects a \$137 million reserve for the SDF at the end of 2004-05.

California Gambling Control Commission – Source of Funding					
Fund	<i>Expenditures (dollars in thousands)</i>				<i>Percent</i>
	2002-03	2003-04	2004-05	Change	Change
Indian Gaming Revenue Sharing Trust Fund	\$29,942	\$96,569	\$46,000	-\$50,569	-52.4%
Indian Gaming Special Distribution Fund	2,662	28,542	3,805	-24,737	-86.7%
Gambling Control Fund	1,666	1,946	2,195	249	12.8%
Totals, Programs	\$34,270	\$127,057	\$52,000	-\$75,057	-59.1%
Authorized Positions	34.8	43.2	45.6	2.4	5.5%

Major Budget Adjustments

- A reduction of \$91,000 (Gambling Control Fund) and 1.5 positions pursuant to Control Section 4.10.
- An augmentation of \$103,000 (\$72,000 Special Distribution Fund, \$31,000 Gambling Control Fund) and one position to address ongoing licensing, legislation/administrative issues, and regulation workload.
- An augmentation of \$199,000 (\$139,000 Special Distribution Fund, \$60,000 Gambling Control Fund) and 2.5 positions on a two-year limited-term basis, to address workload related to Third Party Provider Proposition Services.

ISSUES

1. Informational Issue. Budget Assumes \$500 million in New Revenues from Renegotiated Revenue Sharing Compacts.

Background. As a result of the passage of Proposition 1A in March 2000, Class III gambling (such as slot machines and banked or percentage card games) became legal on California Indian land for those tribes that enter into a tribal-state compact approved by the Legislature, the Governor, and the federal government. These compacts lay out the legal relationship between the tribes and the state with respect to Indian gambling. According to the GCC, there are currently 107 federally recognized tribes in California, and 64 of these tribes have tribal-state gaming compacts that last until 2020. Of those 64 tribes, 51 are currently operating casinos in California.

Negotiations Last Year. In March 2003, the prior administration entered renegotiations with the gaming tribes in an effort to generate \$680 million in new General Fund revenues. No tribes with existing compacts agreed to renegotiated arrangements. The prior administration, however, did come to new agreements with three tribes. The Legislature approved these agreements last year. Unlike the prior compacts, the new compacts require the payments of up to 5 percent of the tribes' winnings to the General Fund.

Currently, pursuant to all but the three most recent compacts, tribes pay more than \$130 million annually to the state for the right to offer Class III gambling. These revenues are not deposited into the General Fund. Instead, the revenues are deposited into the Indian Gaming Revenue Sharing Trust Fund and the Indian Gaming Special Distribution Fund. The Revenue Sharing Trust Fund includes \$46 million annually in licensing fees to operate gaming machines. These funds are distributed to tribes with no gaming or those operating less than 350 slot machines. The Special Distribution Fund includes \$86 million in fees, based on the average net win of machines in operation as of September 1, 1999.

Issue. The Governor proposes to again enter compact negotiations and renegotiations with the tribes. The Governor proposes securing \$500 million in annual General Fund revenues (beginning in 2004-05) as the result of these negotiations. Because these negotiations are currently occurring, it is unknown what amount of revenue, if any, will result from the negotiations.

Analyst's Comments. The LAO indicates that it is unlikely that the Governor will secure \$500 million in budget-year revenues for the following reasons:

- Under federal law, the Governor cannot impose a tax on the tribes, therefore, the tribes must agree to pay any additional monies.
- The \$500 million proposed is almost four times what tribes currently pay.
- The budget proposes that the collected revenues go directly to the General Fund, as opposed to the current policy, in which the revenues are used largely in a manner related to the tribes or gambling.
- Since the renegotiated compacts also need to be approved by the federal government, it may be difficult to implement any changes to revenue payments to ensure full-year revenues in the budget year.

The LAO further notes that the compacts are voluntary agreements, and that some tribes could choose to continue to operate under the existing agreements for nearly two more decades. As such, the LAO believes that the administration will likely have to negotiate away items of significant value to secure any sizable increases in revenue. For instance, some existing compact tribes have already expressed interest in an expansion of their gaming. To the extent that any compacts are renegotiated, the Legislature would have to ratify the renegotiated compact.

Staff Comments. The GCC has indicated that it does not have a direct role in the negotiations. The Department of Finance still anticipates that the negotiations will still generate an estimated \$500 million in new revenues.

Informational Issue.

2. Payment for Negotiations Made from The Special Distribution Fund.

Background. Revenues to the Special Distribution Fund (SDF) are dependent on the number of slot machines in operation as of September 1, 1999. Tribes contribute revenues each quarter to the fund, up to 13 percent of the average daily net win from these machines, based on the number of slot machines. The GCC is responsible for collecting the appropriate amount of payments into this fund. The budget estimates that the tribes will contribute \$86 million to the SDF in the budget year.

Pursuant to the compacts, the monies in the SDF are subject to legislative appropriation for the following statewide purposes:

- Reimbursement for state regulatory costs associated with implementation of the compacts.
- Grants for gambling addiction programs.
- Grants to state and local agencies affected by tribal government gaming.
- Payment of shortfalls that may occur in the Revenue Sharing Trust Fund.
- Any other purpose specified by the Legislature.

Issue. At a meeting on February 5, 2004, the GCC approved a consulting contract for \$235,000 out of the Special Distribution Fund to pay for the Governor's Office negotiator for the compact renegotiations and to negotiate new compacts for Class III gaming. No appropriation by the Legislature was made for this purpose. The GCC has indicated that it does not have a specific role with respect to the negotiations.

Is An Appropriation for this Purpose Necessary? In 2002-03 the Legislature appropriated \$750,000 from the General Fund to the Office of Planning & Research (OPR) for compact renegotiations (Chapter 3x, Statutes of 2002). Any unused portion of those funds would have reverted at the end of last year. No similar appropriation was made in this case, rather GCC used part of its operating expenses budget for this purpose.

Are Special Distribution Funds Appropriate for this Purpose? At least one of the tribal councils has raised objections about the use of SDF for this purpose. The SDF is permitted for compensation of regulatory costs incurred by the GCC as well as the DOJ in connection with the implementation and administration of tribal-state gaming compacts. Is negotiation of a compact considered a regulatory cost?

DOF Position. The DOF indicates that the negotiator contract is a regulatory-related cost because it is intended to result in improvements and/or clarifications in the language of the existing compacts. The DOF indicates that the Commission, as part of the Executive Branch, is contracting with the negotiator on behalf of the Governor.

The Table on the following page shows the consulting budget for the GCC. The GCC reports that the past year contract was for an expert to assist in validating the audit program that the GCC had developed. In the current year, the contracts include \$235,000 for the negotiator and the remainder will likely be used to contact with an expert on some regulatory issues related to card rooms.

Proposed Budget Year Contract Expenditures. The GCC reports that for the budget year the \$559,000 is made up of \$100,000 is for Commissioner Advisory Contingencies, \$100,000 is for other contingencies, \$125,000 is for legal contingencies and alternative dispute resolution. The GCC reports that the remaining \$234,000 is an amount that was previously budgeted for this item, but that was adjusted to pay for certain personal services costs such as retirement costs. The GCC indicates that these funds may be used for such personal services expenditures in the budget year.

Total External Consulting Budget for GCC (dollars in thousands)			
Expenditure Classification	Actual Expenditures Past Year	Estimated Expenditures Current Year	Proposed Expenditures Budget Year
External Consulting and Professional Services	120	265	559

Staff Recommendation. The consulting budget is proposed to more than double over estimated current year expenditures. Additionally, the GCC has indicated that the \$234,000 proposed for consulting services may likely be used for other types of expenses. For these reasons, staff recommends reducing the consulting budget by \$234,000.

Action

3. Special Distribution Fund

As previously indicated, pursuant to the compacts, the monies in the SDF are subject to legislative appropriation for the following statewide purposes:

- Reimbursement for state regulatory costs associated with implementation of the compacts.
- Grants for gambling addiction programs.
- Grants to state and local agencies affected by tribal government gaming.
- Payment of shortfalls that may occur in the Revenue Sharing Trust Fund.
- Any other purpose specified by the Legislature.

In the case *Coyote Valley Band of Pomo Indians v. The State of California* a federal district court ruled on the possible uses of the SDF, and in particular, "the other purposes specified by the Legislature." The opinion states that:

"The Court thus construes the "other purposes" listed in Section 5.2(e) of the proposed compact to be limited to other purposes that, like the first four enumerated purposes, are directly related to gaming."

Expenditure of SDF monies in the current year. The Legislature appropriated \$94 million from the Special Distribution Fund in 2003-04 as follows:

- About \$15 million was spent on gambling regulatory activities.
- Chapter 210, Statutes of 2003 (AB 673, Horton), transferred \$51 million on a one-time basis from the Special Distribution Fund to the Revenue Sharing Trust Fund to ensure that eligible Indian tribes received the maximum payments allowed (\$1.1 million).
- Chapter 210 also established the Office of Problem and Pathological Gambling in the Department of Alcohol and Drug Programs (DADP) to develop a problem gambling prevention program. The DADP was provided \$3 million for the program. The administration proposes trailer bill language to repeal

Chapter 210 and eliminate a scheduled \$3 million appropriation for the same purpose in the budget year.

- Chapter 858, Statutes of 2003 (SB 621, Battin), appropriated \$25 million from the Special Distribution Fund to local government agencies affected by tribal gaming.

Chapter 858 specifies that priority for funding from SDF is in the following descending order:

- a) An appropriation for any shortfalls that may occur in the Revenue Sharing Trust Fund
- b) An appropriation for problem gambling prevention programs in the Office of Problem and Pathological Gambling within the State Department of Alcohol and Drug Programs;
- c) The amount appropriated in the annual Budget Act for allocation between the Division of Gambling Control and the California Gambling Control Commission (CGCC) for regulatory functions that are directly related to Indian gaming; and,
- d) An appropriation for the support of local government agencies impacted by tribal gaming.

Chapter 210 requires the CGCC to report to the Legislature the amount of funding from the SDF necessary to make up the difference between the \$1.1 million maximum and the actual amount paid to each eligible tribe from the Revenue Share Trust Fund. Chapter 858 requires the Department of Finance, in consultation with the CGCC, to calculate the total revenue in the SDF that will be available for local government agencies impacted by tribal gaming. The information is to be included in the May Revision.

Issue. Total resources in the SDF in 2004-05 will be roughly \$150 million (\$86 million in payments from tribes and revenues from past years). The budget proposes expenditures of \$13 million for Indian gaming regulatory activities. The administration, however, does not propose expenditures for the remaining \$137 million in the fund.

Analyst's Recommendation. In reviewing the options for spending the fund balance, the LAO indicates that there are many possible uses. The LAO notes that the impacts of gambling are widespread, even in communities without casinos. The LAO suggests that costs related to public safety, road maintenance, and gambling addiction, for instance, affect many cities, counties, and the state.

Given the budget situation and broad parameters of the fund, the LAO recommends using the \$137 million for spending which both meets the requirements of the fund and helps the budget situation. For instance, funds currently spent by the General Fund on gambling-related expenses could be replaced with SDF revenues—generating General Fund savings. Below, the LAO identifies two such possible uses for the fund revenues as illustrative examples:

- **Public Safety Demands.** The LAO notes that gambling activities increase the needs for law enforcement services throughout the state. The LAO believes that the SDF could appropriately be used to address these public safety demands. In total, cities and counties spend billions of dollars annually on public safety. The LAO notes that the state contributes a small amount of this total annually (\$100 million from the General Fund) though the Citizens' Option for Public Safety (COPS) program. If the Legislature continues to fund the COPS program, the LAO suggests that a portion of the funding could be directed from the SDF. Given the large amounts of money being spent, the LAO believes that it is reasonable to assume that such a small COPS-related portion of total public safety expenditures is already spent on gambling-related activities.
- **Treat Gambling Addiction.** The LAO notes that there are currently many individuals with gambling problems. The LAO suggests that it is reasonable to assume that some individuals that suffer from this problem seek mental health services. Currently, several hundreds of millions in General Fund dollars are allocated to counties to provide mental health services at the local level.

As with the public safety example above, the LAO believes that a portion of these General Fund expenditures could be replaced with Special Distribution revenues.

Staff Comments. The following three Bills have been introduced regarding the Special Distribution Fund:

- AB 2162, Oropeza
- AB 2579 La Suer
- SB 1586 Murray

Staff Recommendation. Staff recommends holding this issue open.

Action.

4. Informational Issue. License Approval Process

Background. The Gambling Control Act makes the GCC responsible for licensing and imposing fines on persons involved in controlled gambling activities, such as card rooms. With respect to Indian gaming, the GCC is charged with reviewing licenses and permits to make findings of suitability to tribal gaming authorities to help assure that no unqualified or disqualified person is issued or allowed to hold a license. Individuals who must apply for gambling licenses include: (1) those who have a financial interest in the gambling establishment; (2) key employees of the gambling establishment, primarily management and those who handle money; (3) other employees of the gambling establishment; and (4) suppliers of gambling equipment and resources. The Division of Gambling within the Department of Justice (DOJ) is responsible for performing the background check on individuals.

Issue. Two years ago, the LAO raised an issue with respect to the DOJ's Division of Gambling and the license approval process. According to estimates at that time from the DOJ, there were as many as 12,000 to 15,000 individuals designated as "key" employees from tribal gaming establishments who would have gambling licenses for review by the GCC for findings of suitability. In addition to this number, there was an unknown number of those with a financial interest and certain suppliers of gaming equipment whose licenses are also to be reviewed by the GCC in order to make findings of suitability.

Last year, during Subcommittee meetings the GCC indicated that the Division of Gaming at the DOJ had forwarded a total of approximately 300 applications to the GCC which the GCC had reviewed and forwarded findings of suitability to tribal gaming authorities.

Updated Numbers. The GCC reports that to-date, it has received 942 applications with completed background checks for "key" employees from the DOJ and has forwarded 890 findings of suitability to tribal authorities. The GCC reports that the remaining 52 are currently being processed. The GCC has approved or is in the process of approving all of the applications forwarded by the DOJ. The GCC indicates that it typically takes one month for it to review, schedule and act upon an application once the application has been received from DOJ.

Staff Comments. In the two years since the LAO raised the issue, less than 1,000 findings of suitability have been forwarded to tribal gaming authorities. The Subcommittee may wish to ask whether the GCC thinks that the speed at which this process is moving is a problem. This is an issue that can be further discussed when the Department of Justice budget is before the Subcommittee. The Subcommittee may wish to get additional information from the GCC on whether DOJ has shared a timeline regarding plans to process the number of outstanding applications with the GCC.

5. License Information System.

The 2002 Budget Act appropriated \$73,000 (\$58,000 from the SDF and \$15,000 from the Gambling Control Fund) for the GCC and \$1.3 million (\$1.1 million SDF and \$263,000 Gambling Control Fund) for the DOJ to provide equipment and software for a database management system that will aid the DOJ's Division of Gambling and the GCC to track gaming license information.

Last year, the Legislature reappropriated these funds for this project. The current timeline for the project estimates that the RFP will be released the week of March 15, with a contract award for August 23, implementation of the software in September, and system implementation 180 days later.

Staff Comments. This project is now at least one year behind schedule and the appropriation has been reappropriated once. The GCC reports that the contract award is now estimated for August. As such, the GCC will need to reappropriate the funds for this project. The Administration has not yet requested a reappropriation, but the Subcommittee may wish to get an updated project timeline and updated estimated costs for the project prior to approving a reappropriation.

Informational Issue.

6. Other Budget Requests

Staff Recommendation. Staff recommends approval as budgeted.

Action.

8140 State Public Defender

The Office of the State Public Defender (OSPD) was established in 1976 to provide indigent representation. Chapter 869, Statutes of 1997, revised the mission of the State Public Defender. The OSPD is now required to concentrate on post-conviction proceedings following a judgment of death. Specifically, the OSPD is limited to representing capital appellants only for the purpose of the direct appeal for all cases to which the OSPD was appointed after January 1, 1998.

State Public Defender -- Program Expenditures					
Program	Expenditures (dollars in thousands)				Percent Change
	2002-03	2003-04	2004-05	Change	
TOTAL, State Public Defender	\$10,925	\$11,176	\$11,176	\$0	0.0%
Total Positions	96.9	82.3	82.3	0	0.0%

Budget Request. The budget proposes \$11.2 million from the General Fund, which is the same as anticipated current year expenditures.

Control Section 4.10

Current year estimates and the budget proposal includes a reduction of \$457,000 and 12.2 positions related to performing administrative and legal support functions. The OSPD reports that 5.2 of these positions were vacant, 5 employees transferred to other positions within the state, 2 employees retired, and one employee was laid off.

Previous Reductions. For 2002-03 the OSPD had a mid year reduction of \$182,000 and 1.5 positions as well as savings related to two vacant attorney positions.

Staff Recommendation. The Subcommittee may wish to ask OSPD about the programmatic implications of a 5 percent and a 10 percent cut. Staff recommends holding this budget open.

Action.

8120 Commission on Peace Officer Standards and Training (POST)

The Commission on Peace Officer Standards and Training (POST) is responsible for raising the competency level of law enforcement officers by establishing minimum selection and training standards, improving management practices, and assisting local law enforcement agencies in providing necessary training and career development programs.

Budget Request. The budget proposes a total of \$54.2 million, which is an increase of \$3.4 million, or 6.7 percent from the current year budget. This increase is due primarily to an increase of \$3.3 for the local assistance program that reimburses local law enforcement agencies for certain training costs – total expenditures of \$25.9 million are proposed for the program.

Funding within POST supports law enforcement training needs such as developing and certifying courses that meet identified training needs, quality control of POST-certified courses, management and leadership training, and identifying emerging training needs. The budget proposes expenditures of \$52.9 million from the Peace Officer's Training Fund (POTF).

POST Funding Sources					
Funding Source	<i>(dollars in thousands)</i>			Change	Percent Change
	2002-03	2003-04	2004-05		
General Fund	-\$1	\$1	\$1	\$0	0.0%
Peace Officers' Training Fund	51,011	49,535	52,923	3,388	6.8%
Reimbursements	1,041	1,259	1,259	0	0.0%
Totals, All Funds	\$52,052	\$50,795	\$54,183	\$3,387	6.7%

The table below shows the proposed program expenditures for the POST.

POST Program Expenditures					
Program	<i>Expenditures (dollars in thousands)</i>				Percent Change
	2002-03	2003-04	2004-05	Change	
Standards	\$5,246	\$6,643	\$6,663	\$20	0.3%
Training	25,379	21,542	21,575	33	0.2%
Peace Officer Training	21,427	22,609	25,944	3,335	14.8%
Administration	4,680	4,968	5,021	53	1.1%
Distributed Administration	-4,680	-4,968	-5,021	-53	1.1%
State-Mandated Local Programs	0	1	1	0	0.0%
Totals, Programs	\$52,052	\$50,795	\$54,183	\$3,388	6.7%
Total Authorized Positions	119.1	108.6	108.6	0	0.0%

Major Budget Adjustment

- A reduction of \$644,000 and 12.8 positions pursuant to Control Section 4.10. All the reduced positions were vacant positions

Budget Issues

1. Peace Officer Training Fund (POTF)

Peace Officers' Training Fund – Fund Condition					
	<i>Expenditures (dollars in thousands)</i>				
	2000-01	2001-02	2002-03	2003-04	2004-05
Prior Year Balance	\$29,617	\$24,654	-\$2,232	\$483	\$1,887
After Adjustments					
Revenues	\$39,536	38,853	35,409	36,956	37,229
Transfers from Driver Training Penalty Assessment Fund	14,000	0	18,706	14,000	14,000
Total Resources	83,153	63,507	51,883	51,439	53,116
State Operations Expenditures	36,937	32,016	29,698	26,926	26,979
Local Assistance Expenditures	23,811	28,723	21,313	22,609	25,944
Other Expenditures	0	5,000	0	0	0
Total Expenditures	60,748	65,739	51,400	49,552	52,923
Reserve	\$22,405	-\$2,232	\$483	\$1,887	\$193

Expenditures from POTF Higher Than Revenues. The POTF receives monies from the State Penalty Assessment Fund, which in turn receives monies from penalty assessments on criminal and traffic fines. Since 1997-98, the amount derived from these assessments has been between \$33 million and \$40 million annually. Since 2000-01 expenditures have varied from \$49.6 to \$65.7 million. Thus, for a number of years the POTF has depended on transfers of \$14 million annually from the Driver Training Penalty Assessment Fund through Control Section 24.10 of the Budget Act. In 2001-02, the funds from the Driver Training Penalty Assessment Fund were transferred to the General Fund rather than the POTF.

Current Year Expenditure Adjustments. Local Assistance expenditures were reduced from \$25.9 million in the approved budget for 2003-4 to an estimated \$22.6 million due to insufficient funds in the POTF. New projections for the POTF in the current year and the budget year will be available at the time of the May Revise.

What Are Local Assistance Expenditures? POST regulations require satisfactory completion of at least 24 hours of Continuing Professional Training every two years. Local Assistance expenditures pay for per diem, travel, tuition, and overtime backfill for officers participating in POST-certified training courses. The budget propose local assistance expenditures of \$25.9 million.

What Are State Operations Expenditures? State Operations expenditures include \$6.7 million for the development of training standards and \$21.6 million for training programs which includes contracts for instructors to provide training courses.

Staff Recommendation. The Subcommittee may wish to consider what the state's role should be in assisting local law enforcement agencies and the training of local law enforcement staff. Last year, a similar program which provided reimbursements for training of local correctional personnel was eliminated. The local assistance portion of this training program was originally also proposed for deletion in last year's budget, but was restored in the May Revise. The Subcommittee may wish to request the LAO to look at this program more closely to consider how the state prioritizes state training resources and the role that local governments play in determining and financing training priorities. Staff recommends holding this issue open.

2. Mandate Repeals

Budget request. The administration has proposed trailer bill language to repeal the following mandates:

- Elder Abuse Law Enforcement Training (Chapter 444, Statutes of 1997).
- Law Enforcement Sexual Harassment Training (Chapter 126, Statutes of 1993).

These mandates were suspended for the current year.

The LAO recommends repeal of these mandates. The LAO notes that the statutory dates for completion of the training for these mandates have passed (January 1999 for Elder Abuse Training and January 1997 for Sexual Harassment Training). The LAO also notes that such training is likely to continue in the absence of the mandate because it has become part of the ongoing training of peace officers.

Staff Comments. Legislation repealing these and other mandates recommended for repeal is going through the regular policy committee process.

Staff Recommendation. Pending separate legislation repealing these mandates, staff recommends suspending these mandates. Later legislation to repeal the mandates would supercede this action.

The budget proposes to continue to defer the following mandate: Domestic Violence Arrest Policies and Standards (Chapter 246, Statutes of 1995).

Staff Recommendation. Staff recommends approving the deferral of the Domestic Violence Arrest Policies and Standards mandate.

Action.

3. Other Budget Requests

Staff Recommendation. Staff recommends approval as budgeted.

Action.

Control Section 5.25 – Payments for Litigation

Control Section 5.25 provides that payments for any attorney fee claims, settlements, or judgments arising from actions in state court against a state agency or officer shall be paid from appropriations in the Budget Act that support the affected agency.

The proposed language is identical to the language approved in previous years. Last year, Subcommittee No. 2 approved this item as budgeted.

Staff Recommendation. No issues have been raised by LAO or other Legislative staff. Staff recommends approval as budgeted.

Action

Control Section 24.10 – Driver Training Fund Transfers

Background. The Driver Training Penalty Assessment Fund receives funds from a portion of the State Penalty Assessment Fund. Historically, using Control Section 24.10, specified portions of the Driver Training Penalty Assessment Fund have been transferred to the Victim/Witness Assistance Fund, the Peace Officers' Training Fund, and the Corrections Training Fund, with the remaining balance going to the General Fund. The Budget Act of 2001 directed the Controller to transfer \$38.3 million to the General Fund. In the current year, the budget estimates that \$14 million will be transferred to the Peace Officer Training Fund, 4.1 million to Victim Witness Assistance Fund, and \$19.5 million to the General Fund.

Proposed Language. Proposed budget bill language would transfer up to \$14 million to the Peace Officer Training Fund, up to \$4.1 million to the Victim Witness Assistance Fund, and an estimated \$19.8 million to the General Fund.

Staff Recommendation. Staff recommends holding this item open.

8180 Payments to Counties for the Costs of Homicide Trials

It is state policy that (1) the uniform administration of justice throughout the state is a matter of statewide interest, (2) that the prosecution of trials of persons accused of homicide should not be hampered or delayed by any lack of funds available to the county for such purposes, and (3) that the cost of homicide trials should not seriously impair the finances of a county. Government Code Sections 15200 through 15204 implement these policies by allowing a county to apply to the Controller for reimbursement of specified costs of homicide trials and hearings. The reimbursement formulas vary by population of the county and provide for reimbursement of a specified percentage of one percent of the full value of property assessed within the county. Reimbursed costs include costs incurred by the county above normal salaries and expenses for district attorney investigation and prosecution, sheriff department investigation, public defender or court-appointed counsel investigation and defense, and other costs such as witness fees and expenses, and reporter fees.

Budget Request. The budget proposes total expenditures of \$5 million from the General Fund. This is the same as proposed for the current year.

Historical Expenditures for Budget Item 8180, Payments to Counties for Homicide Trials							
Counties	1998-99	1999-00	2000-01	2001-02	2002-03	2003-04	Total
Calaveras	\$3,461,711						\$3,461,711
Imperial			\$77,774				77,774
Lake	1,270,651	\$629,216	433,778	\$8,500	\$132,739	\$3,974	2,478,858
Lassen		54,711					54,711
Mariposa			211,128	1,655,984	3,047,733		4,914,845
Mendocino	205,358	71,161	187,985	192,863	324,169	428,487	1,410,023
Placer				1,353,871	624,715		1,978,586
Plumas		717,030					717,030
San Luis Obispo				2,779,431	24,272		2,803,703
Shasta		1,127,200	500,270	1,451,003	1,463,573	285,866	4,827,912
Sierra		124,500					124,500
Trinity				58,348			58,348
Yuba	64,158	11,173					75,331
Totals	\$5,001,878	\$2,734,991	\$1,410,935	\$7,500,000	\$5,617,201	\$718,327	\$22,983,332

Staff Comments. The budget for this item has historically been difficult to predict. For the current year the Controller has sent out a total of \$718,000. However, DOF indicates that the following counties have trials for which they anticipate submitting claims:

Shasta County – 12 trials; Mendocino County – 15 active cases; Stanislaus – 1 trial; Tehama – 2 trials

Budget Bill Language. The Administration's proposal includes the following budget bill language:

Notwithstanding any other provision of law, funds appropriated in this item shall be available for reimbursement of 100 percent of the costs incurred by the County of Tehama for the homicide trial of the *People v. Andrew Hampton McCrae a.k.a. Andrew Hampton Mickel*.

Notwithstanding any other provision of law, funds appropriated in this item shall be available for reimbursement of 100 percent of the costs incurred by the County of

Stanislaus and the City of Modesto in connection with the investigation and prosecution of the homicide trial of the *People v. Scott Peterson*.

How the Reimbursement Formula Works. The reimbursement formulas work such that the county pays for the extraordinary costs of trial(s) up to a certain threshold, based on a percentage of the full value of property assessed within the county. The state pays for 80 percent to 90 percent of the extraordinary costs above the threshold depending on the population of the county. The threshold is based on .00625 of 1 percent of the full value of the property assessed in the county. For example, based on the net total assessed valuation in 2001-02, estimates of the threshold would be about \$13.3 million for San Diego County, \$4.3 million for Sacramento County, \$1.4 million for Stanislaus County, \$377,000 for Mendocino County, \$179,000 for Tehama County, and \$26,000 for Sierra County.

Change to The Formula. In previous years, language has been added to the budget bill providing specific counties with 100 percent reimbursement for the total costs for specific homicide trials. As a way to eliminate the need for exemptions and ensure that expensive trials are provided adequate reimbursement, in 2000 the Legislature approved the creation of a second threshold for very expensive trials, which allows for 100 percent reimbursement for the actual costs above the second threshold. As can be seen in the Table below, between 1996 and 2000 exemption language was provided for a total of 12 trials and that between 2000 and 2004 language has been provided for 3 trials.

Budget Acts Containing Exemption Language Reimbursing the County For 100 Percent of Costs of Specified Trials		
Budget Act	County	Trial
Budget Act of 1996 & 1997	Sonoma	People v. Davis
Budget Act of 1996, 1997, 1998 & 1999	Siskiyou	People v. Bowcutt
Budget Act of 1997 ¹ & 1998	Mendocino	People v. Lincoln
Budget Act of 1997 ¹ & 1998	Mendocino	People v. Lester
Budget Act of 1997 ¹ & 1998	Mendocino	People v. Diaz
Budget Act of 1998	Yuba	People v. Petersen
Budget Act of 1998 ²	Lake	People v. Craft
Budget Act of 1998 ²	Lake	People v. Featherman
Budget Act of 1998 ²	Lake	People v. Statler
Budget Act of 1998 ²	Lake	People v. Jensen
Budget Act of 1998 ²	Lake	People v. Frank Burrows
Budget Act of 1998 ²	Lake	People v. Josh Burrows
Budget Act of 2000	None	
Budget Act of 2001	Shasta	People v. Williams
Budget Act of 2001	San Luis Obispo	People v. Kreps
Budget Act of 2001	Placer	People v. Suarez
Budget Act of 2002	None	
Budget Act of 2003	None ³	

¹ Language specified that reimbursable costs include costs incurred during 1996-97 and 1997-98.

² Language specified that reimbursable costs include costs incurred during 1996-97, 1997-98, and 1998-99.

³ Language vetoed from the Budget Bill.

No Precedent for Reimbursing Cities. The proposed budget bill language would reimburse the City of Modesto for costs incurred in the Peterson investigation. Previously, reimbursements have only gone to counties for their costs, even in cases such as *People v. Davis* where the City of Petaluma also incurred costs in the Polly Klass case. Questions to consider. Given the distinction that counties are agents of the state and as such have less discretion over law enforcement expenditures than does a city, and the required role of counties in relation to homicide trials, is it appropriate to also fund cities for this purpose? What precedent will reimbursing a city have for future reimbursements? What criteria should be used for

determining which cities should be given reimbursements? Should a threshold similar for the threshold for counties be implemented for cities?

Language Vetoed Last Year. After conference committee, budget bill language reimbursing Stanislaus County for 100 percent of the costs related to the Peterson trial was inserted. The language was vetoed by the prior administration with the following rationale:

There is an existing procedure by which counties can procure reimbursements for costly homicide trials. Stanislaus County can apply for funds for this trial through that procedure; therefore the language is unnecessary.

Staff Notes. The Subcommittee has not approved 100 percent reimbursement language since the formula was changed in 2000. Language in the Budget Act of 2001 was amended on the Assembly floor and the vetoed language from last year was added after conference committee.

Administration Position. DOF indicates that the language was proposed because these are two high profile cases that merit reimbursement. DOF indicates that the City of Modesto language was proposed so as not to impose a hardship on the city.

Staff Comments. The Subcommittee may wish to consider:

- Whether the current reimbursement process meets the state's policy goals of uniform administration of justice, ensuring trials are not hampered or delayed by lack of funds, and the county finances are not seriously impaired. How does the 100 percent reimbursement language exempting some trials further those goals?
- The factors that distinguish these two cases as meritorious of 100 percent state reimbursement rather than any other homicide cases tried in the state.
- The precedent of reimbursing city costs of homicide trials.
- With no additional funding being added to this item, will the 100 percent reimbursement language delay or crowd out reimbursement to other counties for the costs of trials?

Staff Recommendation. Staff recommends deleting the budget bill language related to 100 percent reimbursement and allowing these counties to apply for funds through the existing procedure. Staff further recommends that the policy issue of providing reimbursements to cities for the costs of homicide trials should be handled through the regular bill process.

8700 California Victim Compensation and Government Claims Board

The California Victim Compensation and Government Claims Board, formerly known as the Board of Control, consists of three members, the Director of General Services who serves as the chair, the State Controller, and a public member appointed by the Governor. The primary functions of the Board of Control are to: (1) compensate victims of violent crime and eligible family members for certain crime-related financial losses, (2) consider and settle all civil claims against the state, (3) provide equitable travel allowances to certain government officials, (4) respond to bid protests against the state alleging improper or unfair acts of agencies in the procurement of supplies and equipment, and (5) provide reimbursement of counties' expenditures for special elections.

Budget Request. The budget proposes \$141.3 million (\$112.3 million from the Restitution Fund and \$28.1 million federal funds), which is an increase of \$2.8 million, or 2.1 percent from anticipated current year expenditures. Of the total proposed expenditures, \$132.3 million is proposed for the Citizens Indemnification Program, which indemnifies those citizens who are injured and suffer financial hardship as a direct result of a violent crime. This represents an increase of \$2.8 million for this program from estimated current year expenditures.

California Victim Compensation and Government Claims Board -- Program Expenditures					
Program	<i>Expenditures (dollars in thousands)</i>				<i>Percent</i>
	2002-03	2003-04	2004-05	Change	Change
Citizens Indemnification	\$155,200	\$129,563	\$132,331	\$2,768	2.1%
Quality Assurance & Revenue Recovery	7,117	8,002	8,081	\$79	1.0%
Disaster Relief Claim Program	16	19	19	\$0	0.0%
Civil Claims Against the State	779	807	809	\$2	0.2%
Citizens Benefiting the Public (Good Samaritans)	20	20	20	\$0	0.0%
Administration	6,039	7,749	7,749	\$0	0.0%
Distributed Administration	-6,039	-7,749	-7,749	\$0	0.0%
Counties' Special Election Reimbursements	589	0	0	\$0	0.0%
Totals, Programs	\$163,721	\$138,411	\$141,260	\$2,849	2.1%
Total Authorized Positions	310.0	301.1	301.1	0	0.0%

California Victim Compensation and Government Claims Board -- Source of Funding					
Fund	<i>Expenditures (dollars in thousands)</i>				<i>Percent</i>
	2002-03	2003-04	2004-05	Change	Change
General Fund	\$1,355	\$807	\$0	-\$807	-100.0%
Restitution Fund	110,942	119,201	112,323	-6,878	-5.8%
Federal Trust Fund	51,395	18,384	28,109	9,725	52.9%
Reimbursements	29	19	828	809	4257.9%
Totals, Programs	\$163,721	\$138,411	\$141,260	\$2,849	2.1%

Major Budget Adjustments

- Pursuant to Control Section 4.10, a reduction of \$1.1 million from the Restitution Fund, \$22,000 from the General Fund, and 19.5 positions.

Budget Change Proposals		
	Issue	Dollars
1	Victim Compensation Claims Management System. Requests funding for the budget year for a new claims management IT system.	\$420,000
2	Convert Funding Source for Programs. Requests to convert the funding source for the Government Claims Program from General Fund to a combination of claimant filing fees and state agency reimbursements, and for the State Employees' Charitable Campaign Program from General Fund to fees. (Requires Trailer Bill Language).	\$809,000
3	Custodian of Records – Redirection of Positions. Request to redirect two positions to the Quality Assurance and Revenue Recovery Division.	\$0

1. Informational Item -- Restitution Fund Update

Background. In January 2003, the board estimated that by 2004-05 the Restitution Fund would have a negative balance. This was primarily due to large increases in expenditures (increasing from \$83 million in 1998-99 to \$141.1 million in 2001-02), while revenues remained relatively constant (increasing from \$102 million in 1999-00 to \$110 million in 2001-02).

In July 2002, the board took the following actions to reduce expenditures:

- Adopted the Medicare fee schedule for medical expenses.
- Adopted the Denticare fee schedule for dental expenditures.
- Adopted mental health treatment reimbursement rates of \$70 for master's degree level therapists and \$90 for psychiatrists and psychologists.
- Implemented several administrative cost reduction strategies, including elimination of 19 vacant positions (\$712,000), freezing 24 vacant positions at Joint Power county agencies (\$1.1 million), reducing contract staff, and restricting non-essential training and travel.

Given an estimated 36 percent increase in payments in the 2002-03, the board estimated that these reductions would not be sufficient to close the gap between revenues and expenditures. As a result, the board took the following actions in January 2003:

- To avoid potential cash flow problems, the board directed that if insufficient funds are available for payment of all expenses and eligible claims, that payment are to be prioritized as follows:
 1. Payroll and operating expenses
 2. Victim payments
 3. Provider payments
- The following service limitations for mental health counseling:
 1. For a child victim, 40 sessions
 2. For an adult victim, 30 sessions
 3. For a family member when the victim has been killed, 30 sessions
 4. For a family member in all other cases, 15 sessions
 5. Extension of mental health treatment may be extended in cases requiring additional treatment or in dire or exceptional cases.
- The board adopted the Medicare Fee Schedule minus 20 percent for reimbursement of medical expenses.
- The board adopted guidelines regarding the following criteria for reimbursement of domestic violence relocation:
 1. The \$2,000 relocation benefit limited to the move of a household and not each eligible member of the household
 2. The victim must submit a copy of a formal lease agreement or a statement from the landlord

3. Directed the Executive Officer to develop a checklist for law enforcement and/or mental health providers to complete to substantiate the statutory basis for the relocation benefit
4. If the relocation is necessary for the victim's emotional well being, the victim must be receiving supportive counseling services from a licensed mental health therapist or intern, or a domestic violence or sexual assault program

Increased Collections From Inmate Trust Accounts. The budget assumes \$6 million in additional revenues into the Restitution Fund in the current year from an increasing the amount that CDC collects from Inmate Trust Accounts from 20 percent to 30 percent. The budget assumes an additional \$10 million due to increasing the collection rate to 50 percent in the budget year.

Further Research By the Board. Due to changes in the fund condition for the Restitution Fund, the board is examining the programmatic impacts that adopting the Medicare fee schedule minus 20 percent for medical expense reimbursement and the Denticare fee schedule has had. The board also indicates that it is researching the impact that reducing the number of reimbursable mental health sessions has had.

Informational Issue

2. Convert Funding Source for the Government Claims Program and the State Employees' Charitable Campaign.

Budget Request. The budget proposes to convert the Government Claims Program from a General Fund supported program to one that is funded from a combination of claimant filing fees and reimbursements from state agencies, based on the cost of handling the workload associated with the claims filed against them in the preceding fiscal year. This proposal requires trailer bill language.

Government Claims Program. Under this proposal, the board would charge an up front filing fee of \$25, with a mechanism for waiving the fee for claimants unable to pay. The remainder of the program would be funded through a surcharge paid as a percentage of the approved claim by the affected state agencies (up to 15 percent). The budget assumes revenues of \$225,000 from the filing fees and \$539,000 from the surcharge.

State Employees' Charitable Campaign. The Administration proposes to amend Government Code Section 13923 to allow the board to recover actual costs for administering the State Employees' Charitable Campaign from the agency receiving the charitable contributions. The board estimates these administrative costs as approximately \$50,000.

Comments. The board reports that some small organizations may object to the Charitable Campaign fee and may choose not to apply. Additionally, the administrative fees charged to approved charities will result in fewer dollars being provided to the ultimate recipients of the donations.

Staff Recommendation. Staff recommends approving the proposed General Fund reduction of \$809,000, and approving the proposed trailer bill language.

Action.

3. State Operations Expenditures

California Victim Compensation and Government Claims Board – Total Expenditures (Claim Payments and Administrative Expenses)								
Type of Expenditure	<i>Expenditures (dollars in thousands)</i>						<i>Estimated</i>	
	1999-00	Percent	2000-01	Percent	2001-02	Percent	2002-03	Percent
Administrative Expense	\$35,012	29%	\$41,339	32%	\$45,879	27%	\$53,078	25%
Claim Payment	85,687	71%	88,253	68%	123,952	73%	158,679	75%
Totals, Programs	\$120,699	100%	\$129,592	100%	\$169,831	100%	\$211,757	100%

Due to the projected fiscal problems in the Restitution Fund, last year the Subcommittee requested the LAO to review the budget proposal for the Victims of Crime (VOC) Program and to make any recommendations to reduce expenditures and enhance revenues for the VOC Program, as well as review the program's administrative expenditures.

LAO Findings. Regarding VOC administrative expenses, the LAO found that the program's administrative expenses are relatively high compared to other states. Given the relatively high administrative costs, the LAO recommended that the Legislature consider reducing the board's administrative expenses by eliminating the Criminal Restitution Compacts (CRCs) with the counties because the LAO's analysis indicated that the costs were not justified. This would have generated \$2.3 million in savings in the current year.

The LAO's review showed that the administrative expenditures for the VOC Program was \$41.5 million or 23 percent of the VOC Program's total budget. The Table below compares administrative costs with victim programs in other states. The LAO indicates that these states were selected because their programs offer similar benefits to those in California and, in the case of Florida and Texas, are among the largest states with victim compensation programs.

The board indicates that for some of these agencies from other states, the total does not include some overhead administrative costs such as human resources, legal, and budget staff.

Victim Compensation Program Administrative Expenses In a Selected Sample of States ¹	
State	Administrative Expenses ²
Texas ³	10%
Utah ³	10%
Colorado ³	14%
Washington	17%
Florida ³	19%
California	23%
Oregon ³	24%

¹ With the exception of California, administrative expenses are for 2001-02.
² Administrative expenses represent the percent of total program budget.
³ Also administer victim assistance programs.

The following table shows administrative costs of several other California state programs as compared to the VOC program. The LAO compared VOC to these programs because they had similar administrative functions, including outreach and education, application processing, and claims payments.

Victim Compensation Program Administrative Expenses Compared with Selected California Programs ¹	
Program	Administrative Expenses ²
Healthy Families	1%
Unemployment Insurance	7%
Medi-Cal	8%
State Workers' Compensation Program	13%
VOC Program	23%
¹ With the exception of Medi-Cal (2002-03) and the State Workers' Compensation Program (2001-02), expenses are for 2003-04. ² Administrative expenses represent the percent of total program budget.	

The LAO notes that due to variation in the administration of state victim programs, and different economies of scale in other programs, these are not perfect comparisons. For example, for the Healthy Families program, much of the administration is performed by contractors. However, the LAO also notes that the comparisons do suggest that California could effectively administer the VOC program at a lower cost.

Criminal Restitution Compacts (CRCs). The board supports county staff through 25 CRCs with local law enforcement agencies. The main responsibility of these state-funded county positions is to encourage judges to impose restitution orders on offenders whose victims have filed claims with the board. As such, the LAO notes that these positions should help increase revenue to the Restitution Fund.

As can be seen in the following Table, the LAO finding show that the state spends more to fund the CRC positions than the amount of revenue collected related to these positions.

Criminal Restitution Compact Expenditures And Related Revenue					
1997-98 Through 2001-02 (In Thousands)					
	1997-98	1998-99	1999-00	2000-01	2001-02
Expenditures	\$1,018	\$1,279	\$1,579	\$1,833	\$2,208
Related Revenue	241	249	353	566	838
Totals, Programs	-\$777	-\$1,030	-\$1,226	-\$1,267	-\$1,370

Each year there was a net cost to the state associated with the CRCs has ranged from \$777,000 to \$1.4 million. The CRC revenue ranged from about 20 percent of program costs in 1998-99 to about 38 percent in 2001-02. The LAO notes that despite the poor returns, the board has spent increasing amounts to support this component of the program.

The board indicates that in addition to revenues going to the Restitution Fund, that CRCs generate additional Restitution orders for victims.

LAO Recommendation. The LAO recommended that the Legislature consider eliminating the CRCs with the counties, which would provide about \$2.3 million in the budget year that could be used to pay victim claims.

Staff Recommendation. Staff recommends holding this issue open pending receipt of additional information from the board related to how this program works and potential other benefits of the program.

Action.

4. Other Budget Requests

Staff Recommendation. Staff recommends approval as budgeted.

Action.

9670 Government Claims Board and Settlements and Judgments by the Department of Justice

The budget for this item reflects: (1) statewide expenditures for certain equity claims against the state approved for payment by the California Victim Compensation and Government Claims Board and referred to the Legislature in the omnibus claims bills for payment, (2) certain settlements and judgments against the state paid through judgment and settlement bills sponsored by the Department of Justice, and (3) administration and payment of tort and liability claims.

Background. The Department of Justice (DOJ) currently has the delegated authority to approve and pay General Fund tort claims against the State that do not exceed \$35,000. In previous years, Item 9670-001-0001 has provided up to \$1.2 million General Fund for this purpose. The approved claims were paid from this appropriation and the remainder of the \$1.2 million would revert back to the General Fund.

Budget Request. Similar to last year, the budget does not propose any General Fund appropriation for this purpose. Claims under \$35,000 from General Fund agencies would be paid from the base budget of affected agency. Special Fund departments (such as the Department of Transportation) would also have the authority under this item to pay claims up to \$35,000 with DOF approval. To enable these departments to continue to pay special fund claims pursuant to this authority, the DOF is proposing to leave Item 9670 in the Budget Bill, with the provisional language addressing special funds, minus the General Fund appropriation.

The proposed language is identical to the language that was approved by the Legislature last year.

Staff Recommendation. Staff recommends approval as budgeted.

Action.

SUBCOMMITTEE NO. 2

Agenda

Byron Sher, Chair
Sheila Kuehl
Bruce McPherson



SUMMARY OF ACTIONS

Thursday, March 11, 2004
10:00 am
Room 112

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Resources--Environmental Protection—Public Safety—Energy

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.

8550 California Horse Racing Board

The seven-member California Horse Racing Board (CHRB) supervises all race meetings in the state where pari-mutuel wagering is conducted. Principal activities of the CHRB include: protecting the betting public; licensing of racing associations; sanctioning of every person who participates in any phase of horseracing; designating racing days and charity days; acting as a quasi-judicial body in matters pertaining to horse racing meets; collecting the state's lawful share of revenue derived from horse racing meets; and enforcing laws, rules, and regulations pertaining to horse racing in California. The state's revenue from horseracing is principally derived from fees based upon a percentage of the pari-mutuel wagering pools, breakage (the odds cents not paid to winning ticket holders), and unclaimed tickets. Additional revenue is derived from licenses issued to horse owners, trainers, jockeys, grooms and others, and from fines.

Budget Request: The budget proposes \$8.4 million from special funds, an increase of \$4,000, or less than 0.1 percent from the estimated current year expenditures. Pursuant to Control Section 4.10, the CHRB was reduced by 6 positions and \$275,000 in the current year and the budget year.

Staff Recommendation: No issues have been raised with respect to the CHRB budget. This budget is funded entirely from special funds. Staff recommends approval as budgeted.

Action.

Without objection, approved as budgeted.

0855 California Gambling Control Commission

The California Gambling Control Commission (GCC) was established by Chapter 867, Statutes of 1997 (SB 8, Lockyer). The five-member commission is appointed by the Governor subject to Senate confirmation. The GCC is responsible for setting policy, issuing licenses, administering, adjudicating, and regulating all matters related to controlled gambling in California.

In addition, pursuant to the Tribal Gaming Compacts and Executive Order D-31-02, the GCC is responsible for (1) administering the gaming license process, (2) controlling, collecting and accounting for all gaming device license fees, (3) making findings of suitability regarding key employees of tribal gaming operations, and (4) ensuring the allocation of gaming devices among California's tribes does not exceed the allowable number in the compacts. Included with this responsibility is serving as Trustee for the Revenue Sharing Trust Fund and Administrator of the Special Distribution Fund.

Budget Request. The budget proposes total expenditures of \$52 million from special funds, which is a decrease of \$75.1 million, or 59 percent from estimated current year expenditures. Of this amount, \$6 million (\$3.8 million Special Distribution Fund and \$2.2 million Gambling Control Fund) is for state operations and \$46 million is for distribution from the Revenue Sharing Trust Fund to non-gaming tribes as specified in the compacts.

Current Year Appropriations. The reason for the budget year decrease is due to two bills that appropriated funds from the Special Distribution Fund (SDF) in the current year. Chapter 210, Statutes of 2003 (AB 673, Horton), transferred \$50.5 million from the SDF to the Revenue Sharing Trust Fund for distribution to non-gaming tribes as specified in the tribal-state compacts. In addition, Chapter 858, Statutes of 2003 (SB 621, Battin), appropriated \$25 million from the SDF for distribution to local government agencies impacted by tribal gaming. The budget projects a \$137 million reserve for the SDF at the end of 2004-05.

California Gambling Control Commission – Source of Funding					
Fund	<i>Expenditures (dollars in thousands)</i>				<i>Percent</i>
	2002-03	2003-04	2004-05	Change	Change
Indian Gaming Revenue Sharing Trust Fund	\$29,942	\$96,569	\$46,000	-\$50,569	-52.4%
Indian Gaming Special Distribution Fund	2,662	28,542	3,805	-24,737	-86.7%
Gambling Control Fund	1,666	1,946	2,195	249	12.8%
Totals, Programs	\$34,270	\$127,057	\$52,000	-\$75,057	-59.1%
Authorized Positions	34.8	43.2	45.6	2.4	5.5%

Major Budget Adjustments

- A reduction of \$91,000 (Gambling Control Fund) and 1.5 positions pursuant to Control Section 4.10.
- An augmentation of \$103,000 (\$72,000 Special Distribution Fund, \$31,000 Gambling Control Fund) and one position to address ongoing licensing, legislation/administrative issues, and regulation workload.
- An augmentation of \$199,000 (\$139,000 Special Distribution Fund, \$60,000 Gambling Control Fund) and 2.5 positions on a two-year limited-term basis, to address workload related to Third Party Provider Proposition Services.

ISSUES

1. Informational Issue. Budget Assumes \$500 million in New Revenues from Renegotiated Revenue Sharing Compacts.

Background. As a result of the passage of Proposition 1A in March 2000, Class III gambling (such as slot machines and banked or percentage card games) became legal on California Indian land for those tribes that enter into a tribal-state compact approved by the Legislature, the Governor, and the federal government. These compacts lay out the legal relationship between the tribes and the state with respect to Indian gambling. According to the GCC, there are currently 107 federally recognized tribes in California, and 64 of these tribes have tribal-state gaming compacts that last until 2020. Of those 64 tribes, 51 are currently operating casinos in California.

Negotiations Last Year. In March 2003, the prior administration entered renegotiations with the gaming tribes in an effort to generate \$680 million in new General Fund revenues. No tribes with existing compacts agreed to renegotiated arrangements. The prior administration, however, did come to new agreements with three tribes. The Legislature approved these agreements last year. Unlike the prior compacts, the new compacts require the payments of up to 5 percent of the tribes' winnings to the General Fund.

Currently, pursuant to all but the three most recent compacts, tribes pay more than \$130 million annually to the state for the right to offer Class III gambling. These revenues are not deposited into the General Fund. Instead, the revenues are deposited into the Indian Gaming Revenue Sharing Trust Fund and the Indian Gaming Special Distribution Fund. The Revenue Sharing Trust Fund includes \$46 million annually in licensing fees to operate gaming machines. These funds are distributed to tribes with no gaming or those operating less than 350 slot machines. The Special Distribution Fund includes \$86 million in fees, based on the average net win of machines in operation as of September 1, 1999.

Issue. The Governor proposes to again enter compact negotiations and renegotiations with the tribes. The Governor proposes securing \$500 million in annual General Fund revenues (beginning in 2004-05) as the result of these negotiations. Because these negotiations are currently occurring, it is unknown what amount of revenue, if any, will result from the negotiations.

Analyst's Comments. The LAO indicates that it is unlikely that the Governor will secure \$500 million in budget-year revenues for the following reasons:

- Under federal law, the Governor cannot impose a tax on the tribes, therefore, the tribes must agree to pay any additional monies.
- The \$500 million proposed is almost four times what tribes currently pay.
- The budget proposes that the collected revenues go directly to the General Fund, as opposed to the current policy, in which the revenues are used largely in a manner related to the tribes or gambling.
- Since the renegotiated compacts also need to be approved by the federal government, it may be difficult to implement any changes to revenue payments to ensure full-year revenues in the budget year.

The LAO further notes that the compacts are voluntary agreements, and that some tribes could choose to continue to operate under the existing agreements for nearly two more decades. As such, the LAO believes that the administration will likely have to negotiate away items of significant value to secure any sizable increases in revenue. For instance, some existing compact tribes have already expressed interest in an expansion of their gaming. To the extent that any compacts are renegotiated, the Legislature would have to ratify the renegotiated compact.

Staff Comments. The GCC has indicated that it does not have a direct role in the negotiations. The Department of Finance still anticipates that the negotiations will still generate an estimated \$500 million in new revenues.

Informational Issue.

2. Payment for Negotiations Made from The Special Distribution Fund.

Background. Revenues to the Special Distribution Fund (SDF) are dependent on the number of slot machines in operation as of September 1, 1999. Tribes contribute revenues each quarter to the fund, up to 13 percent of the average daily net win from these machines, based on the number of slot machines. The GCC is responsible for collecting the appropriate amount of payments into this fund. The budget estimates that the tribes will contribute \$86 million to the SDF in the budget year.

Pursuant to the compacts, the monies in the SDF are subject to legislative appropriation for the following statewide purposes:

- Reimbursement for state regulatory costs associated with implementation of the compacts.
- Grants for gambling addiction programs.
- Grants to state and local agencies affected by tribal government gaming.
- Payment of shortfalls that may occur in the Revenue Sharing Trust Fund.
- Any other purpose specified by the Legislature.

Issue. At a meeting on February 5, 2004, the GCC approved a consulting contract for \$235,000 out of the Special Distribution Fund to pay for the Governor's Office negotiator for the compact renegotiations and to negotiate new compacts for Class III gaming. No appropriation by the Legislature was made for this purpose. The GCC has indicated that it does not have a specific role with respect to the negotiations.

Is An Appropriation for this Purpose Necessary? In 2002-03 the Legislature appropriated \$750,000 from the General Fund to the Office of Planning & Research (OPR) for compact renegotiations (Chapter 3x, Statutes of 2002). Any unused portion of those funds would have reverted at the end of last year. No similar appropriation was made in this case, rather GCC used part of its operating expenses budget for this purpose.

Are Special Distribution Funds Appropriate for this Purpose? At least one of the tribal councils has raised objections about the use of SDF for this purpose. The SDF is permitted for compensation of regulatory costs incurred by the GCC as well as the DOJ in connection with the implementation and administration of tribal-state gaming compacts. Is negotiation of a compact considered a regulatory cost?

DOF Position. The DOF indicates that the negotiator contract is a regulatory-related cost because it is intended to result in improvements and/or clarifications in the language of the existing compacts. The DOF indicates that the Commission, as part of the Executive Branch, is contracting with the negotiator on behalf of the Governor.

The Table on the following page shows the consulting budget for the GCC. The GCC reports that the past year contract was for an expert to assist in validating the audit program that the GCC had developed. In the current year, the contracts include \$235,000 for the negotiator and the remainder will likely be used to contact with an expert on some regulatory issues related to card rooms.

Proposed Budget Year Contract Expenditures. The GCC reports that for the budget year the \$559,000 is made up of \$100,000 is for Commissioner Advisory Contingencies, \$100,000 is for other contingencies, \$125,000 is for legal contingencies and alternative dispute resolution. The GCC reports that the remaining \$234,000 is an amount that was previously budgeted for this item, but that was adjusted to pay for certain personal services costs such as retirement costs. The GCC indicates that these funds may be used for such personal services expenditures in the budget year.

Total External Consulting Budget for GCC (dollars in thousands)			
Expenditure Classification	Actual Expenditures Past Year	Estimated Expenditures Current Year	Proposed Expenditures Budget Year
External Consulting and Professional Services	120	265	559

Staff Recommendation. The consulting budget is proposed to more than double over estimated current year expenditures. Additionally, the GCC has indicated that the \$234,000 proposed for consulting services may likely be used for other types of expenses. For these reasons, staff recommends reducing the consulting budget by \$234,000.

Action

Without objection, reduced the external consulting budget for the commission by \$234,000 in the budget year. (\$164,000 Special Distribution Fund and \$70,000 Gambling Control Fund.

3. Special Distribution Fund

As previously indicated, pursuant to the compacts, the monies in the SDF are subject to legislative appropriation for the following statewide purposes:

- Reimbursement for state regulatory costs associated with implementation of the compacts.
- Grants for gambling addiction programs.
- Grants to state and local agencies affected by tribal government gaming.
- Payment of shortfalls that may occur in the Revenue Sharing Trust Fund.
- Any other purpose specified by the Legislature.

In the case *Coyote Valley Band of Pomo Indians v. The State of California* a federal district court ruled on the possible uses of the SDF, and in particular, "the other purposes specified by the Legislature." The opinion states that:

"The Court thus construes the "other purposes" listed in Section 5.2(e) of the proposed compact to be limited to other purposes that, like the first four enumerated purposes, are directly related to gaming."

Expenditure of SDF monies in the current year. The Legislature appropriated \$94 million from the Special Distribution Fund in 2003-04 as follows:

- About \$15 million was spent on gambling regulatory activities.
- Chapter 210, Statutes of 2003 (AB 673, Horton), transferred \$51 million on a one-time basis from the Special Distribution Fund to the Revenue Sharing Trust Fund to ensure that eligible Indian tribes received the maximum payments allowed (\$1.1 million).
- Chapter 210 also established the Office of Problem and Pathological Gambling in the Department of Alcohol and Drug Programs (DADP) to develop a problem gambling prevention program. The DADP

was provided \$3 million for the program. The administration proposes trailer bill language to repeal Chapter 210 and eliminate a scheduled \$3 million appropriation for the same purpose in the budget year.

- Chapter 858, Statutes of 2003 (SB 621, Battin), appropriated \$25 million from the Special Distribution Fund to local government agencies affected by tribal gaming.

Chapter 858 specifies that priority for funding from SDF is in the following descending order:

- a) An appropriation for any shortfalls that may occur in the Revenue Sharing Trust Fund
- b) An appropriation for problem gambling prevention programs in the Office of Problem and Pathological Gambling within the State Department of Alcohol and Drug Programs;
- c) The amount appropriated in the annual Budget Act for allocation between the Division of Gambling Control and the California Gambling Control Commission (CGCC) for regulatory functions that are directly related to Indian gaming; and,
- d) An appropriation for the support of local government agencies impacted by tribal gaming.

Chapter 210 requires the CGCC to report to the Legislature the amount of funding from the SDF necessary to make up the difference between the \$1.1 million maximum and the actual amount paid to each eligible tribe from the Revenue Share Trust Fund. Chapter 858 requires the Department of Finance, in consultation with the CGCC, to calculate the total revenue in the SDF that will be available for local government agencies impacted by tribal gaming. The information is to be included in the May Revision.

Issue. Total resources in the SDF in 2004-05 will be roughly \$150 million (\$86 million in payments from tribes and revenues from past years). The budget proposes expenditures of \$13 million for Indian gaming regulatory activities. The administration, however, does not propose expenditures for the remaining \$137 million in the fund.

Analyst's Recommendation. In reviewing the options for spending the fund balance, the LAO indicates that there are many possible uses. The LAO notes that the impacts of gambling are widespread, even in communities without casinos. The LAO suggests that costs related to public safety, road maintenance, and gambling addiction, for instance, affect many cities, counties, and the state.

Given the budget situation and broad parameters of the fund, the LAO recommends using the \$137 million for spending which both meets the requirements of the fund and helps the budget situation. For instance, funds currently spent by the General Fund on gambling-related expenses could be replaced with SDF revenues—generating General Fund savings. Below, the LAO identifies two such possible uses for the fund revenues as illustrative examples:

- **Public Safety Demands.** The LAO notes that gambling activities increase the needs for law enforcement services throughout the state. The LAO believes that the SDF could appropriately be used to address these public safety demands. In total, cities and counties spend billions of dollars annually on public safety. The LAO notes that the state contributes a small amount of this total annually (\$100 million from the General Fund) through the Citizens' Option for Public Safety (COPS) program. If the Legislature continues to fund the COPS program, the LAO suggests that a portion of the funding could be directed from the SDF. Given the large amounts of money being spent, the LAO believes that it is reasonable to assume that such a small COPS-related portion of total public safety expenditures is already spent on gambling-related activities.
- **Treat Gambling Addiction.** The LAO notes that there are currently many individuals with gambling problems. The LAO suggests that it is reasonable to assume that some individuals that suffer from this problem seek mental health services. Currently, several hundreds of millions in General Fund dollars are allocated to counties to provide mental health services at the local level.

As with the public safety example above, the LAO believes that a portion of these General Fund expenditures could be replaced with Special Distribution revenues.

Staff Comments. The following three Bills have been introduced regarding the Special Distribution Fund:

- AB 2162, Oropeza
- AB 2579 La Suer
- SB 1586 Murray

Staff Recommendation. Staff recommends holding this issue open.

Action.

4. Informational Issue. License Approval Process

Background. The Gambling Control Act makes the GCC responsible for licensing and imposing fines on persons involved in controlled gambling activities, such as card rooms. With respect to Indian gaming, the GCC is charged with reviewing licenses and permits to make findings of suitability to tribal gaming authorities to help assure that no unqualified or disqualified person is issued or allowed to hold a license. Individuals who must apply for gambling licenses include: (1) those who have a financial interest in the gambling establishment; (2) key employees of the gambling establishment, primarily management and those who handle money; (3) other employees of the gambling establishment; and (4) suppliers of gambling equipment and resources. The Division of Gambling within the Department of Justice (DOJ) is responsible for performing the background check on individuals.

Issue. Two years ago, the LAO raised an issue with respect to the DOJ's Division of Gambling and the license approval process. According to estimates at that time from the DOJ, there were as many as 12,000 to 15,000 individuals designated as "key" employees from tribal gaming establishments who would have gambling licenses for review by the GCC for findings of suitability. In addition to this number, there was an unknown number of those with a financial interest and certain suppliers of gaming equipment whose licenses are also to be reviewed by the GCC in order to make findings of suitability.

Last year, during Subcommittee meetings the GCC indicated that the Division of Gaming at the DOJ had forwarded a total of approximately 300 applications to the GCC which the GCC had reviewed and forwarded findings of suitability to tribal gaming authorities.

Updated Numbers. The GCC reports that to-date, it has received 942 applications with completed background checks for "key" employees from the DOJ and has forwarded 890 findings of suitability to tribal authorities. The GCC reports that the remaining 52 are currently being processed. The GCC has approved or is in the process of approving all of the applications forwarded by the DOJ. The GCC indicates that it typically takes one month for it to review, schedule and act upon an application once the application has been received from DOJ.

Staff Comments. In the two years since the LAO raised the issue, less than 1,000 findings of suitability have been forwarded to tribal gaming authorities. The Subcommittee may wish to ask whether the GCC thinks that the speed at which this process is moving is a problem. This is an issue that can be further discussed when the Department of Justice budget is before the Subcommittee. The Subcommittee may wish to get additional information from the GCC on whether DOJ has shared a timeline regarding plans to process the number of outstanding applications with the GCC.

5. License Information System.

The 2002 Budget Act appropriated \$73,000 (\$58,000 from the SDF and \$15,000 from the Gambling Control Fund) for the GCC and \$1.3 million (\$1.1 million SDF and \$263,000 Gambling Control Fund) for the DOJ to provide equipment and software for a database management system that will aid the DOJ's Division of Gambling and the GCC to track gaming license information.

Last year, the Legislature reappropriated these funds for this project. The current timeline for the project estimates that the RFP will be released the week of March 15, with a contract award for August 23, implementation of the software in September, and system implementation 180 days later.

Staff Comments. This project is now at least one year behind schedule and the appropriation has been reappropriated once. The GCC reports that the contract award is now estimated for August. As such, the GCC will need to reappropriate the funds for this project. The Administration has not yet requested a reappropriation, but the Subcommittee may wish to get an updated project timeline and updated estimated costs for the project prior to approving a reappropriation.

Informational Issue.

6. Other Budget Requests

Staff Recommendation. Staff recommends approval as budgeted.

Action.

Without objection, approved as budgeted.

8140 State Public Defender

The Office of the State Public Defender (OSPD) was established in 1976 to provide indigent representation. Chapter 869, Statutes of 1997, revised the mission of the State Public Defender. The OSPD is now required to concentrate on post-conviction proceedings following a judgment of death. Specifically, the OSPD is limited to representing capital appellants only for the purpose of the direct appeal for all cases to which the OSPD was appointed after January 1, 1998.

State Public Defender -- Program Expenditures					
Program	Expenditures (dollars in thousands)				Percent Change
	2002-03	2003-04	2004-05	Change	
TOTAL, State Public Defender	\$10,925	\$11,176	\$11,176	\$0	0.0%
Total Positions	96.9	82.3	82.3	0	0.0%

Budget Request. The budget proposes \$11.2 million from the General Fund, which is the same as anticipated current year expenditures.

Control Section 4.10

Current year estimates and the budget proposal includes a reduction of \$457,000 and 12.2 positions related to performing administrative and legal support functions. The OSPD reports that 5.2 of these positions were vacant, 5 employees transferred to other positions within the state, 2 employees retired, and one employee was laid off.

Previous Reductions. For 2002-03 the OSPD had a mid year reduction of \$182,000 and 1.5 positions as well as savings related to two vacant attorney positions.

Staff Recommendation. The Subcommittee may wish to ask OSPD about the programmatic implications of a 5 percent and a 10 percent cut. Staff recommends holding this budget open.

Action.

Budget held open.

8120 Commission on Peace Officer Standards and Training (POST)

The Commission on Peace Officer Standards and Training (POST) is responsible for raising the competency level of law enforcement officers by establishing minimum selection and training standards, improving management practices, and assisting local law enforcement agencies in providing necessary training and career development programs.

Budget Request. The budget proposes a total of \$54.2 million, which is an increase of \$3.4 million, or 6.7 percent from the current year budget. This increase is due primarily to an increase of \$3.3 for the local assistance program that reimburses local law enforcement agencies for certain training costs – total expenditures of \$25.9 million are proposed for the program.

Funding within POST supports law enforcement training needs such as developing and certifying courses that meet identified training needs, quality control of POST-certified courses, management and leadership training, and identifying emerging training needs. The budget proposes expenditures of \$52.9 million from the Peace Officer's Training Fund (POTF).

POST Funding Sources					
Funding Source	<i>(dollars in thousands)</i>			Change	Percent Change
	2002-03	2003-04	2004-05		
General Fund	-\$1	\$1	\$1	\$0	0.0%
Peace Officers' Training Fund	51,011	49,535	52,923	3,388	6.8%
Reimbursements	1,041	1,259	1,259	0	0.0%
Totals, All Funds	\$52,052	\$50,795	\$54,183	\$3,387	6.7%

The table below shows the proposed program expenditures for the POST.

POST Program Expenditures					
Program	<i>Expenditures (dollars in thousands)</i>				Percent Change
	2002-03	2003-04	2004-05	Change	
Standards	\$5,246	\$6,643	\$6,663	\$20	0.3%
Training	25,379	21,542	21,575	33	0.2%
Peace Officer Training	21,427	22,609	25,944	3,335	14.8%
Administration	4,680	4,968	5,021	53	1.1%
Distributed Administration	-4,680	-4,968	-5,021	-53	1.1%
State-Mandated Local Programs	0	1	1	0	0.0%
Totals, Programs	\$52,052	\$50,795	\$54,183	\$3,388	6.7%
Total Authorized Positions	119.1	108.6	108.6	0	0.0%

Major Budget Adjustment

- A reduction of \$644,000 and 12.8 positions pursuant to Control Section 4.10. All the reduced positions were vacant positions

Budget Issues

1. Peace Officer Training Fund (POTF)

Peace Officers' Training Fund – Fund Condition					
	<i>Expenditures (dollars in thousands)</i>				
	2000-01	2001-02	2002-03	2003-04	2004-05
Prior Year Balance	\$29,617	\$24,654	-\$2,232	\$483	\$1,887
After Adjustments					
Revenues	\$39,536	38,853	35,409	36,956	37,229
Transfers from Driver Training Penalty Assessment Fund	14,000	0	18,706	14,000	14,000
Total Resources	83,153	63,507	51,883	51,439	53,116
State Operations Expenditures	36,937	32,016	29,698	26,926	26,979
Local Assistance Expenditures	23,811	28,723	21,313	22,609	25,944
Other Expenditures	0	5,000	0	0	0
Total Expenditures	60,748	65,739	51,400	49,552	52,923
Reserve	\$22,405	-\$2,232	\$483	\$1,887	\$193

Expenditures from POTF Higher Than Revenues. The POTF receives monies from the State Penalty Assessment Fund, which in turn receives monies from penalty assessments on criminal and traffic fines. Since 1997-98, the amount derived from these assessments has been between \$33 million and \$40 million annually. Since 2000-01 expenditures have varied from \$49.6 to \$65.7 million. Thus, for a number of years the POTF has depended on transfers of \$14 million annually from the Driver Training Penalty Assessment Fund through Control Section 24.10 of the Budget Act. In 2001-02, the funds from the Driver Training Penalty Assessment Fund were transferred to the General Fund rather than the POTF.

Current Year Expenditure Adjustments. Local Assistance expenditures were reduced from \$25.9 million in the approved budget for 2003-4 to an estimated \$22.6 million due to insufficient funds in the POTF. New projections for the POTF in the current year and the budget year will be available at the time of the May Revise.

What Are Local Assistance Expenditures? POST regulations require satisfactory completion of at least 24 hours of Continuing Professional Training every two years. Local Assistance expenditures pay for per diem, travel, tuition, and overtime backfill for officers participating in POST-certified training courses. The budget propose local assistance expenditures of \$25.9 million.

What Are State Operations Expenditures? State Operations expenditures include \$6.7 million for the development of training standards and \$21.6 million for training programs which includes contracts for instructors to provide training courses.

Staff Recommendation. The Subcommittee may wish to consider what the state's role should be in assisting local law enforcement agencies and the training of local law enforcement staff. Last year, a similar program which provided reimbursements for training of local correctional personnel was eliminated. The local assistance portion of this training program was originally also proposed for deletion in last year's budget, but was restored in the May Revise. The Subcommittee may wish to request the LAO to look at this program more closely to consider how the state prioritizes state training resources and the role that local governments play in determining and financing training priorities. Staff recommends holding this issue open.

Action.

Issue held open. The Subcommittee requested LAO to look at the issue further.

2. Mandate Repeals

Budget request. The administration has proposed trailer bill language to repeal the following mandates:

- Elder Abuse Law Enforcement Training (Chapter 444, Statutes of 1997).
- Law Enforcement Sexual Harassment Training (Chapter 126, Statutes of 1993).

These mandates were suspended for the current year.

The LAO recommends repeal of these mandates. The LAO notes that the statutory dates for completion of the training for these mandates have passed (January 1999 for Elder Abuse Training and January 1997 for Sexual Harassment Training). The LAO also notes that such training is likely to continue in the absence of the mandate because it has become part of the ongoing training of peace officers.

Staff Comments. Legislation repealing these and other mandates recommended for repeal is going through the regular policy committee process.

Staff Recommendation. Pending separate legislation repealing these mandates, staff recommends suspending these mandates. Later legislation to repeal the mandates would supercede this action.

The budget proposes to continue to defer the following mandate: Domestic Violence Arrest Policies and Standards (Chapter 246, Statutes of 1995).

Staff Recommendation. Staff recommends approving the deferral of the Domestic Violence Arrest Policies and Standards mandate.

Action.

Without objection, suspended Elder Abuse Training and Sexual Harassment Training mandates, pending legislation going through the regular policy bill process to repeal the mandates. Without objection deferred the Domestic Violence Arrest Policies and Standards mandate.

3. Other Budget Requests

Staff Recommendation. Staff recommends approval as budgeted.

Action.

Approved as budgeted (Vote 2-0 McPherson not present)

Control Section 5.25 – Payments for Litigation

Control Section 5.25 provides that payments for any attorney fee claims, settlements, or judgments arising from actions in state court against a state agency or officer shall be paid from appropriations in the Budget Act that support the affected agency.

The proposed language is identical to the language approved in previous years. Last year, Subcommittee No. 2 approved this item as budgeted.

Staff Recommendation. No issues have been raised by LAO or other Legislative staff. Staff recommends approval as budgeted.

Action

Approved as budgeted (Vote 2-0 McPherson not present)

Control Section 24.10 – Driver Training Fund Transfers

Background. The Driver Training Penalty Assessment Fund receives funds from a portion of the State Penalty Assessment Fund. Historically, using Control Section 24.10, specified portions of the Driver Training Penalty Assessment Fund have been transferred to the Victim/Witness Assistance Fund, the Peace Officers' Training Fund, and the Corrections Training Fund, with the remaining balance going to the General Fund. The Budget Act of 2001 directed the Controller to transfer \$38.3 million to the General Fund. In the current year, the budget estimates that \$14 million will be transferred to the Peace Officer Training Fund, 4.1 million to Victim Witness Assistance Fund, and \$19.5 million to the General Fund.

Proposed Language. Proposed budget bill language would transfer up to \$14 million to the Peace Officer Training Fund, up to \$4.1 million to the Victim Witness Assistance Fund, and an estimated \$19.8 million to the General Fund.

Staff Recommendation. Staff recommends holding this item open.

Action.

Held open

8180 Payments to Counties for the Costs of Homicide Trials

It is state policy that (1) the uniform administration of justice throughout the state is a matter of statewide interest, (2) that the prosecution of trials of persons accused of homicide should not be hampered or delayed by any lack of funds available to the county for such purposes, and (3) that the cost of homicide trials should not seriously impair the finances of a county. Government Code Sections 15200 through 15204 implement these policies by allowing a county to apply to the Controller for reimbursement of specified costs of homicide trials and hearings. The reimbursement formulas vary by population of the county and provide for reimbursement of a specified percentage of one percent of the full value of property assessed within the county. Reimbursed costs include costs incurred by the county above normal salaries and expenses for district attorney investigation and prosecution, sheriff department investigation, public defender or court-appointed counsel investigation and defense, and other costs such as witness fees and expenses, and reporter fees.

Budget Request. The budget proposes total expenditures of \$5 million from the General Fund. This is the same as proposed for the current year.

Historical Expenditures for Budget Item 8180, Payments to Counties for Homicide Trials							
Counties	1998-99	1999-00	2000-01	2001-02	2002-03	2003-04	Total
Calaveras	\$3,461,711						\$3,461,711
Imperial			\$77,774				77,774
Lake	1,270,651	\$629,216	433,778	\$8,500	\$132,739	\$3,974	2,478,858
Lassen		54,711					54,711
Mariposa			211,128	1,655,984	3,047,733		4,914,845
Mendocino	205,358	71,161	187,985	192,863	324,169	428,487	1,410,023
Placer				1,353,871	624,715		1,978,586
Plumas		717,030					717,030
San Luis Obispo				2,779,431	24,272		2,803,703
Shasta		1,127,200	500,270	1,451,003	1,463,573	285,866	4,827,912
Sierra		124,500					124,500
Trinity				58,348			58,348
Yuba	64,158	11,173					75,331
Totals	\$5,001,878	\$2,734,991	\$1,410,935	\$7,500,000	\$5,617,201	\$718,327	\$22,983,332

Staff Comments. The budget for this item has historically been difficult to predict. For the current year the Controller has sent out a total of \$718,000. However, DOF indicates that the following counties have trials for which they anticipate submitting claims:

Shasta County – 12 trials; Mendocino County – 15 active cases; Stanislaus – 1 trial; Tehama – 2 trials

Budget Bill Language. The Administration's proposal includes the following budget bill language:

Notwithstanding any other provision of law, funds appropriated in this item shall be available for reimbursement of 100 percent of the costs incurred by the County of Tehama for the homicide trial of the *People v. Andrew Hampton McCrae a.k.a. Andrew Hampton Mickel*.

Notwithstanding any other provision of law, funds appropriated in this item shall be available for reimbursement of 100 percent of the costs incurred by the County of

Stanislaus and the City of Modesto in connection with the investigation and prosecution of the homicide trial of the *People v. Scott Peterson*.

How the Reimbursement Formula Works. The reimbursement formulas work such that the county pays for the extraordinary costs of trial(s) up to a certain threshold, based on a percentage of the full value of property assessed within the county. The state pays for 80 percent to 90 percent of the extraordinary costs above the threshold depending on the population of the county. The threshold is based on .00625 of 1 percent of the full value of the property assessed in the county. For example, based on the net total assessed valuation in 2001-02, estimates of the threshold would be about \$13.3 million for San Diego County, \$4.3 million for Sacramento County, \$1.4 million for Stanislaus County, \$377,000 for Mendocino County, \$179,000 for Tehama County, and \$26,000 for Sierra County.

Change to The Formula. In previous years, language has been added to the budget bill providing specific counties with 100 percent reimbursement for the total costs for specific homicide trials. As a way to eliminate the need for exemptions and ensure that expensive trials are provided adequate reimbursement, in 2000 the Legislature approved the creation of a second threshold for very expensive trials, which allows for 100 percent reimbursement for the actual costs above the second threshold. As can be seen in the Table below, between 1996 and 2000 exemption language was provided for a total of 12 trials and that between 2000 and 2004 language has been provided for 3 trials.

Budget Acts Containing Exemption Language Reimbursing the County For 100 Percent of Costs of Specified Trials		
Budget Act	County	Trial
Budget Act of 1996 & 1997	Sonoma	People v. Davis
Budget Act of 1996, 1997, 1998 & 1999	Siskiyou	People v. Bowcutt
Budget Act of 1997 ¹ & 1998	Mendocino	People v. Lincoln
Budget Act of 1997 ¹ & 1998	Mendocino	People v. Lester
Budget Act of 1997 ¹ & 1998	Mendocino	People v. Diaz
Budget Act of 1998	Yuba	People v. Petersen
Budget Act of 1998 ²	Lake	People v. Craft
Budget Act of 1998 ²	Lake	People v. Featherman
Budget Act of 1998 ²	Lake	People v. Statler
Budget Act of 1998 ²	Lake	People v. Jensen
Budget Act of 1998 ²	Lake	People v. Frank Burrows
Budget Act of 1998 ²	Lake	People v. Josh Burrows
Budget Act of 2000	None	
Budget Act of 2001	Shasta	People v. Williams
Budget Act of 2001	San Luis Obispo	People v. Kreps
Budget Act of 2001	Placer	People v. Suarez
Budget Act of 2002	None	
Budget Act of 2003	None ³	

¹ Language specified that reimbursable costs include costs incurred during 1996-97 and 1997-98.

² Language specified that reimbursable costs include costs incurred during 1996-97, 1997-98, and 1998-99.

³ Language vetoed from the Budget Bill.

No Precedent for Reimbursing Cities. The proposed budget bill language would reimburse the City of Modesto for costs incurred in the Peterson investigation. Previously, reimbursements have only gone to counties for their costs, even in cases such as *People v. Davis* where the City of Petaluma also incurred costs in the Polly Klass case. Questions to consider. Given the distinction that counties are agents of the state and as such have less discretion over law enforcement expenditures than does a city, and the required role of counties in relation to homicide trials, is it appropriate to also fund cities for this purpose? What precedent will reimbursing a city have for future reimbursements? What criteria should be used for

determining which cities should be given reimbursements? Should a threshold similar for the threshold for counties be implemented for cities?

Language Vetoed Last Year. After conference committee, budget bill language reimbursing Stanislaus County for 100 percent of the costs related to the Peterson trial was inserted. The language was vetoed by the prior administration with the following rationale:

There is an existing procedure by which counties can procure reimbursements for costly homicide trials. Stanislaus County can apply for funds for this trial through that procedure; therefore the language is unnecessary.

Staff Notes. The Subcommittee has not approved 100 percent reimbursement language since the formula was changed in 2000. Language in the Budget Act of 2001 was amended on the Assembly floor and the vetoed language from last year was added after conference committee.

Administration Position. DOF indicates that the language was proposed because these are two high profile cases that merit reimbursement. DOF indicates that the City of Modesto language was proposed so as not to impose a hardship on the city.

Staff Comments. The Subcommittee may wish to consider:

- Whether the current reimbursement process meets the state's policy goals of uniform administration of justice, ensuring trials are not hampered or delayed by lack of funds, and the county finances are not seriously impaired. How does the 100 percent reimbursement language exempting some trials further those goals?
- The factors that distinguish these two cases as meritorious of 100 percent state reimbursement rather than any other homicide cases tried in the state.
- The precedent of reimbursing city costs of homicide trials.
- With no additional funding being added to this item, will the 100 percent reimbursement language delay or crowd out reimbursement to other counties for the costs of trials?

Staff Recommendation. Staff recommends deleting the budget bill language related to 100 percent reimbursement and allowing these counties to apply for funds through the existing procedure. Staff further recommends that the policy issue of providing reimbursements to cities for the costs of homicide trials should be handled through the regular bill process.

Action.

Deleted proposed budget bill language regarding Stanislaus County, the City of Modesto, and Tehama County exemptions. Held open the funding for the item, pending additional information on potential costs. (Vote 2-0, McPherson not present).

8700 California Victim Compensation and Government Claims Board

The California Victim Compensation and Government Claims Board, formerly known as the Board of Control, consists of three members, the Director of General Services who serves as the chair, the State Controller, and a public member appointed by the Governor. The primary functions of the Board of Control are to: (1) compensate victims of violent crime and eligible family members for certain crime-related financial losses, (2) consider and settle all civil claims against the state, (3) provide equitable travel allowances to certain government officials, (4) respond to bid protests against the state alleging improper or unfair acts of agencies in the procurement of supplies and equipment, and (5) provide reimbursement of counties' expenditures for special elections.

Budget Request. The budget proposes \$141.3 million (\$112.3 million from the Restitution Fund and \$28.1 million federal funds), which is an increase of \$2.8 million, or 2.1 percent from anticipated current year expenditures. Of the total proposed expenditures, \$132.3 million is proposed for the Citizens Indemnification Program, which indemnifies those citizens who are injured and suffer financial hardship as a direct result of a violent crime. This represents an increase of \$2.8 million for this program from estimated current year expenditures.

Program	<i>Expenditures (dollars in thousands)</i>				<i>Percent</i>
	2002-03	2003-04	2004-05	Change	Change
Citizens Indemnification	\$155,200	\$129,563	\$132,331	\$2,768	2.1%
Quality Assurance & Revenue Recovery	7,117	8,002	8,081	\$79	1.0%
Disaster Relief Claim Program	16	19	19	\$0	0.0%
Civil Claims Against the State	779	807	809	\$2	0.2%
Citizens Benefiting the Public (Good Samaritans)	20	20	20	\$0	0.0%
Administration	6,039	7,749	7,749	\$0	0.0%
Distributed Administration	-6,039	-7,749	-7,749	\$0	0.0%
Counties' Special Election Reimbursements	589	0	0	\$0	0.0%
Totals, Programs	\$163,721	\$138,411	\$141,260	\$2,849	2.1%
Total Authorized Positions	310.0	301.1	301.1	0	0.0%

Fund	<i>Expenditures (dollars in thousands)</i>				<i>Percent</i>
	2002-03	2003-04	2004-05	Change	Change
General Fund	\$1,355	\$807	\$0	-\$807	-100.0%
Restitution Fund	110,942	119,201	112,323	-6,878	-5.8%
Federal Trust Fund	51,395	18,384	28,109	9,725	52.9%
Reimbursements	29	19	828	809	4257.9%
Totals, Programs	\$163,721	\$138,411	\$141,260	\$2,849	2.1%

Major Budget Adjustments

- Pursuant to Control Section 4.10, a reduction of \$1.1 million from the Restitution Fund, \$22,000 from the General Fund, and 19.5 positions.

Budget Change Proposals		
	Issue	Dollars
1	Victim Compensation Claims Management System. Requests funding for the budget year for a new claims management IT system.	\$420,000
2	Convert Funding Source for Programs. Requests to convert the funding source for the Government Claims Program from General Fund to a combination of claimant filing fees and state agency reimbursements, and for the State Employees' Charitable Campaign Program from General Fund to fees. (Requires Trailer Bill Language).	\$809,000
3	Custodian of Records – Redirection of Positions. Request to redirect two positions to the Quality Assurance and Revenue Recovery Division.	\$0

1. Informational Item -- Restitution Fund Update

Background. In January 2003, the board estimated that by 2004-05 the Restitution Fund would have a negative balance. This was primarily due to large increases in expenditures (increasing from \$83 million in 1998-99 to \$141.1 million in 2001-02), while revenues remained relatively constant (increasing from \$102 million in 1999-00 to \$110 million in 2001-02).

In July 2002, the board took the following actions to reduce expenditures:

- Adopted the Medicare fee schedule for medical expenses.
- Adopted the Denticare fee schedule for dental expenditures.
- Adopted mental health treatment reimbursement rates of \$70 for master's degree level therapists and \$90 for psychiatrists and psychologists.
- Implemented several administrative cost reduction strategies, including elimination of 19 vacant positions (\$712,000), freezing 24 vacant positions at Joint Power county agencies (\$1.1 million), reducing contract staff, and restricting non-essential training and travel.

Given an estimated 36 percent increase in payments in the 2002-03, the board estimated that these reductions would not be sufficient to close the gap between revenues and expenditures. As a result, the board took the following actions in January 2003:

- To avoid potential cash flow problems, the board directed that if insufficient funds are available for payment of all expenses and eligible claims, that payment are to be prioritized as follows:
 1. Payroll and operating expenses
 2. Victim payments
 3. Provider payments
- The following service limitations for mental health counseling:
 1. For a child victim, 40 sessions
 2. For an adult victim, 30 sessions
 3. For a family member when the victim has been killed, 30 sessions
 4. For a family member in all other cases, 15 sessions
 5. Extension of mental health treatment may be extended in cases requiring additional treatment or in dire or exceptional cases.
- The board adopted the Medicare Fee Schedule minus 20 percent for reimbursement of medical expenses.
- The board adopted guidelines regarding the following criteria for reimbursement of domestic violence relocation:
 1. The \$2,000 relocation benefit limited to the move of a household and not each eligible member of the household
 2. The victim must submit a copy of a formal lease agreement or a statement from the landlord

3. Directed the Executive Officer to develop a checklist for law enforcement and/or mental health providers to complete to substantiate the statutory basis for the relocation benefit
4. If the relocation is necessary for the victim's emotional well being, the victim must be receiving supportive counseling services from a licensed mental health therapist or intern, or a domestic violence or sexual assault program

Increased Collections From Inmate Trust Accounts. The budget assumes \$6 million in additional revenues into the Restitution Fund in the current year from an increasing the amount that CDC collects from Inmate Trust Accounts from 20 percent to 30 percent. The budget assumes an additional \$10 million due to increasing the collection rate to 50 percent in the budget year.

Further Research By the Board. Due to changes in the fund condition for the Restitution Fund, the board is examining the programmatic impacts that adopting the Medicare fee schedule minus 20 percent for medical expense reimbursement and the Denticare fee schedule has had. The board also indicates that it is researching the impact that reducing the number of reimbursable mental health sessions has had.

Informational Issue

The Subcommittee directed staff to work with the board, and interested parties on potential budget bill language regarding administrative actions taken by the board as well as consolidation of the child victim services with other victim services at the OES.

2. Convert Funding Source for the Government Claims Program and the State Employees' Charitable Campaign.

Budget Request. The budget proposes to convert the Government Claims Program from a General Fund supported program to one that is funded from a combination of claimant filing fees and reimbursements from state agencies, based on the cost of handling the workload associated with the claims filed against them in the preceding fiscal year. This proposal requires trailer bill language.

Government Claims Program. Under this proposal, the board would charge an up front filing fee of \$25, with a mechanism for waiving the fee for claimants unable to pay. The remainder of the program would be funded through a surcharge paid as a percentage of the approved claim by the affected state agencies (up to 15 percent). The budget assumes revenues of \$225,000 from the filing fees and \$539,000 from the surcharge.

State Employees' Charitable Campaign. The Administration proposes to amend Government Code Section 13923 to allow the board to recover actual costs for administering the State Employees' Charitable Campaign from the agency receiving the charitable contributions. The board estimates these administrative costs as approximately \$50,000.

Comments. The board reports that some small organizations may object to the Charitable Campaign fee and may choose not to apply. Additionally, the administrative fees charged to approved charities will result in fewer dollars being provided to the ultimate recipients of the donations.

Staff Recommendation. Staff recommends approving the proposed General Fund reduction of \$809,000, and approving the proposed trailer bill language.

Action.

Without objection, reduced General Fund by \$809,000 and approved trailer bill language.

3. State Operations Expenditures

California Victim Compensation and Government Claims Board – Total Expenditures (Claim Payments and Administrative Expenses)								
Type of Expenditure	<i>Expenditures (dollars in thousands)</i>				<i>Estimated</i>			
	1999-00	Percent	2000-01	Percent	2001-02	Percent	2002-03	Percent
Administrative Expense	\$35,012	29%	\$41,339	32%	\$45,879	27%	\$53,078	25%
Claim Payment	85,687	71%	88,253	68%	123,952	73%	158,679	75%
Totals, Programs	\$120,699	100%	\$129,592	100%	\$169,831	100%	\$211,757	100%

Due to the projected fiscal problems in the Restitution Fund, last year the Subcommittee requested the LAO to review the budget proposal for the Victims of Crime (VOC) Program and to make any recommendations to reduce expenditures and enhance revenues for the VOC Program, as well as review the program's administrative expenditures.

LAO Findings. Regarding VOC administrative expenses, the LAO found that the program's administrative expenses are relatively high compared to other states. Given the relatively high administrative costs, the LAO recommended that the Legislature consider reducing the board's administrative expenses by eliminating the Criminal Restitution Compacts (CRCs) with the counties because the LAO's analysis indicated that the costs were not justified. This would have generated \$2.3 million in savings in the current year.

The LAO's review showed that the administrative expenditures for the VOC Program was \$41.5 million or 23 percent of the VOC Program's total budget. The Table below compares administrative costs with victim programs in other states. The LAO indicates that these states were selected because their programs offer similar benefits to those in California and, in the case of Florida and Texas, are among the largest states with victim compensation programs.

The board indicates that for some of these agencies from other states, the total does not include some overhead administrative costs such as human resources, legal, and budget staff.

Victim Compensation Program Administrative Expenses In a Selected Sample of States ¹	
State	Administrative Expenses ²
Texas ³	10%
Utah ³	10%
Colorado ³	14%
Washington	17%
Florida ³	19%
California	23%
Oregon ³	24%

¹ With the exception of California, administrative expenses are for 2001-02.
² Administrative expenses represent the percent of total program budget.
³ Also administer victim assistance programs.

The following table shows administrative costs of several other California state programs as compared to the VOC program. The LAO compared VOC to these programs because they had similar administrative functions, including outreach and education, application processing, and claims payments.

Victim Compensation Program Administrative Expenses Compared with Selected California Programs ¹	
Program	Administrative Expenses ²
Healthy Families	1%
Unemployment Insurance	7%
Medi-Cal	8%
State Workers' Compensation Program	13%
VOC Program	23%
¹ With the exception of Medi-Cal (2002-03) and the State Workers' Compensation Program (2001-02), expenses are for 2003-04. ² Administrative expenses represent the percent of total program budget.	

The LAO notes that due to variation in the administration of state victim programs, and different economies of scale in other programs, these are not perfect comparisons. For example, for the Healthy Families program, much of the administration is performed by contractors. However, the LAO also notes that the comparisons do suggest that California could effectively administer the VOC program at a lower cost.

Criminal Restitution Compacts (CRCs). The board supports county staff through 25 CRCs with local law enforcement agencies. The main responsibility of these state-funded county positions is to encourage judges to impose restitution orders on offenders whose victims have filed claims with the board. As such, the LAO notes that these positions should help increase revenue to the Restitution Fund.

As can be seen in the following Table, the LAO finding show that the state spends more to fund the CRC positions than the amount of revenue collected related to these positions.

Criminal Restitution Compact Expenditures And Related Revenue					
1997-98 Through 2001-02 (In Thousands)					
	1997-98	1998-99	1999-00	2000-01	2001-02
Expenditures	\$1,018	\$1,279	\$1,579	\$1,833	\$2,208
Related Revenue	241	249	353	566	838
Totals, Programs	-\$777	-\$1,030	-\$1,226	-\$1,267	-\$1,370

Each year there was a net cost to the state associated with the CRCs has ranged from \$777,000 to \$1.4 million. The CRC revenue ranged from about 20 percent of program costs in 1998-99 to about 38 percent in 2001-02. The LAO notes that despite the poor returns, the board has spent increasing amounts to support this component of the program.

The board indicates that in addition to revenues going to the Restitution Fund, that CRCs generate additional Restitution orders for victims.

LAO Recommendation. The LAO recommended that the Legislature consider eliminating the CRCs with the counties, which would provide about \$2.3 million in the budget year that could be used to pay victim claims.

Staff Recommendation. Staff recommends holding this issue open pending receipt of additional information from the board related to how this program works and potential other benefits of the program.
Action.
Held Open

4. Other Budget Requests

Staff Recommendation. Staff recommends approval as budgeted.

Action.
Without objection, approved as budgeted

9670 Government Claims Board and Settlements and Judgments by the Department of Justice

The budget for this item reflects: (1) statewide expenditures for certain equity claims against the state approved for payment by the California Victim Compensation and Government Claims Board and referred to the Legislature in the omnibus claims bills for payment, (2) certain settlements and judgments against the state paid through judgment and settlement bills sponsored by the Department of Justice, and (3) administration and payment of tort and liability claims.

Background. The Department of Justice (DOJ) currently has the delegated authority to approve and pay General Fund tort claims against the State that do not exceed \$35,000. In previous years, Item 9670-001-0001 has provided up to \$1.2 million General Fund for this purpose. The approved claims were paid from this appropriation and the remainder of the \$1.2 million would revert back to the General Fund.

Budget Request. Similar to last year, the budget does not propose any General Fund appropriation for this purpose. Claims under \$35,000 from General Fund agencies would be paid from the base budget of affected agency. Special Fund departments (such as the Department of Transportation) would also have the authority under this item to pay claims up to \$35,000 with DOF approval. To enable these departments to continue to pay special fund claims pursuant to this authority, the DOF is proposing to leave Item 9670 in the Budget Bill, with the provisional language addressing special funds, minus the General Fund appropriation.

The proposed language is identical to the language that was approved by the Legislature last year.

Staff Recommendation. Staff recommends approval as budgeted.

Action.
Without objection, approved as budgeted

SUBCOMMITTEE NO. 2

Agenda

Byron Sher, Chair
Sheila Kuehl
Bruce McPherson



Thursday, March 18, 2004
Upon Adjournment of Session
Room 112

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Resources—Environmental Protection—Public Safety—Energy

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.

Overview

1. LAO: Resources and Environmental Protection Budget Overview

- Overview of Resources and Environmental Protection Expenditures in Context of Overall Budget

2. Secretary for Resources – Mike Chrisman

3. Secretary for Environmental Protection – Terry Tamminen

4. California Department of Food and Agriculture, Secretary – A.G. Kawamura

Consent Calendar—AAB

3110 Special Resources Programs

Background. The Special Resources Programs include the following three programs:

- **Tahoe Regional Planning Agency (TRPA).** The TRPA was established by a congressionally approved compact between California and Nevada. The TRPA provides planning and enforceable regulations that preserve and enhance the environment and resources of the Lake Tahoe Basin. Fund. Funding for the agency is shared between Nevada (one-third) and California (two-thirds) according to the compact that established the agency.
- **Yosemite Foundation Program.** This program funds restoration and preservation projects in Yosemite National Park. Funding for this program is provided from proceeds of personalized motor vehicle license plates sold by the Department of Motor Vehicles.
- **Sea Grant Program.** This program encourages research and education in the fields of marine resources and technology. This state Sea Grant Program provides state assistance to the University of California and University of Southern California that is used to match funds for selected projects under the federal Sea Grant Program.

Governor's Budget. The Governor's Budget proposes a total of \$4.3 million for the three special resources programs. This is the same as estimated expenditures in the current year.

Special Resources Programs

Governor's Budget Spending Totals

(Dollars in Thousands)

	Proposed for 2004-05			
	Actual 2002-03	Estimated 2003-04	Amount	Percent Change
Program				
Tahoe Regional Planning Agency	\$3,214	\$3,231	\$3,231	0%
Yosemite Foundation Program	912	840	840	0%
Sea Grant Program	200	200	200	0%
Total	\$4,326	\$4,271	\$4,271	0%
Funding Source:				
General Fund	\$200	\$0	\$0	-
Environmental License Plate Fund, Yosemite Account	912	840	840	0%
Environmental License Plate Fund	3,214	3,431	3,431	0%
Budget Act Total	\$4,326	\$4,271	\$4,271	0%

Staff Recommendation. No issues have been raised regarding these programs. Approve as budgeted.

3560 State Lands Commission

Background. The State Lands Commission (SLC) is responsible for the management of lands that the state has received from the federal government. These lands total more than four million acres and include tide and submerged lands, swamp and overflow lands, the beds of navigable waterways, and vacant state school lands.

Governor's Budget. The Governor's budget proposes \$19 million to support SLC in 2004-05. This is a \$1.1 million (6 percent) increase from current year estimated expenditures. This increase is the result of a budget proposal to expend \$1.8 million from the Marine Invasive Species Control Fund to implement Chapter 491, Statutes of 2003 (AB 433, Nation) to enhance the ballast water management program. (Ballast water is water taken on and released by ships during loading and unloading operations to maintain stability. Ballast water in U.S. ports may have been obtained from waters throughout the world, thereby introducing contaminants and/or nonindigenous species populations.)

State Lands Commission

Governor's Budget Spending Totals

(Dollars in Thousands)

	Actual 2002-03	Estimated 2003-04	Proposed for 2004-05	
			Amount	Percent Change
Program:				
Mineral Research Management	\$5,970	\$6,031	\$6,032	0%
Land Management	10,698	8,232	8,234	0%
Marine Facilities Division	6,524	7,099	8,196	15%
Executive and Administration	2,538	2,997	3,081	3%
<i>less distributed administration</i>	-2,538	-2,997	-3,081	-
Total	\$23,192	\$21,362	\$22,462	5%
Funding Source:				
General Fund	\$10,406	\$9,130	\$9,100	0%
Special Funds	7,000	8,749	9,846	13%
<i>Budget Act Total</i>	<i>17,406</i>	<i>17,879</i>	<i>18,946</i>	<i>6%</i>
Special Deposit Trust Fund	1,310	0	0	-
Land Bank Fund	1,318	375	408	9%
Reimbursements	3,157	3,108	3,108	0%
Budget Act Total	\$23,191	\$21,362	\$22,462	5%

Budget Change Proposals. The following is a summary of the 2004-05 budget change proposals for the SLC.

State Lands Commission**Budget Change Proposals, 2004-05***(Dollars in Thousands)*

Description	General Fund	Special Funds	Total	Personnel Years
<i>Marine Oil Terminal Engineering and Maintenance Standards (MOIEMS).</i> Additional funding is requested to contract with technical experts to develop MOIEMS for liquefied Natural Gas terminals and to respond to technical questions regarding the MOIEMS that are outside the expertise of SLC. A total of \$300,000 is requested over a two-year period starting in the budget year from the Oil Spill Prevention and Administration Fund.	-	\$150	\$150	0
<i>Selby Slag Remediation.</i> Fulfills the state's obligation to pay for a proportionate share of toxic site remediation costs at Selby, California under a federal court judgement. Funds will be used to close a sewage waste oxidation pond and provide a sewer line replacement. Funding is proposed from the Toxic Substances Control Account as a loan to the General Fund with a payback date of June 30, 2010.	970	-	970	0
<i>Marine Invasive Species Act of 2003.</i> This proposal requests initial funding to implement the act established by Chapter 491, Statutes of 2003 (AB 433, Nation) to enhance ballast water management. Funding for this program is from a fee levied on vessels each time they call on California ports. The SLC estimates charging \$500 per call to cover total program costs, which include costs at the Department of Fish and Game and the State Water Resources Control Board.	-	1,821	1,821	12
<i>General Fund Reduction.</i> The proposed reduction is to the commission's land stewardship program. This program assures that tenants of state lands are in compliance as required by lease and other state laws, including environmental protection and pollution laws.	-1,000	-	-1,000	-8
Total	-\$30	\$1,971	\$1,941	4

Staff Recommendation. No issues have been raised with the budget as proposed. Approve as budgeted.

3680 Department of Boating and Waterways

Background. The Department of Boating and Waterways (DBW) is responsible for planning and developing boating facilities on waterways throughout California. It is also responsible for protecting the public's right to safe boating by providing subventions to local law enforcement agencies. The department is also responsible for boating safety and education, licensing yachts, aquatic weed control in the Sacramento-San Joaquin Delta, and beach erosion control along California's coast.

Governor's Budget. The Governor's budget proposes \$65.8 million to support DBW in 2004-05. (Of this total, \$500,000 is included in the budget act, while the remainder of the budget is not included in budget act totals.) This is a reduction of \$17.5 million (21 percent) from the current year budget due to the cancellation of several boat launching facility renovations in the current year to align future expenditures in the Harbor and Watercraft Revolving Fund with future revenues.

Department of Boating and Waterways

Governor's Budget Spending Totals

(Dollars in Thousands)

	Actual 2002-03	Estimated 2003-04	Proposed for 2004-05	
			Amount	Percent Change
Program				
Boating Facilities	\$51,026	\$59,170	\$46,457	-21%
Boating Operations	15,328	15,892	15,805	-1%
Beach Erosion Control	3,722	1,237	1,233	0%
Capital Outlay	4,604	7,024	2,288	-67%
Administration	1,889	2,353	2,356	0%
<i>less distributed administration</i>	<i>-1,889</i>	<i>-2,353</i>	<i>-2,356</i>	<i>-</i>
Total	\$74,680	\$83,323	\$65,783	-21%
Funding Source:				
Abandoned Watercraft Abatement Fund	\$541	\$500	\$500	0%
<i>Budget Act Total</i>	<i>\$541</i>	<i>\$500</i>	<i>\$500</i>	<i>0%</i>
Harbors and Watercraft Revolving Fund	65,302	74,027	56,487	-24%
Federal Trust Fund	6,605	7,781	7,781	0%
Reimbursements	2,232	1,015	1,015	0%
Total	\$74,680	\$83,323	\$65,783	-21%

Budget Change Proposals. The following is a summary of the 2004-05 budget change proposals for DBW.

Department of Boating and Waterways
Budget Change Proposals, 2004-05
(Dollars in Thousands)

Description	Harbors & Watercraft Revolving Fund	Abandoned Watercraft Abatement Fund	Total
<i>Public Small Craft Harbor Planning and Construction Loans.</i> Provides loans to develop marinas and expand or rehabilitate existing marinas. Loans are proposed for the following projects: Alamitos Bay, Long Beach Downtown Marinas, Dana Point Marina, Sacramento Marina, San Francisco Marina, Long Beach Basins, and emergency loans.	\$16,500	-	\$16,500
<i>Private Recreational Marina Loan Program.</i> Provides construction loans to private marinas statewide.	3,500	-	3,500
<i>Launching Facility Grants.</i> Provides grants for the construction of launching ramps and other facilities used when launching boats. Grants are proposed for 16 projects around the state.	9,996	-	9,996
<i>Waterhyacinth Environmental Impact Report.</i> Provides funds to contract with an environmental consulting firm to update the environmental impact report for DBW's Waterhyacinth Control Program.	500	-	500
<i>Abandoned Watercraft Abatement Fund^a Grant Program.</i> Provides grants to local governments for removal of abandoned watercraft.	-	500	500
<i>Beach Erosion Control Program.</i> Provides grants to local governments to help mitigate coastal erosion. Grants are proposed for the following two projects: Pacific Grove/Ocean View Boulevard and Long Beach/Sediment Management Project.	1,000		1,000
Total	\$31,496	\$500	\$31,996

^a Funding for the Abandoned Watercraft Abatement Fund is from the Harbors and Watercraft Revolving Fund.

Department of Boating and Waterways
Capital Outlay Budget Change Proposals, 2004-05

(Dollars in Thousands)

Description	Harbors & Watercraft Revolving Fund	Abandoned Watercraft Abatement Fund	Total
<i>Major Capital Outlay Project Planning.</i> Provides funds for planning of major capital outlay projects statewide.	\$80	-	\$80
<i>Minor Project Capital Outlay.</i> Funding for minor capital outlay projects, which include: statewide emergency repairs, statewide boating trails, Lake Perris rehabilitation, Pyramid Lake improvements, Millerton Lake SRA boat launch facility and restroom replacement, and Lake Natoma boating instruction and safety center.	2,208	-	2,208
Total	\$2,288	\$0	\$2,288

Staff Recommendation. No issues have been raised with the department's budget as proposed. Approve as budgeted.

3780 Native American Heritage Commission

Background. The Native American Heritage Commission (NAHC) preserves and protects California Native American cultures. The commission's powers and duties include identifying and cataloging important geographic sites, helping Native Americans gain access to these sites, protecting burial and sacred sites, and ensuring that remains are treated appropriately. The commission is also works to mitigate the negative impacts of development on the state's Native American cultural resources.

Governor's Budget. The Governor's budget proposes \$521,000 to support the NAHC in 2004-05. This is a 5 percent reduction from estimated expenditures in the current year.

Native American Heritage Commission

Governor's Budget Spending Totals

(Dollars in Thousands)

	Actual 2002-03	Estimated 2003-04	Proposed for 2004-05	
			Amount	Percent Change
Funding Source:				
General Fund	\$330	\$532	\$516	-3%
<i>Budget Act Total</i>	\$330	\$532	\$516	-3%
Reimbursements	5	18	5	-72%
Total	\$335	\$550	\$521	-5%

Staff Recommendation. No issues have been raised regarding this commission. Approve as budgeted.

7300 Agriculture Labor Relations Board

Background. The Agricultural Labor Relations Board (ALRB) is responsible for conducting secret ballot elections to determine collective bargaining representation in agriculture and for investigating and resolving unfair labor practice disputes.

Governor's Budget. The Governor's budget proposes \$4.8 million to support ALRB in 2004-05. This is the same as the level of expenditures estimated in the current year.

Agricultural Labor Relations Board

Governor's Budget Spending Totals

(Dollars in Thousands)

	Actual 2002-03	Estimated 2003-04	Proposed for 2004-05	
			Amount	Percent Change
Type of Expenditure:				
Board Support	\$1,995	\$2,105	\$2,105	0%
General Counsel Support	2,667	2,736	2,736	0%
Administration	263	239	239	0%
<i>less distributed administration</i>	-263	-239	-239	
Total	\$4,662	\$4,841	\$4,841	0%
Funding Source:				
General Fund	\$4,662	\$4,841	\$4,841	0%
Budget Act Total	\$4,662	\$4,841	\$4,841	0%

Staff Recommendation. No issues have been raised regarding this department. Approve as budgeted.

Consent Calendar—AAB Excluding Bond Funds

3125 California Tahoe Conservancy

Background. The California Tahoe Conservancy (CTC) acquires and manages land to protect the natural environment, provide public access and recreational facilities, and preserve wildlife habitat areas. It also awards grants to other agencies and nonprofit organizations for the purposes of its programs.

Governor's Budget. The Governor's Budget proposes \$5.1 million to support CTC in 2004-05. This is a reduction of over \$34 million (87 percent) from the current year budget due to the administration's decision to defer the majority of its bond fund proposal until later in the spring.

California Tahoe Conservancy				
Governor's Budget Spending Totals				
<i>(Dollars in Thousands)</i>				
	Actual	Estimated	Proposed for 2004-05	
	2002-03	2003-04	Amount	Percent Change
Type of Expenditure:				
State Operations	\$3,984	\$3,877	\$4,091	6%
Local Assistance	5,051	11,977	0	-100%
Capital Outlay	12,195	23,574	1,569	-93%
Total	\$21,230	\$39,428	\$5,660	-86%
Funding Source:				
General Fund	\$2,739	\$63	\$0	-100%
Special Funds	5,887	4,874	4,210	-14%
Bond Funds	11,391	33,784	854	-97%
<i>Budget Act Total</i>	<i>20,017</i>	<i>38,721</i>	<i>5,064</i>	<i>-87%</i>
Tahoe Conservancy Fund	180	186	186	0%
Reimbursements	1,033	521	410	-21%
Total	\$21,230	\$39,428	\$5,660	-86%

Staff Recommendation. No issues have been raised regarding this conservancy. However, the administration has indicated that it is waiting until later in the spring to submit its complete bond fund expenditure proposal. We anticipate this proposal will affect CTC. Therefore, **staff recommends approving the budget as proposed with the exclusion of bond funds.** Action on the remainder of CTC's budget should be taken after receipt and review of the administration's bond fund proposal later in the spring.

3760 State Coastal Conservancy

Background. The State Coastal Conservancy (SCC) is authorized to acquire land, undertake projects, and award grants for the purposes of (1) preserving agricultural land and significant coastal resources, (2) consolidating subdivided land, (3) restoring wetlands, marshes, and other natural resources, (4) developing a system of public accessways, and (5) improving coastal urban land uses. In general, the projects must conform to California Coastal Act policies and be approved by the conservancy governing board.

Governor's Budget. The Governor's budget proposes \$16.4 million to support SCC in 2004-05. This is a reduction of over \$290 million (95 percent) from the current year budget due to the administration's decision to defer the majority of its bond fund proposal until later in the spring.

State Coastal Conservancy

Governor's Budget Spending Totals

(Dollars in Thousands)

	Actual 2002-03	Estimated 2003-04	Proposed for 2004-05	
			Amount	Percent Change
Program:				
Coastal Resource Development	\$4,170	\$4,632	\$4,324	-7%
Coastal Resource Enhancement	2,096	3,685	3,041	-17%
Capital Outlay	128,349	301,344	9,000	-97%
Administration	1,642	2,245	2,497	11%
<i>less distributed administration</i>	<i>-1,642</i>	<i>-2,245</i>	<i>-2,497</i>	<i>-</i>
Total	\$134,615	\$309,661	\$16,365	-95%
Funding Source:				
General Fund	\$652	\$0	\$0	-
Special Funds	2,635	10,555	3,752	-64%
Bond Funds	125,509	276,655	4,057	-99%
<i>Budget Act Total</i>	<i>\$128,796</i>	<i>\$287,210</i>	<i>\$7,809</i>	<i>-97%</i>
State Coastal Conservancy Fund	\$3,984	\$8,326	\$4,520	-46%
Federal Funds	502	4,745	2,120	-55%
Reimbursements	1,332	9,380	1,916	-80%
Total	\$134,614	\$309,661	\$16,365	-95%

Budget Change Proposals. The following is a summary of the 2004-05 budget change proposals for SCC.

State Coastal Conservancy
Capital Outlay Budget Change Proposals, 2004-05
(Dollars in Thousands)

Description	Coastal Access Account	Coastal License Plate Fund	Violation Remediation Account	Total
<i>Public Access Program</i> These funds are proposed to continue implementation of SCC's public access, education, and related programs.	\$400	\$700	\$100	\$1,200
Total	\$400	\$700	\$100	\$1,200

Staff Recommendation. No issues have been raised regarding this conservancy. However, the administration has indicated that it is waiting until later in the spring to submit its complete bond fund expenditure proposal. We anticipate this proposal will affect SCC. Therefore, **staff recommends approving the budget as proposed with the exclusion of bond funds.** Action on the remainder of SCC's budget should be taken after receipt and review of the administration's bond fund proposal later in the spring.

3810 Santa Monica Mountains Conservancy

Background. The Santa Monica Mountains Conservancy (SMMC) acquires, restores, and consolidates lands in the Santa Monica Mountains Zone for park, recreation, or conservation purposes.

Governor's Budget. The Governor's budget proposes \$629,000 to support the Santa Monica Mountains Conservancy in 2004-05. This is a reduction of over 97 percent from the current year due to the administration's decision to defer the majority of its bond fund proposal until later in the spring.

Santa Monica Mountains Conservancy

Governor's Budget Spending Totals

(Dollars in Thousands)

	Actual 2002-03	Estimated 2003-04	Proposed for 2004-05	
			Amount	Percent Change
Program:				
State Operations	\$662	\$698	\$629	-10%
Capital Outlay	11,964	23,602	0	-100%
Total	\$12,626	\$24,300	\$629	-97%
Funding Source:				
General Fund	\$0	\$0	\$0	-
Special Funds	464	269	200	-26%
Bond Funds	11,808	23,692	429	-98%
<i>Budget Act Total</i>	<i>\$12,272</i>	<i>\$23,961</i>	<i>\$629</i>	<i>-97%</i>
Santa Monica Mountains Conservancy Fund	\$354	\$189	\$0	-100%
Reimbursements	0	150	0	-100%
Total	\$12,626	\$24,300	\$629	-97%

Staff Recommendation. No issues have been raised regarding this conservancy. However, the administration has indicated that it is waiting until later in the spring to submit its complete bond fund expenditure proposal. We anticipate this proposal will affect SMMC. Therefore, **staff recommends approving the budget as proposed with the exclusion of bond funds.** Action on the remainder of SMMC's budget should be taken after receipt and review of the administration's bond fund proposal later in the spring.

3825 San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy

Background. The San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy (SGLAC) acquires and manages public lands in the San Gabriel basin, along the San Gabriel river and its tributaries, the lower Los Angeles river and its tributaries, and the San Gabriel Mountains. The conservancy acquires land to provide open space, low-impact recreational and educational uses, water conservation, watershed improvement, and wildlife and habitat restoration and protection.

Governor's Budget. The Governor's budget proposes \$767,000 to support SGLAC. This is a 98 percent reduction from the current year estimated expenditures due to the administration's decision to defer the majority of its bond fund proposal until later in the spring.

San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy

Governor's Budget Spending Totals

(Dollars in Thousands)

	Actual 2002-03	Estimated 2003-04	Proposed for 2004-05	
			Amount	Percent Change
Program:				
State Operations	\$625	\$804	\$767	-5%
Capital Outlay	575	34,325	0	-100%
Total	\$1,200	\$35,129	\$767	-98%
Funding Source:				
General Fund	\$0	\$0	\$0	-
Environmental License Plate Fund	265	263	33	-87%
Bond Funds	934	34,866	734	-98%
Total	\$1,199	\$35,129	\$767	-98%

Staff Recommendation. No issues have been raised regarding this conservancy. However, the administration has indicated that it is waiting until later in the spring to submit its complete bond fund expenditure proposal. We anticipate this proposal will affect SGLAC. Therefore, **staff recommends approving the budget as proposed with the exclusion of bond funds.** Action on the remainder of SGLAC's budget should be taken after receipt and review of the administration's bond fund proposal later in the spring.

3830 San Joaquin River Conservancy

Background. The San Joaquin River Conservancy (SJRC) acquires and manages public lands within the San Joaquin river parkway, which consists of approximately 5,900 acres on both sides of the San Joaquin River between Friant Dam and the Highway 99 crossing.

Governor's Budget. The Governor's budget proposes \$347,000 to support SJRC in 2004-05. This is a 75 percent reduction from the current year due to a reduction in reimbursement funds available for capital outlay projects.

San Joaquin River Conservancy

Governor's Budget Spending Totals

(Dollars in Thousands)

	Actual 2002-03	Estimated 2003-04	Proposed for 2004-05	
			Amount	Percent Change
Program:				
State Operations	\$201	\$365	\$347	-5%
Capital Outlay	0	1,000	0	-100%
Total	\$201	\$1,365	\$347	-75%
Funding Source:				
General Fund	\$0	\$0	\$0	-
Environmental License Plate Fund	201	248	241	-3%
Bond Funds	0	117	106	-9%
<i>Budget Act Total</i>	<i>201</i>	<i>365</i>	<i>347</i>	<i>-5%</i>
Reimbursements	0	1,000	0	-100%
Total	\$201	\$1,365	\$347	-75%

Staff Recommendation. No issues have been raised regarding this conservancy. However, the administration has indicated that it is waiting until later in the spring to submit its complete bond fund expenditure proposal. We anticipate this proposal might affect SJRC. Therefore, **staff recommends approving the budget as proposed with the exclusion of bond funds.** Action on the remainder of SJRC's budget should be taken after receipt and review of the administration's bond fund proposal later in the spring.

3835 Baldwin Hills Conservancy

Background. The Baldwin Hills Conservancy (BHC) acquires and manages public lands within the Baldwin Hills area to provide recreational facilities, open space, wildlife habitat restoration, and educational services.

Governor's Budget. The Governor's budget proposes \$393,000 to support BHC in 2004-05. This is a 99 percent reduction for the estimated expenditures in the current year due to the administration's decision to defer the majority of its bond fund proposal until later in the spring.

Baldwin Hills Conservancy

Governor's Budget Spending Totals

(Dollars in Thousands)

	Actual 2002-03	Estimated 2003-04	Proposed for 2004-05	
			Amount	Percent Change
Program:				
State Operations	\$266	\$377	\$393	4%
Capital Outlay	465	37,735	0	-100%
Total	\$731	\$38,112	\$393	-99%
Funding Source:				
General Fund	\$0	\$0	\$0	-
Environmental License Plate Fund	266	266	292	10%
Bond Funds	220	22,092	101	-100%
<i>Budget Act Total</i>	486	22,358	393	-98%
Reimbursements	245	15,755	0	-100%
Total	\$731	\$38,113	\$393	-99%

Staff Recommendation. No issues have been raised regarding this conservancy. However, the administration has indicated that it is waiting until later in the spring to submit its complete bond fund expenditure proposal. We anticipate this proposal will affect BHC. Therefore, **staff recommends approving the budget as proposed with the exclusion of bond funds.** Action on the remainder of BHC's budget should be taken after receipt and review of the administration's bond fund proposal later in the spring.

3845 San Diego River Conservancy

Background. The San Diego River Conservancy (SDRC) acquires and manages public lands within the San Diego River Area. It acquires lands to provide recreational opportunities, open space, wildlife habitat, species protection, wetland protection and restoration, and protection and maintenance of the quality of the San Diego River.

Governor's Budget. The Governor's budget proposes \$265,000 to support SDRC in 2004-05. This is the same level of expenditures as estimated in the current year.

San Diego River Conservancy

Governor's Budget Spending Totals

(Dollars in Thousands)

	Actual 2002-03	Estimated 2003-04	Proposed for 2004-05	
			Amount	Percent Change
Funding Source:				
Environmental License Plate Fund	\$0	\$265	\$265	0%
Budget Act Total	\$0	\$265	\$265	0%

Staff Recommendation. No issues have been raised regarding this conservancy. However, the administration has indicated that it is waiting until later in the spring to submit its complete bond fund expenditure proposal. We anticipate this proposal will affect SDRC. Therefore, **staff recommends approving the budget as proposed with the exclusion of bond funds.** Action on the remainder of SDRC's budget should be taken after receipt and review of the administration's bond fund proposal later in the spring.

3850 Coachella Valley Mountains Conservancy

Background. The Coachella Valley Mountains Conservancy (CVMC) acquires and holds, in perpetual open space, mountainous lands surrounding the Coachella Valley and natural community conservation lands within the Coachella Valley.

Governor's Budget. The Governor's budget proposes \$407,000 to support CVMC in 2004-05. This is a 98 percent reduction from current year estimated expenditures due to the administration's decision to defer the majority of its bond fund proposal until later in the spring.

Coachella Valley Mountains Conservancy

Governor's Budget Spending Totals

(Dollars in Thousands)

	Actual 2002-03	Estimated 2003-04	Proposed for 2004-05	
			Amount	Percent Change
Program:				
State Operations	\$232	\$391	\$407	4%
Capital Outlay	3,869	20,592	0	-100%
Total	\$4,101	\$20,983	\$407	-98%
Funding Source:				
General Fund	\$0	\$0	\$0	-
Special Funds	128	261	288	10%
Bond Funds	3,844	14,728	100	-99%
<i>Budget Act Total</i>	<i>3,972</i>	<i>14,989</i>	<i>388</i>	<i>-97%</i>
Reimbursements	129	5,994	19	-100%
Total	\$4,101	\$20,983	\$407	-98%

Staff Recommendation. No issues have been raised regarding this conservancy. However, the administration has indicated that it is waiting until later in the spring to submit its complete bond fund expenditure proposal. We anticipate this proposal will affect CVMC. Therefore, **staff recommends approving the budget as proposed with the exclusion of bond funds.** Action on the remainder of CVMC's budget should be taken after receipt and review of the administration's bond fund proposal later in the spring.

3640 Wildlife Conservation Board

Background. The Wildlife Conservation Board (WCB) acquires property in order to protect and preserve wildlife and provide fishing, hunting, and recreational access facilities. The WCB is an independent board in the Department of Fish and Game and is composed of the Director of the Department of Fish and Game, the Director of the Department of Finance, and the Chairman of the Fish and Game Commission. In addition, three members of the Senate and three members of the Assembly serve an advisory capacity to the board.

Governor's Budget. The budget proposes total expenditures of about \$33.2 million in 2004-05, a reduction of about \$1.2 billion, or 97 percent, below estimated expenditures in the current year. This reduction is mainly a result of the administration's decision to defer its submittal of most of its resources bond proposal to later in the spring. Below is a summary of expenditures by type of expenditure and funding source.

Wildlife Conservation Board

Governor's Budget Spending Totals

(Dollars in Thousands)

	Actual 2002-03	Estimated 2003-04	Proposed for 2004-05	
			Amount	Percent Change
Type of Expenditure:				
State Operations	\$2,242	\$6,552	\$5,888	-10%
Capital Outlay	276,855	1,165,384	21,377	-98%
Total	\$279,097	\$1,171,936	\$27,265	-98%
Funding Source:				
General Fund	\$21,620	\$8,192	\$193	-98%
Special Funds	-2,184	13,932	1,939	-86%
Bond Funds	259,163	1,130,355	25,133	-98%
<i>Budget Act Total</i>	<i>278,599</i>	<i>1,152,479</i>	<i>27,265</i>	<i>-98%</i>
Reimbursements	497	14,457	0	-100%
Oak Woodlands Conservation Fund	0	5,000	0	-100%
Total	\$279,096	\$1,171,936	\$27,265	-98%

Budget Change Proposals. The following is a summary of the 2004-05 budget change proposals for WCB.

Wildlife Conservation Board
Capital Outlay Budget Change Proposals, 2004-05
(Dollars in Thousands)

Description	Wildlife Restoration Fund	Habitat Conservation Fund	Total
<i>Public Access Acquisition and Development Projects.</i>	\$500	-	\$500
<i>Habitat Conservation Fund Acquisitions.</i> This level of funding is allocated by law to WCB for acquiring, restoring, and enhancing habitat necessary to protect wildlife and plant populations.	-	21,000	21,000
Total	\$500	\$21,000	\$21,500

1. Forthcoming Land Acquisitions – Informational Issue

Hearst Ranch. The board is currently in negotiations to acquire the Hearst Ranch, which is comprised of approximately 80,000 acres in San Luis Obispo County including 18 miles along the coast. The state has *not* yet entered into a contract to acquire the property. Nevertheless, the subcommittee may wish to ask the following questions regarding this potential acquisition:

- Please provide a general description of the property being considered for state acquisition.
- What is the potential funding source for this acquisition?
- Has this or a portion of this property been approved for development by local jurisdictions and/or the California Coastal Commission?

Bolsa-Chica. The board is currently in negotiations to acquire approximately 200 acres of mesa adjacent to the Bolsa-Chica wetlands along the coast in Huntington Beach, Orange County. Proposition 50 allocated a portion of the funds allocated to WCB in the bond for land acquisitions to acquire 100 acres in Bolsa-Chica. The state has *not* yet entered into a contract to acquire the property. Nevertheless, the subcommittee may wish to ask the following questions regarding this potential acquisition:

- Please provide a general description of the property being considered for state acquisition.
- What is the potential funding source for this acquisition?
- Has this or a portion of this property been approved for development by local jurisdictions and/or the California Coastal Commission?

2. Suspend Natural Heritage Preservation Tax Credit Program

Background. The Natural Heritage Preservation Tax Credit Program (Chapter 113, Statutes of 2000 [SB 1647, O'Connell]) provides tax credits to landowners who make qualified land

donations to state agencies, local government entities, or qualified nonprofit organizations. In exchange for a qualified donation, landowners receive a tax credit of 55 percent of the appraised fair market value of the donated property.

Tax credits were awarded under this program in 2000-01 and 2001-02 and the program was suspended during the 2002-03 budget year. During the first two years of program operation, approximately \$33 million in tax credits were awarded. In exchange the state, local governments, and nonprofit organizations received donations of over 7,000 acres of land valued at over \$60 million. Approximately \$67 million remains of the \$100 million in tax credits originally proposed for allocation for this program.

Governor's Proposed Mid-Year Adjustment and Budget—Suspend Tax Credit. The Governor has proposed suspension of the tax credit in the current and budget years, with estimated savings of \$8.7 million and \$10.3 million, respectively. The savings would be in the form of increased General Fund tax revenues due to a reduction in tax credits that would otherwise be claimed if the suspension was not in place. The administration is seeking approval of trailer bill legislation to implement this suspension (SB 1052, Committee on Budget and Fiscal Review). The Governor is currently administratively suspending the tax credit program in the current year pending enactment of legislation.

Tax Credit Set To Expire Soon. Under current law, the Natural Heritage Preservation Tax Credit program is set to expire on December 31, 2005. Therefore, if the tax credit is suspended in the current and budget years as proposed by the Governor the program will expire and over \$60 million in tax credits will be unallocated.

Substantial Bond Funds Available for Land Acquisitions. The approval of two resources bonds in recent years has provided significant funds for land acquisition activities and a large portion of these funds have not been expended. While the expenditure of general obligation bond funds does incur General Fund costs, these costs are spread out over a long period of time (typically 30 years). On the other hand, the tax credit program does allow the state to acquire land at a substantial discount. However, the reduction in General Fund tax revenues occurs over a significantly shorter time horizon and is not under the control of the state (current law allows the tax credits to be claimed over a period of seven years).

Backfilling Tax Credit Program with Bond Funds. Legislation (AB 1502, Laird) has been proposed to backfill the reduction in General Fund tax revenues with proceeds from recently approved resources bond funds. It is our understanding that the use of bond funds for this purpose would jeopardize the double tax-exempt status of the bonds.

Staff Recommendation. Given the size of the state's projected General Fund deficit in the budget year and the size of the projected structural deficit, ***staff recommends suspending the tax credit program in the current and budget years.*** Suspending the tax credit program would result in the expiration of the program leaving approximately \$60 million in tax credits unallocated. Given the need to minimize the structural deficit we think the tax credit should expire given the significant bond funds available for land acquisitions. The expiration of this program does not

preclude the Legislature's ability to reinstate a similar program when General Fund tax revenues are available for this purpose.

Issues for the Subcommittee to Consider.

- Should the subcommittee suspend the tax credit in the budget year?
- Does the subcommittee wish to extend the sunset of the tax credit program?

3720 California Coastal Commission

Background. The California Coastal Commission, following its initial creation in 1972 by a voter initiative, was permanently established by the State Coastal Act of 1976. In general, the act seeks to protect the state's natural and scenic resources along California's coast. It also delineates a "coastal zone" running the length of California's coast, extending seaward to the state's territorial limit of three miles, and extending inland a varying width from 1,000 yards to several miles. The commission's primary responsibility is to implement the act's provisions. It is also the state's planning and management agency for the coastal zone. The commission's jurisdiction does not include the San Francisco Bay Area, where development is regulated by the San Francisco Bay Conservation and Development Commission.

Governor's Budget. The Governor's budget proposes a total of \$14.5 million to support the Coastal Commission in 2004-05. This is a decrease of 3 percent over estimated expenditures in the current year.

California Coastal Commission

Governor's Budget Spending Totals

(Dollars in Thousands)

	Actual 2002-03	Estimated 2003-04	Proposed for 2004-05	
			Amount	Percent Change
Program				
Coastal Management Program	\$15,174	\$14,032	\$13,648	-3%
Coastal Energy Program	728	770	770	0%
Undistributed Administration	119	81	81	0%
Total	\$16,021	\$14,883	\$14,499	-3%
Funding Source:				
General Fund	\$10,716	\$9,552	\$9,549	0%
Special Funds	947	1,134	753	-34%
<i>Budget Act Total</i>	<i>11,663</i>	<i>10,686</i>	<i>10,302</i>	<i>-4%</i>
Federal Trust Fund	3,110	2,983	2,983	0%
Reimbursements	1,249	1,214	1,214	0%
Total	\$16,022	\$14,883	\$14,499	-3%

1. Alternative Funding Source for Coastal Commission's Permitting Functions

Background. The commission's core program activities include issuing and enforcing permits for coastal development. The budget proposes about \$7.5 million for the commission's permitting and enforcement activities in 2004-05. Of this total amount, approximately 77 percent is from the General Fund, while the remainder is from federal funds and reimbursements. The budget projects that the commission will have permit fee revenues of \$500,000 and penalty revenues of \$150,000 in the budget year. However, these revenues are transferred to the State Coastal Conservancy (SCC) for support of its programs.

LAO Recommendation. The Analyst recommends that *fees levied on permittees/developers be increased so that they fully cover the commission's costs to issue and enforce permits*. This would result in *General Fund savings of \$5.8 million* in the budget year. The analyst also recommends eliminating the transfer of the commission's fee and penalty revenues (\$650,000 annually) to SCC. The analyst cites the following rationale for shifting the funding of this program from the General Fund to fees on permittees/developers:

- **Commission's Fees are Low Compared to Local Fees.** Currently, the commission's highest permit fee is \$20,000, which applies to large projects. The Analyst finds that local jurisdictions charge as much as 100 times more to permit comparable projects.
- **Fees Are a More Appropriate Funding Source for Program.** The Analyst cites that fees rather than the General Fund is a more appropriate funding source since permittees/developers are direct beneficiaries of the commission's permitting activities.

Coastal Commission's Response. The Coastal Commission is *opposed to full cost recovery from fees* for the commission's regulatory and enforcement program. It also opposes eliminating the transfer of fee and penalty revenue to SCC. Nevertheless, they *do not oppose increasing fees* charged permittees/developers for work related to permitting and enforcement.

The commission has raised several valid concerns in response to the Analyst's proposal. These include the following:

- **Considerable Fee Increases Would Be Needed.** The commission estimates that fees would need to be increased over 10 fold to fully cover program costs.
- **Permits Are Variable and Declining by Design.** The commission notes that there is significant variability in the number and size of the permits granted annually, which makes projecting revenues somewhat difficult. In addition, as local coastal programs (LCPs) are adopted permit and enforcement activities are shifted to the local jurisdictions. Therefore, as additional jurisdictions adopt LCPs permit and enforcement workload is reduced. These factors indicate that full cost recovery of the program would result in a less reliable source of funding.
- **Eliminating SCC Funding Impacts Public Access.** The SCC utilizes the fees and penalties to provide grants to locals for operations and maintenance of public accessways to the beach and shoreline. There are significant bond funds available to SCC to improve coastal access, but bond funds are not appropriate to fund operations and maintenance activities.

Staff Recommendation. Staff agrees with the LAO and the commission that permit fees should be increased. However, the commission does identify valid concerns regarding shifting to full fee recovery of its permitting and enforcement program. Nevertheless, the magnitude of the projected General Fund deficit requires careful evaluation of increasing fee revenues that can be used to offset General Fund support, as is the case with the Coastal Commission's permitting fees. Given these factors ***staff recommends that the subcommittee hold this issue open and direct staff, the LAO, and the department to develop trailer bill language to increase the commission's fee revenues and amend current law that requires all fees collected by the commission be transferred to SCC.*** Different scenarios should be developed for the subcommittee's consideration based on different levels of fee increases.

Issues for the Subcommittee to Consider.

- Should the subcommittee adopt trailer bill language to direct the Coastal Commission to increase its permit fees?
- If so, what level of fee increase should the subcommittee direct?

8570 California Department of Food and Agriculture

Background. The California Department of Food and Agriculture (CDFA) provides services to both producers and consumers of California's agricultural products in the areas of agricultural protection, agricultural marketing, and support to local fairs. The purpose of the agricultural protection program is to prevent the introduction and establishment of serious plant and animal pests and diseases. The agricultural marketing program markets California's agricultural products and protects consumer and producers through the enforcement of measurements, standards, and fair pricing practices. Finally, the department provides financial and administrative assistance to county and district fairs.

Governor's Budget. The budget proposes \$311 million to support CDFA in 2004-05. This is a slight increase (6 percent) from the current year budget due to various capital outlay projects relating to the agricultural inspection stations and the Medfly rearing facility in Hawaii.

California Department of Food and Agriculture

Governor's Budget Spending Totals

(Dollars in Thousands)

Type of Expenditure:	Actual 2002-03	Estimated 2003-04	Proposed for 2004-05	
			Amount	Percent Change
Agricultural Prevention	\$179,430	\$145,365	\$176,681	22%
Agricultural Marketing	76,825	85,038	70,923	-17%
Local Fairs	49,625	63,636	62,746	-1%
Administration	11,588	12,580	12,579	0%
<i>less distributed administration</i>	-10,556	-11,562	-11,562	0%
Total	\$306,912	\$295,057	\$311,367	6%
Funding Source:				
General Fund	\$101,486	\$83,913	\$73,005	-13%
Special Funds	\$122,751	\$145,068	\$157,637	9%
Bond Funds	414	1,000	1,000	0%
<i>Budget Act Total</i>	<i>224,651</i>	<i>229,981</i>	<i>231,642</i>	<i>1%</i>
Public Building Construction Fund	0	583	34,405	5801%
Harbors and Watercraft Revolving Fund	989	1,148	1,175	2%
Federal Trust Fund	73,123	53,066	35,090	-34%
Reimbursements	8,147	10,276	9,055	-12%
Total	\$306,910	\$295,054	\$311,367	6%

Budget Change Proposals. The following is a summary of the 2004-05 budget change proposals for CDFA.

California Department of Food and Agriculture

Budget Change Proposals, 2004-05

(Dollars in Thousands)

Description	General Fund	Special Funds	Federal		Total	Personnel Years
			Trust Fund	Other Funds		
Agriculture Inspection Stations. Restoration of funding for the agricultural inspection stations that was reduced in the current year as part of the Central Section 4.10 reductions.	\$4,523	-	-	-	\$4,523	
Sudden Oak Death Provided by USDA for management, surveys, and diagnostics of the pathogen responsible for sudden oak death.	-	-	300	-	300	
Plow's Disease General Fund reduction for the Plow's disease control program. To mitigate the affects of this reduction CDEFA will seek additional funding from the Plow's Disease Board.	-2,000	-	-	-	-2,000	
Integrated Food Safety. Proposed additional funding and positions for the Milk and Dairy Food Control Board to meet new inspection and enforcement requirements.	-	831	-	-	831	4
Relocation to Rowland N Street Building One-time costs related to moving staff back into the building (\$1.7 million) and ongoing costs associated with increased rental rates (\$735,000 for 2004-05 and \$1.8 million starting in 2005-06).	912	1,082	287	118	2,399	
Fund Shift. Proposes redirecting funding from the General Fund to other fund sources for activities related to the Office of Agriculture and Environmental Stewardship, the Agricultural Export Program and the Office of Public Affairs.	-831	-	-	-	-831	
Total	\$2,604	\$1,913	\$587	\$118	\$5,222	4

1. Capital Outlay

Background. The Governor's budget proposes \$19.7 million for two capital outlay projects. The amount includes \$12.8 million from lease revenue bonds, \$6.4 million from the State Highway Account, and \$416,000 from the Department of Agriculture Fund.

LAO Finds Repairs to Medfly Rearing Facility Misclassified. The Governor's budget proposes \$416,000 from the Department of Agriculture Fund for preliminary plans, working drawings, and construction to repair an existing Medfly rearing facility in Waimanalo, Hawaii. The LAO notes that repairs to existing facilities are not typically funded through capital outlay projects, but rather, are funded from a department's operating expenses. Furthermore, the LAO notes that the repairs to the Medfly facility were not identified as a capital outlay need in the 2003 infrastructure plan.

DOF Plans to Amend Current Proposal. The DOF has indicated to staff that it plans on submitting a revised budget change proposal that addresses the LAO's issues. The department indicates that the projects to be funded with the \$416,000 are actually upgrades to the facility and do qualify as capital outlay projects.

Staff Recommendation. Staff recommends the subcommittee hold this issue open pending receipt of a revised budget change proposal.

2. Position Management—Legislative Oversight

Background. The state has prescribed procedures for *authorizing* and *establishing* new positions. Typically if a department needs to *authorize* a new position and the Department of Finance (DOF) approves the request, it is then incorporated into the Governor's budget and submitted to the Legislature. If the Legislature authorizes the position the department then begins the administrative steps necessary to establish the positions. Departments are required to follow a prescribed administrative process to *establish* the newly authorized position, including providing basic information to the State Controller's Office (SCO). The SCO then maintains a database that tracks all of these positions, including information on salary, classification, and whether the position is vacant.

In order to provide departments some flexibility to temporarily adjust staffing levels to meet the needs of its programs departments have a "blanket", which they can use to fund overtime for existing staff and hire temporary or seasonal help to address short-term workload. Statewide administrative procedures prohibit the use of the blanket to fund permanent positions on an ongoing basis. Positions funded through a department's blanket are not established with SCO and *not* subject to statewide vacancy reductions and hiring freeze restrictions.

LAO Finds CDFA's Position Management Compromises Legislative Oversight. The Analyst has found that about half of CDFA's positions have been created at the discretion of the department—without approval of either the Legislature or DOF. The Analyst has identified approximately 500 permanent positions in CDFA's blanket, which is a direct violation of

statewide administrative procedures that prohibit the use of the blanket to fund permanent positions. The LAO finds that CDFA's unique position management practice of establishing positions outside of SCO's position database fails to provide appropriate legislative oversight. This is especially important given the recent use of SCO's position database to implement vacancy reductions and the hiring freeze to limit growth of state employment.

LAO Finds CDFA's Rationale for Unique Process Flawed. The CDFA has the following rationale for its unique process:

- **Continuously Appropriated Funding Source.** The department asserts that its continuous appropriation authority, which allows the department to expend funds without a legislative appropriation through the budget act, extends to its ability to establish positions. The department has not been able to identify specific authority that allows CDFA to establish positions outside of standard administrative procedures.
- **Quick Staffing Response Needed.** The department has expressed concerns regarding the need to increase staffing quickly to respond to emergencies that may be threatening the state's food supply. Current standard administrative procedures allow departments to establish temporary positions administratively within its position blanket. The Office of Emergency Services and other state agencies establish temporary positions quickly utilizing this standard practice. If the positions are needed on a permanent basis a request is sent to DOF and the Legislature for approval.
- **Industry Funded Programs.** The department also asserts that since these positions are to support activities funded by industry assessments they should be treated differently since the industry has ultimate control over how the funds will be expended. The Analyst notes that there are many industry funded programs across state government that are required to comply with standard state administrative procedures for establishing positions.

Staff Recommendation. Staff agrees with the LAO that CDFA's current position management practice inhibits legislative oversight. *Staff recommends that the subcommittee hold this issue open and direct staff, LAO, and the department to develop trailer bill language that requires the department to comply with standard administrative procedures related to establishing new positions. The language should also direct the department to establish all permanent positions currently in its blanket with the SCO.*

Issue for the subcommittee to consider.

- Should CDFA be given a special exemption to standard administrative practice for establishing positions?

3. General Fund Reduction

Background. The Governor's budget reports that CDFA reduced its General Fund budget in the current year by \$4.6 million pursuant to Control Section 4.10 reductions. When these reductions were initially proposed by the prior administration they mainly targeted the agricultural inspection stations. This reduction would have resulted in 11 of the 16 inspection stations being closed and the firing of 52 permanent employees. The Governor's budget is proposing to restore \$4.5 million of this reduction in the budget year, which results in CDFA making relatively few

ongoing reductions pursuant to Control Section 4.10. The only other General Fund reduction proposed to CDFA's budget is a \$2 million reduction to the Pierce's disease program in 2004-05.

The CDFA indicates that it does not anticipate closing any of the inspection stations in the current year despite its General Fund reductions in the current year. The department indicates that instead they have had to reduce contract funding to combat the Red Imported Fire Ant.

Staff Recommendation. Given the magnitude of the projected General Fund deficit, *staff recommends that the subcommittee hold the department's General Fund budget open and direct the department and DOF to develop options for reducing CDFA's General Fund budget by 5 percent and 10 percent.*

Issue for the Subcommittee to Consider.

- Given the size of the budget deficit and the relatively small General Fund reduction proposed by the Governor's budget to CDFA's budget, does the subcommittee want to consider further reductions to CDFA's General Fund appropriation?
- If so, what activities/programs should be reduced?

4. Department of Food and Agriculture Should Monitor and Report on Use of Antibiotics In Farm Animals

Background. It is widely accepted in the medical and scientific community that excessive antibiotic usage speeds the development of antibiotic-resistant infections. While there are efforts to monitor antibiotic usage on the human medical side, these efforts are noticeably absent or incomplete when it comes to agricultural and veterinary usage. According to the federal FDA's Center for Veterinary Medicine, there is a strong need for "drug-use information that enables correction of drug use with the emergence of resistance."

Many antibiotics used in animal agriculture are identical to drugs used in human medicine. While the overwhelming majority of antibiotics for human medical use are available only under the supervision of a medical professional, most antibiotics used for agricultural/veterinary purposes are not. There are concerns that overuse in animal settings may be compromising the effectiveness of those drugs when used in people. Many public health officials agree that surveillance information of such usage will help to fill a crucial information gap and help them deal with the problem of antibiotic resistance in an objective and fair manner.

In response to this problem, the Senate passed SB 506 to help to fill this data gap by requiring wholesalers and manufacturers to report to the Board of Pharmacy all sales of prescription antibiotics for use in agriculture, and to report sales of over-the-counter antibiotics and antibiotic feed additives to the CDFA. The bill was made a two year bill in the Assembly Agriculture Committee.

Staff Recommendation. There is general medical and scientific consensus is that the collection of antibiotic sales information represents an important first step in combating the growing public health problem of antibiotic resistance. Given that there is no public data currently collected on

antibiotic use data in farm animals, the committee may wish to adopt the following language as budget or trailer bill language:

(a) On or before June 1, 2005, the department shall do all of the following:

(1) collect information from manufacturers of animal feed and of oral and injectable antibiotics used in farm animals to determine the amounts of those antibiotics used in the agricultural and veterinary setting.

(2) in consultation and cooperation with the Department of Health Services, evaluate and report to the appropriate policy and fiscal committees of the Legislature on the use of antibiotics in the agricultural and veterinary setting and its impacts on human antibiotic resistance.

5. Repeal of Animal Control Mandate

Background. Local government animal control agencies care for stray and surrendered animals in California communities. Such care includes housing, medical care, and vaccinations. These agencies also pursue the successful adoptions of the animals in their care and euthanize those animals that are not placed.

Seeking to reduce the euthanization of adoptable stray animals, the Legislature enacted Chapter 752, Statutes of 1998 (SB 1785, Hayden). Prior law provided that no dog or cat impounded by a public pound or specified shelter could be euthanized before three days after the time of impounding. Chapter 752 requires the following:

- An increase from three days to four to six business days, as specified, in the holding period for stray and abandoned dogs and cats.
- A holding period of four to six business days for other specified animals.
- The verification of the temperament of feral cats.
- The posting of lost and found lists.
- The maintenance of records for impounded animals.
- The release of animals to nonprofit rescue or adoption organizations.
- “Necessary prompt veterinary care” for impounded animals.

In 2001, the Commission on State Mandates (CSM) determined that Chapter 752 imposed a reimbursable mandate by requiring, among other activities, that certain animals be cared for longer than the three days previously required by law.

Governor’s Budget. The Governor’s budget had proposed repealing the animal control mandate, thereby eliminating the state requirements for local governments to perform the mandated activities.

LAO Recommendation. The Analyst had recommended that the Legislature make modifications to Chapter 752 given the significant state-reimbursable mandate costs associated with the requirements of this statute. Local agency claims for mandate reimbursements will likely total \$10 million annually.

BSA Recommendation. The animal control mandate was the subject of a 2003 Bureau of State Audits report. In this report, the Auditor recommends that the Legislature direct the CSM to better clarify the costs eligible for reimbursement from the state under current law. The LAO concurs with the need for clarification of eligible reimbursements from the state and suggests the following budget bill language as an alternative to amending Chapter 752:

The Commission on State Mandates shall review the parameters and guidelines for the Animal Control mandate and make revisions consistent with the findings of the Bureau of State Audits and the 2003-04 Analysis by the Legislative Analyst's Office.

Staff Recommendation. Staff recommends suspending the animal control mandate in the budget year, which would provide \$0 appropriation in the budget bill. Furthermore, staff recommends referring the administration's proposed legislation to repeal the animal control mandate to the appropriate policy committee for consideration.

Issues for the Subcommittee to Consider.

- Does the subcommittee wish to fund the animal control mandate in the budget year?
- Does the subcommittee wish to amend or repeal the animal control mandate?

SUBCOMMITTEE NO. 2

Agenda

Byron Sher, Chair
Sheila Kuehl
Bruce McPherson



Thursday, March 18, 2004
Upon Adjournment of Session
Room 112

Outcomes

Consent Calendar

- **Action.** Approve as budgeted.
 - 3110 Special Resources Programs
 - 3680 Department of Boating and Waterways
 - 3780 Native American Heritage Commission
 - 7300 Agriculture Labor Relations Board
- **Vote.** 3-0

- **Action.** Approve as budgeted.
 - 3560 State Lands Commission
- **Vote.** 2-0 (McPherson)

Consent Calendar, excluding bond funds

- **No Action.** Held open pending more information regarding reductions.
 - 3125 California Tahoe Conservancy
 - 3760 State Coastal Conservancy
 - 3810 Santa Monica Mountains Conservancy
 - 3825 San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy
 - 3830 San Joaquin River Conservancy
 - 3835 Baldwin Hills Conservancy
 - 3845 San Diego River Conservancy
 - 3850 Coachella Valley Mountains Conservancy

3640 Wildlife Conservation Board

- *No Action.* Department not heard – all issues remain open.

3720 California Coastal Commission

- *No Action.* Department not heard – all issues remain open.

8570 California Department of Food and Agriculture

1. Capital Outlay

- *Action.* Held Open.

2. Position Management

- *Action.* Held this issue open and directed staff, LAO, and the department to develop trailer bill language that requires the department to comply with standard administrative procedures related to establishing new positions.

3. General Fund Reduction

- *Action.* Held this issue open and directed the department and DOF to develop options for reducing CDFA's General Fund budget an additional 5 percent and 10 percent.

4. Department of Food and Agriculture Should Monitor and Report on Use of Antibiotics in Farm Animals

- *Action.* Adopted the following trailer bill language.
 - (a) On or before June 1, 2005, the department shall do all of the following:

(1) collect information from manufacturers of animal feed and of oral and injectable antibiotics used in farm animals to determine the amounts of those antibiotics used in the agricultural and veterinary setting.

(2) in consultation and cooperation with the Department of Health Services, evaluate and report to the appropriate policy and fiscal committees of the Legislature on the use of antibiotics in the agricultural and veterinary setting and its impacts on human antibiotic resistance.

- *Vote.* 2-1 (McPherson)

5. Repeal of Animal Control Mandate

- *Action.* Suspended mandate, thereby providing \$0 to fund this mandate in 2004-05.
- *Vote.* 3-0

SUBCOMMITTEE NO. 2

Agenda

Byron Sher, Chair
Sheila Kuehl
Bruce McPherson



Thursday, March 25, 2004
Upon Adjournment of Session
Room 112

<u>Item</u>	<u>Department</u>	<u>Page</u>
Proposed Consent Items –Approve as Budgeted		
8830	California Law Revision Commission	1
8840	Commission on Uniform State Laws	1
8690	Seismic Safety Commission.....	2
5480	Commission on Correctional Peace Officer Standards & Training.....	2
Items to be Heard		
0820	Department of Justice	3
0690	Office of Emergency Services	9
5430	Board of Corrections	17
5460	Youth Authority	21

Resources--Environmental Protection—Public Safety—Energy

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.

Proposed Consent Items – Approve as Budgeted

8690 Seismic Safety Commission

The Seismic Safety Commission was established to improve earthquake preparedness and safety in California. Specifically, the commission is responsible for providing a consistent framework for earthquake-related programs and coordinating the administration of these programs throughout state government. The 17-member commission performs policy studies, reviews programs, investigates earthquake incidents, and conducts hearings on earthquake safety. The commission advises the Legislature and the Governor on legislative proposals, the state budget, and grant proposals related to earthquake safety.

Seismic Safety Commission – Source of Funding					
Program	<i>Funding (dollars in thousands)</i>				
	2002-03	2004-04	2004-05	\$ Change	% Change
General Fund	\$879	\$0	\$0	\$0	n/a
Insurance Fund	0	877	882	5	0.6%
Natural Disaster Assistance Fund	0	95	0	-95	n/a
Reimbursements	120	75	75	0	0.0%
Totals, Programs	\$999	\$1,047	\$957	\$-90	-8.6%
Total Authorized Positions	6.5	6.8	6.8	0	0%

Budget Request: The budget proposes total expenditures of \$957,000 (\$882,000 from the Insurance Fund and \$75,000 in reimbursements) for 6.8 positions at the commission. This amount is a decrease of \$90,000, or 8.6 percent from estimated current-year expenditures. Last year, the Legislature shifted funding for the Commission from the General Fund to the Insurance Fund.

Staff Recommendation. No issues have been raised. Staff recommends approval as budgeted.
Action.

8830 California Law Revision Commission

The primary objective of the California Law Revision Commission (CLRC) is to make recommendations to the Governor and the Legislature for revision of the law. The CLRC assists the Governor and the Legislature in keeping the law up to date by studying complex subjects, identifying major policy questions for legislative attention, gathering the views of interested persons and organizations, and drafting recommended legislation for consideration. The CLRC may study only topics that the Legislature authorizes by concurrent resolution.

Budget Request: The budget proposes expenditures of \$527,000 (\$512,000 General Fund and \$15,000 in reimbursement authority) and 4.2 positions. This amount is \$1,000 greater than estimated expenditures in the current year. Pursuant to Control Section 4.10 CLRC was reduced by \$67,000 and 0.8 positions.

Staff Recommendation. No issues have been raised. Staff recommends approval as budgeted.
Action.

8840 Commission on Uniform State Laws

In conjunction with other states, the Commission on Uniform State Laws (CUSL) drafts and presents to the Legislature uniform laws deemed desirable and practicable by the National Conference of Commissioners on Uniform State Laws for adoption by the various states. The commission is composed of six members appointed by the Governor, one member of each house of the Legislature appointed by the respective house, the Legislative Counsel, and two life members of the National Conference.

Budget Request. The budget proposes expenditures of \$122,000 from the General Fund, the same as anticipated expenditures in the current year.

Staff Recommendation. No issues have been raised. Staff recommends approval as budgeted.

Action.

5480 Commission on Correctional Peace Officers' Standards and Training

The objective of the Commission on Correctional Peace Officers' Standards and Training (CPOST) is to enhance the training and professionalism of California's state correctional peace officers through the development of sound selection practices and effective, competency-based training programs.

CPOST is composed of six commissioners serving four-year terms. Two commissioners are appointed by, and represent, the management of the Department of Corrections, and one commissioner is appointed by, and represents, the management of the Department of the Youth Authority. Three Commissioners are appointed by the Governor upon recommendation by, and representing the membership of, the California Correctional Peace Officers' Association. Since of July 1, 2000, the CPOST has been separate from the Youth and Adult Correctional Agency, functioning as an independent entity within this agency.

Budget Request. The budget proposes total expenditures of \$1.1 million from the General Fund and 7.3 positions to develop, approve, and monitor selection and training standards for California's correctional peace officers. This amount is the same as anticipated current year expenditures. During the budget process last year, the budget for CPOST was reduced from \$2.1 million to \$1.1 million.

Pursuant to Control Section 4.10, CPOST was reduced by 37,000 and 1 position.

Staff Recommendation. No issues have been raised. Staff recommends approval as budgeted.

Action.

Budget Items to be Heard

0820 Department of Justice

It is the responsibility of the Attorney General to uniformly and adequately enforce the laws of the State of California. The Attorney General fulfills this mandate through the programs under his control at the Department of Justice (DOJ). There are five primary divisions within the department, including (1) Civil Law, (2) Criminal Law, (3) Public Rights, (4) Law Enforcement, and (5) Criminal Justice Information Services. In addition, there are the Directorate and Administration Divisions, Executive Programs, the Division of Gambling Control, and, as of January 1, 2000, the Firearms Division.

Budget Overview. The budget proposes \$621.9 million for the DOJ, which is a decrease of \$10.2 million, or 1.6 percent below current year expenditures. General Fund support of \$297.6 million represents a decrease by \$14 million, or 4.5 percent from the estimated current year budget.

DOJ Program Requirements					
Program	<i>(dollars in thousands)</i>			Change	Percent Change
	2002-03	2003-04	2004-05		
Directorate and Administration	\$24,445	\$24,521	\$24,788	\$267	1.1%
Distributed Directorate and Administration	-24,445	-24,521	-24,788	267	1.1%
Legal Support and Technology	42,140	45,089	43,907	-1,182	-2.6%
Distributed Legal Support and Technology	-42,140	-45,089	-43,907	-1,182	-2.6%
Executive Programs	14,156	12,601	13,704	1,103	8.8%
Civil Law	103,756	111,169	104,461	-6,708	-6.0%
Criminal Law	97,156	106,607	104,150	-2,457	-2.3%
Public Rights	55,182	60,303	59,813	-490	-0.8%
Law Enforcement	149,909	159,544	161,878	2,334	1.5%
California Justice Information Services	151,607	152,174	154,425	2,251	1.5%
Gambling	11,859	15,481	14,344	-1,137	-7.3%
Firearms	10,445	14,210	12,320	-1,890	-13.3%
State-Mandated Local Programs	2	1	1	0	0.0%
Less amount funded in the Political Reform Act	(216)	(216)	-216		n/a
Unallocated Reduction	0	0	-3,003	-3,003	n/a
Total	\$594,072	\$632,090	\$621,877	-\$10,213	-1.6%
Authorized Positions	5,229.6	4,920.4	4,861.9	-58.5	-1.2%

Major Budget Adjustments

- A General Fund reduction of \$2.9 million and 276.8 positions pursuant to Control Section 4.10.
- A General Fund unallocated reduction of \$3 million.
- A fund shift of \$3 million from General Fund to the Restitution Fund for the California Witness Protection Program. In the current year, funding for this program had been transferred to the General Fund due to the lack of sufficient funds in the Restitution Fund.
- A General Fund decrease of \$1 million and 13 vacant positions for the California Methamphetamine Strategy Program (CALMS).
- An augmentation of \$2.4 million in federal funds for electronic surveillance equipment and overtime expenditures incurred for the CALMS program.
- A General Fund reduction of \$2.5 million due to a decline in the workload for *the Plata v. Davis* lawsuit.

Budget Change Proposals.

The following list summarizes additional Budget Change Proposals submitted by the DOJ.

Issue Title	Positions	Dollars
1. Indian & Gaming Law Section Workload. Requests funding to make permanent 1.6 limited term positions (1 DAG and secretarial compliment) due to expire June 30, 2004 to represent the state's interest in matters pertaining to Indian gaming. (Special Funds).	1.6	\$223,000
2. Natural Resources Law Section – Milk Litigation. Requests permanent reimbursement authority and 1.6 positions to provide legal assistance that is currently being provided by private lawyers. (Reimbursement Authority).	1.6	223,000
3. Juvenile Accountability Incentive Block Grant (JAIBG). Requests a one-time increase in reimbursement authority to replace livescan devices funded by previous JAIBG grant awards with devices that will capture and transmit both fingerprints and palm prints. (Reimbursement Authority).	0	1,941,000
4. Special Repairs for DOJ Forensic Lab. Requests one-time funding for HVAC replacement and roof replacement for the Watsonville forensic lab. (General Fund).	0	255,000
5. Automated Criminal History System Redesign. Requests funding and positions to continue development and implementation of the redesign for the Automated Criminal History System. (Special Fund).	3	2,500,000
6. Underwriters Litigation. Requests one year funding to continue to fund specialist counsel with expertise in insurance coverage litigation. (General Fund).	0	5,126,000
7. California Methamphetamine Strategy (CALMS) Program. Requests federal fund expenditure authority for additional court-sanctioned electronic surveillance as part of the CALMS program. Request would also fund \$1.75 million in budget year plus one.(Federal Funds).	0	2,430,000
8. National Criminal History Improvement Program (NCHIP). Requests one-time funding and positions for Year 9 of this program. Funds are proposed to be primarily used for entering information into the Automated Criminal History System, indexing hard copy fingerprint cards (Federal Funds)	26	3,000,000
9. Third Party Provider Workload. Requests funding two-year limited term positions to regulate Third Party Providers of Proposition Player Services in card rooms. (Special Fund).	7	796,000
10. CALFED Bay-Delta Program Representation. Requests reimbursement authority and 4.1 positions to provide continuing legal representation for the CALFED program. (Reimbursement Authority)	4.1	485,000
11. Gun Show Program – Transfer of Funding and Position Authority. Requests a transfer of \$837,000 from the Division of Law Enforcement to the Firearms Division to better align the mission of the Firearms Division.	0	0
12. Tribal Investigative Workload. Requests funding to make expiring limited term positions permanent to address Indian gaming regulatory workload. (Special Fund).	7	671,000
13. Transfer Sexual Habitual Offender Program (SHOP) Fund Authority. Requests transfer of \$655,000 SHOP funds and 8 positions from the Division of Justice Information Services to the Division of Law Enforcement.	0	0
14. Case Management Section Consolidation Requests to internally redirect 15.5 positions and \$1.1 million General Fund into the newly formed Case Management Section.	0	0
15. Certificate of Eligibility for Employees of Firearms Dealers. Requests funding to process criminal offender record information requests for employees of firearms dealers pursuant to Chapter 502, Statutes of 2003. (Special Fund).	0	112,000
16. Interdepartmental Transfer of IT Funds. Requests authorization to internally transfer \$130,000 in special funds for information technology maintenance to the Division of Justice Information Services.	0	0

Budget Issues

1. Unallocated Reduction

Budget Request. The budget proposes an unallocated reduction of \$3 million for the DOJ (about 1 percent of DOJ's total General Fund). The budget proposed to reduced another \$2.5 million from the Criminal Law Division for the Plata lawsuit. DOJ indicates that those monies had already been reduced from its budget. Therefore the unallocated reduction that DOJ will be facing is \$5.5 million.

Staff Recommendation. The DOJ has indicated that it will be allocating the reduction proportionately across its Division's General Fund appropriations. Staff recommends holding this issue open pending additional information on the programmatic impacts of these reductions.

Action.

2. License Approval Process

Background. The Gambling Control Act makes the Gambling Control Commission (CGCC) responsible for licensing and imposing fines on persons involved in controlled gambling activities, such as card rooms. With respect to Indian gaming, the CGCC is charged with reviewing licenses and permits to make findings of suitability to tribal gaming authorities to help assure that no unqualified or disqualified person is issued or allowed to hold a license. Individuals who must apply for gambling licenses include: (1) those who have a financial interest in the gambling establishment; (2) key employees of the gambling establishment, primarily management and those who handle money; (3) other employees of the gambling establishment; and (4) suppliers of gambling equipment and resources. The Division of Gambling within the Department of Justice (DOJ) is responsible for performing the background check on individuals.

Issue. Two years ago, the LAO raised an issue with respect to the DOJ's Division of Gambling and the license approval process. According to estimates at that time from the DOJ, there may be as many as 12,000 to 15,000 individuals designated as "key" employees from tribal gaming establishments who would have gambling licenses for review by the CGCC for findings of suitability. In addition to this number, there is an unknown number of those with a financial interest and certain suppliers of gaming equipment whose licenses are also to be reviewed by the CGCC in order to make findings of suitability.

Division of Gambling Tribal Licensing Section				
Historical Data				
Year	New Applications Received	Inactive Applications	Applications Forwarded to the CGCC	Applications in Progress ^a
2000 ^b	71	0	0	71
2001	668	340	0	399
2002	900	143	237	924
2003	1,424	341	813	1,282
2004 ^c	163	123	179	1,167
Totals	3,226	947	1,229	1,167 ^c

^a Cumulative applications as of the last day of the year or period.

^b October 2000 through December 2000.

^c As of March 15, 2004.

Updated Numbers. As can be seen in the table above, the DOJ indicates that it has received a total of 3,226 applications from designated “key” employees and has forwarded a total of 1,229 to the CGCC. The DOJ reports that of the 1,167 applications pending, over half have come in within the last 180 days. The majority of the applications pending are not complete; and the DOJ is waiting for additional information from the Tribal Gaming Agencies (TGA) in order to complete its investigations.

DOJ Efforts to Streamline Process. The DOJ indicates that it continues to work with the TGAs to ensure that the background investigation the TGA conducts meets the requirements of the Gambling Control Act, thereby reducing the need for additional investigation on DOJ’s part. In an effort to further streamline the process while ensuring due diligence, the DOJ indicates that it is now conducting a risk analysis on the applications which, in turn, dictates the steps required by the Division of Gambling to determine suitability of the applicant. The DOJ indicates that this new process will enable us to act on tribal key applications with even greater efficiency.

Staff Comments. The Subcommittee may wish to consider the following.

- What is the currently estimated number of designated “key” employees? If the number is still 12,000 to 15,000, then less than 25 percent of the applications for such employees has been received by the DOJ. What can be done to expedite the entire determination of suitability process?
- The DOJ indicates that the majority of applications that it receives are incomplete. What is being done to ensure that initial applications are complete?
- How long does it take for the DOJ to perform that necessary background check of an application prior to forwarding it the CGCC? The DOJ has indicated that it is considering implementing a risk assessment analysis on applications to reduce the necessary steps for determining suitability. What changes would this risk assessment process entail?

Informational Issue. No Action Necessary.

3. Consultant Fees for Underwriters Litigation

Background. The state has brought two lawsuits against certain insurance companies to compel them to honor their obligations arising from the state’s conduct at the Stringfellow toxic dump site. Potential insurance coverage totals approximately \$200 to \$800 million, depending upon how certain legal issues are determined by the court. Estimated cleanup costs associated with the dump site range from \$400 to \$600 million. The state has been found liable for the clean up of the site in a federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) action. The judgment in that action is now final.

There are two lawsuits. The *Underwriters* action was filed in 1993 against the state’s five largest insurers, who collectively provided 70 percent of the state’s coverage during the period 1963-1976. In 2002, the *Allstate* action was filed against the remaining insurers.

The Underwriters litigation has been divided into three phases. Phase I, which determined the physical makeup of the insurance policies concluded in 1997. Phase II, which considered the legal meaning of several key policy provisions was complete in 2000.

Phase III, the subject of the next trial, will also consider the issues relating to the legal meaning of several key policy provisions, which issues were not resolved in Phase II, and apply the fact of the underlying

CERCLA proceedings t the terms of the policy, determine whether the state is entitled to coverage from the five main insurers and if so, how much.

Budget Request. The budget proposes one-time funding of \$5.1 million from the General Fund to continue to fund specialist counsel with expertise in insurance coverage litigation.

The DOJ reports that Phase III is the main evidentiary phase of the case. Trial of this phase is expected to last four months and is set to commence in January 2005. DOJ states that this date is problematic given the cautionary statements made by the new trial judge in the last hearing on March 5, 2004.

Historical Appropriations and Expenditures for Consultant Expenses on <i>Underwriters</i> Case		
Fiscal Year	Appropriation	Consultant Expenses
1993-94	\$1,221	\$141
1994-95	\$1,462	\$502
1995-96	\$2,700	\$1,882
1996-97	\$3,700	\$2,694
1997-98	\$1,700	\$1,645
1998-99	\$3,500	\$1,781
1999-00	\$4,057	\$2,143
2000-01	\$3,928	\$3,020
2001-02	\$3,800	\$2,758
2002-03	\$3,850	\$3,933
2003-04*	\$5,754	\$1,912
Total	\$35,672	\$22,412

* Expenditures as of March 2, 2004

Generally, Budget Act appropriations are available for encumbrance for one year and available for liquidation for two years after that. Thus unspent appropriations from 2003-04 would automatically revert to the General Fund at the end of the 2005-06 fiscal year.

Staff Recommendation. Given uncertainties concerning the start of the trial date and the length of the trial, staff recommends adopting budget bill language to revert unused General Funds at the end of the budget year.

Proposed Budget Bill Language – Department of Justice 2004-05 Budget Act.

Provisions:

7. Of the amount included in Schedule (6) of this item, \$5,126,000 is available for costs related to the Lloyd's of London (Stringfellow) litigation. Any funds not expended for this specific purpose as of June 30, 2005, are to revert immediately to the General Fund.

Action.

4. New DNA Laboratory

Background. The existing \$18 million 68,000 square foot Richmond laboratory is located in a leased facility. The department has a firm-term lease which runs through June 2006. The Richmond lab currently has a staff of around 150 scientists and support staff. The Richmond lab replaced a laboratory

in Berkeley that housed the state DNA and sex-offender data banks, and the missing persons DNA program. The DOJ also operates a research and development program to develop new DNA and criminalistics analysis techniques. The LAO notes that in view of the new DNA laboratory identified in last year's plan, the future of the leased Richmond facility is unclear.

New Facility Planned. The department plans to develop a new \$80 million 240,000 square foot statewide DNA laboratory to replace the existing Richmond facility. The new lab, to be located in the I-80 corridor between Davis and Fairfield, is planned to be nearly four times the size of the existing lab. The department indicates its proposal is based on assumed future workload and staff growth.

Analyst's Recommendation. The LAO notes that the planned facility would be a major expansion of the department's program space, and will require close scrutiny by the Legislature when a specific proposal is made. In view of the department's plan to construct a new DNA laboratory, the LAO recommends the department report at budget hearings regarding the status of planning efforts. This information should include available scope and cost documents, and available workload projections for the DNA program.

Action.

5. Use of Previous Appropriations for the Project

Previous Appropriation for Site Acquisition. The Legislature did appropriate \$2 million in the 2001-02 budget for site acquisition for a new statewide DNA lab. Provisional language provided that this capital outlay appropriation was to be available for site search, planning, and a site purchase option.

Analyst's Recommendation. The department indicates that these funds were not spent for their intended purpose but were instead used to satisfy various unallocated state operations cuts to the department's operating budget. The LAO indicates that it is unclear what authority the department used to take this action. The LAO recommends that the department explain at budget hearings why its capital outlay funds were not used for the purposes the Legislature designated.

Staff Comments. The DOF indicates that \$700,000 had been used to offset a reduction from a prior year and that \$1.3 million was used to meet Control Section 4.10 reductions (DOJ reduced its budget by \$2.9 million and 279 positions pursuant to Control Section 4.10). These capital outlay funds would have reverted to the General Fund at the end of the current year.

6. Other Budget Requests.

Staff Recommendation. Staff recommends holding the budget for DOJ open at this time. The Subcommittee may wish to ask DOJ about the programmatic impact of an additional 5 percent and 10 percent reduction in General Fund monies.

Action.

0690 Office of Emergency Services

The Office of Emergency Services (OES) coordinates emergency activities to save lives and reduce property losses during disasters and acts as the state's conduit for federal assistance related to recovery from disasters. OES provides leadership assistance and support to state and local agencies in planning and preparing for the most effective use of federal, state, local, and private resources in emergencies. The emergency planning is based on a system of mutual aid in which a jurisdiction first relies on its own resources and then call for assistance from its neighbors. OES also serves as the agent for the state's Office of Homeland Security regarding the strategy and distribution of federal homeland security funds.

Office of Emergency Services – Program Expenditures					
Program	<i>Expenditures (dollars in thousands)</i>				
	2002-03	2003-04	2004-05	\$ Change	% Change
Mutual Aid Response	\$16,087	\$16,421	\$15,927	-\$494	3.0%
Plans and Preparedness	53,023	195,005	39,527	-155,478	-79.7%
Disaster Assistance	568,942	659,742	639,936	-19,806	-3.0%
Criminal Justice Projects	0	100,924	202,455	101,531	100.6%
CA Anti-Terrorism Information Center	0	3,350	6,700	3,350	100.0%
Administration and Executive	5,560	6,294	6,294	0	0.0%
Distributed Administration and Executive	-5,560	-6,294	-6,294	0	0.3%
State Mandated Local Programs	0	0	2	2	n/a
Totals, Programs	\$638,925	\$976,337	\$905,442	-\$70,895	-7.3%
Total Authorized Positions	480.3	406.3	447.0	40.7	1.0%

Office of Emergency Services – Source of Funds					
Program	<i>Expenditures (dollars in thousands)</i>				
	2002-03	2003-04	2004-05	\$ Change	% Change
General Fund	\$54,111	\$135,363	\$140,739	\$5,376	4.0%
Unified Program Account	589	612	612	0	0.0%
Nuclear Planning Assessment Special Account	2,753	3,296	3,072	-224	-6.8%
Local Prosecutors & Public Defenders Training	0	432	864	432	100.0%
Victim Witness Assistance Fund	0	8,341	16,683	8,342	100.0%
State Assistance for Fire Equipment Account	8	100	100	0	0.0%
High Tech Theft Apprehension & Prosecution	0	7,105	14,210	7,105	100.0%
Less funding provided by the General Fund	0	-6,980	-13,960	6,980	100.0%
Less funding provided by Federal Trust Fund	0	-125	-250	125	100.0%
Federal Trust Fund	578,359	825,424	740,234	-85,190	-10.3%
Reimbursements	3,105	2,769	3,138	369	13.3%
Totals, Programs		\$976,337	\$905,442	-\$70,895	-7.3%

Budget Request. The budget proposes total expenditures of \$905.4 million (\$140.7 million General Fund) for state operations and local assistance, a decrease of \$70.9 million from the estimated current year expenditures. The majority of funding for OES is local assistance (\$834.5 million).

One reason for the decrease in expenditures for 2004-05 is that the current year estimates include \$160.3 million in federal funds for equipment, training, and planning grants related to homeland security. The budget for 2004-05 currently only includes \$4.6 million in for these grants and anticipates a spring budget change proposal increasing this amount once the level of the federal fiscal year 2004 homeland security funds is known.

The current year budget includes a total of \$100.9 million from various funds for criminal justice projects transferred from the OCJP as of January 2004. The proposed budget includes full year funding of \$202.5 million for these programs.

Major General Fund Adjustments

- A General Fund augmentation of \$60 million in the current year and \$40 million in the budget year to provide funds for recovery from the wildfires in Southern California.
- A reduction of \$2.6 million General Fund and 79.2 positions in the current year and budget year pursuant to Control Section 4.10. The OES reports reductions totaling 139 positions in the last two years, with 49 positions being transferred or laid off.

Issues

1. Update on the Reorganization Plan for OCJP

Background. The Legislature and Governor, as part of the 2003-04 Budget Act, dismantled OCJP and transferred its programs to other agencies. Specifically, the act required that the DOF submit an interim plan on October 1, 2003 to the Chair of the Joint Legislative Budget Committee (JLBC) and a Reorganization Plan to the Legislature on March 1, 2004.

Interim Plan to Eliminate OCJP. As required by the 2003-04 Budget Act, the interim plan identified the state agencies that will receive the OCJP's programs, the necessary funds the receiving departments will require to operate these programs, and the savings resulting from the closure of OCJP. Specifically, the plan proposed to transfer OCJP's juvenile justice programs to the Board of Corrections (BOC), public safety programs to the Office of Emergency Services (OES), and the victims' services programs to OES. The plan also identified 50 positions for elimination at an estimated total savings (General Fund and federal funds) of \$504,000 in the current year, and \$2,285,000 in 2004-05.

Upon reviewing the interim plan, the Chair of the JLBC found it to be generally consistent with legislative intent and, therefore, recommended approval of the plan. However, the Chair identified several issues that should be addressed as part of the Governor's Reorganization Plan.

Issues for Governor's Reorganization Plan The LAO cites four issues for the Legislature to consider.

Freed-Up Federal Funds. First, the plan should specify how the administration proposes to spend approximately \$2 million in freed up federal funds that LAO has identified. The LAO indicates that these funds can be allocated for program administration and/or grant awards. The LAO notes that providing such information will allow the Legislature an opportunity to provide input regarding the allocation of these funds.

Nexus Between Program and Receiving Department. Second, the plan should demonstrate a nexus between the programs being transferred from OCJP and the programs currently being administered by the

receiving agency. Demonstrating such a nexus ensures that the receiving agency has the administrative infrastructure and the program expertise appropriate for carrying out the programs. It also reduces, and may eliminate, program overlap between state agencies and in so doing fosters the strategic use of state and federal funding for similar programs.

Program Consolidations. Third, the plan should also consider consolidating similar programs. To the extent that funding can be consolidated for similar programs as a result of this reorganization, administrative activities and related costs can be reduced, thereby freeing up administrative funds to support programs.

Proven Cost-Effective Programs. Finally, the reorganization plan should examine alternative future uses of the transferred federal funds to ensure that they are used to fund the most cost-effective programs. Some of OCJP's federally funded programs that the interim plan proposes to transfer have not been evaluated and, therefore, it is unknown whether they are effective. The plan should discuss redirecting this funding to programs with demonstrated cost-effectiveness or develop a plan to have these programs evaluated.

Reorganization Plan Is Delayed. Although the 2003-04 Budget Act requires DOF to submit the Reorganization Plan to the Legislature March 1, 2004, the Governor's budget summary indicates that the plan will not be released until May 2004. The LAO has raised the concern that the late release of this plan will not provide the Legislature with an adequate amount of time for review.

Analyst's Recommendation. Because the 2003-04 Budget Act requires and the Legislature needs adequate time to review the Governor's Reorganization Plan, the LAO recommends that the Legislature require the DOF to adhere to the March 1, 2004 deadline for submitting a Reorganization Plan for OCJP. Additionally, the LAO recommends that DOF advise the Legislature at budget hearings as to how the Reorganization Plan addresses the issues identified above.

Transition of Grant Administration. The table on the following page highlights the various grant programs proposed to be administered by OES in the budget year.

- The Subcommittee may wish to have OES present some of the challenges faced in transitioning these programs from OCJP, and plans for administering these programs in the current and budget year.

OES Summary of Program Budget Amounts by Fund 2003-04 and 2004-05				
<i>(Dollars in Thousands)</i>				
SUMMARY OF ALL STATE FUNDS	03/04 Budget Authority			04/05 Budget
	8100 (OCJP)	0690 (OES)	Total	
GENERAL FUND	\$22,477	\$20,468	\$42,945	\$40,943
Victims Legal Resource Center	21	20	41	41
Domestic Violence	2,365	365	2,730	730
Family Violence Prevention	25	25	50	50
Rape Crisis	25	25	50	50
Homeless Youth	198	198	396	396
Youth Emergency Telephone Referral	64	63	127	127
Child Sexual Abuse and Exploitation	151	151	302	302
Mandates Claim Bill	2	0	2	0
Community Crime Resistance	116	115	231	231
War on Methamphetamine	4,750	4,750	9,500	9,500
Vertical Prosecution Block Grants	4,088	4,088	8,176	8,176
Career Criminal Apprehension	433	433	866	866
Serious Habitual Offender	69	68	137	137
Evidentiary Medical Training	324	324	648	648
Child Justice Act (also federally funded)	38	0	38	0
Vertical Defense of Indigents	86	86	172	172
Public Prosecutors/Public Defenders Training	4	4	8	8
Suppression of Drug Abuse in Schools	1,208	345	1,553	690
Gang Violence Suppression	1,529	1,544	3,073	3,090
Multi-Agency Gang Enforcement Consortium	47	46	93	93
Rural Crime Prevention	1,671	1,670	3,341	3,341
Reimbursements	(1,387)	(502)	(1,889)	(1,005)
<i>Less Transfer to Fund 0597 - HTTAP</i>	<i>6,650</i>	<i>6,650</i>	<i>13,300</i>	<i>13,300</i>
SPECIAL FUNDS	14,915	14,914	29,829	29,829
Public Prosecutors/Public Defenders Training	396	396	792	792
Victim Witness Assistance	5,436	5,435	10,871	10,871
Rape Crisis	1,835	1,835	3,670	3,670
Child Sexual Abuse and Exploitation	489	489	978	978
High Technology Theft Apprehension/Prosecution	6,759	6,759	13,518	13,518
FEDERAL TRUST FUND	85,104	67,168	152,272	134,342
Domestic Violence	4,376	4,375	8,751	8,751
Violence Against Women Act	6,495	6,495	12,990	12,990
Rural Domestic Violence / Child Victimization	286	285	571	571
Rape Prevention	2,786	2,785	5,571	5,571
Victims of Crime Act	20,349	20,349	40,698	40,698
Forensic Sciences Improvement	179	179	358	358
Children's Justice Act	888	887	1,775	1,775
Byrne Local Law Enforcement Assistance	26,059	26,059	52,118	52,118
Residential Substance Abuse Treatment	4,568	4,567	9,135	9,135
Local Law Enforcement	441	441	882	882
Peace Officer Protective Equipment	638	637	1,275	1,275
Gang Violence Suppression	503		503	0
Juvenile Justice and Delinquency Prevention	3,030	0	3,030	0
Community Delinquency Prevention	2,501	0	2,501	0
Juvenile Accountability Incentive Account	10,885	0	10,885	0
Juvenile Justice - Project Challenge	557	0	557	0
Unallocated Redirection from State Ops	454	0	454	0
<i>Less Transfer to Fund 0597 - HTTAP</i>	<i>109</i>	<i>109</i>	<i>218</i>	<i>218</i>
TOTAL FUNDS	\$122,496	\$102,550	\$225,046	\$205,114

2. Domestic Violence Grants

Background. In FY 2001/02, OCJP released a competitive Request for Proposal (RFP), which resulted in ten shelters previously funded under DVAP not being reselected for funding. Shortly thereafter, AB 664 was passed to appropriate \$2 million per year for three years to fund the ten shelters previously funded by OCJP. The OES notes that the former Interim Executive Director of OCJP indicated in a Senate Oversight Hearing on Domestic Violence, that the ten shelters would be merged into the DVAP after AB 664 expired.

The OES indicates that the funding level for the AB 664 shelters was based on the shelter's funding level in FY 2000/01. This resulted in some of the ten shelters receiving a different funding amount than they would have received if selected for funding through DVAP. In addition, these projects have not received any cuts over the last three years.

Three-year emergency funding for the 10 AB 644 shelters ends September 30, 2004. OCJP notified the AB 664 shelters in August that this was the final year of funding. It is the OES's Criminal Justice Programs Division's (CJPD) goal to give at least six months notice to any grant funded project whose funding may be affected by the DVAP funding, in order to give them adequate time to prepare for reductions/loss of funds.

OCJP/OES Funding for Domestic Violence Shelters for the Last Three Years (Dollars in Thousands)			
Source of Funds	2001-02	2002-03	2003-04
Federal Family Violence Prevention	\$4,882	\$4,763	\$4,959
Federal Victims of Crime	7,428	8,954	8,143
Federal Violence Against Women	925	277	0
State General Funds/ AB 644	2,025	2,025	2,025
State General Funds	1,460	727	730
Total	\$16,719	\$16,744	\$15,857

Staff Comments. The Subcommittee may wish to ask the OES how much funding will be available for these programs in the budget year, and what its plans are to fund the 85 domestic shelter programs currently funded once that the funding from AB 644 ends in September.

3. Mandates

Budget proposed to defer the following two mandate. These mandates were deferred last year.

- Ch. 411, Statutes of 1995: Crime Victim's Rights
- Ch. 1249, Statutes of 1992 and Ch. 666, Statutes of 1995: Threats Against Peace Officers

Budget proposes repeal of 3 mandates:

- Ch. 1032, Statutes of 1980 Deaf Teletype Equipment. LAO also recommends repeal as a long suspended mandate.
- Ch. 1334, Statute of 1987: CPR Pocket Masks. LAO also recommends repeal as a long suspended mandate.
- Ch 36, Statutes of 1994: Sex Crime Confidentiality funding suspended in the current year LAO also recommends repeal with amendments to Public Records Act. This mandate was suspended last year.

Staff Recommendation. Staff recommends approving the proposed mandate deferrals as budgeted. Separate legislation proceeding through the policy committee process would repeal the mandates proposed for repeal. Staff recommends suspending the mandates proposed for repeal, pending the outcome of the legislation repealing the mandates.

Action.

4. Other Support Requests.

Staff Recommendation. Staff recommends holding open the budget for OES at this time, pending additional information on federal grants that will be available at the time of the May Revise. The Subcommittee may wish to ask the OES about the programmatic impacts of an additional 5 percent and 10 percent reduction in General Fund monies.

5. Capital Outlay

Although the LAO has no issues with the budget, the 2003 infrastructure plan for the office includes two projects about which the LAO has raised concerns.

Infrastructure Plan

The 2003 California Five Year Infrastructure Plan shows the OES identified almost \$50 million in infrastructure needs. Of this total, \$40 million would replace two- operations centers

Need for and Scope of Planned Operations Centers Unclear. The LAO recommends that the office report at budget hearings on its current plans for replacing two operations centers.

Coastal Region Coordination Center. The existing coastal region operations center is located in leased space in Oakland that does not meet the requirements of the state Essential Services Building Act. The prior administration did not support funding in the infrastructure plan for a replacement facility because OES has not evaluated its programmatic and facility needs in light of a reduction in staff at the coastal region office.

Southern Region Coordination Center. The existing southern region coordination center is located at the Los Alamitos airfield in two modular buildings that do not meet the standards required by the Essential Services Building Act. The infrastructure report indicates the prior administration supported \$27 million primarily for replacement facilities but noted that OES has not yet determined what services need to be delivered in southern California or developed a strategy for delivering them.

The LAO reports that it is unable to evaluate the need for, and scope and cost of, either proposal. The LAO recommends that the office report at budget hearings on its current plans for replacing these operations centers.

1. Office of Homeland Security – Informational Item

In February 2003, executive order D-67-03 established the Office of Homeland Security(OHS). The order established the Director of the OHS as the individual primarily responsible for coordinating state security efforts of all departments and agencies. The mission of the OHS is to develop and coordinate the implementation of a comprehensive strategy to coordinate security activities throughout the state. The Director of OES reports to the Director of OHS.

The OHS does not have a separate line item in the budget bill or the Governor's proposed budget.

The Subcommittee may wish to ask OHS the following questions:

- How many positions exist at OHS? Where are those positions borrowed from?
- Does OHS have a timeline for submitting a budget proposal before the Legislature?

2. Homeland Security Grants – Informational Item

Excluding funding for federal fiscal year 04, California has received a total of \$281 million in federal homeland security funding. The majority of these funds have been in the form of equipment grants for first responders. The Table below highlights the grants.

Of the total funds, \$229.6 million was distributed to local government agencies, \$22.1 to the CHP, \$11.6 million to the Military Department, \$12.1 million to other state agencies, and \$5.9 million was retained by OES.

Homeland Security Grants		
Grant Name	Amount	Description
Federal Fiscal Year (FFY) 2000 & 2001 State Domestic Preparedness Grant Program	\$14,833	Designated for eligible equipment for emergency first responders. \$2.6 million distributed to CHP and \$12.2 million to local government agencies.
FFY 2002 State Domestic Preparedness Grant Program	\$24,831	Intended to further enhance the capabilities of state and local responders. Of the total, \$23.7 million in equipment funds and \$1.1 million in exercise funds. \$20 million distributed to local government agencies.
Federal Emergency management Agency (FEMA) FFY 2002 Supplemental Appropriation	\$11,937	Intended to ensure that Emergency Operation Plans (EOPs) are updated to address all hazards with an emphasis on weapons of mass destruction (WMD) and terrorism preparedness. The state retained 25 percent for state agency planning with the remainder distributed to local and tribal governments.
FFY 2003 State Homeland Security Grant Program, Part I	\$45,023	\$31.6 million for equipment, \$7.9 million for exercises, \$2.4 million for training, and \$3.2 million for planning and administration. Local Operational Areas to receive 80 percent and the state to retain 20 percent.
FFY 2002 State Homeland Security Grant Program, Part II	\$119,256	\$103.4 million intended for equipment, exercises, training, planning, and administration related to first responder preparedness. Local Operational Areas to be issued 80 percent and the state 20 percent. \$15.9 million for Critical Infrastructure Protection (CIP) – designed to cover costs associated with increased security measures at critical infrastructure sites during periods of heightened threat. 50 percent of these funds for local government.
FEMA FFY 2003 Emergency Management Program Grant	\$3,162	Intended to enhance state and local emergency management efforts. \$1.6 distributed to OES and \$1.5 million to local governments.
FFY 03 Urban Areas Security Initiative (UASI) Grant Program Part II	\$62,202	Grant to five urban areas for equipment, exercises, training, planning, and administration. Some funds available for CIP. UASI Part I was provided directly to urban areas by the federal government.
Total	\$281,244	

The budget proposes allocation of \$160.3 million in federal funds in the current year for training, equipment, and planning grants related to homeland security. The budget currently only includes \$4.6 million in 2004-05 for these grants and anticipates a spring budget change proposal increasing this amount once the level of the federal fiscal year 2004 homeland security funds is known.

The Subcommittee may wish to ask the following questions:

1. What criteria is used to determine which local governments to fund and how much?
2. How does OHS determine which state agencies to fund and at what levels?
3. What timelines does OHS have for distributing federal homeland security funds?
4. Does OHS currently have an estimate for the amount of FFY 2004 homeland security grants that CA will receive?

5430 Board of Corrections

The Board of Corrections works in partnership with city and county officials to develop and maintain the standards for the construction and operation of local jails and juvenile detention facilities, as well as standards for the employment and training of local corrections and probation personnel. The board also disburses training funds, administers the allocation of funds to counties for the federal Violent Offender Incarceration/Truth-in-Sentencing Grant Program, the Juvenile Hall/Camp Restoration Program, the Mentally Ill Offender Crime Reduction Grant Program, and the Juvenile Crime Enforcement and Accountability Challenge Grant Project. In addition, the board regularly conducts special studies in penology and corrections.

Board of Corrections - Source of Funds					
Program	(dollars in thousands)				Percent Change
	2002-03	2003-04	2004-05	Change	
General Fund	\$96,817	\$23,259	\$1,343	-\$21,916	-94.2%
Corrections Training Fund	18,345	2,463	2,361	-102	-4.1%
Federal Trust Fund	36,850	101,989	69,503	-32,486	-31.9%
Reimbursements	514	707	488	-219	-31.0%
Board of Corrections Admin Fund	0	0	1,886	1,886	n/a
Totals	\$152,526	\$128,418	\$75,581	-\$52,837	-41.1%

Budget Overview. The budget for the Board of Corrections (BOC) proposes total expenditures of \$75.6 million which is a decrease of \$52.8 million, or 41.1 percent from estimated current year expenditures. This decrease is due primarily to the completion of federal fund and General Fund grant programs from previous years. The federal fund portion of the proposed budget is \$69.5 million, a decrease of \$32.5 million. The General Fund portion of BOC's budget is proposed to decrease by \$21.9 million (94.2 percent) for a total of \$44.8 million.

The proposed funding for state operations is \$8.2 million, which is a decrease of \$463,000 from the current year. The number of authorized personnel would increase from 62.8 positions to 68 positions. The proposed local assistance budget is \$67.4 million, which is a decrease of \$52.4 million from estimated current year expenditures.

Board of Corrections - Summary of Program Expenditures					
Program	(dollars in thousands)				Percent Change
	2002-03	2003-04	2004-05	Change	
Corrections Planning and Programs	\$131,799	\$105,237	\$34,828	-\$70,409	-66.9%
Facilities Standards and Operations	2,125	2,406	2,009	-397	-16.5%
Standards and Training for Local Officers Administration	18,600	2,719	2,616	-103	-3.8%
Distributed Administration	333	352	352	0	0.0%
State-Mandated Local Programs	-333	-352	-352	0	0.0%
	2	1	1	0	0.0%
Totals	\$152,526	\$128,418	\$75,581	-\$52,837	-41.1%
Authorized Positions	62.8	62.8	68.0	5.2	8.3%

Control Section 4.10 Reductions. Pursuant to Control Section 4.10, the budget for BOC was reduced by \$452,000 (\$283,000 General Fund, \$110,000 reimbursement authority, \$31,000 Corrections Training Fund, and \$28,000 federal fund), and 6 positions.

STC Program Eliminated Last Year. Last year, the budget eliminated the Standards and Training for Corrections (STC) program and approved a transfer of \$9.6 million from the Corrections Training Fund to the General Fund. This program provided reimbursements for training costs of local correctional officers.

Budget Change Proposals		
	Issue	Dollars
1	Implement an Administration Fund and Convert General Fund Programs to Fee Based Funding. Requests to convert the funding source for the Executive Office, Local Adult and Juvenile Facilities Standards and Inspections, and Juvenile hall Suitability Inspection Process from General Fund to a city/county reimbursed fee structure (Requires Trailer Bill Language).	\$1,710,000
2	Convert Local Juvenile Detention Facilities Inspection Process from General Fund to Administration Fund. Requests to convert the funding source for the Local Juvenile Detention Facilities Inspection Process from General Fund to a to a city/county reimbursed fee structure (Requires Trailer Bill Language).	\$176,000

Issues

1. Conversion of General Fund Programs to Fee Based

Budget Request. The budget proposes to convert the funding source for the Executive Office, Local Adult and Juvenile Facilities Standards and Inspections, and Juvenile Hall Suitability Inspection Process from General Fund to a city/county reimbursed fee structure. The proposal would authorize an Administration Fund and would implement a county-reimbursed fee structure whereby counties and cities would reimburse the state for the operation of the Executive Office of the BOC and a portion of the costs associated with the establishment, promulgation, and maintenance of minimum standards for adult and juvenile detention facilities, as well as the biennial inspection of all adult and juvenile detention facilities.

Costs For These Programs. The total costs for these functions is \$1.8 million. Under the proposal, the BOC would charge locals a fee per type of facility. Assuming all the counties elected to continue the services provided by the BOC, the charge per adult facility would be from \$1,500 up to \$3,150 annually, depending upon the type and size of facility, and the charge per facility would be from \$3,000 up to \$45,000 annually, depending upon the type and size of facility.

Trailer Bill Language. The proposed trailer bill language authorizes rather than requires the BOC to perform inspections of facilities, eliminates the biennial frequency of the inspections, and authorizes the BOC to charge fees to reimburse the BOC for services. The proposal would allow counties to opt out of standards and inspections by not paying the BOC for the service.

Background on Previous Elimination of Juvenile Inspections. Budget constraints in 1992 resulted in the elimination of juvenile hall and camp inspections by the California Youth Authority (CYA), which had been authorized in 1955 to establish standards for the operation and maintenance of local juvenile facilities. In lieu of these inspections, the Legislature instituted a process of self-certification.

In response to growing concern about deteriorating conditions in some juvenile facilities, the Legislature reinstated an independent inspection process in the 1995 Budget Act, which transferred responsibility for all local juvenile facilities from the CYA to the BOC and set in statute the requirement that the Board

inspect and report on the management, operation, and physical plant condition of all of California's county juvenile halls camps, and ranches (Welfare and Institutions Code Sections 209, 210, 885, and 886.5). Additionally, juvenile detention facilities are inspected for compliance with standards set forth in Title 15 and 24, California Code of Regulations to ensure they operate at constitutionally adequate levels.

According to the BOC, in 1996/97 after the first inspection cycle, the BOC found that a majority of facilities inspected (46 of 58 facilities) were operating in non-compliance with minimum standards. The initial review also revealed numerous other deficiencies related to such issues as crowding, use of force, discipline, staffing, services, and other operational areas.

Staff Comments. The BOC indicates that it has been working with the federal government to see if some of its administrative costs regarding facility reviews and inspections can be funded through federal funds. It may be possible that federal funds could be used to offset all but about \$500,000 of the General Fund portion of BOC's budget.

Issues to Consider.

- Assuming BOC can use federal funds for some of these administrative costs, BOC will be able to achieve significant General Fund savings (up to \$1.3 million) without imposing fees, or cutting their local facility data keeping. Does it make sense reduce but not eliminate General Fund in order to continue mandatory oversight.
- Given the fiscal constraints being felt by counties, will counties decide to pay fees for the services?
- Given the experience with self-certification between 1992 and 1996 with juvenile facilities does it make sense to continue mandatory oversight by the BOC?
- Are there other alternatives, such as state licensing of facilities that could pay for the cost of these functions while maintaining them as mandatory.

Elimination of Juvenile Facility Data Collection. The language also eliminates the requirement that BOC collect and publish biennial data on the number, place, and duration of confinements of minors in jails and lockups.

- The Subcommittee may wish to ask BOC whether it would continue to collect and publish "Juvenile Detention Survey" data. This information is the only statewide source of data on the number, characteristics, and conditions of juveniles incarcerated in local juvenile justice facilities.

Staff Recommendation. Staff recommends holding this issue open at this time.

Action.

2. Transition of Federal Juvenile Justice Grant Programs From OCJP

Background. The Legislature and Governor, as part of the 2003-04 Budget Act, dismantled OCJP and transferred its programs to other agencies. Specifically, the act required that the DOF submit an interim plan on October 1, 2003 to the Chair of the Joint Legislative Budget Committee (JLBC) and a Reorganization Plan to the Legislature on March 1, 2004. The interim plan identified the state agencies that will receive the OCJP's programs, the necessary funds the receiving departments will require to

operate these programs, and the savings resulting from the closure of OCJP. Specifically, the plan proposed to transfer OCJP's juvenile justice programs to the Board of Corrections (BOC), public safety programs to the Office of Emergency Services (OES), and the victims' services programs to OES.

Budget Request. The budget includes \$36.1 million (\$507,00 General Fund, \$10,000 Reimbursements, and \$35.6 million federal funds) and 10.8 positions related to the transfer of the juvenile justice grants from OCJP.

Staff Comments. The Subcommittee may wish to have BOC present some of the challenges faced in transitioning these programs from OCJP, and plans for administering these programs in the current year and the budget year.

5460 Department of the Youth Authority

The goals of the California Youth Authority (CYA) are to provide public safety through the operation of secure institutions, rehabilitate offenders, encourage restorative justice, transition offenders back to the community, and support local government intervention programs.

Youth Authority -- Funding Sources					
Funding Sources	(dollars in thousands)				Percent
Program	2002-03	2003-04	2004-05	Change	Change
General Fund	\$358,139	\$361,379	\$316,727	-\$44,652	-12.4%
Lottery Education Fund	335	374	548	174	46.5%
Federal Trust Fund	737	2,702	1,495	-1,207	-44.7%
Reimbursements	66,519	70,348	59,356	-10,992	-15.6%
Totals	\$425,730	\$434,803	\$378,126	-\$56,677	-13.0%

Budget Overview. The Governor's Budget proposes expenditures of \$378.1 million, a decrease of \$56.7 million, or 13 percent from the current year. Of the total, \$316.7 million is General Fund, which is a decrease of \$44.7 million, or 12.4 percent below the current year. Of the General Fund appropriation, \$34 million is General Fund- Proposition 98, a decrease of \$2.7 from current year expenditures. Authorized positions are proposed to be 3,797.9, which would be a decrease of 479.7 positions from the current year. This reduction is primarily due to an estimated decrease in the ward population and the closure of five facilities. The budget estimates that it will receive \$59.4 million in reimbursement in 2004-05. Of this amount, the budget assumes \$32 million in reimbursements come from fees that counties pay for the wards they send to the CYA.

Youth Authority Program Expenditures					
Spending by Program	(dollars in thousands)				Percent
	2002-03	2003-04	2004-05	Change	Change
Institutions and Camps	\$322,117	\$337,949	\$291,143	-\$46,806	-13.9%
Parole Services	54,160	44,844	39,589	-5,255	-11.7%
Education Services	47,869	48,733	43,611	-5,122	-10.5%
Administration	28,364	29,850	30,161	311	1.0%
Distributed Administration	-26,870	-28,266	-29,429	1,163	4.1%
Totals, All Programs	\$425,730	\$434,803	\$378,126	-\$56,677	-13.0%
Authorized Positions	4,509.0	4,277.6	3,797.9	-479.7	-11.2%

1. Overview

The purpose of the Youth Authority Act, codified in Welfare & Institutions Code Section 1700, is to rehabilitate youthful offenders.

1700. The purpose of this chapter is to protect society from the consequences of criminal activity and to that purpose community restoration, victim restoration, and offender training and treatment shall be substituted for retributive punishment and shall be directed toward the correction and rehabilitation of young persons who have committed public offenses.

CYA Mission Statement. “The mission of the CYA is to protect the public from criminal activity by providing education, training, and treatment services for youthful offenders committed by the courts; assisting local justice agencies with their efforts to control crime and delinquency; and encouraging the development of state and local programs to prevent crime and delinquency.”

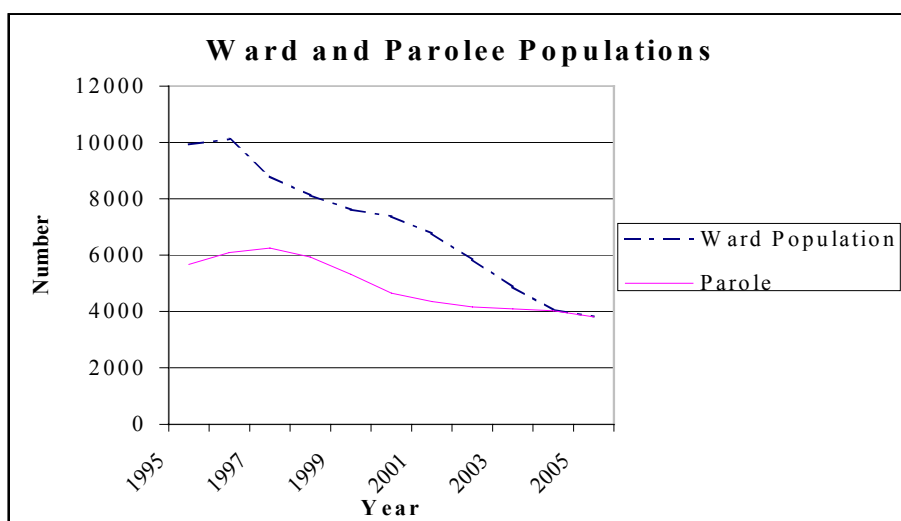
CYA at a Glance.

Characteristics of the CYA population as of June 30, 2003 (Showing Percentages of Totals)	
Category	Percentage
Gender	
Male	95.2
Female	4.8
Court of Commitment	
Juvenile	97.3
Criminal	2.7
Top Five Counties of Commitment	
Los Angeles	26.3
San Bernardino	8.1
Fresno	6.0
Alameda	4.7
Riverside	4.7
Commitment Offense	
Violent Offenses	58.4
Property Offenses	24.3
Drug Offenses	3.9
Other Offenses	13.4
Admission Status	
1 st Commitment	84.1
1 st Return	11.7
2 nd Return	3.5
3 rd Return or more	0.7
Ethnicity	
White	16.4
Hispanic	48.0
African American	29.9
Asian	3.4
Other	2.3
Average Age (years)	19.4

CYA Population Estimates.

Ward Population Estimates. The proposed budget estimates that the ward population will decrease by 500 (11 percent) below previous estimates for the current year to 4,055 on June 30, 2004. The budget is based on estimates that the ward population will decline by another 235 wards (5.8 percent) in the budget year, resulting in a ward population of 3,820 by June 30, 2005. The ward population has reduced in recent years from 10,114 wards at the end of the 1995-96 fiscal year. Long range projections call for the institution population slowly decrease to a total ward population of 3,730 by the June of 2008.

Parolee Population Estimates. The proposed budget estimates that the parole population will decrease to 4,025 by the end of current year, and to decrease by 215 cases to 3,810 by June 30, 2005. The department attributes the expected decrease to the declining institution population that will result in fewer parole releases. The parole population has reduced in recent years from 6,249 at the end of the 1996-97 fiscal year. The population projections estimate the parole population to steadily drop to 3,515 by June 30, 2008.

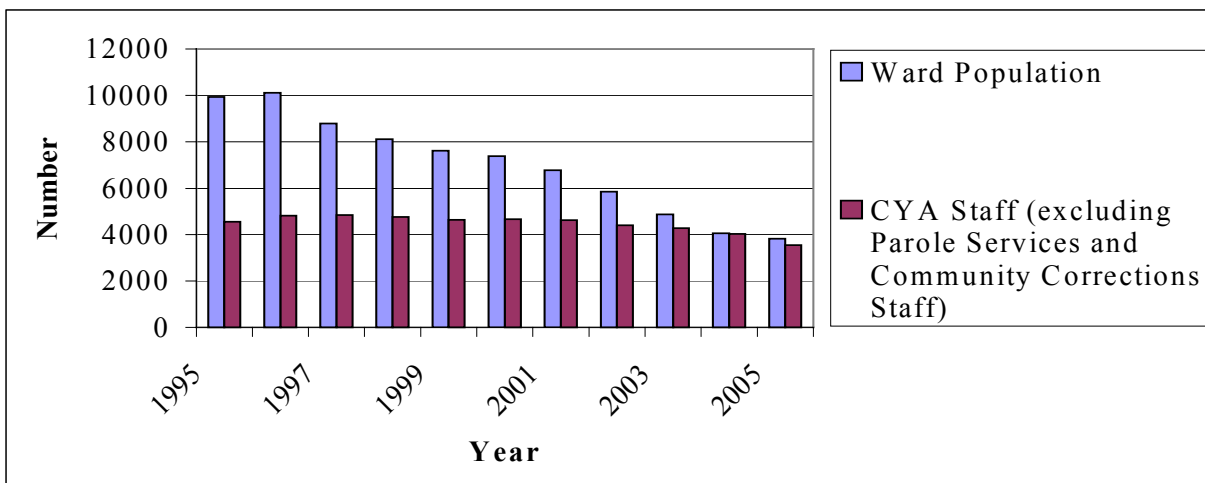


Population Projections will Be Updated. The department will be releasing Spring population estimates with the May Revise which will likely include slight upward projections in the ward population estimates. Most of the increase is due to an 140 juveniles currently housed at CDC's California Correctional Institution at Tehachapi who will be transferred the Heman Stark Youth Correctional Facility.

Effect of Governor's TANF Proposal Not Included in Projections. The budget proposes a reduction to TANF funds going to county probation. This issue is in the jurisdiction of Subcommittee #3. The proposal would reduce \$134 million in TANF funds going to probation in 2004-05 and \$200 million in 2005-06. The impact of this reduction is not included in the CYA's population projections assumed in the budget. County probation departments have indicated that the loss of these funds will have a devastating impact on their operations, and will likely lead to the closures of county ranch and camp facilities. To the extent that locals close ranches and camps, counties may end up sending additional wards to CYA due to lack of options at the county level.

Juveniles at CDC to be transferred to the CYA. The CDC will be transferring juvenile inmates from CDC facilities to the CYA. The budget assumes 140 juveniles will be transferred to the CYA this Spring. The CYA indicates the number of juveniles at CDC fluctuates between 80 and 140 juveniles (as of December 2003 CYA reports that there were 123 juvenile inmates that number was 99 in February 2004) and that an average of 10-12 juveniles are sentenced to CDC every month. The CYA intends to house the juveniles at Heman G. Stark Youth Correctional Facility.

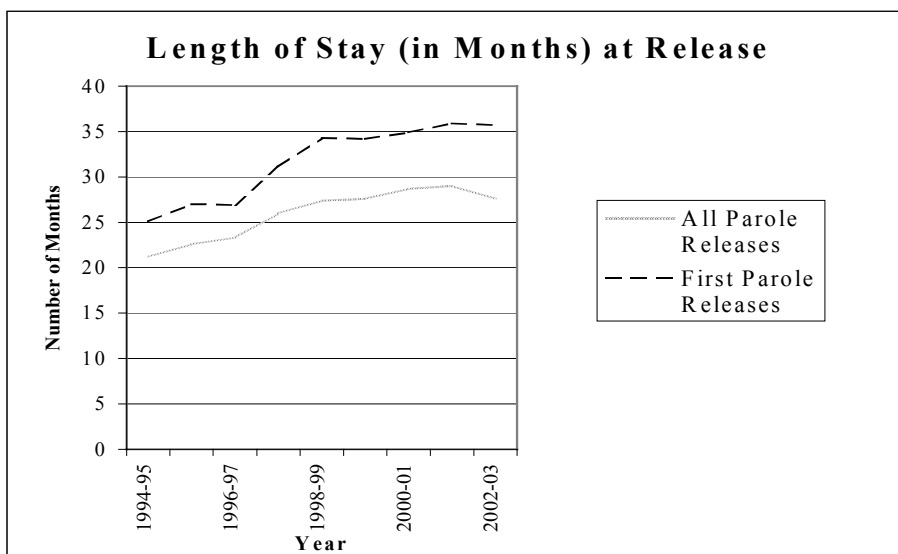
Staff Resources at CYA. As can be seen in the table below, in the last ten years, the staff ratios for CYA have changed significantly.



In the current year, the staff ratio (excluding Parole and Community Corrections staff) is 1:1. The CYA indicates that this ratio better approximates the staffing ratios in other states. The following table shows a staffing ratio comparison with 5 other states that officials of CYA visited in 2000.

Survey of Staffing Ratios from 5 States in 2000			
State	Total Employees	Institution Population	Staff:Ward Ratio
California	5,212	7,113	7:10
Texas	5,064	5,540	9:10
New York	3,049	2,239	14:10
Ohio	2,031	2,021	1:1
Illinois	1,495	1,893	8:10
Pennsylvania	1,193	727	16:10

Average Cost Per Ward. The average cost per ward (based on total CYA expenditures minus parole services and the ward population at the end of the fiscal year) was \$76,157 in 2002-03. The average cost is projected to be \$96,167 in the current year, and \$88,622 in the budget year.



In recent years there have been a number of problems at the CYA.

Chronology of Recent Events at CYA	
Date	Event
5/2000	Joint Oversight Hearing of the Senate and Assembly Committees on Public Safety. Testimony addressed levels of fear, violence and gang activity in CYA institutions; inconsistent and unacceptable staffing practices, including use of force and lock down policies; inadequate resources and practices for mental health and education services; and related issues. Inspector General Steve White testified "it would be impossible to overstate the dimension of the problem" at CYA.
5/2000	In response to legislative scrutiny, Youth & Adult Corrections Secretary Robert Presley directs the Board of Corrections to establish an independent steering committee of experts to provide technical assistance and recommendations on CYA.
6/2000	Governor vetoes Legislative budget augmentation providing additional mental health treatment, sex offender treatment, and substance abuse treatment services to CYA wards and parolees, indicating that the need for the level of services assumed in the augmentation was unclear.
10/2000	The Board of Corrections Releases "Institutions Operational Quality Assurance Project for the California Youth Authority."
7/2001	Release of "Report of Forensic Mental Health Assessment: Mental Health Services to California Youth Authority," Dennis F. Koson, M.D. and Joel A. Dvoskin, Ph.D. (commissioned by CYA)
12/2001	"Stanford Report" Assessing the Mental Health System of the CYA is released. (Report required by the Budget Act of 2000-2001)
1/2002	<i>Stevens v. Harper</i> case filed in federal court on behalf of all juvenile offenders housed in 11 CYA facilities throughout the state. Issues include: physical safety of wards; administration of confinement in security management programs; lockdown procedures; status of physical facilities; procedural due process practices for discipline and segregation; medical and dental care; mental health care; programming and rehabilitation activities; attorney client communications; disability discrimination; and religious services. Case dismissed on plaintiffs' motion on June 13, 2003 and refiled in State Court (see below).
1/2002	Governor's Budget requests \$14.98 million (\$10.7 million in 2002-03 and \$4.263 million in 2003-04) for the Department of Justice (DOJ) to fund external consultant expenses to defend CYA.
1/2002	Joint Legislative Budget Committee denies DOJ's 2002-03 fiscal year request for \$10.7 million for CYA litigation expenses.
5/2002	Release of "Final Report: Utilization Review and Planning for Licensed Inpatient Beds; A Study Prepared for the Department of the Youth Authority." Dennis F. Koson, M.D., Joel A. Dvoskin, Ph.D. (commissioned by CYA)
6/2002	Budget Conference Committee approves compromise \$1.6 million augmentation to fund state's response to CYA lawsuit. This includes \$550,000 to retain experts mutually acceptable to the parties to objectively assess CYA services and practices pertaining to mental health, health care, education, disability access, use of force, programming and general correctional conditions.
1/2003	Prison Law Office lawsuit against CYA re-filed in Alameda Superior Court (<i>Farrell v. Harper</i>).
1/2003	CYA experts retained.
12/2003	Court overrules CYA's demurrer; case proceeds.
1/2004	CYA Expert Reports Released.

As identified in the chronology above, in response to a lawsuit over a wide range of issues at CYA, plaintiffs and CYA agreed to retain experts in a variety of fields to objectively assess CYA services in the areas of Violence, education, health care services, mental health and substance abuse treatment programs, and gang programs.

Findings from the expert reports suggest that the CYA is failing in its rehabilitative mission and document serious deficiencies in the following areas:

The Level of Violence at CYA Institutions. This report includes findings that the CYA is a very dangerous place and that the level of ward-on-ward and ward-on-staff assaults are unprecedented in juvenile corrections across the nation. The report notes that CYA has made significant strides in some issues such as better oversight of the restricted program. Nonetheless, the report raises many concerns about the safety of wards and staff, use of excessive force by staff, verbal abuse by staff, deficiencies in the ward grievance system, and the use of cages for educational, counseling, and recreational purposes.

- “The YA suffers from a serious problem of violence in its institutions. . . . Of equal importance, the climate of violence has engendered high levels of fear among wards and staff that affect virtually all aspects of daily operations. These tensions produce an extensive use of force, especially chemical agents. . . . (Krisberg, p. 42)

Adequacy of Mental Health Care. The report notes that there are deficiencies in the competency and effectiveness of mental health staff, the over use of chemical restraints for crisis management, inconsistent and substandard practices for the use of psychotropic medication, and mental health standards that are inadequately and inconsistently adhered to.

- “The mental health care provided by the CYA is not adequate and does not conform to community standards or to the professional standards identified in this report.” (Trupin and Patterson, p. 9)
- “The vast majority of youths who have mental health needs are made worse instead of improved by the correctional environment.” (Trupin and Patterson, p. 17)
- “We observed youths that were in clear distress and, in a few cases, mental health staff who recognized this distress attempting to address the youth’s issues, only to have the custody response be based on ineffective punitive approaches which only altered the youth’s non-compliant behavior temporarily and did not reduce the likelihood of re-occurrence. The observed procedures included the assignment of lengthy SMP stays, restrictive housing, and/or use of OC spray regardless of the youth’s mental status.” (Trupin and Patterson, p. 14)

Substance Abuse and Treatment Programs. The expert report notes that CYA does not offer adequate rehabilitation or substance abuse programs, that there is no evidence that the programs offered are effective, and that programs are not available to youth who have been ordered to participate by the parole board because inadequate number of program and inadequate staff, leading to the likelihood that those youth may have to wait to get into parole board ordered substance abuse programs and end up with longer stays in CYA facilities, due to their inability to access these services.

- “Substance abuse treatments do not comport with those recommended by the American Society of Addictions Medicine (ASAM) and there is little evidence that youth suffering these problems (85% of the CYA population as measured by the Steiner report), most of whom have a co-occurring mental health disorder, have treatments designed to treat these disorders in a comprehensive manner, except in one program” (Trupin and Patterson, p. 9)

Health Care Services. The expert report on health care includes findings that CYA policy and procedures, and actual practice do not ensure that wards have timely access to medical care, that there is policy guide for medication administration, and that the manner in which pharmaceuticals are procured, inventories, and dispensed is inefficient and wasteful.

- “A primary finding of our review is that medical care provided to wards in the CYA is not commensurate with community standards of care. However the deficiencies are mostly organizational and procedural and not primarily fiscal and therefore are mostly correctable within the existing budget.” (Puisis and LaMarre, p.6)
- “There is not a single person in the CYA who can responsibly discuss the cost of care, expenditures for health care, or the administration of the statewide healthcare program in a manner that demonstrated operational efficiency, standardization, and accountability.” (Puisis and LaMarre, p.17)

Education. The expert report on education includes findings that the critical areas of concern that need to be addressed are adequate funding for academic and special education staff, ward attendance, class cancellations, special education record keeping, providing adequate educational opportunities in restricted programs, and the need for increased institutional support for the education program.

- “Wards in all main high schools were observed being pulled from general and special education classes to attend other programs, including Board mandated activities, without regard to their educational needs. It is evident that education is not the primary focus during the school day. (O’Rourke and Gordon, p.8)

Gang Violence. The expert report on gang violence includes findings that gang violence and the threat of gang violence impacts programming at every CYA institution.

- “(T)he CYA is planning to standardize its gang awareness curriculum for wards and initiate a gang awareness orientation program at reception centers. The training curriculum needs to be reinforced in every institution. Also, the CYA needs to utilize volunteer groups to support what the department is attempting to accomplish in the area of reducing gang violence.” (Parry, p.16)

The Subcommittee may wish to ask CYA the following:

1. Can the recommendations found in the expert reports be implemented appropriately and effectively at the CYA?
2. Has the CYA eliminated the use of cages for educational and counseling purposes?
3. The expert reports cite problems with the physical plant problems at CYA, stating that institutions are antiquated and in a general state of disrepair. What plans does CYA have for updating its facilities?
4. What are CYA’s specific proposals to address the deficiencies highlighted in each report?
5. What performance measures or outcomes will CYA use to show whether proposed changes are actually being implemented?
6. What performance measures or outcomes would CYA use to show the budget subcommittee that the CYA is accomplishing its mission?
7. What is the status of the settlement negotiations?

2. Closure Plan

Fiscal Impact of Closing Youth Authority Facilities (In Thousands)							
		2003-04			2004-05		
Institution	Date	Savings	Offset for CS 4.10	Net Savings	Savings	Offset for CS 4.10	Net Savings
Karl Holton YCF	10/1/03	-\$7,360	\$3,542	-\$3,818	-\$9,858	\$3,542	-\$6,316
Ventura - Male	3/1/04	-1,169	548	-621	-3,068	548	-2,520
Northern Ca. Reception Center	3/1/04	-4,168	4,168	0	-15,404	4,168	-11,236
Accelerated Closure of 8 Living Units		-2,832	2,832	0			
Nelles YCF	7/1/04				25,939		-25,939
Mt. Bullion Camp	7/1/04				2,380		-2,380
Totals		-\$15,529	\$11,090	-\$4,439	-\$56,649	\$8,258	-\$48,391

Last year, the CYA indicated that it was closing down the Holton facility and the male portion of the Ventura facility. Due to the population declines at CYA, the Legislature approved statutory changes that required CYA to close a facility with a capacity of at least 640 by March 1, 2005.

Closure Proposals. In order to achieve additional savings, the CYA is closing the Northern California Reception Center by March 2004, accelerating the closure of the Nelles facility to July 1, 2004, and proposing the closure of the Mt. Bullion Camp by July 1, 2004. The savings from the Northern California Reception Center are estimated at \$4.2 million in the current year and \$15.4 million in the budget year. CYA is using the current year savings and a portion of the budget year savings to offset reductions pursuant to Control Section 4.10.

Closure of Nelles. The budget proposes savings of \$25.9 million in the 2004-05 from the closure of the Nelles facility in Whittier. The CYA indicates that the other four institutions considered for closure other than Nelles were Preston, Paso de Robles, Heman G. Stark, and Ventura. CYA indicated that the factors for choosing Nelles include

- Infrastructure repairs at Nelles are estimated at \$70 million, which CYA indicated was more than double the cost of any other facility.
- The fact that Nelles had only one specialized program to be moved.
- The population at Nelles had fallen to 340 (from a capacity of 640).

Status of the Plan Specifying Priorities for Enhanced Services. Legislation requiring the closure of a facility by March 5, 2005 also provided that up to 50 percent of the initial year of savings shall be available to the department in 2005-06 to implement a plan specifying priorities for enhanced services. That plan is due to the Legislature at the time of the May Revise this year. *The Subcommittee may wish to ask about the status of the plan.*

Staff Comments. Concerns have been raised about the closure of Nelles because it is the only institution in Southern California for wards under 18.

The Subcommittee may wish to ask the CYA the following:

- What is the plan for closing Nelles and transitioning youthful offenders to other facilities?
- What efforts is CYA making to keep wards at Nelles close to their families and communities?

Staff Recommendation. Staff recommends holding this item open at this time.

Closure of Mount Bullion Camp. The budget proposes savings of \$2.4 million in 2004-05 from the closure of the Mount Bullion Camp in Mariposa County. This camp is located on CDF property and assists CDF fire crews during fire season. This is one of four camp programs operated by the CYA.

Department Rationale. The CYA indicates that it is proposing the closure of this camp because there are not enough qualified wards to fill the camp facilities. CDF has minimum criteria for accepting wards into the program. Current criteria includes: no history of arson, no escapes, only low level offenders, and the ward must be discipline free for one year. CYA indicates that Mt. Bullion was proposed for closure because it had the lowest population of the camps at the time – 38 wards.

The Subcommittee may wish to ask CYA the following:

- Why should the Subcommittee endorse the closure of any CYA-operated camp or forestry camp, when these smaller scale facilities appear to be a much closer fit with accepted youth corrections standards and models?

Staff Recommendation. Staff recommends holding this item open at this time.
Action.

3. Structural Reform Issues

Many argue that the problems confronting CYA cannot be solved by focusing solely the deficiencies that have been identified by the expert reports. More fundamental, structural reforms should be considered to address the underlying causes that have lead to the current conditions at CYA. These reforms may be considered in the context of whether existing resources are being used efficiently and effectively.

In addition, CYA has been a key component of California's state/local juvenile justice system. In this bifurcated state-county approach, the state operates the CYA for the most serious offenders coming out of the juvenile courts – about 2% of all juvenile offenders. The counties maintain responsibility for supervision, placement and treatment of the remaining 98% of juveniles. It can be argued that the structure of the existing system does not encourage an effective state-local partnership.

As part of the Governor's California Performance Review (CPR) process, the Administration is convening a working group of key stakeholders in the state-local juvenile justice system for the purpose of developing a consensus about the role of CYA in the overall juvenile justice system.

The Subcommittee may wish to ask CYA the following:

1. What vision and plan do you have for reducing the total population of the Youth Authority, and its total cost to the state, over the next five years? What "core" population should the Youth Authority have, five years from now?
2. In this regard, what steps can you recommend to reduce the escalating lengths of stay (average time served) by CYA wards, particularly for those in the lower PCD (Parole Consideration Date) categories? What specific adjustments in PCD setting, time add policies or release decision-making can you recommend to provide control over escalating stays that push state corrections costs higher without documented improvements in recidivism rates?

3. What plans, if any, do you have to alter or convert existing “large scale” institutions to smaller-scale facilities with smaller unit sizes (down from average 60 or 70 to more like 30 per unit)?
4. What plans, if any, do you have to improve and intensify parole services for CYA wards, including the key elements of locating housing and finding a job? What plans, if any, do you have to develop additional, graduated sanctions for CYA parolees, such as half-way houses?
5. What is the status of the Governor’s plan, referenced in the January Budget Proposal and recirculated later as an “extended juvenile jurisdiction” proposal, to cut CYA jurisdiction to age 21 or 22 and shift the older juvenile court population to state prisons?
6. What are your recommendations for the future use of CYA institutional properties, such as Fred C. Nelles, that are slated for closure? Specifically, what are the best uses of these closed properties within the context of youth corrections—i.e. uses that will apply their value to the improvement of our state’s overall youth corrections system in future years? For example, can these properties be converted to secure and small-scale facilities dedicated to serving some of the most difficult ward populations, such as those with serious mental health disorders? Are there current plans to abandon these properties to buyers or uses outside the youth correctional system?
7. CYA’s mission establishes priority for “community restoration, victim restoration, and offender training and treatment.” Would CYA achieve these objectives more effectively if it was housed in the Health and Human Services Agency?

4. Restructure of the Gang Violence Reduction Project

Budget Request. The budget proposes to redirect the Gang Violence Reduction Project away from community based programs and fund programs providing direct services to the Youth Authority population and to renew the CYA contract with the Volunteers in Parole (VIP) program to focus on gang members.

Staff Recommendation. Staff recommends holding this item open.
Action.

5. LAO Options for Reductions

In its Analysis, LAO has cited two potential options for reductions at CYA:
Elimination of Gang Violence Reduction Program (\$1.7 million)

Elimination of Young Men as Fathers Program (\$0.9 million)

Staff Recommendation. Staff recommends holding these items open at this time.
Action.

5460 California Youth Authority

Capital Outlay

Budget Request. Budget includes \$2.75 million from the General Fund for the following cap outlay purposes:

- \$250,000 for budget packages and advanced planning
- \$2.5 million for minor cap outlay

1. Supplemental Report Language

Last year Supplemental Report Language directed CYA to prepare and submit two reports:

Facility Condition Report

Mental Health Treatment Facilities Plan

Analyst's Recommendation. Both reports due November. The LAO has raised the issue that they have not been submitted and recommends withholding action on the CYA capital outlay budget pending receipt of the reports.

Staff Recommendation. The department indicates that the reports are complete and are under the review process at YACA agency. Staff recommends withholding action on the capital outlay budget pending receipt of the reports.

Action.

2. Use of Planing Monies to Fund Preliminary Plans.

Item 5460-301-0001(1) of the *2004-05 Budget Act* appropriates \$250,000 to the department for "Pre-Schematic/Master Planning Budget Packages and Advanced Planning." Provision 1 of that item provides that these funds may be used for "budget package development, architectural programming, engineering assessments, schematic design, and preliminary plans." This same provision has been included in prior budget acts as well.

With one exception, the LAO believes that all of these services may be needed to provide the administration and the Legislature with sufficient information to make informed decisions about funding a project. The exception involves preliminary plans. Funding the preparation of preliminary plans constitutes a commitment to proceed with a project. The LAO indicates that permitting these planning funds to be used for preparation of preliminary plans allows the administration to make a commitment to a project without it first being subjected to legislative consideration. It puts the Legislature in the position of being asked to fund working drawings and construction of a facility that it has not had an opportunity to review.

Analyst's Recommendation. In order to maintain the Legislature's options when considering capital outlay proposals, the LAO recommends that Provision 1 of Item 5460-301-0001 of the budget bill be amended to delete authorization for funds appropriated under Schedule (1) to be expended for preparation of preliminary plans.

Staff Comments. This is similar to an issue raised in the CDC capital outlay budget. In the current year, the CDC is moving forward with preliminary plans for a hemo-dialysis project which they anticipate could save up to \$6 million annually in medical guarding and transportation costs.

Action.

SUBCOMMITTEE NO. 2

Agenda

Byron Sher, Chair
Sheila Kuehl
Bruce McPherson



Summary of Actions

Thursday, March 25, 2004
Upon Adjournment of Session
Room 112

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Resources--Environmental Protection—Public Safety—Energy

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.

Proposed Consent Items – Approve as Budgeted

8690 Seismic Safety Commission

The Seismic Safety Commission was established to improve earthquake preparedness and safety in California. Specifically, the commission is responsible for providing a consistent framework for earthquake-related programs and coordinating the administration of these programs throughout state government. The 17-member commission performs policy studies, reviews programs, investigates earthquake incidents, and conducts hearings on earthquake safety. The commission advises the Legislature and the Governor on legislative proposals, the state budget, and grant proposals related to earthquake safety.

Seismic Safety Commission – Source of Funding					
Program	<i>Funding (dollars in thousands)</i>				
	2002-03	2004-04	2004-05	\$ Change	% Change
General Fund	\$879	\$0	\$0	\$0	n/a
Insurance Fund	0	877	882	5	0.6%
Natural Disaster Assistance Fund	0	95	0	-95	n/a
Reimbursements	120	75	75	0	0.0%
Totals, Programs	\$999	\$1,047	\$957	\$-90	-8.6%
Total Authorized Positions	6.5	6.8	6.8	0	0%

Budget Request: The budget proposes total expenditures of \$957,000 (\$882,000 from the Insurance Fund and \$75,000 in reimbursements) for 6.8 positions at the commission. This amount is a decrease of \$90,000, or 8.6 percent from estimated current-year expenditures. Last year, the Legislature shifted funding for the Commission from the General Fund to the Insurance Fund.

Staff Recommendation. No issues have been raised. Staff recommends approval as budgeted.

8830 California Law Revision Commission

The primary objective of the California Law Revision Commission (CLRC) is to make recommendations to the Governor and the Legislature for revision of the law. The CLRC assists the Governor and the Legislature in keeping the law up to date by studying complex subjects, identifying major policy questions for legislative attention, gathering the views of interested persons and organizations, and drafting recommended legislation for consideration. The CLRC may study only topics that the Legislature authorizes by concurrent resolution.

Budget Request: The budget proposes expenditures of \$527,000 (\$512,000 General Fund and \$15,000 in reimbursement authority) and 4.2 positions. This amount is \$1,000 greater than estimated expenditures in the current year. Pursuant to Control Section 4.10 CLRC was reduced by \$67,000 and 0.8 positions.

Staff Recommendation. No issues have been raised. Staff recommends approval as budgeted.

8840 Commission on Uniform State Laws

In conjunction with other states, the Commission on Uniform State Laws (CUSL) drafts and presents to the Legislature uniform laws deemed desirable and practicable by the National Conference of Commissioners on Uniform State Laws for adoption by the various states. The commission is composed of six members appointed by the Governor, one member of each house of the Legislature appointed by the respective house, the Legislative Counsel, and two life members of the National Conference.

Budget Request. The budget proposes expenditures of \$122,000 from the General Fund, the same as anticipated expenditures in the current year.

Staff Recommendation. No issues have been raised. Staff recommends approval as budgeted.

5480 Commission on Correctional Peace Officers' Standards and Training

The objective of the Commission on Correctional Peace Officers' Standards and Training (CPOST) is to enhance the training and professionalism of California's state correctional peace officers through the development of sound selection practices and effective, competency-based training programs.

CPOST is composed of six commissioners serving four-year terms. Two commissioners are appointed by, and represent, the management of the Department of Corrections, and one commissioner is appointed by, and represents, the management of the Department of the Youth Authority. Three Commissioners are appointed by the Governor upon recommendation by, and representing the membership of, the California Correctional Peace Officers' Association. Since of July 1, 2000, the CPOST has been separate from the Youth and Adult Correctional Agency, functioning as an independent entity within this agency.

Budget Request. The budget proposes total expenditures of \$1.1 million from the General Fund and 7.3 positions to develop, approve, and monitor selection and training standards for California's correctional peace officers. This amount is the same as anticipated current year expenditures. During the budget process last year, the budget for CPOST was reduced from \$2.1 million to \$1.1 million.

Pursuant to Control Section 4.10, CPOST was reduced by 37,000 and 1 position.

Staff Recommendation. No issues have been raised. Staff recommends approval as budgeted.

Action.

Without objection, Consent Items approved as budgeted.

Budget Items to be Heard

0820 Department of Justice

It is the responsibility of the Attorney General to uniformly and adequately enforce the laws of the State of California. The Attorney General fulfills this mandate through the programs under his control at the Department of Justice (DOJ). There are five primary divisions within the department, including (1) Civil Law, (2) Criminal Law, (3) Public Rights, (4) Law Enforcement, and (5) Criminal Justice Information Services. In addition, there are the Directorate and Administration Divisions, Executive Programs, the Division of Gambling Control, and, as of January 1, 2000, the Firearms Division.

Budget Overview. The budget proposes \$621.9 million for the DOJ, which is a decrease of \$10.2 million, or 1.6 percent below current year expenditures. General Fund support of \$297.6 million represents a decrease by \$14 million, or 4.5 percent from the estimated current year budget.

DOJ Program Requirements					
Program	<i>(dollars in thousands)</i>			Change	Percent Change
	2002-03	2003-04	2004-05		
Directorate and Administration	\$24,445	\$24,521	\$24,788	\$267	1.1%
Distributed Directorate and Administration	-24,445	-24,521	-24,788	267	1.1%
Legal Support and Technology	42,140	45,089	43,907	-1,182	-2.6%
Distributed Legal Support and Technology	-42,140	-45,089	-43,907	-1,182	-2.6%
Executive Programs	14,156	12,601	13,704	1,103	8.8%
Civil Law	103,756	111,169	104,461	-6,708	-6.0%
Criminal Law	97,156	106,607	104,150	-2,457	-2.3%
Public Rights	55,182	60,303	59,813	-490	-0.8%
Law Enforcement	149,909	159,544	161,878	2,334	1.5%
California Justice Information Services	151,607	152,174	154,425	2,251	1.5%
Gambling	11,859	15,481	14,344	-1,137	-7.3%
Firearms	10,445	14,210	12,320	-1,890	-13.3%
State-Mandated Local Programs	2	1	1	0	0.0%
Less amount funded in the Political Reform Act	(216)	(216)	-216		n/a
Unallocated Reduction	0	0	-3,003	-3,003	n/a
Total	\$594,072	\$632,090	\$621,877	-\$10,213	-1.6%
Authorized Positions	5,229.6	4,920.4	4,861.9	-58.5	-1.2%

Major Budget Adjustments

- A General Fund reduction of \$2.9 million and 276.8 positions pursuant to Control Section 4.10.
- A General Fund unallocated reduction of \$3 million.
- A fund shift of \$3 million from General Fund to the Restitution Fund for the California Witness Protection Program. In the current year, funding for this program had been transferred to the General Fund due to the lack of sufficient funds in the Restitution Fund.
- A General Fund decrease of \$1 million and 13 vacant positions for the California Methamphetamine Strategy Program (CALMS).
- An augmentation of \$2.4 million in federal funds for electronic surveillance equipment and overtime expenditures incurred for the CALMS program.
- A General Fund reduction of \$2.5 million due to a decline in the workload for *the Plata v. Davis* lawsuit.

Budget Change Proposals.

The following list summarizes additional Budget Change Proposals submitted by the DOJ.

Issue Title	Positions	Dollars
1. Indian & Gaming Law Section Workload. Requests funding to make permanent 1.6 limited term positions (1 DAG and secretarial compliment) due to expire June 30, 2004 to represent the state's interest in matters pertaining to Indian gaming. (Special Funds).	1.6	\$223,000
2. Natural Resources Law Section – Milk Litigation. Requests permanent reimbursement authority and 1.6 positions to provide legal assistance that is currently being provided by private lawyers. (Reimbursement Authority).	1.6	223,000
3. Juvenile Accountability Incentive Block Grant (JAIBG). Requests a one-time increase in reimbursement authority to replace livescan devices funded by previous JAIBG grant awards with devices that will capture and transmit both fingerprints and palm prints. (Reimbursement Authority).	0	1,941,000
4. Special Repairs for DOJ Forensic Lab. Requests one-time funding for HVAC replacement and roof replacement for the Watsonville forensic lab. (General Fund).	0	255,000
5. Automated Criminal History System Redesign. Requests funding and positions to continue development and implementation of the redesign for the Automated Criminal History System. (Special Fund).	3	2,500,000
6. Underwriters Litigation. Requests one year funding to continue to fund specialist counsel with expertise in insurance coverage litigation. (General Fund).	0	5,126,000
7. California Methamphetamine Strategy (CALMS) Program. Requests federal fund expenditure authority for additional court-sanctioned electronic surveillance as part of the CALMS program. Request would also fund \$1.75 million in budget year plus one.(Federal Funds).	0	2,430,000
8. National Criminal History Improvement Program (NCHIP). Requests one-time funding and positions for Year 9 of this program. Funds are proposed to be primarily used for entering information into the Automated Criminal History System, indexing hard copy fingerprint cards (Federal Funds)	26	3,000,000
9. Third Party Provider Workload. Requests funding two-year limited term positions to regulate Third Party Providers of Proposition Player Services in card rooms. (Special Fund).	7	796,000
10. CALFED Bay-Delta Program Representation. Requests reimbursement authority and 4.1 positions to provide continuing legal representation for the CALFED program. (Reimbursement Authority)	4.1	485,000
11. Gun Show Program – Transfer of Funding and Position Authority. Requests a transfer of \$837,000 from the Division of Law Enforcement to the Firearms Division to better align the mission of the Firearms Division.	0	0
12. Tribal Investigative Workload. Requests funding to make expiring limited term positions permanent to address Indian gaming regulatory workload. (Special Fund).	7	671,000
13. Transfer Sexual Habitual Offender Program (SHOP) Fund Authority. Requests transfer of \$655,000 SHOP funds and 8 positions from the Division of Justice Information Services to the Division of Law Enforcement.	0	0
14. Case Management Section Consolidation Requests to internally redirect 15.5 positions and \$1.1 million General Fund into the newly formed Case Management Section.	0	0
15. Certificate of Eligibility for Employees of Firearms Dealers. Requests funding to process criminal offender record information requests for employees of firearms dealers pursuant to Chapter 502, Statutes of 2003. (Special Fund).	0	112,000
16. Interdepartmental Transfer of IT Funds. Requests authorization to internally transfer \$130,000 in special funds for information technology maintenance to the Division of Justice Information Services.	0	0

Budget Issues

1. Unallocated Reduction

Budget Request. The budget proposes an unallocated reduction of \$3 million for the DOJ (about 1 percent of DOJ's total General Fund). The budget proposed to reduced another \$2.5 million from the Criminal Law Division for the Plata lawsuit. DOJ indicates that those monies had already been reduced from its budget. Therefore the unallocated reduction that DOJ will be facing is \$5.5 million.

Staff Recommendation. The DOJ has indicated that it will be allocating the reduction proportionately across its Division's General Fund appropriations. Staff recommends holding this issue open pending additional information on the programmatic impacts of these reductions.

Action.
Held open

2. License Approval Process

Background. The Gambling Control Act makes the Gambling Control Commission (CGCC) responsible for licensing and imposing fines on persons involved in controlled gambling activities, such as card rooms. With respect to Indian gaming, the CGCC is charged with reviewing licenses and permits to make findings of suitability to tribal gaming authorities to help assure that no unqualified or disqualified person is issued or allowed to hold a license. Individuals who must apply for gambling licenses include: (1) those who have a financial interest in the gambling establishment; (2) key employees of the gambling establishment, primarily management and those who handle money; (3) other employees of the gambling establishment; and (4) suppliers of gambling equipment and resources. The Division of Gambling within the Department of Justice (DOJ) is responsible for performing the background check on individuals.

Issue. Two years ago, the LAO raised an issue with respect to the DOJ's Division of Gambling and the license approval process. According to estimates at that time from the DOJ, there may be as many as 12,000 to 15,000 individuals designated as "key" employees from tribal gaming establishments who would have gambling licenses for review by the CGCC for findings of suitability. In addition to this number, there is an unknown number of those with a financial interest and certain suppliers of gaming equipment whose licenses are also to be reviewed by the CGCC in order to make findings of suitability.

Division of Gambling Tribal Licensing Section				
Historical Data				
Year	New Applications Received	Inactive Applications	Applications Forwarded to the CGCC	Applications in Progress ^a
2000 ^b	71	0	0	71
2001	668	340	0	399
2002	900	143	237	924
2003	1,424	341	813	1,282
2004 ^c	163	123	179	1,167
Totals	3,226	947	1,229	1,167 ^c

^a Cumulative applications as of the last day of the year or period.

^b October 2000 through December 2000.

^c As of March 15, 2004.

Updated Numbers. As can be seen in the table above, the DOJ indicates that it has received a total of 3,226 applications from designated “key” employees and has forwarded a total of 1,229 to the CGCC. The DOJ reports that of the 1,167 applications pending, over half have come in within the last 180 days. The majority of the applications pending are not complete; and the DOJ is waiting for additional information from the Tribal Gaming Agencies (TGA) in order to complete its investigations.

DOJ Efforts to Streamline Process. The DOJ indicates that it continues to work with the TGAs to ensure that the background investigation the TGA conducts meets the requirements of the Gambling Control Act, thereby reducing the need for additional investigation on DOJ’s part. In an effort to further streamline the process while ensuring due diligence, the DOJ indicates that it is now conducting a risk analysis on the applications which, in turn, dictates the steps required by the Division of Gambling to determine suitability of the applicant. The DOJ indicates that this new process will enable us to act on tribal key applications with even greater efficiency.

Staff Comments. The Subcommittee may wish to consider the following.

- What is the currently estimated number of designated “key” employees? If the number is still 12,000 to 15,000, then less than 25 percent of the applications for such employees has been received by the DOJ. What can be done to expedite the entire determination of suitability process?
- The DOJ indicates that the majority of applications that it receives are incomplete. What is being done to ensure that initial applications are complete?
- How long does it take for the DOJ to perform that necessary background check of an application prior to forwarding it the CGCC? The DOJ has indicated that it is considering implementing a risk assessment analysis on applications to reduce the necessary steps for determining suitability. What changes would this risk assessment process entail?

Informational Issue. No Action Necessary.

3. Consultant Fees for Underwriters Litigation

Background. The state has brought two lawsuits against certain insurance companies to compel them to honor their obligations arising from the state’s conduct at the Stringfellow toxic dump site. Potential insurance coverage totals approximately \$200 to \$800 million, depending upon how certain legal issues are determined by the court. Estimated cleanup costs associated with the dump site range from \$400 to \$600 million. The state has been found liable for the clean up of the site in a federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) action. The judgment in that action is now final.

There are two lawsuits. The *Underwriters* action was filed in 1993 against the state’s five largest insurers, who collectively provided 70 percent of the state’s coverage during the period 1963-1976. In 2002, the *Allstate* action was filed against the remaining insurers.

The Underwriters litigation has been divided into three phases. Phase I, which determined the physical makeup of the insurance policies concluded in 1997. Phase II, which considered the legal meaning of several key policy provisions was complete in 2000.

Phase III, the subject of the next trial, will also consider the issues relating to the legal meaning of several key policy provisions, which issues were not resolved in Phase II, and apply the fact of the underlying

CERCLA proceedings t the terms of the policy, determine whether the state is entitled to coverage from the five main insurers and if so, how much.

Budget Request. The budget proposes one-time funding of \$5.1 million from the General Fund to continue to fund specialist counsel with expertise in insurance coverage litigation.

The DOJ reports that Phase III is the main evidentiary phase of the case. Trial of this phase is expected to last four months and is set to commence in January 2005. DOJ states that this date is problematic given the cautionary statements made by the new trial judge in the last hearing on March 5, 2004.

Historical Appropriations and Expenditures for Consultant Expenses on <i>Underwriters</i> Case		
Fiscal Year	Appropriation	Consultant Expenses
1993-94	\$1,221	\$141
1994-95	\$1,462	\$502
1995-96	\$2,700	\$1,882
1996-97	\$3,700	\$2,694
1997-98	\$1,700	\$1,645
1998-99	\$3,500	\$1,781
1999-00	\$4,057	\$2,143
2000-01	\$3,928	\$3,020
2001-02	\$3,800	\$2,758
2002-03	\$3,850	\$3,933
2003-04*	\$5,754	\$1,912
Total	\$35,672	\$22,412

* Expenditures as of March 2, 2004

Generally, Budget Act appropriations are available for encumbrance for one year and available for liquidation for two years after that. Thus unspent appropriations from 2003-04 would automatically revert to the General Fund at the end of the 2005-06 fiscal year.

Staff Recommendation. Given uncertainties concerning the start of the trial date and the length of the trial, staff recommends adopting budget bill language to revert unused General Funds at the end of the budget year.

Proposed Budget Bill Language – Department of Justice 2004-05 Budget Act.

Provisions:

7. Of the amount included in Schedule (6) of this item, \$5,126,000 is available for costs related to the Lloyd's of London (Stringfellow) litigation. Any funds not expended for this specific purpose as of June 30, 2005, are to revert immediately to the General Fund.

Action.

Without objection, approved budget bill language.

4. New DNA Laboratory

Background. The existing \$18 million 68,000 square foot Richmond laboratory is located in a leased facility. The department has a firm-term lease which runs through June 2006. The Richmond lab currently has a staff of around 150 scientists and support staff. The Richmond lab replaced a laboratory

in Berkeley that housed the state DNA and sex-offender data banks, and the missing persons DNA program. The DOJ also operates a research and development program to develop new DNA and criminalistics analysis techniques. The LAO notes that in view of the new DNA laboratory identified in last year's plan, the future of the leased Richmond facility is unclear.

New Facility Planned. The department plans to develop a new \$80 million 240,000 square foot statewide DNA laboratory to replace the existing Richmond facility. The new lab, to be located in the I-80 corridor between Davis and Fairfield, is planned to be nearly four times the size of the existing lab. The department indicates its proposal is based on assumed future workload and staff growth.

Analyst's Recommendation. The LAO notes that the planned facility would be a major expansion of the department's program space, and will require close scrutiny by the Legislature when a specific proposal is made. In view of the department's plan to construct a new DNA laboratory, the LAO recommends the department report at budget hearings regarding the status of planning efforts. This information should include available scope and cost documents, and available workload projections for the DNA program.

5. Use of Previous Appropriations for the Project

Previous Appropriation for Site Acquisition. The Legislature did appropriate \$2 million in the 2001-02 budget for site acquisition for a new statewide DNA lab. Provisional language provided that this capital outlay appropriation was to be available for site search, planning, and a site purchase option.

Analyst's Recommendation. The department indicates that these funds were not spent for their intended purpose but were instead used to satisfy various unallocated state operations cuts to the department's operating budget. The LAO indicates that it is unclear what authority the department used to take this action. The LAO recommends that the department explain at budget hearings why its capital outlay funds were not used for the purposes the Legislature designated.

Staff Comments. The DOF indicates that \$700,000 had been used to offset a reduction from a prior year and that \$1.3 million was used to meet Control Section 4.10 reductions (DOJ reduced its budget by \$2.9 million and 279 positions pursuant to Control Section 4.10). These capital outlay funds would have reverted to the General Fund at the end of the current year.

6. Other Budget Requests.

Staff Recommendation. Staff recommends holding the budget for DOJ open at this time. The Subcommittee may wish to ask DOJ about the programmatic impact of an additional 5 percent and 10 percent reduction in General Fund monies.

Action.
Held open

0690 Office of Emergency Services

The Office of Emergency Services (OES) coordinates emergency activities to save lives and reduce property losses during disasters and acts as the state's conduit for federal assistance related to recovery from disasters. OES provides leadership assistance and support to state and local agencies in planning and preparing for the most effective use of federal, state, local, and private resources in emergencies. The emergency planning is based on a system of mutual aid in which a jurisdiction first relies on its own resources and then call for assistance from its neighbors. OES also serves as the agent for the state's Office of Homeland Security regarding the strategy and distribution of federal homeland security funds.

Office of Emergency Services – Program Expenditures					
Program	<i>Expenditures (dollars in thousands)</i>				
	2002-03	2003-04	2004-05	\$ Change	% Change
Mutual Aid Response	\$16,087	\$16,421	\$15,927	-\$494	3.0%
Plans and Preparedness	53,023	195,005	39,527	-155,478	-79.7%
Disaster Assistance	568,942	659,742	639,936	-19,806	-3.0%
Criminal Justice Projects	0	100,924	202,455	101,531	100.6%
CA Anti-Terrorism Information Center	0	3,350	6,700	3,350	100.0%
Administration and Executive	5,560	6,294	6,294	0	0.0%
Distributed Administration and Executive	-5,560	-6,294	-6,294	0	0.3%
State Mandated Local Programs	0	0	2	2	n/a
Totals, Programs	\$638,925	\$976,337	\$905,442	-\$70,895	-7.3%
Total Authorized Positions	480.3	406.3	447.0	40.7	1.0%

Office of Emergency Services – Source of Funds					
Program	<i>Expenditures (dollars in thousands)</i>				
	2002-03	2003-04	2004-05	\$ Change	% Change
General Fund	\$54,111	\$135,363	\$140,739	\$5,376	4.0%
Unified Program Account	589	612	612	0	0.0%
Nuclear Planning Assessment Special Account	2,753	3,296	3,072	-224	-6.8%
Local Prosecutors & Public Defenders Training	0	432	864	432	100.0%
Victim Witness Assistance Fund	0	8,341	16,683	8,342	100.0%
State Assistance for Fire Equipment Account	8	100	100	0	0.0%
High Tech Theft Apprehension & Prosecution	0	7,105	14,210	7,105	100.0%
Less funding provided by the General Fund	0	-6,980	-13,960	6,980	100.0%
Less funding provided by Federal Trust Fund	0	-125	-250	125	100.0%
Federal Trust Fund	578,359	825,424	740,234	-85,190	-10.3%
Reimbursements	3,105	2,769	3,138	369	13.3%
Totals, Programs		\$976,337	\$905,442	-\$70,895	-7.3%

Budget Request. The budget proposes total expenditures of \$905.4 million (\$140.7 million General Fund) for state operations and local assistance, a decrease of \$70.9 million from the estimated current year expenditures. The majority of funding for OES is local assistance (\$834.5 million).

One reason for the decrease in expenditures for 2004-05 is that the current year estimates include \$160.3 million in federal funds for equipment, training, and planning grants related to homeland security. The budget for 2004-05 currently only includes \$4.6 million in for these grants and anticipates a spring budget change proposal increasing this amount once the level of the federal fiscal year 2004 homeland security funds is known.

The current year budget includes a total of \$100.9 million from various funds for criminal justice projects transferred from the OCJP as of January 2004. The proposed budget includes full year funding of \$202.5 million for these programs.

Major General Fund Adjustments

- A General Fund augmentation of \$60 million in the current year and \$40 million in the budget year to provide funds for recovery from the wildfires in Southern California.
- A reduction of \$2.6 million General Fund and 79.2 positions in the current year and budget year pursuant to Control Section 4.10. The OES reports reductions totaling 139 positions in the last two years, with 49 positions being transferred or laid off.

Issues

1. Update on the Reorganization Plan for OCJP

Background. The Legislature and Governor, as part of the 2003-04 Budget Act, dismantled OCJP and transferred its programs to other agencies. Specifically, the act required that the DOF submit an interim plan on October 1, 2003 to the Chair of the Joint Legislative Budget Committee (JLBC) and a Reorganization Plan to the Legislature on March 1, 2004.

Interim Plan to Eliminate OCJP. As required by the 2003-04 Budget Act, the interim plan identified the state agencies that will receive the OCJP's programs, the necessary funds the receiving departments will require to operate these programs, and the savings resulting from the closure of OCJP. Specifically, the plan proposed to transfer OCJP's juvenile justice programs to the Board of Corrections (BOC), public safety programs to the Office of Emergency Services (OES), and the victims' services programs to OES. The plan also identified 50 positions for elimination at an estimated total savings (General Fund and federal funds) of \$504,000 in the current year, and \$2,285,000 in 2004-05.

Upon reviewing the interim plan, the Chair of the JLBC found it to be generally consistent with legislative intent and, therefore, recommended approval of the plan. However, the Chair identified several issues that should be addressed as part of the Governor's Reorganization Plan.

Issues for Governor's Reorganization Plan The LAO cites four issues for the Legislature to consider.

Freed-Up Federal Funds. First, the plan should specify how the administration proposes to spend approximately \$2 million in freed up federal funds that LAO has identified. The LAO indicates that these funds can be allocated for program administration and/or grant awards. The LAO notes that providing such information will allow the Legislature an opportunity to provide input regarding the allocation of these funds.

Nexus Between Program and Receiving Department. Second, the plan should demonstrate a nexus between the programs being transferred from OCJP and the programs currently being administered by the

receiving agency. Demonstrating such a nexus ensures that the receiving agency has the administrative infrastructure and the program expertise appropriate for carrying out the programs. It also reduces, and may eliminate, program overlap between state agencies and in so doing fosters the strategic use of state and federal funding for similar programs.

Program Consolidations. Third, the plan should also consider consolidating similar programs. To the extent that funding can be consolidated for similar programs as a result of this reorganization, administrative activities and related costs can be reduced, thereby freeing up administrative funds to support programs.

Proven Cost-Effective Programs. Finally, the reorganization plan should examine alternative future uses of the transferred federal funds to ensure that they are used to fund the most cost-effective programs. Some of OCJP's federally funded programs that the interim plan proposes to transfer have not been evaluated and, therefore, it is unknown whether they are effective. The plan should discuss redirecting this funding to programs with demonstrated cost-effectiveness or develop a plan to have these programs evaluated.

Reorganization Plan Is Delayed. Although the 2003-04 Budget Act requires DOF to submit the Reorganization Plan to the Legislature March 1, 2004, the Governor's budget summary indicates that the plan will not be released until May 2004. The LAO has raised the concern that the late release of this plan will not provide the Legislature with an adequate amount of time for review.

Analyst's Recommendation. Because the 2003-04 Budget Act requires and the Legislature needs adequate time to review the Governor's Reorganization Plan, the LAO recommends that the Legislature require the DOF to adhere to the March 1, 2004 deadline for submitting a Reorganization Plan for OCJP. Additionally, the LAO recommends that DOF advise the Legislature at budget hearings as to how the Reorganization Plan addresses the issues identified above.

Transition of Grant Administration. The table on the following page highlights the various grant programs proposed to be administered by OES in the budget year.

- The Subcommittee may wish to have OES present some of the challenges faced in transitioning these programs from OCJP, and plans for administering these programs in the current and budget year.

OES Summary of Program Budget Amounts by Fund 2003-04 and 2004-05 (Dollars in Thousands)				
SUMMARY OF ALL STATE FUNDS	03/04 Budget Authority			04/05 Budget
	8100 (OCJP)	0690 (OES)	Total	
GENERAL FUND	\$22,477	\$20,468	\$42,945	\$40,943
Victims Legal Resource Center	21	20	41	41
Domestic Violence	2,365	365	2,730	730
Family Violence Prevention	25	25	50	50
Rape Crisis	25	25	50	50
Homeless Youth	198	198	396	396
Youth Emergency Telephone Referral	64	63	127	127
Child Sexual Abuse and Exploitation	151	151	302	302
Mandates Claim Bill	2	0	2	0
Community Crime Resistance	116	115	231	231
War on Methamphetamine	4,750	4,750	9,500	9,500
Vertical Prosecution Block Grants	4,088	4,088	8,176	8,176
Career Criminal Apprehension	433	433	866	866
Serious Habitual Offender	69	68	137	137
Evidentiary Medical Training	324	324	648	648
Child Justice Act (also federally funded)	38	0	38	0
Vertical Defense of Indigents	86	86	172	172
Public Prosecutors/Public Defenders Training	4	4	8	8
Suppression of Drug Abuse in Schools	1,208	345	1,553	690
Gang Violence Suppression	1,529	1,544	3,073	3,090
Multi-Agency Gang Enforcement Consortium	47	46	93	93
Rural Crime Prevention	1,671	1,670	3,341	3,341
Reimbursements	(1,387)	(502)	(1,889)	(1,005)
<i>Less Transfer to Fund 0597 - HTTAP</i>	<i>6,650</i>	<i>6,650</i>	<i>13,300</i>	<i>13,300</i>
SPECIAL FUNDS	14,915	14,914	29,829	29,829
Public Prosecutors/Public Defenders Training	396	396	792	792
Victim Witness Assistance	5,436	5,435	10,871	10,871
Rape Crisis	1,835	1,835	3,670	3,670
Child Sexual Abuse and Exploitation	489	489	978	978
High Technology Theft Apprehension/Prosecution	6,759	6,759	13,518	13,518
FEDERAL TRUST FUND	85,104	67,168	152,272	134,342
Domestic Violence	4,376	4,375	8,751	8,751
Violence Against Women Act	6,495	6,495	12,990	12,990
Rural Domestic Violence / Child Victimization	286	285	571	571
Rape Prevention	2,786	2,785	5,571	5,571
Victims of Crime Act	20,349	20,349	40,698	40,698
Forensic Sciences Improvement	179	179	358	358
Children's Justice Act	888	887	1,775	1,775
Byrne Local Law Enforcement Assistance	26,059	26,059	52,118	52,118
Residential Substance Abuse Treatment	4,568	4,567	9,135	9,135
Local Law Enforcement	441	441	882	882
Peace Officer Protective Equipment	638	637	1,275	1,275
Gang Violence Suppression	503		503	0
Juvenile Justice and Delinquency Prevention	3,030	0	3,030	0
Community Delinquency Prevention	2,501	0	2,501	0
Juvenile Accountability Incentive Account	10,885	0	10,885	0
Juvenile Justice - Project Challenge	557	0	557	0
Unallocated Redirection from State Ops	454	0	454	0
<i>Less Transfer to Fund 0597 - HTTAP</i>	<i>109</i>	<i>109</i>	<i>218</i>	<i>218</i>
TOTAL FUNDS	\$122,496	\$102,550	\$225,046	\$205,114

2. Domestic Violence Grants

Background. In FY 2001/02, OCJP released a competitive Request for Proposal (RFP), which resulted in ten shelters previously funded under DVAP not being reselected for funding. Shortly thereafter, AB 664 was passed to appropriate \$2 million per year for three years to fund the ten shelters previously funded by OCJP. The OES notes that the former Interim Executive Director of OCJP indicated in a Senate Oversight Hearing on Domestic Violence, that the ten shelters would be merged into the DVAP after AB 664 expired.

The OES indicates that the funding level for the AB 664 shelters was based on the shelter's funding level in FY 2000/01. This resulted in some of the ten shelters receiving a different funding amount than they would have received if selected for funding through DVAP. In addition, these projects have not received any cuts over the last three years.

Three-year emergency funding for the 10 AB 644 shelters ends September 30, 2004. OCJP notified the AB 664 shelters in August that this was the final year of funding. It is the OES's Criminal Justice Programs Division's (CJPD) goal to give at least six months notice to any grant funded project whose funding may be affected by the DVAP funding, in order to give them adequate time to prepare for reductions/loss of funds.

OCJP/OES Funding for Domestic Violence Shelters for the Last Three Years (Dollars in Thousands)			
Source of Funds	2001-02	2002-03	2003-04
Federal Family Violence Prevention	\$4,882	\$4,763	\$4,959
Federal Victims of Crime	7,428	8,954	8,143
Federal Violence Against Women	925	277	0
State General Funds/ AB 644	2,025	2,025	2,025
State General Funds	1,460	727	730
Total	\$16,719	\$16,744	\$15,857

Staff Comments. The Subcommittee may wish to ask the OES how much funding will be available for these programs in the budget year, and what its plans are to fund the 85 domestic shelter programs currently funded once that the funding from AB 644 ends in September.

Action.

Held open pending additional information from OES.

3. Mandates

Budget proposed to defer the following two mandate. These mandates were deferred last year.

- Ch. 411, Statutes of 1995: Crime Victim's Rights
- Ch. 1249, Statutes of 1992 and Ch. 666, Statutes of 1995: Threats Against Peace Officers

Budget proposes repeal of 3 mandates:

- Ch. 1032, Statutes of 1980 Deaf Teletype Equipment. LAO also recommends repeal as a long suspended mandate.
- Ch. 1334, Statute of 1987: CPR Pocket Masks. LAO also recommends repeal as a long suspended mandate.
- Ch 36, Statutes of 1994: Sex Crime Confidentiality funding suspended in the current year LAO also recommends repeal with amendments to Public Records Act. This mandate was suspended last year.

Staff Recommendation. Staff recommends approving the proposed mandate deferrals as budgeted. Separate legislation proceeding through the policy committee process would repeal the mandates proposed for repeal. Staff recommends suspending the mandates proposed for repeal, pending the outcome of the legislation repealing the mandates.

Action.

Without objection, approved staff recommendation. CPR Pocket Masks will be heard in Sub 4 under Budget Item 9210.

4. Other Support Requests.

Staff Recommendation. Staff recommends holding open the budget for OES at this time, pending additional information on federal grants that will be available at the time of the May Revise. The Subcommittee may wish to ask the OES about the programmatic impacts of an additional 5 percent and 10 percent reduction in General Fund monies.

Held open

5. Capital Outlay

Although the LAO has no issues with the budget, the 2003 infrastructure plan for the office includes two projects about which the LAO has raised concerns.

Infrastructure Plan

The 2003 California Five Year Infrastructure Plan shows the OES identified almost \$50 million in infrastructure needs. Of this total, \$40 million would replace two- operations centers

Need for and Scope of Planned Operations Centers Unclear. The LAO recommends that the office report at budget hearings on its current plans for replacing two operations centers.

Coastal Region Coordination Center. The existing coastal region operations center is located in leased space in Oakland that does not meet the requirements of the state Essential Services Building Act. The prior administration did not support funding in the infrastructure plan for a replacement facility because OES has not evaluated its programmatic and facility needs in light of a reduction in staff at the coastal region office.

Southern Region Coordination Center. The existing southern region coordination center is located at the Los Alamitos airfield in two modular buildings that do not meet the standards required by the Essential Services Building Act. The infrastructure report indicates the prior administration supported \$27 million primarily for replacement facilities but noted that OES has not yet determined what services need to be delivered in southern California or developed a strategy for delivering them.

The LAO reports that it is unable to evaluate the need for, and scope and cost of, either proposal. The LAO recommends that the office report at budget hearings on its current plans for replacing these operations centers.

1. Office of Homeland Security – Informational Item

In February 2003, executive order D-67-03 established the Office of Homeland Security(OHS). The order established the Director of the OHS as the individual primarily responsible for coordinating state security efforts of all departments and agencies. The mission of the OHS is to develop and coordinate the implementation of a comprehensive strategy to coordinate security activities throughout the state. The Director of OES reports to the Director of OHS.

The OHS does not have a separate line item in the budget bill or the Governor's proposed budget.

The Subcommittee may wish to ask OHS the following questions:

- How many positions exist at OHS? Where are those positions borrowed from?
- Does OHS have a timeline for submitting a budget proposal before the Legislature?

2. Homeland Security Grants – Informational Item

Excluding funding for federal fiscal year 04, California has received a total of \$281 million in federal homeland security funding. The majority of these funds have been in the form of equipment grants for first responders. The Table below highlights the grants.

Of the total funds, \$229.6 million was distributed to local government agencies, \$22.1 to the CHP, \$11.6 million to the Military Department, \$12.1 million to other state agencies, and \$5.9 million was retained by OES.

Homeland Security Grants		
Grant Name	Amount	Description
Federal Fiscal Year (FFY) 2000 & 2001 State Domestic Preparedness Grant Program	\$14,833	Designated for eligible equipment for emergency first responders. \$2.6 million distributed to CHP and \$12.2 million to local government agencies.
FFY 2002 State Domestic Preparedness Grant Program	\$24,831	Intended to further enhance the capabilities of state and local responders. Of the total, \$23.7 million in equipment funds and \$1.1 million in exercise funds. \$20 million distributed to local government agencies.
Federal Emergency management Agency (FEMA) FFY 2002 Supplemental Appropriation	\$11,937	Intended to ensure that Emergency Operation Plans (EOPs) are updated to address all hazards with an emphasis on weapons of mass destruction (WMD) and terrorism preparedness. The state retained 25 percent for state agency planning with the remainder distributed to local and tribal governments.
FFY 2003 State Homeland Security Grant Program, Part I	\$45,023	\$31.6 million for equipment, \$7.9 million for exercises, \$2.4 million for training, and \$3.2 million for planning and administration. Local Operational Areas to receive 80 percent and the state to retain 20 percent.
FFY 2002 State Homeland Security Grant Program, Part II	\$119,256	\$103.4 million intended for equipment, exercises, training, planning, and administration related to first responder preparedness. Local Operational Areas to be issued 80 percent and the state 20 percent. \$15.9 million for Critical Infrastructure Protection (CIP) – designed to cover costs associated with increased security measures at critical infrastructure sites during periods of heightened threat. 50 percent of these funds for local government.
FEMA FFY 2003 Emergency Management Program Grant	\$3,162	Intended to enhance state and local emergency management efforts. \$1.6 distributed to OES and \$1.5 million to local governments.
FFY 03 Urban Areas Security Initiative (UASI) Grant Program Part II	\$62,202	Grant to five urban areas for equipment, exercises, training, planning, and administration. Some funds available for CIP. UASI Part I was provided directly to urban areas by the federal government.
Total	\$281,244	

The budget proposes allocation of \$160.3 million in federal funds in the current year for training, equipment, and planning grants related to homeland security. The budget currently only includes \$4.6 million in 2004-05 for these grants and anticipates a spring budget change proposal increasing this amount once the level of the federal fiscal year 2004 homeland security funds is known.

The Subcommittee may wish to ask the following questions:

1. What criteria is used to determine which local governments to fund and how much?
2. How does OHS determine which state agencies to fund and at what levels?
3. What timelines does OHS have for distributing federal homeland security funds?
4. Does OHS currently have an estimate for the amount of FFY 2004 homeland security grants that CA will receive?

5430 Board of Corrections

The Board of Corrections works in partnership with city and county officials to develop and maintain the standards for the construction and operation of local jails and juvenile detention facilities, as well as standards for the employment and training of local corrections and probation personnel. The board also disburses training funds, administers the allocation of funds to counties for the federal Violent Offender Incarceration/Truth-in-Sentencing Grant Program, the Juvenile Hall/Camp Restoration Program, the Mentally Ill Offender Crime Reduction Grant Program, and the Juvenile Crime Enforcement and Accountability Challenge Grant Project. In addition, the board regularly conducts special studies in penology and corrections.

Board of Corrections - Source of Funds					
Program	(dollars in thousands)				Percent Change
	2002-03	2003-04	2004-05	Change	
General Fund	\$96,817	\$23,259	\$1,343	-\$21,916	-94.2%
Corrections Training Fund	18,345	2,463	2,361	-102	-4.1%
Federal Trust Fund	36,850	101,989	69,503	-32,486	-31.9%
Reimbursements	514	707	488	-219	-31.0%
Board of Corrections Admin Fund	0	0	1,886	1,886	n/a
Totals	\$152,526	\$128,418	\$75,581	-\$52,837	-41.1%

Budget Overview. The budget for the Board of Corrections (BOC) proposes total expenditures of \$75.6 million which is a decrease of \$52.8 million, or 41.1 percent from estimated current year expenditures. This decrease is due primarily to the completion of federal fund and General Fund grant programs from previous years. The federal fund portion of the proposed budget is \$69.5 million, a decrease of \$32.5 million. The General Fund portion of BOC's budget is proposed to decrease by \$21.9 million (94.2 percent) for a total of \$44.8 million.

The proposed funding for state operations is \$8.2 million, which is a decrease of \$463,000 from the current year. The number of authorized personnel would increase from 62.8 positions to 68 positions. The proposed local assistance budget is \$67.4 million, which is a decrease of \$52.4 million from estimated current year expenditures.

Board of Corrections - Summary of Program Expenditures					
Program	(dollars in thousands)				Percent Change
	2002-03	2003-04	2004-05	Change	
Corrections Planning and Programs	\$131,799	\$105,237	\$34,828	-\$70,409	-66.9%
Facilities Standards and Operations	2,125	2,406	2,009	-397	-16.5%
Standards and Training for Local Officers Administration	18,600	2,719	2,616	-103	-3.8%
Distributed Administration	333	352	352	0	0.0%
State-Mandated Local Programs	-333	-352	-352	0	0.0%
	2	1	1	0	0.0%
Totals	\$152,526	\$128,418	\$75,581	-\$52,837	-41.1%
Authorized Positions	62.8	62.8	68.0	5.2	8.3%

Control Section 4.10 Reductions. Pursuant to Control Section 4.10, the budget for BOC was reduced by \$452,000 (\$283,000 General Fund, \$110,000 reimbursement authority, \$31,000 Corrections Training Fund, and \$28,000 federal fund), and 6 positions.

STC Program Eliminated Last Year. Last year, the budget eliminated the Standards and Training for Corrections (STC) program and approved a transfer of \$9.6 million from the Corrections Training Fund to the General Fund. This program provided reimbursements for training costs of local correctional officers.

Budget Change Proposals		
	Issue	Dollars
1	Implement an Administration Fund and Convert General Fund Programs to Fee Based Funding. Requests to convert the funding source for the Executive Office, Local Adult and Juvenile Facilities Standards and Inspections, and Juvenile hall Suitability Inspection Process from General Fund to a city/county reimbursed fee structure (Requires Trailer Bill Language).	\$1,710,000
2	Convert Local Juvenile Detention Facilities Inspection Process from General Fund to Administration Fund. Requests to convert the funding source for the Local Juvenile Detention Facilities Inspection Process from General Fund to a to a city/county reimbursed fee structure (Requires Trailer Bill Language).	\$176,000

Issues

1. Conversion of General Fund Programs to Fee Based

Budget Request. The budget proposes to convert the funding source for the Executive Office, Local Adult and Juvenile Facilities Standards and Inspections, and Juvenile Hall Suitability Inspection Process from General Fund to a city/county reimbursed fee structure. The proposal would authorize an Administration Fund and would implement a county-reimbursed fee structure whereby counties and cities would reimburse the state for the operation of the Executive Office of the BOC and a portion of the costs associated with the establishment, promulgation, and maintenance of minimum standards for adult and juvenile detention facilities, as well as the biennial inspection of all adult and juvenile detention facilities.

Costs For These Programs. The total costs for these functions is \$1.8 million. Under the proposal, the BOC would charge locals a fee per type of facility. Assuming all the counties elected to continue the services provided by the BOC, the charge per adult facility would be from \$1,500 up to \$3,150 annually, depending upon the type and size of facility, and the charge per facility would be from \$3,000 up to \$45,000 annually, depending upon the type and size of facility.

Trailer Bill Language. The proposed trailer bill language authorizes rather than requires the BOC to perform inspections of facilities, eliminates the biennial frequency of the inspections, and authorizes the BOC to charge fees to reimburse the BOC for services. The proposal would allow counties to opt out of standards and inspections by not paying the BOC for the service.

Background on Previous Elimination of Juvenile Inspections. Budget constraints in 1992 resulted in the elimination of juvenile hall and camp inspections by the California Youth Authority (CYA), which had been authorized in 1955 to establish standards for the operation and maintenance of local juvenile facilities. In lieu of these inspections, the Legislature instituted a process of self-certification.

In response to growing concern about deteriorating conditions in some juvenile facilities, the Legislature reinstated an independent inspection process in the 1995 Budget Act, which transferred responsibility for all local juvenile facilities from the CYA to the BOC and set in statute the requirement that the Board

inspect and report on the management, operation, and physical plant condition of all of California's county juvenile halls camps, and ranches (Welfare and Institutions Code Sections 209, 210, 885, and 886.5). Additionally, juvenile detention facilities are inspected for compliance with standards set forth in Title 15 and 24, California Code of Regulations to ensure they operate at constitutionally adequate levels.

According to the BOC, in 1996/97 after the first inspection cycle, the BOC found that a majority of facilities inspected (46 of 58 facilities) were operating in non-compliance with minimum standards. The initial review also revealed numerous other deficiencies related to such issues as crowding, use of force, discipline, staffing, services, and other operational areas.

Staff Comments. The BOC indicates that it has been working with the federal government to see if some of its administrative costs regarding facility reviews and inspections can be funded through federal funds. It may be possible that federal funds could be used to offset all but about \$500,000 of the General Fund portion of BOC's budget.

Issues to Consider.

- Assuming BOC can use federal funds for some of these administrative costs, BOC will be able to achieve significant General Fund savings (up to \$1.3 million) without imposing fees, or cutting their local facility data keeping. Does it make sense reduce but not eliminate General Fund in order to continue mandatory oversight.
- Given the fiscal constraints being felt by counties, will counties decide to pay fees for the services?
- Given the experience with self-certification between 1992 and 1996 with juvenile facilities does it make sense to continue mandatory oversight by the BOC?
- Are there other alternatives, such as state licensing of facilities that could pay for the cost of these functions while maintaining them as mandatory.

Elimination of Juvenile Facility Data Collection. The language also eliminates the requirement that BOC collect and publish biennial data on the number, place, and duration of confinements of minors in jails and lockups.

- The Subcommittee may wish to ask BOC whether it would continue to collect and publish "Juvenile Detention Survey" data. This information is the only statewide source of data on the number, characteristics, and conditions of juveniles incarcerated in local juvenile justice facilities.

Staff Recommendation. Staff recommends holding this issue open at this time.

Action.

Held open.

2. Transition of Federal Juvenile Justice Grant Programs From OCJP

Background. The Legislature and Governor, as part of the 2003-04 Budget Act, dismantled OCJP and transferred its programs to other agencies. Specifically, the act required that the DOF submit an interim plan on October 1, 2003 to the Chair of the Joint Legislative Budget Committee (JLBC) and a Reorganization Plan to the Legislature on March 1, 2004. The interim plan identified the state agencies that will receive the OCJP's programs, the necessary funds the receiving departments will require to

operate these programs, and the savings resulting from the closure of OCJP. Specifically, the plan proposed to transfer OCJP's juvenile justice programs to the Board of Corrections (BOC), public safety programs to the Office of Emergency Services (OES), and the victims' services programs to OES.

Budget Request. The budget includes \$36.1 million (\$507,00 General Fund, \$10,000 Reimbursements, and \$35.6 million federal funds) and 10.8 positions related to the transfer of the juvenile justice grants from OCJP.

Staff Comments. The Subcommittee may wish to have BOC present some of the challenges faced in transitioning these programs from OCJP, and plans for administering these programs in the current year and the budget year.

5460 Department of the Youth Authority

The goals of the California Youth Authority (CYA) are to provide public safety through the operation of secure institutions, rehabilitate offenders, encourage restorative justice, transition offenders back to the community, and support local government intervention programs.

Youth Authority -- Funding Sources					
Funding Sources	(dollars in thousands)				Percent
Program	2002-03	2003-04	2004-05	Change	Change
General Fund	\$358,139	\$361,379	\$316,727	-\$44,652	-12.4%
Lottery Education Fund	335	374	548	174	46.5%
Federal Trust Fund	737	2,702	1,495	-1,207	-44.7%
Reimbursements	66,519	70,348	59,356	-10,992	-15.6%
Totals	\$425,730	\$434,803	\$378,126	-\$56,677	-13.0%

Budget Overview. The Governor's Budget proposes expenditures of \$378.1 million, a decrease of \$56.7 million, or 13 percent from the current year. Of the total, \$316.7 million is General Fund, which is a decrease of \$44.7 million, or 12.4 percent below the current year. Of the General Fund appropriation, \$34 million is General Fund- Proposition 98, a decrease of \$2.7 from current year expenditures. Authorized positions are proposed to be 3,797.9, which would be a decrease of 479.7 positions from the current year. This reduction is primarily due to an estimated decrease in the ward population and the closure of five facilities. The budget estimates that it will receive \$59.4 million in reimbursement in 2004-05. Of this amount, the budget assumes \$32 million in reimbursements come from fees that counties pay for the wards they send to the CYA.

Youth Authority Program Expenditures					
Spending by Program	(dollars in thousands)				Percent
	2002-03	2003-04	2004-05	Change	Change
Institutions and Camps	\$322,117	\$337,949	\$291,143	-\$46,806	-13.9%
Parole Services	54,160	44,844	39,589	-5,255	-11.7%
Education Services	47,869	48,733	43,611	-5,122	-10.5%
Administration	28,364	29,850	30,161	311	1.0%
Distributed Administration	-26,870	-28,266	-29,429	1,163	4.1%
Totals, All Programs	\$425,730	\$434,803	\$378,126	-\$56,677	-13.0%
Authorized Positions	4,509.0	4,277.6	3,797.9	-479.7	-11.2%

1. Overview

The purpose of the Youth Authority Act, codified in Welfare & Institutions Code Section 1700, is to rehabilitate youthful offenders.

1700. The purpose of this chapter is to protect society from the consequences of criminal activity and to that purpose community restoration, victim restoration, and offender training and treatment shall be substituted for retributive punishment and shall be directed toward the correction and rehabilitation of young persons who have committed public offenses.

CYA Mission Statement. “The mission of the CYA is to protect the public from criminal activity by providing education, training, and treatment services for youthful offenders committed by the courts; assisting local justice agencies with their efforts to control crime and delinquency; and encouraging the development of state and local programs to prevent crime and delinquency.”

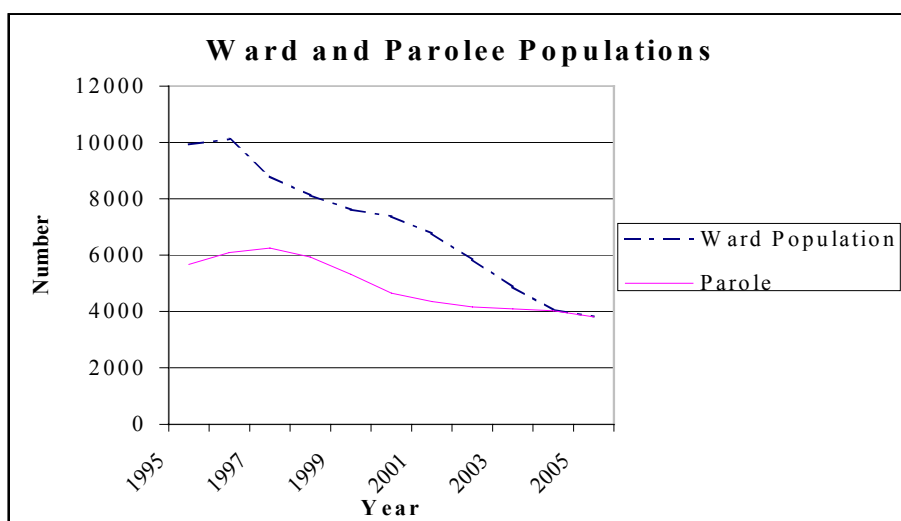
CYA at a Glance.

Characteristics of the CYA population as of June 30, 2003 (Showing Percentages of Totals)	
Category	Percentage
Gender	
Male	95.2
Female	4.8
Court of Commitment	
Juvenile	97.3
Criminal	2.7
Top Five Counties of Commitment	
Los Angeles	26.3
San Bernardino	8.1
Fresno	6.0
Alameda	4.7
Riverside	4.7
Commitment Offense	
Violent Offenses	58.4
Property Offenses	24.3
Drug Offenses	3.9
Other Offenses	13.4
Admission Status	
1 st Commitment	84.1
1 st Return	11.7
2 nd Return	3.5
3 rd Return or more	0.7
Ethnicity	
White	16.4
Hispanic	48.0
African American	29.9
Asian	3.4
Other	2.3
Average Age (years)	19.4

CYA Population Estimates.

Ward Population Estimates. The proposed budget estimates that the ward population will decrease by 500 (11 percent) below previous estimates for the current year to 4,055 on June 30, 2004. The budget is based on estimates that the ward population will decline by another 235 wards (5.8 percent) in the budget year, resulting in a ward population of 3,820 by June 30, 2005. The ward population has reduced in recent years from 10,114 wards at the end of the 1995-96 fiscal year. Long range projections call for the institution population slowly decrease to a total ward population of 3,730 by the June of 2008.

Parolee Population Estimates. The proposed budget estimates that the parole population will decrease to 4,025 by the end of current year, and to decrease by 215 cases to 3,810 by June 30, 2005. The department attributes the expected decrease to the declining institution population that will result in fewer parole releases. The parole population has reduced in recent years from 6,249 at the end of the 1996-97 fiscal year. The population projections estimate the parole population to steadily drop to 3,515 by June 30, 2008.

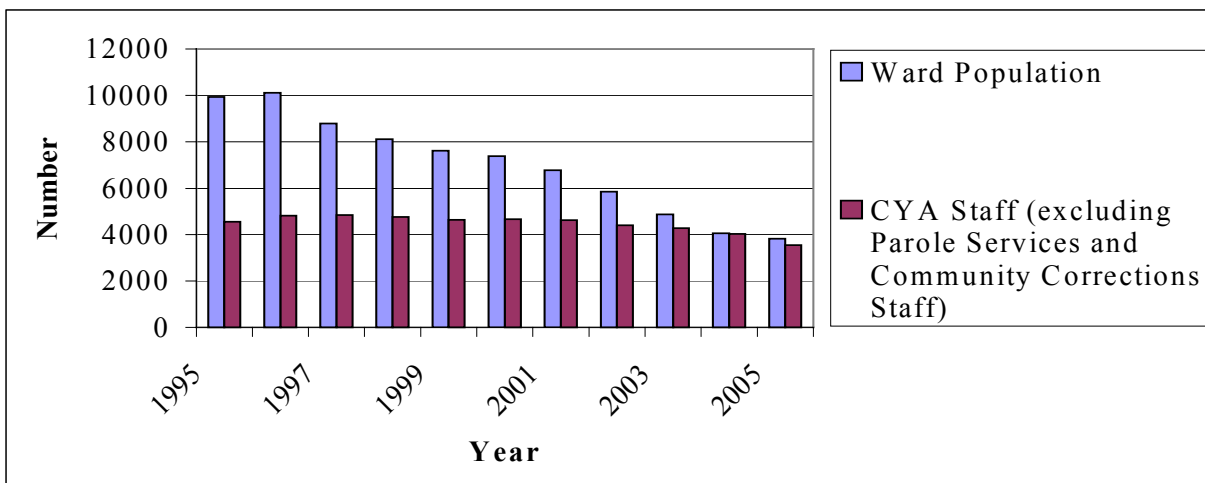


Population Projections will Be Updated. The department will be releasing Spring population estimates with the May Revise which will likely include slight upward projections in the ward population estimates. Most of the increase is due to an 140 juveniles currently housed at CDC's California Correctional Institution at Tehachapi who will be transferred the Heman Stark Youth Correctional Facility.

Effect of Governor's TANF Proposal Not Included in Projections. The budget proposes a reduction to TANF funds going to county probation. This issue is in the jurisdiction of Subcommittee #3. The proposal would reduce \$134 million in TANF funds going to probation in 2004-05 and \$200 million in 2005-06. The impact of this reduction is not included in the CYA's population projections assumed in the budget. County probation departments have indicated that the loss of these funds will have a devastating impact on their operations, and will likely lead to the closures of county ranch and camp facilities. To the extent that locals close ranches and camps, counties may end up sending additional wards to CYA due to lack of options at the county level.

Juveniles at CDC to be transferred to the CYA. The CDC will be transferring juvenile inmates from CDC facilities to the CYA. The budget assumes 140 juveniles will be transferred to the CYA this Spring. The CYA indicates the number of juveniles at CDC fluctuates between 80 and 140 juveniles (as of December 2003 CYA reports that there were 123 juvenile inmates that number was 99 in February 2004) and that an average of 10-12 juveniles are sentenced to CDC every month. The CYA intends to house the juveniles at Heman G. Stark Youth Correctional Facility.

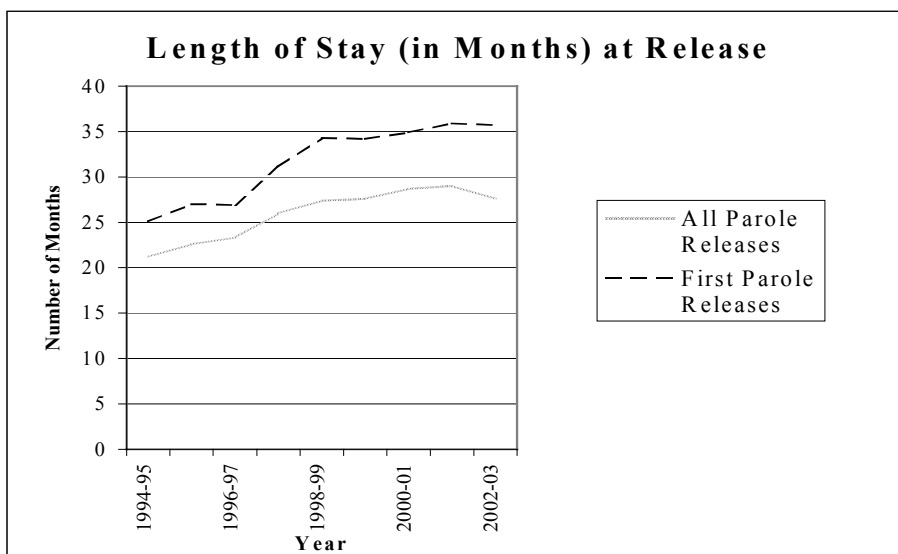
Staff Resources at CYA. As can be seen in the table below, in the last ten years, the staff ratios for CYA have changed significantly.



In the current year, the staff ratio (excluding Parole and Community Corrections staff) is 1:1. The CYA indicates that this ratio better approximates the staffing ratios in other states. The following table shows a staffing ratio comparison with 5 other states that officials of CYA visited in 2000.

Survey of Staffing Ratios from 5 States in 2000			
State	Total Employees	Institution Population	Staff:Ward Ratio
California	5,212	7,113	7:10
Texas	5,064	5,540	9:10
New York	3,049	2,239	14:10
Ohio	2,031	2,021	1:1
Illinois	1,495	1,893	8:10
Pennsylvania	1,193	727	16:10

Average Cost Per Ward. The average cost per ward (based on total CYA expenditures minus parole services and the ward population at the end of the fiscal year) was \$76,157 in 2002-03. The average cost is projected to be \$96,167 in the current year, and \$88,622 in the budget year.



In recent years there have been a number of problems at the CYA.

Chronology of Recent Events at CYA	
Date	Event
5/2000	Joint Oversight Hearing of the Senate and Assembly Committees on Public Safety. Testimony addressed levels of fear, violence and gang activity in CYA institutions; inconsistent and unacceptable staffing practices, including use of force and lock down policies; inadequate resources and practices for mental health and education services; and related issues. Inspector General Steve White testified "it would be impossible to overstate the dimension of the problem" at CYA.
5/2000	In response to legislative scrutiny, Youth & Adult Corrections Secretary Robert Presley directs the Board of Corrections to establish an independent steering committee of experts to provide technical assistance and recommendations on CYA.
6/2000	Governor vetoes Legislative budget augmentation providing additional mental health treatment, sex offender treatment, and substance abuse treatment services to CYA wards and parolees, indicating that the need for the level of services assumed in the augmentation was unclear.
10/2000	The Board of Corrections Releases "Institutions Operational Quality Assurance Project for the California Youth Authority."
7/2001	Release of "Report of Forensic Mental Health Assessment: Mental Health Services to California Youth Authority," Dennis F. Koson, M.D. and Joel A. Dvoskin, Ph.D. (commissioned by CYA)
12/2001	"Stanford Report" Assessing the Mental Health System of the CYA is released. (Report required by the Budget Act of 2000-2001)
1/2002	<i>Stevens v. Harper</i> case filed in federal court on behalf of all juvenile offenders housed in 11 CYA facilities throughout the state. Issues include: physical safety of wards; administration of confinement in security management programs; lockdown procedures; status of physical facilities; procedural due process practices for discipline and segregation; medical and dental care; mental health care; programming and rehabilitation activities; attorney client communications; disability discrimination; and religious services. Case dismissed on plaintiffs' motion on June 13, 2003 and refiled in State Court (see below).
1/2002	Governor's Budget requests \$14.98 million (\$10.7 million in 2002-03 and \$4.263 million in 2003-04) for the Department of Justice (DOJ) to fund external consultant expenses to defend CYA.
1/2002	Joint Legislative Budget Committee denies DOJ's 2002-03 fiscal year request for \$10.7 million for CYA litigation expenses.
5/2002	Release of "Final Report: Utilization Review and Planning for Licensed Inpatient Beds; A Study Prepared for the Department of the Youth Authority." Dennis F. Koson, M.D., Joel A. Dvoskin, Ph.D. (commissioned by CYA)
6/2002	Budget Conference Committee approves compromise \$1.6 million augmentation to fund state's response to CYA lawsuit. This includes \$550,000 to retain experts mutually acceptable to the parties to objectively assess CYA services and practices pertaining to mental health, health care, education, disability access, use of force, programming and general correctional conditions.
1/2003	Prison Law Office lawsuit against CYA re-filed in Alameda Superior Court (<i>Farrell v. Harper</i>).
1/2003	CYA experts retained.
12/2003	Court overrules CYA's demurrer; case proceeds.
1/2004	CYA Expert Reports Released.

As identified in the chronology above, in response to a lawsuit over a wide range of issues at CYA, plaintiffs and CYA agreed to retain experts in a variety of fields to objectively assess CYA services in the areas of Violence, education, health care services, mental health and substance abuse treatment programs, and gang programs.

Findings from the expert reports suggest that the CYA is failing in its rehabilitative mission and document serious deficiencies in the following areas:

The Level of Violence at CYA Institutions. This report includes findings that the CYA is a very dangerous place and that the level of ward-on-ward and ward-on-staff assaults are unprecedented in juvenile corrections across the nation. The report notes that CYA has made significant strides in some issues such as better oversight of the restricted program. Nonetheless, the report raises many concerns about the safety of wards and staff, use of excessive force by staff, verbal abuse by staff, deficiencies in the ward grievance system, and the use of cages for educational, counseling, and recreational purposes.

- “The YA suffers from a serious problem of violence in its institutions. . . . Of equal importance, the climate of violence has engendered high levels of fear among wards and staff that affect virtually all aspects of daily operations. These tensions produce an extensive use of force, especially chemical agents. . . . (Krisberg, p. 42)

Adequacy of Mental Health Care. The report notes that there are deficiencies in the competency and effectiveness of mental health staff, the over use of chemical restraints for crisis management, inconsistent and substandard practices for the use of psychotropic medication, and mental health standards that are inadequately and inconsistently adhered to.

- “The mental health care provided by the CYA is not adequate and does not conform to community standards or to the professional standards identified in this report.” (Trupin and Patterson, p. 9)
- “The vast majority of youths who have mental health needs are made worse instead of improved by the correctional environment.” (Trupin and Patterson, p. 17)
- “We observed youths that were in clear distress and, in a few cases, mental health staff who recognized this distress attempting to address the youth’s issues, only to have the custody response be based on ineffective punitive approaches which only altered the youth’s non-compliant behavior temporarily and did not reduce the likelihood of re-occurrence. The observed procedures included the assignment of lengthy SMP stays, restrictive housing, and/or use of OC spray regardless of the youth’s mental status.” (Trupin and Patterson, p. 14)

Substance Abuse and Treatment Programs. The expert report notes that CYA does not offer adequate rehabilitation or substance abuse programs, that there is no evidence that the programs offered are effective, and that programs are not available to youth who have been ordered to participate by the parole board because inadequate number of program and inadequate staff, leading to the likelihood that those youth may have to wait to get into parole board ordered substance abuse programs and end up with longer stays in CYA facilities, due to their inability to access these services.

- “Substance abuse treatments do not comport with those recommended by the American Society of Addictions Medicine (ASAM) and there is little evidence that youth suffering these problems (85% of the CYA population as measured by the Steiner report), most of whom have a co-occurring mental health disorder, have treatments designed to treat these disorders in a comprehensive manner, except in one program” (Trupin and Patterson, p. 9)

Health Care Services. The expert report on health care includes findings that CYA policy and procedures, and actual practice do not ensure that wards have timely access to medical care, that there is policy guide for medication administration, and that the manner in which pharmaceuticals are procured, inventories, and dispensed is inefficient and wasteful.

- “A primary finding of our review is that medical care provided to wards in the CYA is not commensurate with community standards of care. However the deficiencies are mostly organizational and procedural and not primarily fiscal and therefore are mostly correctable within the existing budget.” (Puisis and LaMarre, p.6)
- “There is not a single person in the CYA who can responsibly discuss the cost of care, expenditures for health care, or the administration of the statewide healthcare program in a manner that demonstrated operational efficiency, standardization, and accountability.” (Puisis and LaMarre, p.17)

Education. The expert report on education includes findings that the critical areas of concern that need to be addressed are adequate funding for academic and special education staff, ward attendance, class cancellations, special education record keeping, providing adequate educational opportunities in restricted programs, and the need for increased institutional support for the education program.

- “Wards in all main high schools were observed being pulled from general and special education classes to attend other programs, including Board mandated activities, without regard to their educational needs. It is evident that education is not the primary focus during the school day. (O’Rourke and Gordon, p.8)

Gang Violence. The expert report on gang violence includes findings that gang violence and the threat of gang violence impacts programming at every CYA institution.

- “(T)he CYA is planning to standardize its gang awareness curriculum for wards and initiate a gang awareness orientation program at reception centers. The training curriculum needs to be reinforced in every institution. Also, the CYA needs to utilize volunteer groups to support what the department is attempting to accomplish in the area of reducing gang violence.” (Parry, p.16)

The Subcommittee may wish to ask CYA the following:

1. Can the recommendations found in the expert reports be implemented appropriately and effectively at the CYA?
2. Has the CYA eliminated the use of cages for educational and counseling purposes?
3. The expert reports cite problems with the physical plant problems at CYA, stating that institutions are antiquated and in a general state of disrepair. What plans does CYA have for updating its facilities?
4. What are CYA’s specific proposals to address the deficiencies highlighted in each report?
5. What performance measures or outcomes will CYA use to show whether proposed changes are actually being implemented?
6. What performance measures or outcomes would CYA use to show the budget subcommittee that the CYA is accomplishing its mission?
7. What is the status of the settlement negotiations?

2. Closure Plan

Fiscal Impact of Closing Youth Authority Facilities (In Thousands)							
		2003-04			2004-05		
Institution	Date	Savings	Offset for CS 4.10	Net Savings	Savings	Offset for CS 4.10	Net Savings
Karl Holton YCF	10/1/03	-\$7,360	\$3,542	-\$3,818	-\$9,858	\$3,542	-\$6,316
Ventura - Male	3/1/04	-1,169	548	-621	-3,068	548	-2,520
Northern Ca. Reception Center	3/1/04	-4,168	4,168	0	-15,404	4,168	-11,236
Accelerated Closure of 8 Living Units		-2,832	2,832	0			
Nelles YCF	7/1/04				25,939		-25,939
Mt. Bullion Camp	7/1/04				2,380		-2,380
Totals		-\$15,529	\$11,090	-\$4,439	-\$56,649	\$8,258	-\$48,391

Last year, the CYA indicated that it was closing down the Holton facility and the male portion of the Ventura facility. Due to the population declines at CYA, the Legislature approved statutory changes that required CYA to close a facility with a capacity of at least 640 by March 1, 2005.

Closure Proposals. In order to achieve additional savings, the CYA is closing the Northern California Reception Center by March 2004, accelerating the closure of the Nelles facility to July 1, 2004, and proposing the closure of the Mt. Bullion Camp by July 1, 2004. The savings from the Northern California Reception Center are estimated at \$4.2 million in the current year and \$15.4 million in the budget year. CYA is using the current year savings and a portion of the budget year savings to offset reductions pursuant to Control Section 4.10.

Closure of Nelles. The budget proposes savings of \$25.9 million in the 2004-05 from the closure of the Nelles facility in Whittier. The CYA indicates that the other four institutions considered for closure other than Nelles were Preston, Paso de Robles, Heman G. Stark, and Ventura. CYA indicated that the factors for choosing Nelles include

- Infrastructure repairs at Nelles are estimated at \$70 million, which CYA indicated was more than double the cost of any other facility.
- The fact that Nelles had only one specialized program to be moved.
- The population at Nelles had fallen to 340 (from a capacity of 640).

Status of the Plan Specifying Priorities for Enhanced Services. Legislation requiring the closure of a facility by March 5, 2005 also provided that up to 50 percent of the initial year of savings shall be available to the department in 2005-06 to implement a plan specifying priorities for enhanced services. That plan is due to the Legislature at the time of the May Revise this year. *The Subcommittee may wish to ask about the status of the plan.*

Staff Comments. Concerns have been raised about the closure of Nelles because it is the only institution in Southern California for wards under 18.

The Subcommittee may wish to ask the CYA the following:

- What is the plan for closing Nelles and transitioning youthful offenders to other facilities?
- What efforts is CYA making to keep wards at Nelles close to their families and communities?

Staff Recommendation. Staff recommends holding this item open at this time.

Held open.

Closure of Mount Bullion Camp. The budget proposes savings of \$2.4 million in 2004-05 from the closure of the Mount Bullion Camp in Mariposa County. This camp is located on CDF property and assists CDF fire crews during fire season. This is one of four camp programs operated by the CYA.

Department Rationale. The CYA indicates that it is proposing the closure of this camp because there are not enough qualified wards to fill the camp facilities. CDF has minimum criteria for accepting wards into the program. Current criteria includes: no history of arson, no escapes, only low level offenders, and the ward must be discipline free for one year. CYA indicates that Mt. Bullion was proposed for closure because it had the lowest population of the camps at the time – 38 wards.

The Subcommittee may wish to ask CYA the following:

- Why should the Subcommittee endorse the closure of any CYA-operated camp or forestry camp, when these smaller scale facilities appear to be a much closer fit with accepted youth corrections standards and models?

Staff Recommendation. Staff recommends holding this item open at this time.

Action.

Held open.

3. Structural Reform Issues

Many argue that the problems confronting CYA cannot be solved by focusing solely the deficiencies that have been identified by the expert reports. More fundamental, structural reforms should be considered to address the underlying causes that have lead to the current conditions at CYA. These reforms may be considered in the context of whether existing resources are being used efficiently and effectively.

In addition, CYA has been a key component of California's state/local juvenile justice system. In this bifurcated state-county approach, the state operates the CYA for the most serious offenders coming out of the juvenile courts – about 2% of all juvenile offenders. The counties maintain responsibility for supervision, placement and treatment of the remaining 98% of juveniles. It can be argued that the structure of the existing system does not encourage an effective state-local partnership.

As part of the Governor's California Performance Review (CPR) process, the Administration is convening a working group of key stakeholders in the state-local juvenile justice system for the purpose of developing a consensus about the role of CYA in the overall juvenile justice system.

The Subcommittee may wish to ask CYA the following:

1. What vision and plan do you have for reducing the total population of the Youth Authority, and its total cost to the state, over the next five years? What "core" population should the Youth Authority have, five years from now?
2. In this regard, what steps can you recommend to reduce the escalating lengths of stay (average time served) by CYA wards, particularly for those in the lower PCD (Parole Consideration Date) categories? What specific adjustments in PCD setting, time add policies or release decision-making can you recommend to provide control over escalating stays that push state corrections costs higher without documented improvements in recidivism rates?

3. What plans, if any, do you have to alter or convert existing “large scale” institutions to smaller-scale facilities with smaller unit sizes (down from average 60 or 70 to more like 30 per unit)?
4. What plans, if any, do you have to improve and intensify parole services for CYA wards, including the key elements of locating housing and finding a job? What plans, if any, do you have to develop additional, graduated sanctions for CYA parolees, such as half-way houses?
5. What is the status of the Governor’s plan, referenced in the January Budget Proposal and recirculated later as an “extended juvenile jurisdiction” proposal, to cut CYA jurisdiction to age 21 or 22 and shift the older juvenile court population to state prisons?
6. What are your recommendations for the future use of CYA institutional properties, such as Fred C. Nelles, that are slated for closure? Specifically, what are the best uses of these closed properties within the context of youth corrections—i.e. uses that will apply their value to the improvement of our state’s overall youth corrections system in future years? For example, can these properties be converted to secure and small-scale facilities dedicated to serving some of the most difficult ward populations, such as those with serious mental health disorders? Are there current plans to abandon these properties to buyers or uses outside the youth correctional system?
7. CYA’s mission establishes priority for “community restoration, victim restoration, and offender training and treatment.” Would CYA achieve these objectives more effectively if it was housed in the Health and Human Services Agency?

4. Restructure of the Gang Violence Reduction Project

Budget Request. The budget proposes to redirect the Gang Violence Reduction Project away from community based programs and fund programs providing direct services to the Youth Authority population and to renew the CYA contract with the Volunteers in Parole (VIP) program to focus on gang members.

Staff Recommendation. Staff recommends holding this item open.

Action.

Held open.

5. LAO Options for Reductions

In its Analysis, LAO has cited two potential options for reductions at CYA:
Elimination of Gang Violence Reduction Program (\$1.7 million)

Elimination of Young Men as Fathers Program (\$0.9 million)

Staff Recommendation. Staff recommends holding these items open at this time.

Held open.

5460 California Youth Authority

Capital Outlay

Budget Request. Budget includes \$2.75 million from the General Fund for the following cap outlay purposes:

- \$250,000 for budget packages and advanced planning
- \$2.5 million for minor cap outlay

1. Supplemental Report Language

Last year Supplemental Report Language directed CYA to prepare and submit two reports:

Facility Condition Report

Mental Health Treatment Facilities Plan

Analyst's Recommendation. Both reports due November. The LAO has raised the issue that they have not been submitted and recommends withholding action on the CYA capital outlay budget pending receipt of the reports.

Staff Recommendation. The department indicates that the reports are complete and are under the review process at YACA agency. Staff recommends withholding action on the capital outlay budget pending receipt of the reports.

Action.

2. Use of Planing Monies to Fund Preliminary Plans.

Item 5460-301-0001(1) of the *2004-05 Budget Act* appropriates \$250,000 to the department for "Pre-Schematic/Master Planning Budget Packages and Advanced Planning." Provision 1 of that item provides that these funds may be used for "budget package development, architectural programming, engineering assessments, schematic design, and preliminary plans." This same provision has been included in prior budget acts as well.

With one exception, the LAO believes that all of these services may be needed to provide the administration and the Legislature with sufficient information to make informed decisions about funding a project. The exception involves preliminary plans. Funding the preparation of preliminary plans constitutes a commitment to proceed with a project. The LAO indicates that permitting these planning funds to be used for preparation of preliminary plans allows the administration to make a commitment to a project without it first being subjected to legislative consideration. It puts the Legislature in the position of being asked to fund working drawings and construction of a facility that it has not had an opportunity to review.

Analyst's Recommendation. In order to maintain the Legislature's options when considering capital outlay proposals, the LAO recommends that Provision 1 of Item 5460-301-0001 of the budget bill be amended to delete authorization for funds appropriated under Schedule (1) to be expended for preparation of preliminary plans.

Staff Comments. This is similar to an issue raised in the CDC capital outlay budget. In the current year, the CDC is moving forward with preliminary plans for a hemo-dialysis project which they anticipate could save up to \$6 million annually in medical guarding and transportation costs.

Action.

Held open.

SUBCOMMITTEE NO. 2

Agenda

Byron Sher, Chair
Sheila Kuehl
Bruce McPherson



Thursday, April 1, 2004
Upon Adjournment of Session
Room 112

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Resources—Environmental Protection—Public Safety—Energy

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.

3340 California Conservation Corps

Background. The California Conservation Corps (Corps) assists federal, state and local agencies, and nonprofit entities in conserving and improving California's natural resources while providing employment, training, and educational opportunities for young men and women. The Corps provides on-the-job training and educational opportunities to California residents aged 18 through 23, with projects that conserve and enhance the state's natural resources and environment. In addition to activities traditionally associated with the Corps like tree planting, stream clearance, and trail building, the Corps responds to emergencies caused by fires, floods, earthquakes, and other natural disasters. The Corps also develops and provides funding for eleven community conservation corps.

Governor's Budget. The Governor's budget proposes \$81.3 million to support the Corps in 2004-05. This is a \$11.6 million (13 percent) reduction from current year estimated expenditures. This reduction is a result of the Governor's proposal to reduce General Fund support for the Corps by 37 percent in the budget year. This reduction will require the Corps to close three residential centers and three non-residential centers. It will also result in a reduction of 200 corpsmember positions (14 percent reduction in corpsmembers) and an elimination of corpsmember health benefits. Furthermore, the reduction in corpsmembers reduces the special fund support that the Corps earns through work performed for reimbursement from other state agencies and local governments. The budget also proposes to fund two capital outlay projects at the Tahoe and Delta Corps centers using lease revenue bonds.

California Conservation Corps

Governor's Budget Spending Totals

(Dollars in Thousands)

	Actual 2002-03	Estimated 2003-04	Proposed for 2004-05	
			Amount	Percent Change
Type of Expenditure:				
Training and Work Program	\$84,446	\$81,050	\$51,157	-37%
Capital Outlay	938	11,883	30,149	154%
Administration	8,883	7,672	6,642	-13%
<i>less distributed administration</i>	<i>-8,883</i>	<i>-7,672</i>	<i>-6,642</i>	<i>-13%</i>
Total	\$85,384	\$92,933	\$81,306	-13%
Funding Source:				
General Fund	\$45,688	\$35,883	\$22,640	-37%
Special Funds	31,501	36,883	28,546	-23%
Bond Funds	7,505	8,764	0	-100%
<i>Budget Act Total</i>	<i>84,694</i>	<i>81,530</i>	<i>51,186</i>	<i>-37%</i>
Public Buildings Construction Fund	688	11,402	30,120	164%
Total	\$85,382	\$92,932	\$81,306	-13%

Budget Change Proposals. The following is a summary of the 2004-05 budget change proposals for the Corps.

California Conservation Corps

Budget Change Proposals, 2004-05

(Dollars in Thousands)

Description	General Fund	Special Funds	Total	Personnel Years
General Fund Reduction. Reduces Corps training and work program including closing residential centers in Los Padres, Ukiah, and Norwalk. Also proposes closing non-residential centers in McKinleyville, Arcata, and Crescent City, as well as downsizing centers in Sacramento and the Bay Area. Also results in a reduction of 200 corpsmembers and the elimination of corpsmember benefits.	-\$12,800	-	-\$12,800	-125
Capital Outlay. Proposes funding to relocate the Tahoe Base Center, construct the Delta Service Center, and fund preliminary planning for the Sierra/Placer residential facility sewer system connection.	29	30,100	30,129	0
Total	-\$12,771	\$30,100	\$17,329	-125

1. Funding Corps Activities with Workforce Investment Act Funds

Background. The federal government's Workforce Investment Act (WIA) provides federal funds to states for employment and training services. In the budget year approximately \$67 million in WIA funds will be allocated to the Employment Development Department (EDD) for discretionary purposes, including administration, statewide initiatives, current employment service programs, and/or competitive grants.

LAO Identifies Portion of WIA Funds Unallocated in Budget. The Analyst has identified approximately \$16.8 million in federal WIA funds that are unallocated in the budget year. The Analyst points out that even though these funds are commonly referred to as "Governor's discretionary" funds they are still subject to appropriation by the State Legislature according to federal law. Therefore, in order to ensure that the WIA funds are expended consistent with legislative priorities, the Analyst has recommended denying expenditure authority for these funds until an expenditure plan is submitted to the Legislature.

Corps Funding Opportunity. Since the Corps is involved in providing employment, training, and educational opportunities to young men and women, the Corps may be able to utilize some of the unallocated WIA funds in the budget year to reduce the impacts of the proposed General Fund reductions. The WIA funds do have some restrictions that may not allow the funds to directly backfill all of the Corps reductions, but the funds could be used to help mitigate some of the General Fund reductions and extend additional opportunities to corpsmembers in the budget year.

Senate Budget Subcommittee #3 Action. On Thursday, March 25, 2004, Senate Budget Subcommittee #3 took action in EDD's budget to adopt the LAO recommendation, thereby denying the expenditure authority until a plan for expending these funds is submitted. The subcommittee also took action to direct staff, the LAO, and the administration to consider the feasibility of funding the Corps using WIA funds.

Since then, DOF has indicated that it is in the process of developing a plan for expending the unallocated WIA funds in the budget year. Specifically they are determining what portion of the WIA funds is available to fund the Corps and other programs that serve youth. The DOF has also indicated that it is also evaluating what activities at the Corps could be funded with WIA funds. The DOF indicates that it would have additional information regarding this issue next week.

The Subcommittee may wish to ask DOF the following questions.

- How will the administration determine what portion of the unallocated WIA funds are available for the Corps?
- How will the administration determine what Corps activities are eligible to be funded by WIA funds?

Staff Recommendation. Staff recommends directing staff, the LAO, and the administration to develop trailer bill language to fund a portion of the Corps budget with WIA funds to mitigate some of the Corps General Fund reductions.

3480 Department of Conservation

Background. 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; agricultural and open-space land; and beverage container recycling.

Governor's Budget. The Governor's budget proposes \$881.6 million to support DOC in 2004-05. This is a \$196 million (29 percent) increase from current year estimated expenditures. This increase is mainly a result of the implementation of Chapter 753, Statutes of 2003 (AB 28, Jackson) that increased the deposit for beverage containers sold in California, thereby increasing revenues to the California Beverage Container Recycling Fund. The budget also proposes a \$1.2 million (24 percent) reduction in support from the General Fund, reflecting a \$551,000 reduction in funding for the California Farmland Conservancy and Williamson Act programs and a \$662,000 shift to a special fund supported by Williamson Act cancellation fees. The budget also reflects a significant reduction in bond funds due to the administration's decision to defer submission of its bond proposal until later in the spring.

Department of Conservation Governor's Budget Spending Totals (Dollars in Thousands)

	Actual 2002-03	Estimated 2003-04	Proposed for 2004-05	
			Amount	Percent Change
Type of Expenditure:				
Geologic Hazards and Mineral Resources Conservation	\$20,988	\$23,157	\$25,664	11%
Oil, Gas, and Geothermal Resources	13,625	14,236	14,464	2%
Land Resource Protection	10,509	29,941	3,534	-88%
Beverage Container Recycling and Litter Reduction	494,699	618,660	837,906	35%
Administration	9,301	9,883	9,941	1%
<i>less distributed administration</i>	<i>-9,301</i>	<i>-9,883</i>	<i>-9,941</i>	<i>1%</i>
Total	\$539,821	\$685,994	\$881,568	29%
Funding Source:				
General Fund	\$21,649	\$5,003	\$3,790	-24%
Special Funds	503,971	643,878	865,332	34%
Bond Funds	6,601	26,144	1,479	-94%
<i>Budget Act Total</i>	<i>532,221</i>	<i>675,025</i>	<i>870,601</i>	<i>29%</i>
Federal Funds	1,077	1,720	1,687	-2%
Bosco-Keene Renewable Resources Investment Fund	0	722	778	8%
Reimbursements	6,524	8,527	8,502	0%
Total	\$539,822	\$685,994	\$881,568	29%

Budget Change Proposals. The following is a summary of the 2004-05 budget change proposals for DOC.

Department of Conservation

Budget Change Proposals, 2004-05

(Dollars in Thousands)

Description	General Fund	Special Funds	Total	Personnel Years
Beverage Container Recycling Administration. Proposed to implement Chapter 753, Statutes of 2003 (AB 28, Jackson) that increased the deposit on beverage containers, including new oversight activities, start up new programs, and ensure options exist for the public to recycle.	-	\$553	\$553	0
Seismic Hazard Mapping. Provides ongoing administrative support for the Seismic Hazard Mapping Program.	-	1,230	1,230	12
Williamson Act/California Farmland Conservancy Programs. Proposes to reduce General Fund support for these programs. A portion of this reduction is proposed to be backfilled from the Soil Conservation Fund, which is derived from Williamson Act cancellation fees.	-1,213	662	-551	0
Total	-\$1,213	\$2,445	\$1,232	12

1. Williamson Act Cancellation Penalties

Background. The Williamson Act allows cities and counties to enter into contracts with landowners to restrict certain property to open space and agricultural uses. In return for these restrictions, the property owners pay reduced property taxes. The contracts entered into between local governments and property owners are ten-year contracts, which are typically renewed each year for an additional year, such that the contract remains at a constant 10 years. Landowners that do not renew their contracts face gradual increases in their property tax over a ten-year period to the level that unrestricted land is taxed. Landowners that cancel their Williamson Act contracts must pay a penalty of 12.5 percent of the unrestricted fair market value of the land.

Additional Penalties Imposed by Recent Law Change. Chapter 694, Statutes of 2003 (AB 1492, Laird) enacted additional penalties on landowners that are found to be in material breach of a Williamson Act contract. A material breach is defined to be the construction of a commercial, industrial, or residential structure exceeding 2,500 feet that is not permissible under a Williamson Act contract. Any structure constructed after January 1, 2004 meeting these specifications is subject to a penalty of 25 percent of the unrestricted fair market value of the land rendered incompatible by the breach and 25 percent of the value of the incompatible improvements made to the property.

Governor's Budget. The Governor's budget proposes to reduce DOC's open-space programs by \$551,000 and shift the remaining program to Williamson Act penalty revenues and bond funds. Williamson Act penalties are typically deposited in the General Fund. The Governor's budget proposes to transfer \$2 million to the Soil Conservation Fund to support administration of the Williamson Act program and support the department's farmland mapping efforts. The budget reductions over the past several years have greatly reduced DOC's open-space programs, including the California Farmland Conservancy Program (CFCP). The CFCP provides grants to acquire conservation easements on agricultural land threatened by development encroachment. The General Fund has been the primary funding source for this program, but in the budget year General Fund support for this program has been eliminated. Bond funds have been redirected to support this program in the budget year on a one-time basis.

LAO Recommendation. The Analyst recommends that the Legislature provide for the gradual elimination of payments to local governments for the local revenue losses associated with Williamson Act contracts. The Analyst has found substantial weaknesses in the program that reduces its effectiveness at preserving open space. For example, the Analyst cites that the state has no control over the specific land parcels and cannot ensure that participating lands are at risk of development pressures. Furthermore, landowners are allowed to cancel or not renew the contracts, which may not result in permanent changes to land use patterns.

Williamson Act Not as Effective at Preserving Open Space Post-Proposition 13. The passage of Proposition 13 in 1978 limited the property tax rate to 1 percent of assessed property value. It also limited increases in a property's assessed value to an adjustment of up to 2 percent annually, with reassessment at market value only upon resale. The effect of these limits has been that, in most cases, property taxes have a small financial impact and only marginally affect decisions to buy or develop real estate. Therefore, a property tax reduction, such as is provided through the Williamson Act, is unlikely to change current or future decisions regarding the development or preservation of open-space lands.

Cancellation Penalties Not Effective Deterrent to Breaking Contract. Current law requires landowners wishing to cancel their Williamson Act contract to pay a penalty of 12.5 percent on the unrestricted fair market value of the property. Despite this penalty, about 25 Williamson Act contracts are cancelled annually. As a result, an average of 1,200 acres of land is no longer under the Williamson Act protections each year. This is especially problematic given the rapid population growth and subsequent demand for housing in the Central Valley that has traditionally been predominantly agricultural. For example, DOC has already received 37 Williamson Act cancellations for nearly 3,000 acres so far in the current year.

Governor's Estimates of Penalty Revenues Seem Low. The Governor's budget assumes \$2.2 million in Williamson Act cancellation penalty revenues in the budget year. This is significantly less than the penalty revenues received in recent years. Over the past years the state has received approximately \$5 million annually in cancellation penalty revenues. In addition, the implementation of AB 1492 is estimated to about double Williamson Act cancellation penalty revenues. The administration's estimates of penalty revenues do not make any adjustments for the estimated increase in revenues due to implementation of AB 1492.

The subcommittee may wish to ask the department the following questions.

- Why is the Governor's estimate of Williamson Act penalty revenues significantly lower than in previous years?
- What level of Williamson Act penalty revenues does the department expect from the implementation of AB 1492?

Staff Recommendation. The subcommittee may wish to consider directing staff, the LAO, and the administration to develop trailer bill language to increase the penalties assessed for canceling a Williamson Act contract. This would provide a greater disincentive to cancel a Williamson Act contract, thereby increasing the effectiveness of this program in preserving open space.

2. Beverage Container Recycling Programs—Informational Item

Background. The DOC administers the California Beverage Container Recycling and Litter Reduction Act to achieve and maintain high recycling rates for each beverage container type included in the program. The DOC provides a number of services to achieve these goals, including enforcement, auditing, grant funding, technical assistance, and education. Chapter 753, Statutes of 2003 (AB 28, Jackson) increased the deposit for beverage containers sold in California from 2.5 cents to 4.0 cents for containers up to 24 ounces and from 5.0 cents to 8.0 cents for beverage containers over 24 ounces. The legislation also made several other changes to DOC's beverage container recycling program, including establishing several new programs.

Beverage Container Recycling Fund. The implementation of AB 28 results in a 40 percent increase in revenues to the Beverage Container Recycling Fund (BCRF) in the budget year. The department is assuming a 5 percent increase in the recycling rate due to the implementation of AB 28, thereby basing program expenditures on a 60 percent recycling rate for beverage containers. The department estimates that the BCRF will have a fund balance ranging from a low of \$14.1 million in July of 2004 to a high of \$95.1 million by the end of the budget year in June of 2005.

General Fund Loans. The BCRF has provided several loans to the General Fund over the past budget years to help address the state's budget crisis. The General Fund has borrowed approximately \$370 million over the past three years from the fund. The administration has not proposed repayment of these funds in the budget year. Language in the 2003-04 budget bill indicated that a portion of the loan should be repaid by June 30, 2009. The court has determined that these funds are not General Fund fungible and must be repaid to the BCRF eventually.

Questions. The Subcommittee may wish to ask the department questions regarding this program.

3. Abandoned Mine Remediation—Informational Item

Background. Last year Chapter 794, Statutes of 2003 (SB 649, Kuehl) was enacted that adopted a new fee schedule for silver and gold producers and dedicated that funding to abandoned mine reclamation. The Mining and Geology Board then adopted emergency regulations based on the amounts of gold and silver that are reported to the Department of Conservation. Those

regulations do not require reporting of gold and silver by mining operations in which the procurement of gold and silver is considered "incidental" to the mining operation, although that exception is not recognized as such in SB 649. Such operations are largely aggregate producers. In addition, the department currently estimates that revenues generated by the fees will be less than it estimated with the bill was being considered. Last year, the Department estimated that the fees may generate up to \$800,000. Lastly, the Department thus far has not proposed that any of the collected fees be spent on abandoned mine reclamation.

The subcommittee may wish to ask the department the following questions.

- Please advise the committee how much revenue the department expects to collect from the fees on gold and silver production to pay for abandoned mine remediation pursuant to SB 649 (Kuehl, 2003)?
- Does the department propose to spend any of this money for reclamation or remediation of abandoned mines in fiscal 2003-04? If not, why not?
- How many abandoned mines did DOC remediate or complete reclamation work on last year?
- Were any new mines illegally abandoned last year and get added to the DOC Abandoned Mine Inventory?
- Has the report on abandoned mine projects proposed for this year been prepared and submitted to the Legislature as required by Section 2797 of Public Resources Code? If not, is that because DOC does not propose to carry out any projects in fiscal 2004-05?

3540 Department of Forestry and Fire Protection

Background. The California Department of Forestry and Fire Protection (CDF), 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, CDF (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. The Governor's budget proposes \$683 million to support CDF in 2004-05. This is a \$163 million (19 percent) reduction from current year estimated expenditures. Most of this decrease reflects higher expenditures for fire suppression activities during the current year than proposed for 2004-05, reflecting a particularly high fire year in 2003-04. As in the current year, the proposed budget bill for 2004-05 authorizes the Director of Finance to augment the baseline appropriation for emergency fire suppression by an amount necessary to fund these costs.

Department of Forestry and Fire Protection

Governor's Budget Spending Totals

(Dollars in Thousands)

	Actual 2002-03	Estimated 2003-04	Proposed for 2004-05	
			Amount	Percent Change
Type of Expenditure:				
Office of the State Fire Marshal	\$11,205	\$12,715	\$12,425	-2%
Fire Protection	584,146	702,929	589,461	-16%
Resource Management	39,855	54,813	32,329	-41%
Capital Outlay	14,557	75,403	48,742	-35%
Administration	49,559	54,778	54,470	-1%
<i>less distributed administration</i>	<i>-49,316</i>	<i>-54,348</i>	<i>-54,040</i>	<i>-1%</i>
Total	\$650,006	\$846,290	\$683,387	-19%
Funding Source:				
General Fund	\$436,375	\$467,735	\$370,258	-21%
Special Funds	5,737	67,338	71,100	6%
Bond Funds	2,356	2,716	241	-91%
<i>Budget Act Total</i>	<i>444,468</i>	<i>537,789</i>	<i>441,599</i>	<i>-18%</i>
Federal Funds	17,616	66,077	26,108	-60%
Forest Resources Improvement Fund	140	-	-	-
Timber Tax Fund	26	28	30	7%
Public Building Construction Fund	13,221	73,161	44,636	-39%
Reimbursements	174,533	169,235	171,014	1%
Total	\$650,004	\$846,290	\$683,387	-19%

Budget Change Proposals. The following is a summary of the 2004-05 budget change proposals for CDF.

Department of Forestry and Fire Protection

Budget Change Proposals, 2004-05

(Dollars in Thousands)

Description	General Fund	Other Funds	Total	Personnel Years
Computer Aided Dispatch (CAD). Proposal to continue funding a contract to implement a CAD project to improve the ability of CDF to reduce the risk of major fire hazards.	-	\$1,622	\$1,622	0
Fire Shelter Replacement. Proposal to purchase redesigned fire shelters over four years to replace existing defective fire shelters issued to wildland firefighters.	740	-	740	0
Airplane Modernization. Proposal to reappropriate up to \$2 million General Fund from a 2001 budget appropriation to modernize four additional airplanes (the department has already modernized 20) to upgrade an aging fleet of airplanes for fire fighting.	0	-	0	0
Federal Funds. Proposal to expend additional federal grant moneys that are being awarded to the department to purchase equipment and supplies to fight wildland fires and terrorism concerns.	-	3,500	3,500	0
Pre-fire Fuel Reduction Projects. The Bureau of Land Management will be allocating funds to local agencies to reduce fuel in areas where wildland fire hazards are high. This request is for additional reimbursement authority to allows CDF crews to participate in these fuel reduction efforts.	-	200	200	0
ELPF Reduction. Proposes 10 percent reduction in funding from the Environmental License Plate Fund, which will result in minimal reductions to CDF's activities relating to biological diversity, environmental protection, and the Sierra Nevada integrated resource assessment.	-	-61	-61	0
Forest Resource Improvement Fund (FRIF). Proposes to eliminate the following programs formerly supported by revenue generated from forest harvests on the Jackson Demonstration State Forest given ongoing litigation: demonstration state forests, forest research, forest stewardship, nurseries, California forest improvement program, forest pest management, urban forestry, and watershed assessment.	-	-12,281	-12,281	0
Total	\$740	-\$7,020	-\$6,280	0

Capital Outlay Budget Change Proposals. The following is a summary of the 2004-05 capital outlay budget change proposals for CDF.

Department of Forestry and Fire Protection
Capital Outlay Budget Change Proposals, 2004-05
(Dollars in Thousands)

Description	General Fund	Bond Funds	Total
<i>Mount Saint Helena Communications Facility.</i> Replace portions of telecommunications transmission facility. Proposal to fund preliminary plans, working drawings, and construction.	\$500	-	\$500
<i>Mendocino Unit Headquarters.</i> Replace auto shop. Proposal to fund acquisition of project site or up-front payoff of a long-term lease.	1,000	-	1,000
<i>Dew Drop Forest Fire Station.</i> Replace facility. The owner of the project site has agreed to gift the site to the state, but requires purchase of access easement from current land owner.	50	-	50
<i>Pacheco Forest Fire Station.</i> Replace facility. Proposal to fund up-front payoff of 50 year lease of project site.	175	-	175
<i>Stevens Creek Forest Fire Station.</i> Replace facility. Proposal to fund acquisition of project site or up-front payoff of a long-term lease.	175	-	175
<i>Owens Valley Conservation Camp.</i> Upgrade water, power, and sewer systems. Proposal to fund construction costs for utility upgrades.	1,856	-	1,856
<i>Nipomo Forest Fire Station.</i> Replace facility. Proposal to fund acquisition of project site or up-front payoff of a long-term lease.	175	-	175
<i>Warner Springs Forest Fire Station.</i> Replace facility. Proposal to fund up-front payoff of long-term lease.	175	-	175
<i>Weaverville Forest Fire Station.</i> Relocate facility. Proposal to fund incremental costs for working drawings and construction due to higher than expected bids for completing this previously approved project.	-	581	581
<i>Manton Forest Fire Station.</i> Relocate facility. Proposal to fund incremental costs for working drawings and construction due to higher than expected bids for completing this previously approved project.	-	720	720
<i>Fort Jones Forest Fire Station.</i> Replace facility. Proposal to fund incremental costs for construction due to projected bids that are higher than anticipated when project was originally submitted.	-	718	718
<i>Cuyamaca Forest Fire Station.</i> Relocate facility. Proposal to fund preliminary plans, working drawings, and construction costs.	-	3,294	3,294
Total	\$4,106	\$5,313	\$9,419

1. Fire Fees

Background. The CDF is responsible for fire protection on approximately one-third (31 million acres) of California's lands. The lands for which CDF is responsible are mostly privately owned forestlands, watersheds, and rangelands referred to as "state responsibility areas" (SRAs). The *2003-04 Budget Act* included \$52.5 million in fire protection fees levied on private landowners in SRAs to partially offset the state's costs to provide fire protection services benefiting these landowners. According to the administration, the department is currently working to implement the fee collection.

Governor's Budget. The budget proposes expenditures of about \$589.5 million for the department's fire protection services in 2004-05, of which \$52.5 million is from fire protection fees, the same level as in the current year. The balance of the funding is from the General Fund (\$353.1 million), reimbursements (\$165.5 million), and federal and other funds (\$182.3 million). Accordingly, the budget proposes that fee revenue fund 9 percent of the department's fire protection budget.

LAO Recommends Fees Go Further in Budget Year. The Analyst recommends that the costs for providing fire protection on private lands be shared evenly between property owners and the general public. The Analyst's recommended cost-sharing arrangement would result in the current per parcel fee of \$35 increasing to approximately \$135 per parcel annually. This would result in General Fund savings of approximately \$150 million.

Legal Challenges to Fire Fees. The California Farm Bureau is suing the state on the constitutionality of the fire fees enacted as part of the budget last year. The plaintiffs claim that the fire fees are in direct violation of Propositions 13 and 218 that govern property taxes.

The subcommittee may wish to ask the department the following questions.

- The administration had indicated that it needed clean-up legislation to implement the fire fees. Even though the administration is implementing the fees in the current year are there technical issues that should be addressed in legislation to improve fee collection?
- Does the administration have any proposed changes to the current flat per-parcel fire protection fee structure?
- Does the administration expect that the implementation of the fire fees to be delayed by legal challenges?

Staff Recommendation. Staff recommends that the subcommittee hold this issue open.

2. Timber Harvest Plan Fees

Background. The state regulates the harvesting of timber on nonfederal lands in California under the Forest Practice Act. Specifically, timber harvest plans are prepared by a registered professional forester and cover such matters as harvest volume, cutting method, erosion control, and wildlife habitat protection. The CDF is the lead agency responsible for reviewing THPs. However, THPs are also reviewed by other agencies, including the Departments of Conservation and Fish and Game, and the nine regional boards of the State Water Resources Control Board

(SWRCB). Recently enacted legislation (Chapter 900, Statutes of 2003 [SB 810, Burton]) prohibits the approval of a THP if the SWRCB finds that the proposed timber operations will result in water pollution exceeding specified minimum allowable levels.

Governor's Budget. The budget proposes expenditures totaling \$20.3 million for various state agencies to review and enforce THPs (see table below).

Timber Harvest Plan Review Expenditures

Department	General Fund	Other Funds	Total
Forestry and Fire Protection	\$2.9	\$10.5	\$13.4
Fish and Game	1.7	0.8	2.5
State Water Resources Control Board	3.1	0.0	3.1
Conservation	1.3	0.0	1.3
Totals	\$9.0	\$11.3	\$20.3

The budget includes a plan to impose fees on timber owners (beginning in the current year) in order to partially offset CDF's costs for the review and enforcement of THPs. The fees are projected to generate \$5 million in the current year and \$10 million in the budget year.

Current-Year Funding. The 2003-04 Budget Act reduced CDF's budget by \$10 million General Fund under the assumption that legislation would be enacted to generate fee revenues to backfill this reduction. However, legislation to implement THP fees was never enacted. As a consequence, CDF's THP review program faces a \$10 million shortfall in the current year.

The administration proposes to address this current-year shortfall by augmenting the current-year budget by \$10 million (\$5 million from THP fees and \$5 million from the General Fund). In addition, the budget's display of current-year expenditures also includes an additional \$5 million from the General Fund as "contingency" funding in the event that the proposed fee legislation is not enacted in time to partially address the current-year shortfall. All of the proposed expenditures to backfill the current-year funding shortfall (the \$5 million in fee revenues, the \$5 million from the General Fund, and the additional \$5 million from the General Fund as a contingency measure) require a legislative appropriation. To date, no legislation has been enacted to address the shortfall in the current year.

The department has indicated that it is addressing the shortfall in its current year budget through the redirection of \$5 million in federal funds and one-time reductions. The department has also indicated that the THP workload is less than expected.

LAO Recommends Fees Go Further. The Analyst recommends the enactment of legislation to establish THP fees to cover THP-related activities at all of the state agencies involved in reviewing and enforcing THPs. The Analyst cites a direct link between THP review and enforcement and the timber owners who directly benefit from the state regulatory activities. Adoption of the LAO recommendation would result in budget-year savings of \$9 million to the

General Fund, \$386,000 to the Public Resources Account (PRA), and \$422,000 to the Environmental License Plate Fund (ELPF).

LAO Recommends Eliminating “Contingency Funding”. The Analyst also recommends eliminating the \$5 million in “contingency funding” in the current year. The Analyst indicates that providing “back-up” funding from the General Fund in the *current* year results in “double budgeting.”

Retail Timber Tax Alternative. Senate Bill 557 (Kuehl) is structured as an alternative to imposing a timber harvest review fee directly on timber harvesting operators. This bill would impose a per board foot fee on retail lumber. The Department of Forestry estimates that a fee of this level could generate \$100 million annually. These revenues could be used to replace the General Fund at all departments reviewing timber harvest plans and provide additional funding for a variety of restoration and forestry-related projects that would otherwise not be funded.

The Subcommittee may wish to ask the department the following questions.

- How is the department addressing the \$10 million shortfall in the THP review program in the current year?
- Will the budget shortfall in the current year result in reduced review of THPs?

Staff Recommendation. Staff recommends the Subcommittee direct staff, the LAO, and the administration to develop trailer bill language to implement the proposed Governor’s budget, thereby establishing THP fees.

3. Forest Resources Improvement Fund Reductions

Background. Revenues generated from timber harvesting in state-owned forests are deposited into Forest Resources Improvement Fund (FRIF). Most of this revenue is generated from timber harvesting on the Jackson State Demonstration Forest (JSDF). Funds in FRIF have been used to support the operation of the state forests, for forestry assistance grants to landowners, and for the support of state nurseries, forest pest research and management, forest and rangeland assessment activities, and urban forestry programs.

Governor’s Budget. Because of ongoing litigation, timber harvesting will not occur on JSDF in the budget year. Due to the lack of FRIF revenues projected for the budget year, the budget proposes to eliminate funding (\$12.3 million) for all FRIF-funded activities.

Administration Indicates Revised Proposal Forthcoming. The administration has expressed its intention to submit a revised proposal relating to FRIF funded programs.

The Subcommittee may wish to ask the administration the following questions.

- How does the administration propose to fund FRIF activities in the budget year?
- What FRIF activities does the administration propose to fund in the budget year?

Staff Recommendation. Staff recommends holding this item open pending receipt of the forthcoming proposal from the administration.

4. Sell King Air—General Fund Savings

Background. The King Air is one of five “support” aircraft used by CDF to transport people and equipment in support of CDF’s mission. It is not used directly for fire suppression efforts. The aircraft is used approximately 200 flight hours a year.

LAO Option. The Analyst has suggested that as an option for General Fund savings that CDF sell the King Air and use other planes within CDF’s fleet, commercial flights, and private charters. Selling the King Air would result in ongoing General Fund savings of about \$400,000. These savings account for any additional costs that may be incurred if charter flights were used instead of the King Air.

Staff Recommendation. Staff recommends adopting trailer bill language to direct CDF to sell the King Air, thereby creating approximately \$400,000 in General Fund savings.

5. General Fund Reductions

Background. The majority of the General Fund supporting CDF’s budget is to fund fire suppression activities. Instead of trying to estimate an accurate level of expenditures needed for emergency fire suppression, the department proposes budget bill language that authorizes the Director of Finance to augment the baseline appropriation for emergency fire suppression by an amount necessary to fund these costs. This special provision enables CDF to augment its budget for emergency fire suppression without a direct appropriation from the Legislature.

Governor’s Budget. The Governor’s budget proposes \$366 million from the General Fund to fund CDF in 2004-05. This represents a \$100 million reduction from estimated current year expenditures. However, the majority of this difference is a result of the administration’s decision to budget only \$70 million for emergency fire suppression, which is \$95 million less than the current year (large fire year) and \$25 million less than the prior year. Therefore, even though the department’s General Fund budget has been reduced significantly in the budget year, it does not reflect reductions in its baseline budget for fire suppression. The department has taken no reductions in its fire suppression budget, but did reduce its resource management activities by \$1.9 million as part of the Control Section 4.10 reductions.

Budget Proposes General Fund Augmentations. The Governor’s budget proposes approximately \$4.9 million in General Fund augmentations. Approximately \$740,000 is for the purchase of replacement fire shelters for wildland firefighters. Staff recognizes the importance of purchasing upgraded fire shelters to protect firefighters. However, since the department has taken essentially no reductions in its baseline budget for fire suppression it seems that the department could fund this expenditure out of its existing budget for operating expenses and equipment (\$142 million in the budget year). If the department deems the purchase of the replacement fire shelters a high priority it could defer some of the purchases on the department’s equipment schedule, including the replacement of some pick-ups and transport trucks.

The remaining General Fund augmentations are to fund various capital outlay projects that do not qualify for lease revenue bond financing. Six of the eight General Fund capital outlay

proposals are to fund land acquisitions or up-front lease buyouts for projects that have already been approved by the Legislature. These activities cannot be financed by lease revenue bonds, so General Fund has been proposed to fund this portion of the project. In most cases these projects are already under construction.

Nevertheless, the remaining two General Fund capital outlay projects could be deferred. Approximately \$2.4 million General Fund is proposed for utility upgrades and the replacement of a telecommunications tower. Staff recognizes that these projects have been deferred previously and they are needed improvements. However, it is not clear why these projects cannot be deferred another year due to the current state of the General Fund.

Staff Recommendation. The subcommittee may wish to reduce CDF's General Fund budget by \$2.4 million in the budget year, thereby deferring \$2.4 million in capital outlay projects. This action would create \$2.4 million in General Fund savings.

6. Arson Hotline Implementation

Background. Section 4417.5 of the Public Resources Code requires the department to make available to the public a toll-free 800 telephone number to aid in apprehending suspected wildland arsonists. When the Legislature directed CDF to establish the Arson Hotline ten years ago, the department initially used federal grant funds to staff the program, and conducted an advertising campaign and other community out-reach activities. The CDF reports that the Hotline received an average of 50-70 calls per year with 30-35% of the calls containing valid information leading to over 40 possible suspects and the arrest and conviction of 17 arsonists. This grant funding ended in 1998. Since then, CDF reports that the Hotline has been operated on a more limited basis.

The Subcommittee may wish to ask the department the following questions.

- How many of the major wildfires that occurred in Southern California last October are believed to have been arson-caused?
- Are arson-caused wildfires increasing or decreasing? Can more be done by state and federal fire officials to deter potential wildland arsonists, as well as to arrest and convict persons causing arson fires?
- If the Arson Hotline was previously considered to be cost-effective, why hasn't the department made its funding more of a priority?
- If funds could be made available, how much would it cost to fully re-establish the Arson Hotline as it existed prior to 1998?

3600 Department of Fish and Game

Background. 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 budget proposes total expenditures of \$274 million to support DFG in 2004-05. This level of expenditure is about the same as estimated current-year expenditures. However, the current-year budget reflects reductions of about \$12.5 million General Fund from 2002-03 expenditure levels. These reductions impact a variety of DFG's activities, including timber harvest plan review, management of marine resources, and resource assessment activities.

Department of Fish and Game

Governor's Budget Spending Totals

(Dollars in Thousands)

	Actual 2002-03	Estimated 2003-04	Proposed for 2004-05	
			Amount	Percent Change
Type of Expenditure:				
Biodiversity Conservation Program	\$99,075	\$116,772	\$110,550	-5%
Hunting, Fishing, and Public Use	40,152	41,776	43,407	4%
Management of Lands and Facilities	40,672	38,365	38,794	1%
Conservation Education and Enforcement	49,392	47,096	49,093	4%
Spill Prevention and Response	25,011	29,904	29,301	-2%
Capital Outlay	4,049	1,730	2,833	64%
Administration	32,336	32,661	32,661	0%
<i>less distributed administration</i>	-32,336	-32,661	-32,661	0%
Total	\$258,351	\$275,643	\$273,978	-1%
Funding Source:				
General Fund	\$50,143	\$37,670	\$37,352	-1%
Special Funds	132,782	133,403	137,124	3%
Bond Funds	12,975	11,607	3,290	-72%
<i>Budget Act Total</i>	<i>195,900</i>	<i>182,680</i>	<i>177,766</i>	<i>-3%</i>
Federal Funds	45,483	62,907	64,410	2%
Reimbursements	16,966	30,050	29,315	-2%
Salton Sea Restoration Fund	0	0	2,482	-
Harbors and Watercraft Revolving Fund	0	5	5	0%
Total	\$258,349	\$275,642	\$273,978	-1%

Budget Change Proposals. The following is a summary of the 2004-05 budget change proposals for DFG. In addition to these proposals, the department also intends to increase revenues to the Fish and Game Preservation Fund by increasing its collection efforts of environmental filing fees

for projects subject to the California Environmental Quality Act (CEQA) and by implementing a new fee schedule for streambed alteration permits.

Department of Fish and Game
Budget Change Proposals, 2004-05
(Dollars in Thousands)

Description	General Fund	Environmental License Plate Fund	Other Special Funds	Total	Personnel Years
<i>Comprehensive Wetlands Program.</i> Proposal requests to shift funding for program from the Environmental License Plate Fund to the Public Restoration Account (Prop 99) and restore program to its original baseline funding.	-	-\$894	\$1,500	\$606	0
<i>Marine Invasive Species Act.</i> Proposal to implement Chapter 491, Statutes of 2003 (AB 433, Nation) to enhance ballast water management. Funding for this program is from a fee levied on vessels each time they call on California ports.	-	-	1,184	1,184	4
<i>Quantification Settlement Agreement.</i> Proposal provides funding to implement three pieces of legislation related to the signing of the Colorado River QSA and the Salton Sea. Legislation requires DFG to begin work on the restoration study, adaptive management process, and preparation of NCCP to assess the impacts of water transfers proposed under the QSA on fish and wildlife species.	-	-	2,482	2,482	13
Total	\$0	-\$894	\$5,166	\$4,272	17

Capital Outlay Budget Change Proposals. The following is a summary of the 2004-05 capital outlay budget change proposals for DFG.

Department of Fish and Game
Capital Outlay Budget Change Proposals, 2004-05
(Dollars in Thousands)

Description	General Fund	Special Funds	Reim- bursements	Bond Funds	Total
Project Planning. Proposal for funding to conduct studies and budget cost estimates for future capital outlay projects.	-	\$60	\$100	-	\$160
Petroleum Chemistry Laboratory. Proposal to increase office space at existing laboratory.	-	193	-	-	193
Wildlife Care and Research Center. Proposal to complete construction of Marine Wildlife Veterinary Care and Research Center in Santa Cruz, CA.	-	280	-	-	280
Napa/Sonoma Marshes Wildlife Area. Proposal to construct freshwater conveyance pipeline from existing water well to the Huichica Creek Unit to maintain a permanent freshwater pond on the Western portion of the unit.	-			50	50
Shasta Valley Wildlife Area. Proposal to install an irrigation pivot sprinkler system to irrigate 125 acres of wildlife habitat composed of planted cereal grains and uplands.	-	-	-	100	100
Eel River Wildlife Area. Proposal to rebuild and reinforce the main exterior levee and service road of the Eel River Wildlife Area.	-	397	-	53	450
Total	\$0	\$930	\$100	\$203	\$1,233

1. General Fund Reductions

Governor's Budget. As part of the Control Section 4.10 reductions DFG reduced its General Fund support by 12.5 million, representing a 25 percent reduction from the General Fund expenditure level in 2002-03. The department has indicated that these reductions impacted a variety of its activities.

Program Reductions. The DFG has not been able to provide specific information on the impacts of the General Fund reductions made as part of the Control Section 4.10 reductions. The department has indicated it has eliminated review of timber harvest plans (THPs) in the Sierra Nevada as part of these reductions, which accounts for \$1.6 million of the total General Fund reductions.

The Subcommittee may wish to ask the department the following questions.

- What other specific programs have been impacted by the Control Section 4.10 reductions?
- What rationale was used to completely eliminate THP review in the Sierra Nevada?

Staff Recommendation. Staff recommends holding this budget open and directing the department to report to the subcommittee staff with additional information on the specific impacts of the Control Section 4.10 reductions before the May Revision hearing.

2. Lake Davis Pike Problem—Informational Item

Background. Two years ago, the department advised this subcommittee that it was annually spending \$500,000 to manage the Northern Pike that have been established in Lake Davis in Plumas county. Should these non-native fish escape downstream into the Sacramento River and San Joaquin Delta, they pose a dangerous threat to native salmon and steelhead trout, plus shad and other endangered species. Staff is advised that the population of Northern Pike in Lake Davis may now be at an all-time high, despite continued efforts for the past 5 years by DFG to eliminate them through the use of poison, netting, explosives and electro-shocking. Press reports indicate that the department may be now employing a de facto “contain and control” program at Lake Davis for these fish.

The subcommittee may wish to ask the department the following questions.

- What is the source of funding DFG is currently using for this “contain and control” program at Lake Davis, and has the department considered using any of the \$4 million surplus remaining in the Striped Bass Account or the \$1.7 million it expects to collect from the newly authorized Delta Enhancement Stamp?
- Does the Director consider “contain and control” the only practical solution to this problem or is there another approach for successfully eradicating the Northern Pike from Lake Davis?

3. Coho Salmon Recovery Plan

Background. In February this year, the Fish and Game Commission approved a DFG-drafted recovery plan for the endangered coho salmon, a species of fish protected under the California Endangered Species Act (CESA). This plan was adopted using authority provided last year by SB 216 (Sher, 2003). Without this legislation, the authority for the recovery plan would have expired on December 31, 2003. Under the provisions of Section 2106 of the Fish and Game Code (F&GC), DFG is specifically prohibited from spending any additional state funds for implementing the coho recovery plan, unless money is explicitly appropriated by the Legislature for that purpose. Section 2106 also directs DFG to seek private and federal funding for plan implementation. The cumulative cost of implementing this plan has been estimated to be \$5 billion.

The subcommittee may wish to ask the department the following questions.

- In view of the statutory restrictions imposed last year by the Legislature, is the department seeking to use any state funds in the Governor’s budget to implement the coho recovery plan? If so, how will the money be used? How much private and federal money is being committed to plan implementation?

- What, if any, of the regulatory reforms recommended by the coho recovery plan have been implemented to date or in the process of being adopted? Please explain.
- Will DFG be issuing “incidental take” permits to allow land use activities and water diversions that would otherwise cause a “take” of coho salmon? Will the permits be issued in reliance of the coho recovery plan?

4. Commercial Fishery Management—Informational Item

Background. Three years ago the Legislature enacted department-sponsored legislation directing DFG to prepare, and the Fish and Game Commission to adopt, a management plan to govern commercial squid fishing. Under the provisions of SB 209 (Sher, 2001), this plan was to have been adopted by December 31, 2002. This has not happened, meaning that commercial squid fishing is still being regulated under interim management measures that were originally adopted by the commission pursuant to SB 364 (Sher, 1997).

The subcommittee may wish to ask the department the following questions.

- Because the fishery management plan required by SB 209 is now two years late, what assurances can you provide the subcommittee that a plan assuring a sustainable commercial squid fishery will be adopted this year and in place in time for the 2005 fishing season?

5. Licensing of Commercial Trappers—Informational Item

Background. In 2002, the Legislature enacted SB 1645 (Sher, 2002) which requires all persons who provide commercial trapping services on a fee-for-hire or contract basis to be licensed by the department. Although the legislation was written in close cooperation with DFG, the department has not yet completed development of implementing regulations. Consequently, DFG is not yet enforcing the requirements of SB 1645, thereby allowing an unknown number of commercial trappers to continue operating illegally without licenses.

The subcommittee may wish to ask the department the following questions.

- When can we expect the department’s proposal for implementing regulations to be finalized and adopted by the Fish and Game Commission?
- Can the department assure the subcommittee that this will happen during 2004?
- Does DFG believe that all pest control operators should be totally exempt from the licensing requirements of SB 1645?

3720 California Coastal Commission

Background. The California Coastal Commission, following its initial creation in 1972 by a voter initiative, was permanently established by the State Coastal Act of 1976. In general, the act seeks to protect the state's natural and scenic resources along California's coast. It also delineates a "coastal zone" running the length of California's coast, extending seaward to the state's territorial limit of three miles, and extending inland a varying width from 1,000 yards to several miles. The commission's primary responsibility is to implement the act's provisions. It is also the state's planning and management agency for the coastal zone. The commission's jurisdiction does not include the San Francisco Bay Area, where the San Francisco Bay Conservation and Development Commission regulate development.

Governor's Budget. The Governor's budget proposes a total of \$14.5 million to support the Coastal Commission in 2004-05. This is a decrease of 3 percent over estimated expenditures in the current year.

California Coastal Commission

Governor's Budget Spending Totals

(Dollars in Thousands)

	Actual 2002-03	Estimated 2003-04	Proposed for 2004-05	
			Amount	Percent Change
Program:				
Coastal Management Program	\$15,174	\$14,032	\$13,648	-3%
Coastal Energy Program	728	770	770	0%
Undistributed Administration	119	81	81	0%
Total	\$16,021	\$14,883	\$14,499	-3%
Funding Source:				
General Fund	\$10,716	\$9,552	\$9,549	0%
Special Funds	947	1,134	753	-34%
<i>Budget Act Total</i>	<i>11,663</i>	<i>10,686</i>	<i>10,302</i>	<i>-4%</i>
Federal Trust Fund	3,110	2,983	2,983	0%
Reimbursements	1,249	1,214	1,214	0%
Total	\$16,022	\$14,883	\$14,499	-3%

1. Alternative Funding Source for Coastal Commission's Permitting Functions

Background. The commission's core program activities include issuing and enforcing permits for coastal development. The budget proposes about \$7.5 million for the commission's permitting and enforcement activities in 2004-05. Of this total amount, the majority is from the General Fund, while the remainder is from federal funds and reimbursements. The budget projects that the commission will have permit fee revenues of \$500,000 and penalty revenues of

\$150,000 in the budget year. However, these revenues are transferred to the State Coastal Conservancy (SCC) for support of its programs.

LAO Recommendation. The Analyst recommends that *fees levied on permittees/developers be increased so that they fully cover the commission's costs to issue and enforce permits.* This would result in *General Fund savings of \$5.8 million* in the budget year. The analyst also recommends eliminating the transfer of the commission's fee and penalty revenues (\$650,000 annually) to SCC. The analyst cites the following rationale for shifting the funding of this program from the General Fund to fees on permittees/developers:

- **Commission's Fees are Low Compared to Local Fees.** Currently, the commission's highest permit fee is \$20,000, which applies to large projects. The Analyst finds that local jurisdictions charge as much as 100 times more to permit comparable projects.
- **Fees Are a More Appropriate Funding Source for Program.** The Analyst cites that fees rather than the General Fund is a more appropriate funding source since permittees/developers are direct beneficiaries of the commission's permitting activities.

Coastal Commission's Response. The Coastal Commission is *opposed to full cost recovery from fees* for the commission's regulatory and enforcement program. It also opposes eliminating the transfer of fee and penalty revenue to SCC. Nevertheless, they *do not oppose increasing fees* charged permittees/developers for work related to permitting and enforcement.

The commission has raised several valid concerns in response to the Analyst's proposal. These include the following:

- **Considerable Fee Increases Would Be Needed.** The commission estimates that fees would need to be increased over 10 fold to fully cover program costs.
- **Permits Are Variable and Declining by Design.** The commission notes that there is significant variability in the number and size of the permits granted annually, which makes projecting revenues somewhat difficult. In addition, as local coastal programs (LCPs) are adopted, permit and enforcement activities are shifted to the local jurisdictions. Therefore, as additional jurisdictions adopt LCPs permit and enforcement workload is reduced.
- **Eliminating SCC Funding Impacts Public Access.** The SCC utilizes the fees and penalties to provide grants to locals for operations and maintenance of public accessways to the beach and shoreline. There are significant bond funds available to SCC to improve coastal access, but bond funds are not appropriate to fund operations and maintenance activities.
- **Regulatory Program Also Benefits Public.** The commission cites that its regulatory program also benefits society as a whole since its permitting activities serve to protect the coast for the entire public to enjoy.

Potential Permit Fee Scenarios. The figure below provides information on the fee levels needed to reach certain levels of revenues. The first column is the commission's current fee schedule. Scenario A is the fee level if the fees had increased with inflation since 1991 (the last time the commission's fees were increased), which represents a 36 percent increase from the current fee levels. Scenario B is the fee level required for full cost recovery assuming the commission continues to deposit its fees in the General Fund. The department argues that the creation of a

special fund would further increase the fees needed for full cost recovery because of the pro rata charged on special funded programs.

Sample Permit Fee Schedule Scenarios

	Current Permit Fees	Scenario A: Increase Fees by Inflation	Scenario B: Full Recovery Regulatory Program Costs
New single family dwelling	\$200	\$272	\$2,400
Lot line adjustment	600	816	7,200
Office, commercial, convention, industrial new structures	100	640	1,500
Up to 1,000 square feet	500	680	6,000
100,001 square feet or more	20,000	27,200	240,000
Estimated Annual Revenue Generated	\$50,000	\$680,000	\$5,800,000

Commission's Concerns with Creation of Special Fund. The commission has also raised concerns with creating a special fund for deposit of its fee revenues, which is common practice in other program areas. The commission is concerned that if funded solely by the special fund its budget will be subject to wide fluctuations based on the variability of its fee revenues. In addition, the commission is also concerned that permit fees would have to be increased even further to account for the pro rata assessed on special funds. Furthermore, the Attorney General does not charge a specific fee to represent General Fund supported agencies, thereby further increasing the costs at the commission.

Staff Recommendation. Staff agrees with the LAO and the commission that permit fees should be increased. However, the commission does identify valid concerns regarding shifting to full fee recovery of its regulatory program and regarding the creation of a special fund. Furthermore, staff recognizes the public benefit of the commission's regulatory program and recommends that funding for the program be shared between permit fees and the General Fund. Given these factors, *staff recommends that the subcommittee holds this issue open and direct staff, the LAO, and the department to develop trailer bill language to accomplish the following:*

- *Increase the commission's fee revenues by an amount reasonable to implement in the budget year.*
- *Amend the current law that requires all fees collected by the commission be transferred to SCC, thereby allowing a portion of the fees to be deposited in the General Fund to support the Coastal Commission's regulatory program.*

3790 Department of Parks and Recreation

Background. The Department of Parks and Recreation (DPR) 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 proposes \$389.6 million to support DPR in 2004-05. This is \$1.1 billion (73 percent) reduction from current year estimated expenditures. Most of this reduction reflects a decrease in available bond funds for local parks and the administration's decision to defer its bond fund proposal until later in the spring.

Department of Parks and Recreation

Governor's Budget Spending Totals

(Dollars in Thousands)

	Actual 2002-03	Estimated 2003-04	Proposed for 2004-05	
			Amount	Percent Change
Type of Expenditure:				
State Operations	\$289,702	\$288,777	\$290,129	0%
Local Assistance	371,200	867,117	41,105	-95%
Capital Outlay	84,222	284,781	58,409	-79%
Total	\$745,124	\$1,440,675	\$389,643	-73%
Funding Source:				
General Fund	\$132,326	\$97,346	\$82,316	-15%
Special Funds	149,786	225,584	202,516	-10%
Bond Funds	429,955	1,031,602	57,805	-94%
<i>Budget Act Total</i>	<i>712,067</i>	<i>1,354,532</i>	<i>342,637</i>	<i>-75%</i>
Federal Funds	15,685	56,156	28,927	-48%
Reimbursements	16,734	29,304	17,378	-41%
Harbors and Watercraft Revolving Fund	638	685	701	2%
Total	\$745,124	\$1,440,677	\$389,643	-73%

Budget Change Proposals. The following is a summary of the 2004-05 budget change proposals for DPR.

Department of Parks and Recreation
Budget Change Proposals, 2004-05
(Dollars in Thousands)

Description	General Fund	Special Funds	Bond Funds	Total	Personnel Years
Americans With Disability Act (ADA). Proposes funding to implement year three of ADA transition plan. Also proposes extending schedule for implementing \$100 million in park upgrades to improve compliance with ADA requirements from 7 to 14 years.	-	\$600	\$4,000	\$4,600	0
Off-Highway Vehicles (OHV). Proposes funding for staffing, operating expenses, and equipment to fund mandated OHV programs and to fund operation of a new OHV recreation unit in Riverside County.	-	8,207	-	8,207	11
State Park Fees. Proposes increasing park fees to generate \$18 million, which would backfill \$15 million General Fund reduction and provide \$3 million in additional revenue for maintenance of state park units.	-15,000	18,000	-	3,000	-
Total	-15,000	\$26,807	\$4,000	\$15,807	11

Parks Local Assistance Funding. The following is a summary of the 2004-05 proposal for funding the Local Assistance Program at DPR.

Department of Parks and Recreation
Local Assistance Program, 2004-05
(Dollars in Thousands)

Fund Source	Recreational Grants	Local Projects	OHV Grants	Historical Preservation Grants	Total
Habitat Conservation Fund	\$2,205	\$1,500	-	-	\$3,705
Off-Highway Vehicle Trust Fund	-	-	17,000	-	\$17,000
Recreational Trails Fund	5,000	-	1,200	-	\$6,200
Federal Trust Fund	13,000	-	-	1,200	\$14,200
Total	\$20,205	\$1,500	\$18,200	\$1,200	\$41,105

Capital Outlay Budget Change Proposals. The following is a summary of the 2004-05 capital outlay budget change proposals for DPR.

Department of Parks and Recreation
Capital Outlay Budget Change Proposals, 2004-05
(Dollars in Thousands)

Description	General Fund	Special Funds	Bond Funds	Other Funds	Total
Habitat Conservation Purchases. Proposes funds to acquire habitat lands located in and adjacent to units of the State Park System.	-	\$1,000	-	-	\$1,000
Federal Trust Fund. Proposes funds to acquire units or improve facilities within the State Park System. Potential projects include, Anza-Borrego Desert SP, Redwood parks, and Santa Cruz Mountains parks.	-	-	-	3,700	3,700
Prairie City State Vehicular Recreation Area. Proposes funding for working drawings and construction to improve the Prairie City facility.	-	6,519	-	-	6,519
Off-Highway Vehicle (OHV) Opportunity Purchases. Proposes funding for developing future OHV projects and to make purchases adjacent to state or federal OHV areas that become available.	-	400	-	-	400
OHV Minor Capital Outlay. Proposes funding for various small projects at State Vehicular Recreation Areas.	-	2,221	-	-	2,221
Big Basin Redwoods. Proposes to fund construction costs of rehabilitating the wastewater treatment plant located at the state park.	-	-	1,066	-	1,066
Crystal Cove. Proposes to fund the first phase of construction costs (demolition, clean up, and sewer improvements) to convert the El Morro mobilehome park to a full public access park.	-	-	5,511	-	5,511
Fort Ross. Proposes to fund construction of water system improvements at the park.	-	-	1,092	-	1,092
Morro Bay. Proposes to fund construction of sewer system improvements at the park.	-	-	968	-	968
Samuel P. Taylor. Proposes to fund preliminary plans to install new concrete reservoirs to improve the current water storage system at the park.	-	-	199	-	199
Reimbursed Projects. Proposes reimbursement authority to allow the department to receive funds from other state departments and entities to acquire and develop state park properties.	-	-	-	3,000	3,000
Total	\$0	\$10,140	\$8,836	\$6,700	\$25,676

1. Governor's Park Fee Proposal

Background. The state's park system consists of hundreds of units and serves over 80 million visitors annually. The General Fund is the primary funding source for the state's park system. However, fees paid by park visitors and other special funds also support the park system.

Governor's Budget. The budget proposes to increase revenues from state park visitor fees by \$18 million, of which \$15 million will be used to replace General Fund support currently budgeted in the department for state park operations. The remaining additional revenue will be used for expanded collection activities (\$1 million) and additional maintenance activities (\$2 million). Under this proposal, the percentage of the department's operating costs that will be funded by visitor fees will increase from 18 percent to 24 percent.

The administration's proposal includes a plan to change the way fee increases are structured. The administration is proposing to make fee adjustments based on "market" factors, including a consideration of other competing recreational opportunities (both public and private) in the vicinity of the park, visitor demand for the park, the time of year, and the particular service features at a park. This will result in greater differential in fees among and within parks under the new schedule. However, current law requires the department to make available reduced price day-use passes to those receiving public assistance and senior citizens.

LAO Recommendation. The Analyst makes the following three recommendations regarding the administration's fee proposal:

- **Approve Fund Shift to Fees.** The Analyst finds that park users benefit directly from the recreational services provided at state parks and **recommends approval of the Governor's proposal to shift support from the General Fund to increased fees.** The Analyst also supports the department's plan to structure fees using a more market-based approach because such an approach is better able to reflect the value to park users of their visit to state parks and is consistent with the way other state and federal land managers structure park fees.
- **Department to Report on Revenue Projections.** The Analyst has expressed concern regarding DPR's inability to provide detail on how the department plans on reaching its revenue projections. Given this uncertainty, the Analyst **recommends adopting supplemental report language to direct DPR to report on the department's final fee schedule, updated revenue estimates, and visitor attendance numbers.** This information will help the Legislature in evaluating the need for any mid-year budget adjustments or addressing policy concerns that may arise (such as a greater-than-anticipated reduction in visitors).
- **Legislation to Provide Parameters for Fees.** Current law provides DPR the authority to enact fees, but provides few parameters to guide how park fees should be structured. The Analyst **recommends that the Legislature enact trailer bill language that provides some policy guidance to the department to ensure that adjustments to visitor fees are consistent with legislative priorities.** The Analyst recommends the trailer bill language address the role of fees in state park funding. The Analyst furthermore recommends trailer bill language include the following:
 - Fee structure should include differential pricing based on the level of service and facilities offered.
 - Fees should be comparable with the fees of similarly situated recreational providers.

- Innovative user-friendly fee collection such as automated fee machines should be encouraged.
- Schedule of park fees should be reported annually.
- Fees should be used to support deferred maintenance when feasible.

Staff Recommendation. (1) Staff *recommends approving the administration's proposal to raise park fees* and generate \$18 million in 2004-05. This will provide \$15 million in General Fund savings. (2) Staff *recommends that the subcommittee direct staff, the LAO, and the department to develop trailer bill language that would provide long-term park fee policy that the department should use in setting park fees, along with supplemental report language to provide the Legislature with information on what the impacts of the administration's new fee policy* have had on visitation and whether revenues are consistent with projections.

2. Pilot Program to Increase Private Sector Involvement in State Parks—Informational Item

Background. The increased use of the private sector is seen as having several potential advantages, including reduced costs, increased efficiencies, and/or improved service delivery. Recreational services provided by public agencies, such as DPR, are often considered good candidates for increasing private sector involvement because these are activities that the private sector is substantially involved in.

Governor's Budget. The Governor's budget document indicates the administration's intent to pursue a state constitutional amendment that would allow for a greater use of contracting for the delivery of services. (This proposal is not specific to DPR, but applies across government.) This constitutional amendment is designed to provide greater legal certainty and therefore opportunities to contract out for services. The Governor's budget does not provide a specific proposal for increasing contracting out at DPR, but does recommend there be further consideration given to promoting the greater use of concessions within state parks.

Current Private Sector Involvement in DPR. Currently, DPR relies on a combination of the private and public sectors to operate and maintain its parks. Typically, DPR uses its own seasonal and permanent staff for housekeeping activities, maintenance, fee collection, interpretative services, and public safety activities. However, the department also relies on the private sector (including nonprofit organizations) for a variety of activities, as shown in the figure below. The department reports expenditures of about \$17 million (about 5 percent of its operating budget) on these private sector activities in 2002-03.

**Examples of Existing Private Sector Involvement
In DPR's Park Operations**

Contracts	Concessions	Nonprofit Providers
Refuse disposal	Snack stands	Interpretation
Chemical toilet pumping	Restaurants	Operation of facilities
Alarm monitoring	hearth Castle operations	Retail Stores
Snow removal	Day use fee collections	
Pest control	Golf course operations	
Exhibit design and fabrication	Lodging	
	Retail shops	
	Marina operations	
	Camp stores	
	Equipment rentals	

Private Sector Involvement in Other Park Jurisdictions. The Analyst conducted a survey of other park jurisdictions and found several examples where other park jurisdictions involve the private sector significantly in additional ways beyond those used by DPR. Some park jurisdictions utilized the private sector for assisting with daily maintenance activities, operating campgrounds, operating day use facilities, and even operating entire state parks.

All of the jurisdictions surveyed by the Analyst reported a lack of quantifiable data on the results of their efforts to increase the role of the private sector in park operations. These jurisdictions were not able to report on specific savings that resulted from involving the private sector in the operation of state parks. Despite the lack of quantifiable results, some jurisdictions were able to provide anecdotal evidence on advantages and disadvantages of increasing the involvement of the private sector in park operations. Common advantages and disadvantages are listed in the figure below.

**Advantages and Disadvantages of Increased Private Sector Involvement
As Reported by Park Jurisdictions**

Advantages	Disadvantages
Concession contracts can help with cash flow.	Contract management costs can be high.
Can allow public resources to be redirected to other activities.	In large-scale privatization efforts, there can be significant costs to revert back to publicly provided services.
Provides more staffing options.	Can result in low morale among remaining public sector employees.
Labor costs are generally lower.	Quality of maintenance work may be reduced.

LAO Recommendation. Based on their survey of private sector involvement in other park jurisdictions, the Analyst *recommends implementing a pilot program to selectively expand private sector involvement in state parks into activities that currently are not being partnered with the private sector.* The Analyst cites that the lack of conclusive studies of the success of private sector involvement in other park jurisdictions makes moving beyond a pilot effort premature at this time. The Analyst furthermore makes recommendations on how to best

structure the pilot so that it provides needed information on the advantages and disadvantages, as well as costs and benefits of greater private sector involvement. The Analyst anticipates that implementing this recommendation would have minimal impact on the department's costs. Furthermore, DPR indicated to staff at a pre-hearing meeting that it was planning on its own to engage in some small projects that increased involvement of the private sector in park operations.

Questions the subcommittee may wish to ask the department.

- Does the department plan to increase private sector involvement in park operations in the budget year?

3. Proposition 99 Funding—Informational

Background. The Cigarette and Tobacco Products Surtax Fund was established by Proposition 99, which was approved by the voters in 1988. This measure created a surtax on cigarette and tobacco products to fund various programs through different accounts. One of the accounts created was the Public Resources Account, which was to fund the following two activities:

- Programs to protect, restore, enhance, or maintain fish, waterfowl, and wildlife habitat.
- Programs to enhance state and local park and recreation resources.

Governor's Budget. The Governor's budget proposes to expend \$10.7 million from the Public Resources Account of the Cigarette and Tobacco Products Surtax Fund to support DPR in 2004-05. The budget also proposes to expend \$1.5 million from this account to fund a comprehensive wetlands program at the Department of Fish and Game (DFG). This is the first year DFG has received funding from this source for this program.

Funding Should Be Allocated Equally. The statute that governs the expenditure of the funds from the Public Resources Account directs the funds to be split equally between habitat restoration activities and parks. However, it is not clear that this is how the funds are proposed to be allocated in the budget year.

The subcommittee may wish to ask the department the following questions.

- What activities does DPR support with its Proposition 99 funds?
- Are some of these activities directly related to habitat restoration?

San Francisco Bay Conservation and Development Commission

Background. The San Francisco Bay Conservation and Development Commission (BCDC) implements and updates the San Francisco Bay Plan and the Suisun Marsh Protection Plan. Under these plans, BCDC regulates and issues permits for (1) all filling and dredging activities in the San Francisco, San Pablo, and Suisun Bays including specified sloughs, creeks, and tributaries; (2) changes in the use of salt ponds and other "managed wetlands" adjacent to the bay; and (3) significant changes in land use within the 100-foot strip inland from the bay. The commission's main objectives are to minimize fill in San Francisco Bay and maximize public access to the shoreline.

Governor's Budget. The Governor's budget proposes \$3.9 million for support of BCDC in 2004-05, a reduction of nearly \$1 million, or about 20 percent, below estimated expenditures in the current year. This decrease mainly reflects a reduction in projected reimbursements from other state agencies for work performed on their behalf or as pass-through of federal grant funds.

San Francisco Bay Conservation and Development Commission

Governor's Budget Spending Totals

(Dollars in Thousands)

	Actual 2002-03	Estimated 2003-04	Proposed for 2004-05	
			Amount	Percent Change
Funding Source:				
General Fund	\$3,465	\$3,112	\$3,113	0%
<i>Budget Act Total</i>	<i>\$3,465</i>	<i>\$3,112</i>	<i>\$3,113</i>	<i>0%</i>
Bay Fill Clean-Up and Abatement Fund	\$146	\$155	\$171	10%
Reimbursements	1,108	1,633	658	-60%
Total	\$4,719	\$4,900	\$3,942	-20%

1. Alternative Funding Source for BCDC's Permitting Functions

Background. The core program activities of BCDC include issuing and enforcing permits for specified development within its geographic jurisdiction. The budget proposes \$2.6 million for BCDC's permitting and enforcement activities (regulatory program) in 2004-05. Of this total amount, the majority is from the General Fund, while the remainder is from permit fees, penalties, and reimbursements. The budget projects that BCDC will have permit fee revenues of \$135,000 and fine and penalty revenues of \$171,000 in the budget year.

LAO Recommendation. The Analyst recommends that *fees levied on permittees/developers be increased so that they fully cover BCDC's regulatory program costs*. This would result in *General Fund savings of \$2.1 million* in the budget year. The Analyst cites the following rationale for shifting the support for this program from the General Fund to fees on permittees/developers:

- ***BCDC's Permit Fees have not been revised in 13 Years.*** The BCDC highest permit fee is \$10,000, which applies to large projects. The Analyst finds that this is far below the permit fees assessed by local agencies for comparable development projects.
- ***Fees Are a More Appropriate Funding Source for Program.*** The Analyst cites that fee revenue rather than the General Fund is a more appropriate funding source since permittees/developers are direct beneficiaries of the commission's permitting activities.

BCDC Response. At a recent commission meeting the commission concluded that increasing its fees by 300 percent, which would generate 20 percent of BCDC's regulatory program costs, is a reasonable target. The commission also raised several issues with the Analyst's recommendation, including the following:

- ***Considerable Fee Increases Would Be Needed For Full Cost Recovery.*** The BCDC is concerned that increasing fees to cover all its regulatory program costs would greatly increase current fee levels. The commission has suggested phasing in fee increases over multiple years.
- ***Permit Fees Vary from Year to Year.*** The BCDC has provided historical revenue information that shows that revenues have varied tremendously from year to year. Over the past ten years BCDC has collected on average \$129,000 annually. However, in the same period it collected as much as \$218,000 and as little as \$58,000 in a single year. The variability of the commission's revenue stream would make it difficult to support ongoing staff if the commission was fully fee funded.
- ***Regulatory Program Also Benefits Public.*** The commission finds that its regulatory program also benefits society as a whole since its regulatory program is one way it protects the San Francisco Bay resources for the public. It cites that requiring permit applicants to pay the total costs of this program would be unfair.

Potential Permit Fee Scenarios. The commission has provided the following regarding fee levels needed to reach certain levels of revenue. The first column is the commission's current fee schedule. The BCDC's recommendation represents the fee level needed to generate revenues to cover 20 percent of regulatory program costs in the budget year. The LAO recommendation is the fee level needed to fully fund the commission's regulatory program.

Permit Fee Schedule Scenarios

	Current Permit Fees	BCDC Recommendation: 20% Recovery Regulatory Program Costs	LAO Recommendation: Full Recovery Regulatory Program Costs
First time extension to a permit	\$50	\$160	\$800
Amendment to a permit	100	320	1,600
Activity under a regional permit	100	320	1,600
Minor repair or improvement with total project cost (TPC) of:			
less than \$300,000	150	480	2,400
\$300,000 to \$10 million	.05% of TPC	.16% of TPC	.81% of TPC
More than \$10 million	5,000	16,200	81,000
Projects other than minor projects with TPC's of:			
less than \$250,000	250	800	4,000
\$250,000 to \$10 million	.1% of TPC	.32% of TPC	1.62% of TPC
More than \$10 million	10,000	32,100	162,000
Estimated Annual Revenue Generated	\$129,000	\$417,800	\$2,089,000

Staff Recommendation. Staff agrees with the LAO and the commission that BCDC's permit fees should be increased. However, the commission has raised several valid concerns regarding shifting to full fee recovery of its regulatory program and regarding the creation of a special fund. Staff recognizes the public benefit of the commission's regulatory program and recommends funding for the program be shared between permit fees and the General Fund. Given these factors, *staff recommends that the subcommittee hold this issue open and direct staff, the LAO, and the department to develop trailer bill language to increase the commission's fee revenues by an amount reasonable to implement in the budget year.*

SUBCOMMITTEE NO. 2

Agenda

Byron Sher, Chair
Sheila Kuehl
Bruce McPherson



Thursday, April 1, 2004
Upon Adjournment of Session
Room 112

Outcomes

3340 California Conservation Corps

1. Funding Corps Activities with Workforce Investment Act Funds

- *Action.* Held this item open and directed staff, the LAO, and the administration to develop a proposal to fund a portion of the Corps budget with WIA funds to mitigate some of the Corps General Fund reductions.

3480 Department of Conservation

1. Williamson Act Cancellation Penalties

- *Action.* Asked DOF to look into revising Williamson Act cancellation penalty revenues. No action taken on raising level of cancellation penalties.

2. Beverage Container Recycling Program— Informational Item

- *Action.* No action taken.

3. Abandoned Mine Remediation—Informational Item

- *Action.* No action taken.

3540 Department of Forestry and Fire Protection

1. Fire Fees

- *Action.* Held this issue open and asked DOF to submit administration sponsored trailer bill language that would clean up previously enacted legislation related to fire fees.

2. Timber Harvest Plan Fees

- *Action.* Directed staff, the LAO, and the administration to develop two sets of trailer bill language: (1) language to implement the Governor's budget, and (2) language to implement a retail timber tax as proposed in SB 557 (Kuehl).
- *Vote.* 2-1 (McPherson)

3. Forest Resources Improvement Fund Reductions

- *Action.* Held issue open pending review of Finance Letter.

4. Sell King Air

- *Action.* No action was taken pending alternative proposal from department for General Fund reductions.

5. General Fund Reductions

- *Action.* Reduced capital outlay budget by \$750,000 General Fund.
- *Vote.* 2-0 (McPherson)

6. Arson Hotline Implementation

- *Action.* Increased budget by \$200,000 General Fund to fully fund the Arson Hotline program.
- *Vote.* 2-1 (McPherson)

3480 Department of Fish and Game

1. General Fund Reductions

- *Action.* No action taken.

2. Lake Davis Pike Problem—Informational Item

- *Action.* No action taken.

3. Coho Salmon Recovery Plan

- *Action.* Directed staff, the LAO, and the administration to develop a plan for funding this plan with bond funds or tidelands oil revenues.

4. Commercial Fishery Management—Informational Item

- *Action.* No action taken.

5. Licensing of Commercial Trappers—Informational Item

- *Action.* No action taken.

3480 California Coastal Commission

1. Alternative Funding Source for Coastal Commission's Permitting Functions

- *Action.* Directed staff, the LAO, and the administration to develop trailer bill language to direct the Coastal Commission to increase its fees and to amend current law that requires all revenues be transferred to the State Coastal Conservancy, thereby allowing a portion of the fees to be deposited in the General Fund to support the Coastal Commission's budget.

3790 Department of Parks and Recreation

1. Governor's Park Fee Proposal

- *Action.* (1) Approved Governor's proposal to increase park fees by \$18 million and reduce General Fund by \$15 million. (2) Directed staff, the LAO, and the administration to develop supplemental report language to require department to report on the impacts of the administration's new fee policy and to include the Analyst's broad policy directives in this language.
- *Vote.* 3-0

2. Pilot Program to Increase Private Sector Involvement in State Parks—Informational Item

- *Action.* No action taken.

3. Proposition 99 Funding

- *Action.* Held this item open.

3820 San Francisco Bay Conservation and Development Commission

1. Alternative Funding Source for BCDC's Permitting Functions

- *Action.* Adopted budget bill language to direct the commission to increase its fees so that fees cover 20 percent of its regulatory program costs.
- *Vote.* 3-0

SUBCOMMITTEE NO. 2

Agenda

Byron Sher, Chair
Sheila Kuehl
Bruce McPherson



Thursday, April 15, 2004
Upon Adjournment of Session
Room 112

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Resources—Environmental Protection—Public Safety—Energy

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0555 Secretary for Environmental Protection

Background. The Secretary for Environmental Protection heads the California Environmental Protection Agency (Cal-EPA). The secretary is responsible for overseeing and coordinating the activities of the following departments that make up Cal-EPA:

- Air Resources Board
- California Integrated Waste Management Board
- Department of Pesticide Regulation
- Department of Toxic Substances Control
- State Water Resources Control Board
- Office of Environmental Health Hazard Assessment

Governor's Budget. The Governor's budget proposes \$8.2 million to support the Secretary for Cal-EPA in 2004-05. This is approximately 4 percent less than the level of expenditures estimated in the current year.

Secretary for Environmental Protection

Governor's Budget Spending Totals

(Dollars in Thousands)

	Actual 2002-03	Estimated 2003-04	Proposed for 2004-05	
			Amount	Percent Change
Type of Expenditure:				
Support Program	\$7,977	\$8,529	\$8,151	-4%
Total	\$7,977	\$8,529	\$8,151	-4%
Funding Source:				
General Fund	\$2,459	\$1,325	\$1,325	0%
Special Funds	2,740	2,973	2,721	-8%
<i>Budget Act Total</i>	<i>5,199</i>	<i>4,298</i>	<i>4,046</i>	<i>-6%</i>
Reimbursements	2,644	2,080	1,971	-5%
State Water Quality Control Fund	134	151	134	-11%
Environmental Enforcement and Training Account	0	2,000	2,000	0%
Total	\$7,977	\$8,529	\$8,151	-4%

Budget Change Proposals. No 2004-05 budget change proposals were submitted for the Secretary for Cal-EPA.

1. April Finance Letter

Summary. The following is a summary of the budget amendments requested by the administration in the 2004-05 April finance letter for the Secretary for Cal-EPA.

Secretary for Environmental Protection

April Finance Letter, 2004-05

(Dollars in Thousands)

Description	General Fund	Special Funds	Total	Positions
Environmental Education Account. Proposes (1) expenditure of funds from the Environmental Education Account (EEA), which was established by Chapter 655, Statutes of 2003 (AB 1548, Pavley) to fund environmental education programs. The EEA currently has no funds on deposit, but the administration anticipates receiving funds from private organizations for expenditure in the budget year and has proposed (2) budget bill language to limit expenditures on this program to qualified funds deposited in this account. The administration also proposes (3) trailer bill language to amend Chapter 655 to eliminate the potential state mandate it created by requiring school districts to use the materials developed by this program.	-	\$150	\$150	0
Total	\$0	\$150	\$150	0

The Subcommittee may wish to ask the department the following questions.

- What funds does the administration anticipate receiving to fund this program in the budget year?
- What assurances are in place that the curriculum developed by this program will be utilized in schools?

Staff Recommendation. Staff recommends approving the finance letter.

2. Funding Programs that Protect Public Health— Informational Item

Background. After decades of efforts to reduce air pollution, California is still plagued with poor air quality in many parts of the state. As a result, asthma rates among the state's children continue to rise. Mobile sources (cars and trucks) account for over half of the pollution in California. However, despite the magnitude of this problem there is relatively little ongoing funding to support programs that reduce emissions from mobile sources. Many of the state's successful programs that work on reducing emissions from mobile sources such as the Carl Moyer Program do not have an ongoing funding source and have largely relied on onetime General Fund appropriations or bond funds. However, due to budget reductions no funds have been proposed in the Governor's budget to support programs like the Carl Moyer Program that work to directly reduce emissions from mobile sources and improve the state's air quality to provide healthy air for all Californians.

In addition, to air quality another public health problem that has not been addressed by the budget is the cleanup of the thousands of brownfield sites in California. Brownfield sites are often found in low-income neighborhoods and can pose serious health risks to residents living near brownfields. It is estimated that there are over 50,000 brownfields sites in California. Despite the magnitude of this problem there are few ongoing state resources to fund brownfield cleanup. The state's current fiscal situation has resulted limited funds for programs such as the Orphan Share Trust Fund that aid in cleaning up contaminated brownfields.

The subcommittee may wish to ask the Secretary the following questions.

- How do you propose we address the pollution caused by mobile sources? Do you have ideas for funding sources other than the General Fund that would increase the stability of funding for programs like Carl Moyer?
- How do you propose we address the environmental hazards caused by brownfields? Do you have ideas for funding sources other than the General Fund that would increase the stability of funding for programs that facilitate cleanup of brownfields?

3900 Air Resources Board

Background. The 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 and for the review of local district programs and plans. The ARB also establishes air quality standards for certain pollutants, administers air pollution research studies, and identifies and controls toxic air pollutants.

Governor's Budget. The Governor's budget proposes \$130 million to support ARB in 2004-05. This is a reduction of \$35 million (21 percent) from the current year estimated expenditures due to a significant reduction in bond funds available to fund programs to reduce mobile source air pollution.

Air Resources Board				
Governor's Budget Spending Totals				
<i>(Dollars in Thousands)</i>				
	Actual	Estimated	Proposed for 2004-05	
	2002-03	2003-04	Amount	Percent
				Change
Type of Expenditure:				
Mobile Source	\$97,704	\$118,370	\$81,927	-31%
Stationary Source	40,464	36,376	38,238	5%
Subvention	10,111	10,637	10,111	-5%
Capital Outlay	2,397	0	0	-
Administration	11,502	11,092	11,092	0%
<i>less distributed administration</i>	<i>-11,502</i>	<i>-11,092</i>	<i>-11,092</i>	<i>-</i>
Total	\$150,676	\$165,383	\$130,276	-21%
Funding Source:				
General Fund	\$23,598	\$4,493	\$2,224	-51%
Special Funds	86,008	122,670	112,923	-8%
Bond Funds	25,000	23,000	0	-100%
<i>Budget Act Total</i>	<i>134,606</i>	<i>150,163</i>	<i>115,147</i>	<i>-23%</i>
Federal Funds	10,810	11,540	11,352	-2%
Reimbursements	5,261	3,680	3,777	3%
Total	\$150,677	\$165,383	\$130,276	-21%

Budget Change Proposals. The following is a summary of the 2004-05 budget change proposals for ARB.

Air Resources Board**Budget Change Proposals, 2004-05***(Dollars in Thousands)*

Description	General Fund	Special Funds	Total	Personnel Years
<i>Fine Particulate (PM2.5) Infrastructure Improvement.</i> Proposes one-time funding from the Air Pollution Control Fund for equipment to improve the source measurement infrastructure for PM 2.5. The federal government and ARB have placed ambient air quality standards on PM 2.5, which is produced by autos, diesel motors, and other sources. The current equipment does not allow for adequate PM 2.5 measurements to be made.	-	\$3,000	\$3,000	0
<i>Non-Toxic Dry Cleaning Incentive Program.</i> Proposes funding to implement the nontoxic dry cleaning incentive grant program established by Chapter 821, Statutes of 2003 (AB 998, Lowenthal). Funding for this program is proposed from fees on the manufacturers and importers of perchloroethylene (perc). The program provides grants to help dry cleaners transition from perc-based systems to nontoxic systems and to fund demonstration projects that showcase nontoxic dry cleaning alternatives.	-	1,500	1,500	0
<i>General Fund Reduction.</i> Proposes to shift support for the stationary source program from the General Fund to the Air Pollution Control Fund.	-2,600	2,600	0	0
Total	-\$2,600	\$7,100	\$4,500	0

1. April Finance Letter

Summary. The following is a summary of the budget amendments requested by the administration in the 2004-05 April finance letter for ARB.

Air Resources Board**April Finance Letter, 2004-05***(Dollars in Thousands)*

Description	General Fund	Special Funds	Total	Personnel Years
<i>Attorney General Billings.</i> Proposes increasing funding to cover the increase in the rates the Attorney General charges state departments for legal work.	-	\$147	\$147	0
Total	\$0	\$147	\$147	0

Staff Recommendation. No issues have been raised with the administration's April finance letter. *Staff recommends approving the finance letter.*

3910 Integrated Waste Management Board

Background. The California Integrated Waste Management Board (CIWMB), in conjunction with local agencies, is responsible for promoting waste management practices aimed at reducing the amount of waste that is disposed in landfills. The CIWMB administers various programs that promote waste reduction and recycling, with particular programs for waste tire and used oil recycling. The board also regulates landfills through a permitting, inspection, and enforcement program that is mainly carried out by local enforcement agencies that are certified by the board. In addition, CIWMB oversees the cleanup of abandoned solid waste sites.

Governor's Budget. The Governor's budget proposes \$165 million to support CIWMB in 2004-05. This is an increase of \$50 million (44 percent) from estimated expenditures in the current year. This increase is due to the implementation of the Electronic Waste Recycling Program created by Chapter 526, Statutes of 2003 (SB 20, Sher).

California Integrated Waste Management Board

Governor's Budget Spending Totals

(Dollars in Thousands)

	Actual 2002-03	Estimated 2003-04	Proposed for 2004-05	
			Amount	Percent Change
Type of Expenditure:				
Permitting	\$125,545	\$120,549	\$169,738	41%
Administration	8,592	8,413	8,413	0%
<i>less distributed administration</i>	-8,592	-8,413	-8,413	-
<i>less loan repayments</i>	-6,653	-5,960	-4,663	-
Total	\$118,892	\$114,589	\$165,075	44%
Funding Source:				
General Fund	\$46	\$0	\$0	-
Special Funds	113,035	112,763	164,339	46%
Bond Funds	119	136	136	0%
<i>Budget Act Total</i>	<i>113,200</i>	<i>112,899</i>	<i>164,475</i>	<i>46%</i>
Federal Funds	11	106	0	-100%
Special Deposit Fund	5,131	1,000	400	-60%
Reimbursements	550	585	200	-66%
Total	\$118,892	\$114,590	\$165,075	44%

Budget Change Proposals. The following is a summary of the 2004-05 budget change proposals for CIWMB.

California Integrated Waste Management Board
Budget Change Proposals, 2004-05*(Dollars in Thousands)*

Description	General Fund	Special Funds	Total	Personnel Years
Electronic Waste Recycling Program. Proposes funding Chapter 526, Statutes of 2003 (SB 20, Sher) to implement the Electronic Waste Recycling Program. The program is funded by a recycling fee on the retail purchase of specified electronic devices. The positions are proposed on a two-year limited term basis so that program support can be reevaluated after the program has had time to mature.	-	\$52,323	\$52,323	6.0
Total	\$0	\$52,323	\$52,323	6.0

1. Electronic Waste Recycling Program Implementation

Background. Chapter 526, Statutes of 2003 (SB 20, Sher) established the Electronic Waste (E-Waste) Recycling Act of 2003. The legislation established a system for the collection and recycling of certain electronic devices that contain hazardous materials. The program is to be funded by a fee assessed at the point of sale of certain electronic equipment. The fee will range from \$6 to \$10 depending on the size of the screen of the electronic device. The legislation also seeks to reduce the hazardous substances used in certain electronic devices and establishes environmentally preferred purchasing criteria for state agency purchases of certain electronic equipment.

Governor's Budget. The table that summarizes the budget change proposals (above) provides a summary of the Governor's proposal to fund the E-Waste Recycling Program in the budget year. This proposal assumes that the department will enter a contract with the Board of Equalization (BOE) to collect the fee starting in the first quarter of the budget year.

Status of Implementation. The CIWMB indicates that it is currently involved in developing emergency regulations to implement this new program. The board in conjunction with the manufacturers of electronic devices affected by this program has notified all retail outlets of the new recycling fee and program. The board has also started a consumer education campaign to raise awareness of this issue and the new program. The Department of Toxic Substances Control has recently announced the scope of the products to be covered by the E-Waste Recycling Program.

Fee Collection. As mentioned previously, the Governor's budget proposes to fund a contract with BOE for the collection of the fees to fund the e-waste program. However, BOE has indicated that it will not be able to start the fee collection in time to collect the fees until after January 1, 2005. A later start date for collecting fee revenues could have a disproportionately negative impact on the revenues the state is able to generate in the budget year since a large portion of electronics are purchased in the fall in preparation for the school year and during the holiday season.

The subcommittee may wish to ask the department the following questions.

- If BOE does not collect the fees starting July 1, 2004, what options do you have for collecting the fees so funds are available to implement this program in the budget year?

2. April Finance Letter

Summary. The following is a summary of the budget amendments requested by the administration in the 2004-05 April finance letter for CIWMB.

California Integrated Waste Management Board

April Finance Letter, 2004-05

(Dollars in Thousands)

Description	General Fund	Special Funds	Total	Personnel Years
Waste Tire Manifest Processing. Proposes funding from the CA Tire Recycling Management Fund for data operator positions to process a backlog of approximately 25,000 tire manifests and logs required to be submitted to and cataloged by the CIWMB to determine whether waste tires have been disposed of appropriately. This activity fulfills the requirements of Chapter 838, Statutes of 2000 (SB 876, Escutia). The positions are proposed on a one-year limited term basis.	-	\$195	\$195	3.0
Total	\$0	\$195	\$195	3.0

Staff Recommendation. No issues have been raised with the administration's April finance letter. *Staff recommends approving the finance letter.*

3. Study on Health Impacts of Tire Incineration—Informational Item

Background. A trailer bill that accompanied the 2003-04 Budget Act (Chapter 228, Statutes of 2003 [AB 1756, Budget Committee]) barred the expenditure of funds for any activity that provides support or research for the incineration of tires. Furthermore, the legislation listed eligible uses for funds from the Tire Recycling Management Account, including retreading, shredding, and the manufacture of various products made from used tires.

Board Proposes to Fund Study on Health Impacts of Tire Incineration. Despite clear legislative direction prohibiting the expenditure of funds for any activity that provides support or research for the incineration of tires CIWMB staff have proposed funding this activity. Specifically CIWMB staff have proposed that the board approve an interagency contract with the Office of Environmental Health Hazard Assessment for \$100,000 to study the health impacts of facilities that use a combination of conventional and tire derived fuels.

The Subcommittee may wish to ask the department the following questions.

- Has the board approved this contract? If so, please explain how this is not a violation of current law.

3930 Department of Pesticide Regulation

Background. The Department of Pesticide Regulation (DPR) administers programs to protect the public health and the environment from unsafe exposures to pesticides. The department (1) evaluates the public health and environmental impact of pesticides use; (2) regulates, monitors, and controls the sale and use of pesticides in the state; and (3) develops and promotes the use of reduced-risk practices for pest management. The department is funded primarily by an assessment on the sale of pesticides in the state.

Governor's Budget. The Governor's budget proposes \$57 million to support DPR in 2004-05. This is slightly less than estimated current year expenditures. Legislation (Chapter 741, Statutes of 2003 [SB 1049, Budget]) was enacted in the current year that required DPR to raise its fees and shift its General Fund support to fees. However, the legislation enacted did not allow DPR to raise its mill fee to accommodate this fund shift until January 1, 2004. Therefore, to avoid a shortfall in funding for 2003-04, \$5 million General Fund was provided to support DPR's budget. This backfill was a one-time fix until the mill fee could be raised along with registration and licensing fees. Since then, the department has increased the mill fee to 21 mills and has increased licensing and registration fees in accordance with legislation enacted in the current year. The Governor's budget proposal reflects full fee recovery for DPR in 2004-05.

Department of Pesticide Regulation

Governor's Budget Spending Totals

(Dollars in Thousands)

	Actual 2002-03	Estimated 2003-04	Proposed for 2004-05	
			Amount	Percent Change
Type of Expenditure:				
Registration and Health Evaluation	\$14,976	\$18,317	\$16,429	-10%
Pest Management and Environmental Activities	37,517	40,303	40,159	0%
State-Mandated Local Programs	1	1	1	0%
Administration	6,816	7,831	7,831	0%
<i>less distributed administration</i>	<i>-6,816</i>	<i>-7,831</i>	<i>-7,831</i>	<i>0%</i>
Total	\$52,494	\$58,621	\$56,589	-3%
Funding Source:				
General Fund	\$12,721	\$4,695	\$1	-100%
Special Funds	37,205	51,315	53,942	5%
<i>Budget Act Total</i>	<i>49,926</i>	<i>56,010</i>	<i>53,943</i>	<i>-4%</i>
Federal Funds	1,770	2,138	2,167	1%
Reimbursements	797	473	479	1%
Total	\$52,493	\$58,621	\$56,589	-3%

Budget Change Proposals. No 2004-05 budget change proposals were submitted for DPR.

1. April Finance Letter

Summary. The following is a summary of the budget amendments requested by the administration in the 2004-05 April finance letter for DPR.

Department of Pesticide Regulation

April Finance Letter, 2004-05

(Dollars in Thousands)

Description	General Fund	Special Funds	Total	Personnel Years
<i>Attorney General Billings.</i> Proposes increasing funding to cover the increase in the rates the Attorney General charges state departments for legal work.	-	\$26	\$26	0
<i>Consolidation of Grant Funds.</i> Proposes to make a technical budgeting change to consolidate the department's local assistance funding for restricted materials with its other pesticide enforcement grants and subventions. This proposal would reduce the local assistance item by \$2.9 million and increase the subventions item by a like amount and would have no impact on activities supported by these funds.	-	-	-	-
Total	\$0	\$26	\$26	0

Staff Recommendation. No issues have been raised with the administration's April finance letter. *Staff recommends approving the finance letter.*

3940 State Water Resources Control Board

Background. The State Water Resources Control Board (SWRCB), in conjunction with nine semiautonomous regional boards, regulates water quality in the state. The regional boards—which are funded by the state board and are under the state board's oversight—implement water quality programs in accordance with policies, plans, and standards developed by the state board.

The board carries out its water quality responsibilities by (1) establishing wastewater discharge policies and standards; (2) implementing programs to ensure that the waters of the state are not contaminated by underground or aboveground tanks; and (3) administering state and federal loans and grants to local governments for the construction of wastewater treatment, water reclamation, and storm drainage facilities. Waste discharge permits are issued and enforced mainly by the regional boards, although the state board issues some permits and initiates enforcement actions when deemed necessary.

The state board also administers water rights in the state. It does this by issuing and reviewing permits and licenses to applicants who wish to take water from the state's streams, rivers, and lakes.

Governor's Budget. The Governor's budget proposes \$505 million to support SWRCB in 2004-05. This is a reduction of \$668 million (57 percent) from the current year budget due to the administration's decision to defer the majority of its bond fund proposal until later in the spring. The administration's April finance letter does propose to expend an additional \$52 million (mainly bond funds) in 2004-05. However, this still results in a significant reduction in proposed expenditures in 2004-05 due to the large amount of bond funds appropriated in the current year and a reduction in the amount of bond funds available for expenditure by the board.

State Water Resources Control Board
Governor's Budget Spending Totals*(Dollars in Thousands)*

	Actual 2002-03	Estimated 2003-04	Proposed for 2004-05	
			Amount	Percent Change
Type of Expenditure:				
Water Quality	\$557,160	\$1,163,555	\$496,247	-57%
Water Rights	10,141	9,334	8,862	-5%
Administration	17,448	13,512	13,512	0%
<i>less distributed administration</i>	<i>-17,448</i>	<i>-13,512</i>	<i>-13,512</i>	<i>-</i>
Total	\$567,301	\$1,172,889	\$505,109	-57%
Funding Source:				
General Fund	\$71,858	\$37,249	\$27,560	-26%
Special Funds	284,730	308,011	312,029	1%
Bond Funds	65,840	679,677	11,352	-98%
<i>Budget Act Total</i>	<i>422,428</i>	<i>1,024,937</i>	<i>350,941</i>	<i>-66%</i>
Federal Funds	135,316	126,495	126,481	0%
Reimbursements	4,773	9,920	9,772	-1%
State Water Quality Control Fund	17,480	20,222	20,597	2%
<i>less funding provided by other sources</i>	<i>-12,695</i>	<i>-8,682</i>	<i>-2,682</i>	
Total	\$567,302	\$1,172,892	\$505,109	-57%

Budget Change Proposals. The following is a summary of the 2004-05 budget change proposals for SWRCB.

State Water Resources Control Board
Budget Change Proposals, 2004-05
(Dollars in Thousands)

Description	General Fund	Special Funds	Bond Funds	Total	Personnel Years
<i>Underground Storage Tank Enforcement Unit.</i> Proposes to make permanent 3.9 limited term positions to continue to support various enforcement activities for the underground storage tank fund and to shift funding for these positions to the Underground Storage Tank Cleanup Fund.	-	\$310	-	\$310	3.9
<i>Underground Storage Tank Cleanup Fund (USTCF).</i> Proposes a one-time increase in funding from the USTCF to clean up contamination caused by underground storage tanks. These funds are available from unexpended appropriations in prior years.	-	17,000	-	17,000	0.0
<i>Timber Harvest Plan Review in Sierra.</i> Proposes to permanently redirect 5.3 positions and \$470,000 General Fund from the North Coast regional board to the Central Valley and Lahontan regional boards to reduce the current funding imbalance among the regional boards for timber harvest review activities.	0	-	-	0	-
<i>Water Rights Fees Administration.</i> Proposes to increase administrative support from the Water Rights Fee fund to collect the water rights fees that now support the water rights program.	-	89	-	89	1.0
<i>Border Affairs Position.</i> Proposes to transfer one position and \$109,000 General Fund from the office of the Secretary for Environmental Protection to SWRCB to continue border coordination efforts related to water quality.	0	-	-	0	-
<i>General Fund Reductions.</i> Proposes to shift some General Fund expenditures to fees and other funds and reduce or eliminate some functions. About \$1.5 million is proposed to be shifted to water quality fees, \$1.5 million is proposed to be shifted to all funds, and \$2.3 million is proposed in program reductions.	-5,340	3,040	-	-2,300	-14.4
Total	-5,340	\$20,439	\$0	\$15,099	-9.5

1. April Finance Letter—Excluding Bond Funds

Summary. The following is a summary of the budget amendments requested by the administration in the 2004-05 April finance letter for SWRCB, excluding bond funds. (Bond funds will be handled at a forthcoming subcommittee meeting.)

State Water Resources Control Board

April Finance Letter - Excluding Bond Funds, 2004-05

(Dollars in Thousands)

Description	General Fund	Special Funds	Bond Funds	Total	Positions
Waste Discharge Waivers. Proposes funding to issue and enforce waivers for waste discharge requirements. Resources will also be used to evaluate whether discharges currently regulated under waivers should be issued waste discharge requirements. These activities will be supported with revenues generated from imposing fees on waivers per Chapter 801, Statutes of 2003 (SB 923, Sher). About \$1.2 million is requested on a one-time basis.	-	\$3,124	-	\$3,124	22.3
Lake Tahoe Environmental Improvement Program (EIP). Proposes to reappropriate funds to complete ongoing contract work that supports the Lake Tahoe EIP and the determination of Lake Tahoe's Total Maximum Daily Load.	589	-	-	589	0.0
Total	\$589	\$3,124	\$0	\$3,713	22.3

Waste Discharge Waivers. As summarized above, the administration's April finance letter proposes to fund positions to implement SB 923 (Sher) that requires the board to issue and enforce waivers for waste discharge permit. These waivers will largely address the polluted run-off from timber and agriculture operations.

Coordination with Other Programs. The federal government implements the Environmental Quality Incentives Program (EQIP) that provides federal funds and technical assistance to farmers and ranchers implementing farm conservation plans. In addition, state bond funds are available to fund the Agricultural Water Quality Grant Program to provide grants for monitoring, demonstration, research, and construction of projects to reduce pollutants in agricultural drainage water. Both of these programs could help to reduce polluted run-off from agricultural operations. However, it is not clear how the board will coordinate activities in these programs with its efforts to enforce waste discharge waivers for agricultural operations. Coordination of these programs with the board's regulatory program would improve the effectiveness of expending state and federal funds to meet state water quality requirements.

The Subcommittee may wish to ask the department the following questions.

- What is the status of implementing SB 923 to impose fees on waivers?

- How will the agriculture waiver program be coordinated with programs designed to help farmers reduce polluted run-off from agricultural operations?

Staff Recommendation. Staff recommends approving the finance letter.

2. Proposed General Fund Reductions—Informational Item

Governor's Budget. The figure on the next page summarizes the General Fund reductions proposed by the Governor's budget. The Governor's budget proposes a \$5.3 million General Fund reduction to the board's activities. Of this reduction, approximately \$3 million is proposed to be shifted to other funding sources at the board and \$2.3 million is proposed as a real reduction to the board's General Fund supported activities.

Budget Reductions in Past Years. In addition to the proposed General Fund reduction in the budget year, General Fund support for the SWRCB was reduced \$33.6 million in the current year. Approximately, \$24 million was shifted to fees to support water quality and water rights programs and the remaining \$9.6 million was a real reduction to the board's General Fund supported activities. Furthermore, General Fund support in 2002-03 was reduced another \$23.9 million. About \$15 million was shifted to fees and the remaining \$8.9 million was a real reduction to the board's General Fund supported activities. Therefore, while a significant portion of these General Fund reductions at the board have been shifted to fees, the board's General Fund activities have been reduced by \$20.8 million since 2001-02.

LAO Identifies Unmet Funding Requirements. The Analyst reported in the *Analysis of the 2002-03 Budget Bill* that the SWRCB had substantial unmet funding requirements for its water quality programs. The Analyst's findings were based on a needs analysis conducted by the board in 2001. This analysis found that the board would need an additional \$100 million above the current level of funding to fully address its current workload. In addition, the board estimated that an additional \$70 million would be needed to address future workload as the universe of waste dischargers under regulation increased.

Since 2002, legislation has been enacted to shift the majority of the water quality programs to fee-based funding. The Analyst indicated that the Legislature should consider the board's funding requirements when enacting legislation to shift program funding from the General Fund to fee-based funding. However, these funding requirements were never addressed and funding levels have been frozen at relatively the same level as when the program was supported largely by the General Fund. Therefore, substantial unmet funding requirements continue for the board's water quality programs. This has likely been further exacerbated by the numerous General Fund reductions made to the board's operations over the past few budget cycles.

The Subcommittee may wish to ask the department the following questions.

- What has the board done to address this funding shortfall identified in its 2001 needs analysis of its water quality programs?
- What water quality activities have been most impacted by the General Fund reductions?

State Water Resources Control Board
Detail on General Fund Reductions Proposed by Governor's Budget, 2004-05
(Dollars in Thousands)

Description	General Fund	Special Funds	Total	Personnel Years
Information Technology (IT). Proposes to shift funding for IT programs from the General Fund to all of the board's funds.	-1,513	\$1,513	\$0	0.0
Water Quality Trend Monitoring. Proposes to shift funding for monitoring from the General Fund to water quality permit fees.	-1,327	1,327	0	0.0
Technical Support. Proposes to reduce funding for triennial reviews of statewide plans and policies and other activities.	-614	-	-614	-4.5
Chromium 6 Contract. Proposes to eliminate support for a contract investigating issues related to Chromim 6 contamination.	-462	-	-462	0.0
Basin Planning Program. Proposes to eliminate all student contract support for this program.	-450	-	-450	-2.6
Well Investigation Program. Proposes to eliminate this program that attempts to investigate causes of well contamination.	-386	-	-386	-4.8
Septic Tank Standards. Proposes to eliminate contract to train communities on new standards and proposes to reduce staffing to minimum level needed to complete standards.	-255	-	-255	-0.8
Quality Assurance Program. Proposes to shift funding for this program that assures reliable water quality monitoring data from the General Fund to water quality fees.	-101	101	0	0.0
Operator Certification Program. Proposes to shift funding for this program that certifies operators at wastewater treatment facilities from the General Fund to fees charged applicants for certification.	-79	79	0	0.0
Regional Wetlands Management Plan. Proposes to reduce funding for this pilot program that seeks to integrate permitting activities with other wetland activities.	-53	-	-53	-1.0
CALFED. Proposes to eliminate contract support for the preperation of drinking water policy in the Sacramento region related to CALFED.	-50	-	-50	0.0
MTBE Contract. Proposes to eliminate contract funding to develop guidance for investigating and cleaning up MTBE contamination.	-50	-	-50	0.0
Total	-\$5,340	\$3,020	-\$2,320	-13.7

3. Adequacy of Board's Review of New Water Right Diversions—Informational Issue

Background. The subcommittee has received information that indicates that new applications for water right diversions from North Coast rivers, specifically the Russian River, are not well coordinated with previously approved diversions. The subcommittee has been informed that there are 1400 diversions on this river and 200 pending applications. Moreover, it seems that many applicants for water diversions construct their dams or reservoirs prior to receiving permission from the state water board. The penalty for these illegal diversions, typically about \$500, is not sufficient to deter the diversion. As a consequence, recreational fishers have questioned the adequacy of review of these applications to protect public trust resources, especially salmon and steelhead. This user group can document this problem in Marin, Napa, Sonoma, Mendocino, and Humboldt counties, but the larger-scale emerging concern is whether this north coast situation is replicated elsewhere in the state.

The Subcommittee may wish to ask the department the following questions.

- What is the current status of new water rights applications on the Russian River?
- What are the current penalties for illegal diversions?
- What process does the board have to assure fish and wildlife are not impacted by new water diversions?

4. Water Rights Fee Implementation—Informational Issue

Background. The SWRCB is responsible for regulating water rights for some surface water rights, including issuing new water rights, approving changes to existing rights, and enforcing existing rights. In the current year, Chapter 741, Statutes of 2003 (SB 1049, Budget Committee) was enacted to implement water rights fees to shift funding for SWRCB's water rights program from the General Fund to fees. The new fees are assessed annually on parties that are applying for or hold water rights that are under the jurisdiction of the SWRCB. The water rights program was reduced by a total of approximately \$3.3 million starting in 2002-03 before funding was shifted from the General Fund to fees.

Governor's Budget. The Governor's budget proposes \$8.9 million to support the board's water rights program. This is approximately the same level of funding as is estimated for expenditure to support this program in the current year. The majority of the funding for this program is proposed from fees on water rights holders, which is consistent with implementation of SB 1049. The General Fund is not proposed to support this program in the budget year.

The Subcommittee may wish to ask the department the following questions.

- What is the current status of implementing the water rights fee?
- Is any technical language required to improve the implementation of the fee program?

3960 Department of Toxic Substances Control

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

Governor's Budget. The Governor's budget proposes \$160 million to support DTSC in 2004-05. This is about the same level of funding as is estimated for expenditure in the current year.

Department of Toxic Substances Control

Governor's Budget Spending Totals

(Dollars in Thousands)

	Actual 2002-03	Estimated 2003-04	Proposed for 2004-05	
			Amount	Percent Change
Type of Expenditure:				
Site Mitigation and Brownfields Reuse	\$89,176	\$87,692	\$90,269	3%
Hazardous Waste Management	46,539	60,668	58,327	-4%
Science, Pollution Prevention and Technology	11,611	11,572	11,819	2%
Statewide Support	3,377	0	0	-
Capital Outlay	0	900	0	-100%
Administration	27,831	38,346	32,783	-15%
<i>less distributed administration</i>	<i>-27,831</i>	<i>-38,346</i>	<i>-32,783</i>	<i>-15%</i>
Total	\$150,703	\$160,832	\$160,415	0%
Funding Source:				
General Fund	\$31,299	\$20,544	\$17,150	-17%
Special Funds	87,578	113,288	115,748	2%
Bond Funds	1,291	545	0	-100%
<i>Budget Act Total</i>	<i>120,168</i>	<i>134,377</i>	<i>132,898</i>	<i>-1%</i>
Federal Funds	24,586	20,688	21,516	4%
Reimbursements	7,979	8,369	8,501	2%
<i>less funding provided by other sources</i>	<i>-2,028</i>	<i>-2,600</i>	<i>-2,500</i>	<i>-</i>
Total	\$150,705	\$160,834	\$160,415	0%

Budget Change Proposals. The following is a summary of the 2004-05 budget change proposals for DTSC.

Department of Toxic Substances Control**Budget Change Proposals, 2004-05***(Dollars in Thousands)*

Description	General Fund	Special Funds	Total	Positions
<i>Mobile Hazardous Materials Laboratory.</i> Proposes funding to operate a mobile hazardous materials laboratory in the event of a terrorist or natural disaster.	-	\$226	\$226	1.0
<i>Electronic Waste Recycling Program.</i> Proposes funding to implement Chapter 526, Statutes of 2003 (SB 20, Sher) that creates a new program and fund source for collecting and recycling hazardous electronic waste. In addition, this proposal shifts one existing position to this program and proposes \$130,000 in one-time contracting funding.	-	557	557	4.0
<i>Hazardous Materials Laboratory (HML).</i> Proposes one-time funding to conduct a study with the Department of General Services to assess the Southern California HML operations in preparation for updating or moving the facility.		200	200	0.0
<i>Fund Shift.</i> Proposes shifting funding for a portion of the administration program and industrial hygiene support from the General Fund to the Toxic Substances Control Account.	-1,398	1,398	0	0.0
Total	-\$1,398	\$2,381	\$983	5.0

1. Electronic Waste Recycling Program Implementation— Informational Item

Background. Chapter 526, Statutes of 2003 (SB 20, Sher) established the Electronic Waste (E-Waste) Recycling Act of 2003. This legislation established the E-Waste Recycling Program that provides for the collection and recycling of certain electronic devices that contain hazardous materials. A fee assessed at the point of sale of certain electronic equipment supports the program. The California Integrated Waste Management Board is implementing this program in conjunction with DTSC. Among other activities, DTSC is required to develop the list of covered electronic devices considered hazardous waste.

Governor's Budget. The table that summarizes the budget change proposals (above) summarizes the Governor's proposal to fund DTSC's activities related to implementing the E-Waste Recycling Program in the budget year.

The subcommittee may wish to ask the department the following questions.

- What is the status of the implementation of SB 20 by DTSC?

2. April Finance Letter

Summary. The following is a summary of the budget amendments requested by the administration in the 2004-05 April finance letter for DTSC.

Department of Toxic Substances Control

April Finance Letter, 2004-05

(Dollars in Thousands)

Description	General Fund	Special Funds	Total	Positions
Attorney General Billings. Proposes increasing funding to cover the increase in the rates the Attorney General charges state departments for legal work.	-	\$46	\$46	0.0
Removal and Remedial (R&R) Account. Proposes to transfer \$250,000 in expenditure authority from the R&R account to the Toxic Substances Control Account (TSCA) to reimburse DTSC's oversight costs of cleanup activities at contaminated sites. The R&R account receives settlement funds for cleanup activities at specific contaminated sites. Since DTSC does not fund any administrative costs out of the R&R account this transfer is requested to fund DTSC's oversight costs that are currently funded out of the TSCA.	-	0	0	0.0
Total	\$0	\$46	\$46	0.0

Staff Recommendation. No issues have been raised with the administration's April finance letter. *Staff recommends approving the finance letter.*

3980 Office of Environmental Health Hazard Assessment

Background. The Office of Environmental Health Hazard Assessment (OEHHA) identifies and quantifies the health risks of chemicals in the environment. It provides these assessments, along with its recommendations for pollutant standards and health and safety regulations, to the boards and departments in the California Environmental Protection Agency and to other state and local agencies. The OEHHA also provides scientific support to environmental regulatory agencies.

Governor's Budget. The Governor's budget proposes \$12.5 million to support OEHHA in 2004-05. This is a reduction of \$1.1 million (8 percent) from current year estimated expenditures. Most of this decrease reflects the elimination of a one-time General Fund appropriation of \$1 million in the current year to fund a significant portion of OEHHA's children's health program.

Office of Environmental Health Hazard Assessment

Governor's Budget Spending Totals

(Dollars in Thousands)

	Actual 2002-03	Estimated 2003-04	Proposed for 2004-05	
			Amount	Percent Change
Type of Expenditure:				
Health Risk Assessment	\$13,481	\$13,546	\$12,479	-8%
Administration	2,934	2,708	2,840	5%
<i>less distributed administration</i>	<i>-2,934</i>	<i>-2,708</i>	<i>-2,840</i>	<i>5%</i>
Total	\$13,481	\$13,546	\$12,479	-8%
Funding Source:				
General Fund	\$10,888	\$9,135	\$8,135	-11%
Special Funds	733	2,779	2,784	0%
<i>Budget Act Total</i>	<i>11,621</i>	<i>11,914</i>	<i>10,919</i>	<i>-8%</i>
Federal Funds	3	0	0	-
Reimbursements	1,857	1,633	1,560	-4%
Total	\$13,481	\$13,547	\$12,479	-8%

Budget Change Proposals. There are no 2004-05 budget change proposals for OEHHA.

1. April Finance Letter—Funding OEHHA

Background. The General Fund supports the majority of OEHHA's activities. Activities supported by the General Fund include the identification of cancer-causing chemicals for annual updates of the state list of chemicals in drinking water, health risk assessments of toxic air contaminants, and reviews of health risk assessments of pesticides.

Governor's Budget. The Governor's budget proposes \$8.1 million General Fund to support its activities, which is approximately 65 percent of its total budget.

Supplemental Report Past Due. During 2002 legislative hearings concerns were raised about the instability of OEHHA's funding base and whether OEHHA's funding level was adequate to meet its statutory mandates. As a result, supplemental report language was adopted to direct OEHHA to report on its long-term baseline funding requirements to meet its statutory mandates and specific recommendations regarding the appropriate mix of General Fund and special fund sources. This report was due January 10, 2004, but has not yet been received.

LAO Recommendation. The Analyst has found that OEHHA's program has suffered significant General Fund reductions that the Analyst indicates is a result of OEHHA's reliance on the General Fund to support its programs. The Analyst suggests that this has increased the instability of OEHHA's funding base. In order to increase the stability of OEHHA's funding base, the Analyst suggests that there are potential alternative funding sources to the General Fund for many of OEHHA's activities. The Analyst finds that these shifts are appropriate given that OEHHA's activities directly support various regulatory programs supported by fee-based special funds. Based on this criteria, the Analyst has suggested the following fund sources to support OEHHA's activities:

- **Safe Drinking Water Account**—The fund that supports Department of Health Services' safe drinking water program.
- **Department of Pesticide Regulation Fund**—This is the depository of the mill assessment that supports the majority of Department of Pesticide Regulation's activities.
- **Air Pollution Control Fund**—The fund supports the Air Resources Board stationary source program.
- **Motor Vehicle Account**—The fund is derived from vehicle registrations and drivers license fees.

April Finance Letter. In an April finance letter, the Governor has proposed a \$1.4 million augmentation to OEHHA's budget, which would result in OEHHA's budget increasing in the budget year to a level slightly higher than the current year. This proposal would reduce the General Fund support for the program by \$719,000 and increase support from the Motor Vehicle Account by \$2.1 million to fund activities related to the health impacts of motor vehicle-related pollutant, including the children's health program.

This proposal is consistent with the Analyst's recommendation. However, the Analyst suggests that there may be additional opportunities to shift General Fund support to other funding sources. The administration has indicated that fee increases would be needed to shift additional funding to support OEHHA's activities from the funds suggested by the Analyst.

The following is a summary of the budget amendments requested by the administration in the 2004-05 April finance letter for OEHHA.

Office of Environmental Health Hazard Assessment

April Finance Letter, 2004-05

(Dollars in Thousands)

Description	General Fund	Special Funds	Total	Positions
<i>Health Impacts of Motor Vehicle-Related Pollutants.</i> Proposes to shift funding from the General Fund to the Motor Vehicle Account (MVA) for activities related to evaluating the health impacts of motor vehicle-related pollutants. Also proposes to augment funding to backfill the one-time \$1 million General Fund augmentation provided in the current year to support the children's health program.	-\$719	\$2,123	\$1,404	0.0
Total	-\$719	\$2,123	\$1,404	0.0

The subcommittee may wish to ask the administration the following questions.

- Why has the administration not proposed to support OEHHA's activities using the other funds suggested by the LAO?
- Please provide an update on the supplemental report that is past due. What is the baseline funding level required to meet statutory mandates? What mix of General Fund and special funds should support OEHHA's activities?

Staff Recommendation. Staff recommends approving the April finance letter, which does provide OEHHA with program support at a level similar to estimated expenditures in the current year.

SUBCOMMITTEE NO. 2

Agenda

Byron Sher, Chair
Sheila Kuehl
Bruce McPherson



Thursday, April 15, 2004
Upon Adjournment of Session
Room 112

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Resources—Environmental Protection—Public Safety—Energy

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0555 Secretary for Environmental Protection

Background. The Secretary for Environmental Protection heads the California Environmental Protection Agency (Cal-EPA). The secretary is responsible for overseeing and coordinating the activities of the following departments that make up Cal-EPA:

- Air Resources Board
- California Integrated Waste Management Board
- Department of Pesticide Regulation
- Department of Toxic Substances Control
- State Water Resources Control Board
- Office of Environmental Health Hazard Assessment

Governor's Budget. The Governor's budget proposes \$8.2 million to support the Secretary for Cal-EPA in 2004-05. This is approximately 4 percent less than the level of expenditures estimated in the current year.

Secretary for Environmental Protection

Governor's Budget Spending Totals

(Dollars in Thousands)

	Actual 2002-03	Estimated 2003-04	Proposed for 2004-05	
			Amount	Percent Change
Type of Expenditure:				
Support Program	\$7,977	\$8,529	\$8,151	-4%
Total	\$7,977	\$8,529	\$8,151	-4%
Funding Source:				
General Fund	\$2,459	\$1,325	\$1,325	0%
Special Funds	2,740	2,973	2,721	-8%
<i>Budget Act Total</i>	<i>5,199</i>	<i>4,298</i>	<i>4,046</i>	<i>-6%</i>
Reimbursements	2,644	2,080	1,971	-5%
State Water Quality Control Fund	134	151	134	-11%
Environmental Enforcement and Training Account	0	2,000	2,000	0%
Total	\$7,977	\$8,529	\$8,151	-4%

Budget Change Proposals. No 2004-05 budget change proposals were submitted for the Secretary for Cal-EPA.

1. April Finance Letter

Summary. The following is a summary of the budget amendments requested by the administration in the 2004-05 April finance letter for the Secretary for Cal-EPA.

Secretary for Environmental Protection

April Finance Letter, 2004-05

(Dollars in Thousands)

Description	General Fund	Special Funds	Total	Positions
Environmental Education Account. Proposes (1) expenditure of funds from the Environmental Education Account (EEA), which was established by Chapter 655, Statutes of 2003 (AB 1548, Pavley) to fund environmental education programs. The EEA currently has no funds on deposit, but the administration anticipates receiving funds from private organizations for expenditure in the budget year and has proposed (2) budget bill language to limit expenditures on this program to qualified funds deposited in this account. The administration also proposes (3) trailer bill language to amend Chapter 655 to eliminate the potential state mandate it created by requiring school districts to use the materials developed by this program.	-	\$150	\$150	0
Total	\$0	\$150	\$150	0

The Subcommittee may wish to ask the department the following questions.

- What funds does the administration anticipate receiving to fund this program in the budget year?
- What assurances are in place that the curriculum developed by this program will be utilized in schools?

Staff Recommendation. Staff recommends approving the finance letter.

2. Funding Programs that Protect Public Health— Informational Item

Background. After decades of efforts to reduce air pollution, California is still plagued with poor air quality in many parts of the state. As a result, asthma rates among the state's children continue to rise. Mobile sources (cars and trucks) account for over half of the pollution in California. However, despite the magnitude of this problem there is relatively little ongoing funding to support programs that reduce emissions from mobile sources. Many of the state's successful programs that work on reducing emissions from mobile sources such as the Carl Moyer Program do not have an ongoing funding source and have largely relied on onetime General Fund appropriations or bond funds. However, due to budget reductions no funds have been proposed in the Governor's budget to support programs like the Carl Moyer Program that work to directly reduce emissions from mobile sources and improve the state's air quality to provide healthy air for all Californians.

In addition, to air quality another public health problem that has not been addressed by the budget is the cleanup of the thousands of brownfield sites in California. Brownfield sites are often found in low-income neighborhoods and can pose serious health risks to residents living near brownfields. It is estimated that there are over 50,000 brownfields sites in California. Despite the magnitude of this problem there are few ongoing state resources to fund brownfield cleanup. The state's current fiscal situation has resulted limited funds for programs such as the Orphan Share Trust Fund that aid in cleaning up contaminated brownfields.

The subcommittee may wish to ask the Secretary the following questions.

- How do you propose we address the pollution caused by mobile sources? Do you have ideas for funding sources other than the General Fund that would increase the stability of funding for programs like Carl Moyer?
- How do you propose we address the environmental hazards caused by brownfields? Do you have ideas for funding sources other than the General Fund that would increase the stability of funding for programs that facilitate cleanup of brownfields?

3900 Air Resources Board

Background. The 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 and for the review of local district programs and plans. The ARB also establishes air quality standards for certain pollutants, administers air pollution research studies, and identifies and controls toxic air pollutants.

Governor's Budget. The Governor's budget proposes \$130 million to support ARB in 2004-05. This is a reduction of \$35 million (21 percent) from the current year estimated expenditures due to a significant reduction in bond funds available to fund programs to reduce mobile source air pollution.

Air Resources Board				
Governor's Budget Spending Totals				
<i>(Dollars in Thousands)</i>				
	Actual	Estimated	Proposed for 2004-05	
	2002-03	2003-04	Amount	Percent
				Change
Type of Expenditure:				
Mobile Source	\$97,704	\$118,370	\$81,927	-31%
Stationary Source	40,464	36,376	38,238	5%
Subvention	10,111	10,637	10,111	-5%
Capital Outlay	2,397	0	0	-
Administration	11,502	11,092	11,092	0%
<i>less distributed administration</i>	<i>-11,502</i>	<i>-11,092</i>	<i>-11,092</i>	<i>-</i>
Total	\$150,676	\$165,383	\$130,276	-21%
Funding Source:				
General Fund	\$23,598	\$4,493	\$2,224	-51%
Special Funds	86,008	122,670	112,923	-8%
Bond Funds	25,000	23,000	0	-100%
<i>Budget Act Total</i>	<i>134,606</i>	<i>150,163</i>	<i>115,147</i>	<i>-23%</i>
Federal Funds	10,810	11,540	11,352	-2%
Reimbursements	5,261	3,680	3,777	3%
Total	\$150,677	\$165,383	\$130,276	-21%

Budget Change Proposals. The following is a summary of the 2004-05 budget change proposals for ARB.

Air Resources Board**Budget Change Proposals, 2004-05***(Dollars in Thousands)*

Description	General Fund	Special Funds	Total	Personnel Years
<i>Fine Particulate (PM2.5) Infrastructure Improvement.</i> Proposes one-time funding from the Air Pollution Control Fund for equipment to improve the source measurement infrastructure for PM 2.5. The federal government and ARB have placed ambient air quality standards on PM 2.5, which is produced by autos, diesel motors, and other sources. The current equipment does not allow for adequate PM 2.5 measurements to be made.	-	\$3,000	\$3,000	0
<i>Non-Toxic Dry Cleaning Incentive Program.</i> Proposes funding to implement the nontoxic dry cleaning incentive grant program established by Chapter 821, Statutes of 2003 (AB 998, Lowenthal). Funding for this program is proposed from fees on the manufacturers and importers of perchloroethylene (perc). The program provides grants to help dry cleaners transition from perc-based systems to nontoxic systems and to fund demonstration projects that showcase nontoxic dry cleaning alternatives.	-	1,500	1,500	0
<i>General Fund Reduction.</i> Proposes to shift support for the stationary source program from the General Fund to the Air Pollution Control Fund.	-2,600	2,600	0	0
Total	-\$2,600	\$7,100	\$4,500	0

1. April Finance Letter

Summary. The following is a summary of the budget amendments requested by the administration in the 2004-05 April finance letter for ARB.

Air Resources Board**April Finance Letter, 2004-05***(Dollars in Thousands)*

Description	General Fund	Special Funds	Total	Personnel Years
<i>Attorney General Billings.</i> Proposes increasing funding to cover the increase in the rates the Attorney General charges state departments for legal work.	-	\$147	\$147	0
Total	\$0	\$147	\$147	0

Staff Recommendation. No issues have been raised with the administration's April finance letter. *Staff recommends approving the finance letter.*

3910 Integrated Waste Management Board

Background. The California Integrated Waste Management Board (CIWMB), in conjunction with local agencies, is responsible for promoting waste management practices aimed at reducing the amount of waste that is disposed in landfills. The CIWMB administers various programs that promote waste reduction and recycling, with particular programs for waste tire and used oil recycling. The board also regulates landfills through a permitting, inspection, and enforcement program that is mainly carried out by local enforcement agencies that are certified by the board. In addition, CIWMB oversees the cleanup of abandoned solid waste sites.

Governor's Budget. The Governor's budget proposes \$165 million to support CIWMB in 2004-05. This is an increase of \$50 million (44 percent) from estimated expenditures in the current year. This increase is due to the implementation of the Electronic Waste Recycling Program created by Chapter 526, Statutes of 2003 (SB 20, Sher).

California Integrated Waste Management Board

Governor's Budget Spending Totals

(Dollars in Thousands)

	Actual 2002-03	Estimated 2003-04	Proposed for 2004-05	
			Amount	Percent Change
Type of Expenditure:				
Permitting	\$125,545	\$120,549	\$169,738	41%
Administration	8,592	8,413	8,413	0%
<i>less distributed administration</i>	-8,592	-8,413	-8,413	-
<i>less loan repayments</i>	-6,653	-5,960	-4,663	-
Total	\$118,892	\$114,589	\$165,075	44%
Funding Source:				
General Fund	\$46	\$0	\$0	-
Special Funds	113,035	112,763	164,339	46%
Bond Funds	119	136	136	0%
<i>Budget Act Total</i>	<i>113,200</i>	<i>112,899</i>	<i>164,475</i>	<i>46%</i>
Federal Funds	11	106	0	-100%
Special Deposit Fund	5,131	1,000	400	-60%
Reimbursements	550	585	200	-66%
Total	\$118,892	\$114,590	\$165,075	44%

Budget Change Proposals. The following is a summary of the 2004-05 budget change proposals for CIWMB.

California Integrated Waste Management Board
Budget Change Proposals, 2004-05*(Dollars in Thousands)*

Description	General Fund	Special Funds	Total	Personnel Years
Electronic Waste Recycling Program. Proposes funding Chapter 526, Statutes of 2003 (SB 20, Sher) to implement the Electronic Waste Recycling Program. The program is funded by a recycling fee on the retail purchase of specified electronic devices. The positions are proposed on a two-year limited term basis so that program support can be reevaluated after the program has had time to mature.	-	\$52,323	\$52,323	6.0
Total	\$0	\$52,323	\$52,323	6.0

1. Electronic Waste Recycling Program Implementation

Background. Chapter 526, Statutes of 2003 (SB 20, Sher) established the Electronic Waste (E-Waste) Recycling Act of 2003. The legislation established a system for the collection and recycling of certain electronic devices that contain hazardous materials. The program is to be funded by a fee assessed at the point of sale of certain electronic equipment. The fee will range from \$6 to \$10 depending on the size of the screen of the electronic device. The legislation also seeks to reduce the hazardous substances used in certain electronic devices and establishes environmentally preferred purchasing criteria for state agency purchases of certain electronic equipment.

Governor's Budget. The table that summarizes the budget change proposals (above) provides a summary of the Governor's proposal to fund the E-Waste Recycling Program in the budget year. This proposal assumes that the department will enter a contract with the Board of Equalization (BOE) to collect the fee starting in the first quarter of the budget year.

Status of Implementation. The CIWMB indicates that it is currently involved in developing emergency regulations to implement this new program. The board in conjunction with the manufacturers of electronic devices affected by this program has notified all retail outlets of the new recycling fee and program. The board has also started a consumer education campaign to raise awareness of this issue and the new program. The Department of Toxic Substances Control has recently announced the scope of the products to be covered by the E-Waste Recycling Program.

Fee Collection. As mentioned previously, the Governor's budget proposes to fund a contract with BOE for the collection of the fees to fund the e-waste program. However, BOE has indicated that it will not be able to start the fee collection in time to collect the fees until after January 1, 2005. A later start date for collecting fee revenues could have a disproportionately negative impact on the revenues the state is able to generate in the budget year since a large portion of electronics are purchased in the fall in preparation for the school year and during the holiday season.

The subcommittee may wish to ask the department the following questions.

- If BOE does not collect the fees starting July 1, 2004, what options do you have for collecting the fees so funds are available to implement this program in the budget year?

2. April Finance Letter

Summary. The following is a summary of the budget amendments requested by the administration in the 2004-05 April finance letter for CIWMB.

California Integrated Waste Management Board

April Finance Letter, 2004-05

(Dollars in Thousands)

Description	General Fund	Special Funds	Total	Personnel Years
Waste Tire Manifest Processing. Proposes funding from the CA Tire Recycling Management Fund for data operator positions to process a backlog of approximately 25,000 tire manifests and logs required to be submitted to and cataloged by the CIWMB to determine whether waste tires have been disposed of appropriately. This activity fulfills the requirements of Chapter 838, Statutes of 2000 (SB 876, Escutia). The positions are proposed on a one-year limited term basis.	-	\$195	\$195	3.0
Total	\$0	\$195	\$195	3.0

Staff Recommendation. No issues have been raised with the administration's April finance letter. *Staff recommends approving the finance letter.*

3. Study on Health Impacts of Tire Incineration—Informational Item

Background. A trailer bill that accompanied the 2003-04 Budget Act (Chapter 228, Statutes of 2003 [AB 1756, Budget Committee]) barred the expenditure of funds for any activity that provides support or research for the incineration of tires. Furthermore, the legislation listed eligible uses for funds from the Tire Recycling Management Account, including retreading, shredding, and the manufacture of various products made from used tires.

Board Proposes to Fund Study on Health Impacts of Tire Incineration. Despite clear legislative direction prohibiting the expenditure of funds for any activity that provides support or research for the incineration of tires CIWMB staff have proposed funding this activity. Specifically CIWMB staff have proposed that the board approve an interagency contract with the Office of Environmental Health Hazard Assessment for \$100,000 to study the health impacts of facilities that use a combination of conventional and tire derived fuels.

The Subcommittee may wish to ask the department the following questions.

- Has the board approved this contract? If so, please explain how this is not a violation of current law.

3930 Department of Pesticide Regulation

Background. The Department of Pesticide Regulation (DPR) administers programs to protect the public health and the environment from unsafe exposures to pesticides. The department (1) evaluates the public health and environmental impact of pesticides use; (2) regulates, monitors, and controls the sale and use of pesticides in the state; and (3) develops and promotes the use of reduced-risk practices for pest management. The department is funded primarily by an assessment on the sale of pesticides in the state.

Governor's Budget. The Governor's budget proposes \$57 million to support DPR in 2004-05. This is slightly less than estimated current year expenditures. Legislation (Chapter 741, Statutes of 2003 [SB 1049, Budget]) was enacted in the current year that required DPR to raise its fees and shift its General Fund support to fees. However, the legislation enacted did not allow DPR to raise its mill fee to accommodate this fund shift until January 1, 2004. Therefore, to avoid a shortfall in funding for 2003-04, \$5 million General Fund was provided to support DPR's budget. This backfill was a one-time fix until the mill fee could be raised along with registration and licensing fees. Since then, the department has increased the mill fee to 21 mills and has increased licensing and registration fees in accordance with legislation enacted in the current year. The Governor's budget proposal reflects full fee recovery for DPR in 2004-05.

Department of Pesticide Regulation

Governor's Budget Spending Totals

(Dollars in Thousands)

	Actual 2002-03	Estimated 2003-04	Proposed for 2004-05	
			Amount	Percent Change
Type of Expenditure:				
Registration and Health Evaluation	\$14,976	\$18,317	\$16,429	-10%
Pest Management and Environmental Activities	37,517	40,303	40,159	0%
State-Mandated Local Programs	1	1	1	0%
Administration	6,816	7,831	7,831	0%
<i>less distributed administration</i>	<i>-6,816</i>	<i>-7,831</i>	<i>-7,831</i>	<i>0%</i>
Total	\$52,494	\$58,621	\$56,589	-3%
Funding Source:				
General Fund	\$12,721	\$4,695	\$1	-100%
Special Funds	37,205	51,315	53,942	5%
<i>Budget Act Total</i>	<i>49,926</i>	<i>56,010</i>	<i>53,943</i>	<i>-4%</i>
Federal Funds	1,770	2,138	2,167	1%
Reimbursements	797	473	479	1%
Total	\$52,493	\$58,621	\$56,589	-3%

Budget Change Proposals. No 2004-05 budget change proposals were submitted for DPR.

1. April Finance Letter

Summary. The following is a summary of the budget amendments requested by the administration in the 2004-05 April finance letter for DPR.

Department of Pesticide Regulation

April Finance Letter, 2004-05

(Dollars in Thousands)

Description	General Fund	Special Funds	Total	Personnel Years
Attorney General Billings. Proposes increasing funding to cover the increase in the rates the Attorney General charges state departments for legal work.	-	\$26	\$26	0
Consolidation of Grant Funds. Proposes to make a technical budgeting change to consolidate the department's local assistance funding for restricted materials with its other pesticide enforcement grants and subventions. This proposal would reduce the local assistance item by \$2.9 million and increase the subventions item by a like amount and would have no impact on activities supported by these funds.	-	-	-	-
Total	\$0	\$26	\$26	0

Staff Recommendation. No issues have been raised with the administration's April finance letter. *Staff recommends approving the finance letter.*

3940 State Water Resources Control Board

Background. The State Water Resources Control Board (SWRCB), in conjunction with nine semiautonomous regional boards, regulates water quality in the state. The regional boards—which are funded by the state board and are under the state board's oversight—implement water quality programs in accordance with policies, plans, and standards developed by the state board.

The board carries out its water quality responsibilities by (1) establishing wastewater discharge policies and standards; (2) implementing programs to ensure that the waters of the state are not contaminated by underground or aboveground tanks; and (3) administering state and federal loans and grants to local governments for the construction of wastewater treatment, water reclamation, and storm drainage facilities. Waste discharge permits are issued and enforced mainly by the regional boards, although the state board issues some permits and initiates enforcement actions when deemed necessary.

The state board also administers water rights in the state. It does this by issuing and reviewing permits and licenses to applicants who wish to take water from the state's streams, rivers, and lakes.

Governor's Budget. The Governor's budget proposes \$505 million to support SWRCB in 2004-05. This is a reduction of \$668 million (57 percent) from the current year budget due to the administration's decision to defer the majority of its bond fund proposal until later in the spring. The administration's April finance letter does propose to expend an additional \$52 million (mainly bond funds) in 2004-05. However, this still results in a significant reduction in proposed expenditures in 2004-05 due to the large amount of bond funds appropriated in the current year and a reduction in the amount of bond funds available for expenditure by the board.

State Water Resources Control Board
Governor's Budget Spending Totals*(Dollars in Thousands)*

	Actual 2002-03	Estimated 2003-04	Proposed for 2004-05	
			Amount	Percent Change
Type of Expenditure:				
Water Quality	\$557,160	\$1,163,555	\$496,247	-57%
Water Rights	10,141	9,334	8,862	-5%
Administration	17,448	13,512	13,512	0%
<i>less distributed administration</i>	<i>-17,448</i>	<i>-13,512</i>	<i>-13,512</i>	<i>-</i>
Total	\$567,301	\$1,172,889	\$505,109	-57%
Funding Source:				
General Fund	\$71,858	\$37,249	\$27,560	-26%
Special Funds	284,730	308,011	312,029	1%
Bond Funds	65,840	679,677	11,352	-98%
<i>Budget Act Total</i>	<i>422,428</i>	<i>1,024,937</i>	<i>350,941</i>	<i>-66%</i>
Federal Funds	135,316	126,495	126,481	0%
Reimbursements	4,773	9,920	9,772	-1%
State Water Quality Control Fund	17,480	20,222	20,597	2%
<i>less funding provided by other sources</i>	<i>-12,695</i>	<i>-8,682</i>	<i>-2,682</i>	
Total	\$567,302	\$1,172,892	\$505,109	-57%

Budget Change Proposals. The following is a summary of the 2004-05 budget change proposals for SWRCB.

State Water Resources Control Board
Budget Change Proposals, 2004-05
(Dollars in Thousands)

Description	General Fund	Special Funds	Bond Funds	Total	Personnel Years
<i>Underground Storage Tank Enforcement Unit.</i> Proposes to make permanent 3.9 limited term positions to continue to support various enforcement activities for the underground storage tank fund and to shift funding for these positions to the Underground Storage Tank Cleanup Fund.	-	\$310	-	\$310	3.9
<i>Underground Storage Tank Cleanup Fund (USTCF).</i> Proposes a one-time increase in funding from the USTCF to clean up contamination caused by underground storage tanks. These funds are available from unexpended appropriations in prior years.	-	17,000	-	17,000	0.0
<i>Timber Harvest Plan Review in Sierra.</i> Proposes to permanently redirect 5.3 positions and \$470,000 General Fund from the North Coast regional board to the Central Valley and Lahontan regional boards to reduce the current funding imbalance among the regional boards for timber harvest review activities.	0	-	-	0	-
<i>Water Rights Fees Administration.</i> Proposes to increase administrative support from the Water Rights Fee fund to collect the water rights fees that now support the water rights program.	-	89	-	89	1.0
<i>Border Affairs Position.</i> Proposes to transfer one position and \$109,000 General Fund from the office of the Secretary for Environmental Protection to SWRCB to continue border coordination efforts related to water quality.	0	-	-	0	-
<i>General Fund Reductions.</i> Proposes to shift some General Fund expenditures to fees and other funds and reduce or eliminate some functions. About \$1.5 million is proposed to be shifted to water quality fees, \$1.5 million is proposed to be shifted to all funds, and \$2.3 million is proposed in program reductions.	-5,340	3,040	-	-2,300	-14.4
Total	-5,340	\$20,439	\$0	\$15,099	-9.5

1. April Finance Letter—Excluding Bond Funds

Summary. The following is a summary of the budget amendments requested by the administration in the 2004-05 April finance letter for SWRCB, excluding bond funds. (Bond funds will be handled at a forthcoming subcommittee meeting.)

State Water Resources Control Board

April Finance Letter - Excluding Bond Funds, 2004-05

(Dollars in Thousands)

Description	General Fund	Special Funds	Bond Funds	Total	Positions
Waste Discharge Waivers. Proposes funding to issue and enforce waivers for waste discharge requirements. Resources will also be used to evaluate whether discharges currently regulated under waivers should be issued waste discharge requirements. These activities will be supported with revenues generated from imposing fees on waivers per Chapter 801, Statutes of 2003 (SB 923, Sher). About \$1.2 million is requested on a one-time basis.	-	\$3,124	-	\$3,124	22.3
Lake Tahoe Environmental Improvement Program (EIP). Proposes to reappropriate funds to complete ongoing contract work that supports the Lake Tahoe EIP and the determination of Lake Tahoe's Total Maximum Daily Load.	589	-	-	589	0.0
Total	\$589	\$3,124	\$0	\$3,713	22.3

Waste Discharge Waivers. As summarized above, the administration's April finance letter proposes to fund positions to implement SB 923 (Sher) that requires the board to issue and enforce waivers for waste discharge permit. These waivers will largely address the polluted run-off from timber and agriculture operations.

Coordination with Other Programs. The federal government implements the Environmental Quality Incentives Program (EQIP) that provides federal funds and technical assistance to farmers and ranchers implementing farm conservation plans. In addition, state bond funds are available to fund the Agricultural Water Quality Grant Program to provide grants for monitoring, demonstration, research, and construction of projects to reduce pollutants in agricultural drainage water. Both of these programs could help to reduce polluted run-off from agricultural operations. However, it is not clear how the board will coordinate activities in these programs with its efforts to enforce waste discharge waivers for agricultural operations. Coordination of these programs with the board's regulatory program would improve the effectiveness of expending state and federal funds to meet state water quality requirements.

The Subcommittee may wish to ask the department the following questions.

- What is the status of implementing SB 923 to impose fees on waivers?

- How will the agriculture waiver program be coordinated with programs designed to help farmers reduce polluted run-off from agricultural operations?

Staff Recommendation. Staff recommends approving the finance letter.

2. Proposed General Fund Reductions—Informational Item

Governor's Budget. The figure on the next page summarizes the General Fund reductions proposed by the Governor's budget. The Governor's budget proposes a \$5.3 million General Fund reduction to the board's activities. Of this reduction, approximately \$3 million is proposed to be shifted to other funding sources at the board and \$2.3 million is proposed as a real reduction to the board's General Fund supported activities.

Budget Reductions in Past Years. In addition to the proposed General Fund reduction in the budget year, General Fund support for the SWRCB was reduced \$33.6 million in the current year. Approximately, \$24 million was shifted to fees to support water quality and water rights programs and the remaining \$9.6 million was a real reduction to the board's General Fund supported activities. Furthermore, General Fund support in 2002-03 was reduced another \$23.9 million. About \$15 million was shifted to fees and the remaining \$8.9 million was a real reduction to the board's General Fund supported activities. Therefore, while a significant portion of these General Fund reductions at the board have been shifted to fees, the board's General Fund activities have been reduced by \$20.8 million since 2001-02.

LAO Identifies Unmet Funding Requirements. The Analyst reported in the *Analysis of the 2002-03 Budget Bill* that the SWRCB had substantial unmet funding requirements for its water quality programs. The Analyst's findings were based on a needs analysis conducted by the board in 2001. This analysis found that the board would need an additional \$100 million above the current level of funding to fully address its current workload. In addition, the board estimated that an additional \$70 million would be needed to address future workload as the universe of waste dischargers under regulation increased.

Since 2002, legislation has been enacted to shift the majority of the water quality programs to fee-based funding. The Analyst indicated that the Legislature should consider the board's funding requirements when enacting legislation to shift program funding from the General Fund to fee-based funding. However, these funding requirements were never addressed and funding levels have been frozen at relatively the same level as when the program was supported largely by the General Fund. Therefore, substantial unmet funding requirements continue for the board's water quality programs. This has likely been further exacerbated by the numerous General Fund reductions made to the board's operations over the past few budget cycles.

The Subcommittee may wish to ask the department the following questions.

- What has the board done to address this funding shortfall identified in its 2001 needs analysis of its water quality programs?
- What water quality activities have been most impacted by the General Fund reductions?

State Water Resources Control Board
Detail on General Fund Reductions Proposed by Governor's Budget, 2004-05
(Dollars in Thousands)

Description	General Fund	Special Funds	Total	Personnel Years
Information Technology (IT). Proposes to shift funding for IT programs from the General Fund to all of the board's funds.	-\$1,513	\$1,513	\$0	0.0
Water Quality Trend Monitoring. Proposes to shift funding for monitoring from the General Fund to water quality permit fees.	-1,327	1,327	0	0.0
Technical Support. Proposes to reduce funding for triennial reviews of statewide plans and policies and other activities.	-614	-	-614	-4.5
Chromium 6 Contract. Proposes to eliminate support for a contract investigating issues related to Chromim 6 contamination.	-462	-	-462	0.0
Basin Planning Program. Proposes to eliminate all student contract support for this program.	-450	-	-450	-2.6
Well Investigation Program. Proposes to eliminate this program that attempts to investigate causes of well contamination.	-386	-	-386	-4.8
Septic Tank Standards. Proposes to eliminate contract to train communities on new standards and proposes to reduce staffing to minimum level needed to complete standards.	-255	-	-255	-0.8
Quality Assurance Program. Proposes to shift funding for this program that assures reliable water quality monitoring data from the General Fund to water quality fees.	-101	101	0	0.0
Operator Certification Program. Proposes to shift funding for this program that certifies operators at wastewater treatment facilities from the General Fund to fees charged applicants for certification.	-79	79	0	0.0
Regional Wetlands Management Plan. Proposes to reduce funding for this pilot program that seeks to integrate permitting activities with other wetland activities.	-53	-	-53	-1.0
CALFED. Proposes to eliminate contract support for the preperation of drinking water policy in the Sacramento region related to CALFED.	-50	-	-50	0.0
MTBE Contract. Proposes to eliminate contract funding to develop guidance for investigating and cleaning up MTBE contamination.	-50	-	-50	0.0
Total	-\$5,340	\$3,020	-\$2,320	-13.7

3. Adequacy of Board's Review of New Water Right Diversions—Informational Issue

Background. The subcommittee has received information that indicates that new applications for water right diversions from North Coast rivers, specifically the Russian River, are not well coordinated with previously approved diversions. The subcommittee has been informed that there are 1400 diversions on this river and 200 pending applications. Moreover, it seems that many applicants for water diversions construct their dams or reservoirs prior to receiving permission from the state water board. The penalty for these illegal diversions, typically about \$500, is not sufficient to deter the diversion. As a consequence, recreational fishers have questioned the adequacy of review of these applications to protect public trust resources, especially salmon and steelhead. This user group can document this problem in Marin, Napa, Sonoma, Mendocino, and Humboldt counties, but the larger-scale emerging concern is whether this north coast situation is replicated elsewhere in the state.

The Subcommittee may wish to ask the department the following questions.

- What is the current status of new water rights applications on the Russian River?
- What are the current penalties for illegal diversions?
- What process does the board have to assure fish and wildlife are not impacted by new water diversions?

4. Water Rights Fee Implementation—Informational Issue

Background. The SWRCB is responsible for regulating water rights for some surface water rights, including issuing new water rights, approving changes to existing rights, and enforcing existing rights. In the current year, Chapter 741, Statutes of 2003 (SB 1049, Budget Committee) was enacted to implement water rights fees to shift funding for SWRCB's water rights program from the General Fund to fees. The new fees are assessed annually on parties that are applying for or hold water rights that are under the jurisdiction of the SWRCB. The water rights program was reduced by a total of approximately \$3.3 million starting in 2002-03 before funding was shifted from the General Fund to fees.

Governor's Budget. The Governor's budget proposes \$8.9 million to support the board's water rights program. This is approximately the same level of funding as is estimated for expenditure to support this program in the current year. The majority of the funding for this program is proposed from fees on water rights holders, which is consistent with implementation of SB 1049. The General Fund is not proposed to support this program in the budget year.

The Subcommittee may wish to ask the department the following questions.

- What is the current status of implementing the water rights fee?
- Is any technical language required to improve the implementation of the fee program?

3960 Department of Toxic Substances Control

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

Governor's Budget. The Governor's budget proposes \$160 million to support DTSC in 2004-05. This is about the same level of funding as is estimated for expenditure in the current year.

Department of Toxic Substances Control

Governor's Budget Spending Totals

(Dollars in Thousands)

	Actual 2002-03	Estimated 2003-04	Proposed for 2004-05	
			Amount	Percent Change
Type of Expenditure:				
Site Mitigation and Brownfields Reuse	\$89,176	\$87,692	\$90,269	3%
Hazardous Waste Management	46,539	60,668	58,327	-4%
Science, Pollution Prevention and Technology	11,611	11,572	11,819	2%
Statewide Support	3,377	0	0	-
Capital Outlay	0	900	0	-100%
Administration	27,831	38,346	32,783	-15%
<i>less distributed administration</i>	<i>-27,831</i>	<i>-38,346</i>	<i>-32,783</i>	<i>-15%</i>
Total	\$150,703	\$160,832	\$160,415	0%
Funding Source:				
General Fund	\$31,299	\$20,544	\$17,150	-17%
Special Funds	87,578	113,288	115,748	2%
Bond Funds	1,291	545	0	-100%
<i>Budget Act Total</i>	<i>120,168</i>	<i>134,377</i>	<i>132,898</i>	<i>-1%</i>
Federal Funds	24,586	20,688	21,516	4%
Reimbursements	7,979	8,369	8,501	2%
<i>less funding provided by other sources</i>	<i>-2,028</i>	<i>-2,600</i>	<i>-2,500</i>	<i>-</i>
Total	\$150,705	\$160,834	\$160,415	0%

Budget Change Proposals. The following is a summary of the 2004-05 budget change proposals for DTSC.

Department of Toxic Substances Control**Budget Change Proposals, 2004-05***(Dollars in Thousands)*

Description	General Fund	Special Funds	Total	Positions
<i>Mobile Hazardous Materials Laboratory.</i> Proposes funding to operate a mobile hazardous materials laboratory in the event of a terrorist or natural disaster.	-	\$226	\$226	1.0
<i>Electronic Waste Recycling Program.</i> Proposes funding to implement Chapter 526, Statutes of 2003 (SB 20, Sher) that creates a new program and fund source for collecting and recycling hazardous electronic waste. In addition, this proposal shifts one existing position to this program and proposes \$130,000 in one-time contracting funding.	-	557	557	4.0
<i>Hazardous Materials Laboratory (HML).</i> Proposes one-time funding to conduct a study with the Department of General Services to assess the Southern California HML operations in preparation for updating or moving the facility.		200	200	0.0
<i>Fund Shift.</i> Proposes shifting funding for a portion of the administration program and industrial hygiene support from the General Fund to the Toxic Substances Control Account.	-1,398	1,398	0	0.0
Total	-\$1,398	\$2,381	\$983	5.0

1. Electronic Waste Recycling Program Implementation— Informational Item

Background. Chapter 526, Statutes of 2003 (SB 20, Sher) established the Electronic Waste (E-Waste) Recycling Act of 2003. This legislation established the E-Waste Recycling Program that provides for the collection and recycling of certain electronic devices that contain hazardous materials. A fee assessed at the point of sale of certain electronic equipment supports the program. The California Integrated Waste Management Board is implementing this program in conjunction with DTSC. Among other activities, DTSC is required to develop the list of covered electronic devices considered hazardous waste.

Governor's Budget. The table that summarizes the budget change proposals (above) summarizes the Governor's proposal to fund DTSC's activities related to implementing the E-Waste Recycling Program in the budget year.

The subcommittee may wish to ask the department the following questions.

- What is the status of the implementation of SB 20 by DTSC?

2. April Finance Letter

Summary. The following is a summary of the budget amendments requested by the administration in the 2004-05 April finance letter for DTSC.

Department of Toxic Substances Control

April Finance Letter, 2004-05

(Dollars in Thousands)

Description	General Fund	Special Funds	Total	Positions
Attorney General Billings. Proposes increasing funding to cover the increase in the rates the Attorney General charges state departments for legal work.	-	\$46	\$46	0.0
Removal and Remedial (R&R) Account. Proposes to transfer \$250,000 in expenditure authority from the R&R account to the Toxic Substances Control Account (TSCA) to reimburse DTSC's oversight costs of cleanup activities at contaminated sites. The R&R account receives settlement funds for cleanup activities at specific contaminated sites. Since DTSC does not fund any administrative costs out of the R&R account this transfer is requested to fund DTSC's oversight costs that are currently funded out of the TSCA.	-	0	0	0.0
Total	\$0	\$46	\$46	0.0

Staff Recommendation. No issues have been raised with the administration's April finance letter. *Staff recommends approving the finance letter.*

3980 Office of Environmental Health Hazard Assessment

Background. The Office of Environmental Health Hazard Assessment (OEHHA) identifies and quantifies the health risks of chemicals in the environment. It provides these assessments, along with its recommendations for pollutant standards and health and safety regulations, to the boards and departments in the California Environmental Protection Agency and to other state and local agencies. The OEHHA also provides scientific support to environmental regulatory agencies.

Governor's Budget. The Governor's budget proposes \$12.5 million to support OEHHA in 2004-05. This is a reduction of \$1.1 million (8 percent) from current year estimated expenditures. Most of this decrease reflects the elimination of a one-time General Fund appropriation of \$1 million in the current year to fund a significant portion of OEHHA's children's health program.

Office of Environmental Health Hazard Assessment

Governor's Budget Spending Totals

(Dollars in Thousands)

	Actual 2002-03	Estimated 2003-04	Proposed for 2004-05	
			Amount	Percent Change
Type of Expenditure:				
Health Risk Assessment	\$13,481	\$13,546	\$12,479	-8%
Administration	2,934	2,708	2,840	5%
<i>less distributed administration</i>	<i>-2,934</i>	<i>-2,708</i>	<i>-2,840</i>	<i>5%</i>
Total	\$13,481	\$13,546	\$12,479	-8%
Funding Source:				
General Fund	\$10,888	\$9,135	\$8,135	-11%
Special Funds	733	2,779	2,784	0%
<i>Budget Act Total</i>	<i>11,621</i>	<i>11,914</i>	<i>10,919</i>	<i>-8%</i>
Federal Funds	3	0	0	-
Reimbursements	1,857	1,633	1,560	-4%
Total	\$13,481	\$13,547	\$12,479	-8%

Budget Change Proposals. There are no 2004-05 budget change proposals for OEHHA.

1. April Finance Letter—Funding OEHHA

Background. The General Fund supports the majority of OEHHA's activities. Activities supported by the General Fund include the identification of cancer-causing chemicals for annual updates of the state list of chemicals in drinking water, health risk assessments of toxic air contaminants, and reviews of health risk assessments of pesticides.

Governor's Budget. The Governor's budget proposes \$8.1 million General Fund to support its activities, which is approximately 65 percent of its total budget.

Supplemental Report Past Due. During 2002 legislative hearings concerns were raised about the instability of OEHHA's funding base and whether OEHHA's funding level was adequate to meet its statutory mandates. As a result, supplemental report language was adopted to direct OEHHA to report on its long-term baseline funding requirements to meet its statutory mandates and specific recommendations regarding the appropriate mix of General Fund and special fund sources. This report was due January 10, 2004, but has not yet been received.

LAO Recommendation. The Analyst has found that OEHHA's program has suffered significant General Fund reductions that the Analyst indicates is a result of OEHHA's reliance on the General Fund to support its programs. The Analyst suggests that this has increased the instability of OEHHA's funding base. In order to increase the stability of OEHHA's funding base, the Analyst suggests that there are potential alternative funding sources to the General Fund for many of OEHHA's activities. The Analyst finds that these shifts are appropriate given that OEHHA's activities directly support various regulatory programs supported by fee-based special funds. Based on this criteria, the Analyst has suggested the following fund sources to support OEHHA's activities:

- **Safe Drinking Water Account**—The fund that supports Department of Health Services' safe drinking water program.
- **Department of Pesticide Regulation Fund**—This is the depository of the mill assessment that supports the majority of Department of Pesticide Regulation's activities.
- **Air Pollution Control Fund**—The fund supports the Air Resources Board stationary source program.
- **Motor Vehicle Account**—The fund is derived from vehicle registrations and drivers license fees.

April Finance Letter. In an April finance letter, the Governor has proposed a \$1.4 million augmentation to OEHHA's budget, which would result in OEHHA's budget increasing in the budget year to a level slightly higher than the current year. This proposal would reduce the General Fund support for the program by \$719,000 and increase support from the Motor Vehicle Account by \$2.1 million to fund activities related to the health impacts of motor vehicle-related pollutant, including the children's health program.

This proposal is consistent with the Analyst's recommendation. However, the Analyst suggests that there may be additional opportunities to shift General Fund support to other funding sources. The administration has indicated that fee increases would be needed to shift additional funding to support OEHHA's activities from the funds suggested by the Analyst.

The following is a summary of the budget amendments requested by the administration in the 2004-05 April finance letter for OEHHA.

Office of Environmental Health Hazard Assessment

April Finance Letter, 2004-05

(Dollars in Thousands)

Description	General Fund	Special Funds	Total	Positions
<i>Health Impacts of Motor Vehicle-Related Pollutants.</i> Proposes to shift funding from the General Fund to the Motor Vehicle Account (MVA) for activities related to evaluating the health impacts of motor vehicle-related pollutants. Also proposes to augment funding to backfill the one-time \$1 million General Fund augmentation provided in the current year to support the children's health program.	-\$719	\$2,123	\$1,404	0.0
Total	-\$719	\$2,123	\$1,404	0.0

The subcommittee may wish to ask the administration the following questions.

- Why has the administration not proposed to support OEHHA's activities using the other funds suggested by the LAO?
- Please provide an update on the supplemental report that is past due. What is the baseline funding level required to meet statutory mandates? What mix of General Fund and special funds should support OEHHA's activities?

Staff Recommendation. Staff recommends approving the April finance letter, which does provide OEHHA with program support at a level similar to estimated expenditures in the current year.

SUBCOMMITTEE NO. 2

Agenda

Byron Sher, Chair
Sheila Kuehl
Bruce McPherson



Thursday, April 15, 2004
Upon Adjournment of Session
Room 112

Outcomes

0555 Secretary for Environmental Protection

1. April Finance Letter

- *Action.* Approved finance letter.
- *Vote.* 3-0

2. Funding Programs that Protect Public Health—
Informational Item

- *Action.* No action taken.

Resources—Environmental Protection—Public Safety—Energy

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.

3900 Air Resources Board

1. April Finance Letter

- *Action.* Approved finance letter.
- *Vote.* 2-0 (McPherson)

3910 Integrated Waste Management Board

1. Electronic Waste Recycling Program Implementation

- *Action.* No action taken.

2. April Finance Letter

- *Action.* Approved finance letter.
- *Vote.* 2-0 (McPherson)

3. Study on Health Impacts of Tire Incineration—Informational Item

- *Action.* No action taken.

930 Department of Pesticide Regulation

1. April Finance Letter

- *Action.* Approved finance letter.
- *Vote.* 2-0 (McPherson)

3940 State Water Resources Control Board

Budget Change Proposals

- *Action.* Held open budget change proposal to shift positions from the North Coast to the Sierra for timber harvest plan reviews.
- *Vote.* 2-0 (McPherson)

- *Action.* Directed the department to provide the subcommittee with information on the status of regulations currently at DOF to require e-reporting for underground storage tank owners.

1. April Finance Letter—Excluding Bond Funds

- *Action.* Approved finance letter.
- *Vote.* 2-0 (McPherson)

2. Proposed General Fund Reductions—Informational Item

- *Action.* No action taken.

3. Adequacy of Board's Review of New Water Right Diversions—Informational Issue

- *Action.* Directed the department to provide the subcommittee with information regarding whether the board would be able to adopt as guiding principles the 2002 Joint Guidelines adopted by the Department of Fish and Game and the National Oceanic and Atmospheric Administration. The subcommittee would also like additional information on the board's water right penalty revenues, including information on where they are deposited, the level of revenues received annually, and an explanation of what activities the penalty revenues support. Finally, the subcommittee would like further information on the board's ability to provide a simple and easy to read matrix of water rights activity at the board. At a minimum the subcommittee is interested in a matrix that includes information on pending applications, status of each application, actions taken each year, and that the information be available on the board's website. The subcommittee requested this information be submitted in written form.

4. Water Rights Fee Implementation—Informational Issue

- *Action.* No action taken.

3960 Department of Toxic Substances Control

1. Electronic Waste Recycling Program Implementation— Informational Item

- *Action.* No action taken.

2. April Finance Letter

- *Action.* Approved finance letter.
- *Vote.* 2-0 (McPherson)

3480 Office of Environmental Health Hazard Assessment

1. April Finance Letter—Funding OEHHA

- *Action.* Approved finance letter.
- *Vote.* 2-0 (McPherson)

Senate Budget and Fiscal Review—Wesley Chesbro, Chair

SUBCOMMITTEE NO. 2

Agenda

Byron Sher, Chair
Sheila Kuehl
Bruce McPherson



Wednesday, April 21, 2004
1:30
Room 2040

<u>Item</u>	<u>Department</u>	<u>Page</u>
0552	Office of the Inspector General	1
0550	Youth and Adult Correctional Agency	4
5440	Board of Prison Terms	6
5240	Department of Corrections.....	11

Resources--Environmental Protection—Public Safety—Energy

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0552 Office of the Inspector General

The Office of the Inspector General (OIG) has the responsibility for oversight of the state's correctional system through audits and investigations of the boards and departments within the Youth and Adult Correctional Agency. Chapter 969, Statutes of 1998 changed and expanded the role of the Inspector General and re-established the OIG as an independent entity reporting directly to the Governor. In addition, Chapter 338, Statutes of 1998 requires the OIG to review Level 1 and Level 2 Internal Affairs investigations of the boards and departments within the Youth and Adult Correctional Agency.

OIG – Summary of Program Expenditures					
(dollars in thousands)					
Program	2002-03	2003-04	2004-05	Change	Percent Change
Office of the Inspector General	\$ 8,940	\$ 4,724	\$ 0	-\$ -4,724	n/a
Authorized Positions	83.4	42.9	0	-42.9	n/a

Budget Request. The budget proposed elimination of the OIG effective July 1, 2004, with select oversight functions to be assumed by the Secretary for the Youth and the Adult Correctional Agency (YACA). For 2003-04, the budget for OIG was reduced by \$6.7 million.

Current Year Deficiencies. Due to difficulties in reducing personnel and operating expenses in such a short time frame, the OIG requested deficiency funding of \$1.6 million for the current year. In addition, as part of the plan for OIG to continue operations in 2004-05, the DOF submitted a deficiency request for \$334,000.

Adjustments from Previous Years. For the last several years the total budget for the OIG has decreased from nearly \$10.9 million and 97 positions in 2001-02 to the Finance Letter proposal of \$3.3 million and 28 positions for 2004-05. The major cuts include:

- Expiration of 10 limited term positions on June 30, 2002 -- \$704,000.
- Unallocated state operation reduction (Section 3.90) -- \$292,000.
- Reduction of 2.5 positions and closure of Southern California field offices -- \$366,000.
- A reduction of 9.4 positions -- \$1,000,000.
- A reduction of 19 positions and \$1.8 million as part of the proposed budget for 2003-04.
- An unallocated \$5 million reduction in the 2003-04 budget.

Workload. The OIG reports the following workload.

- Complaints received increased from 1,572 in 2000 to 4,515 and 5,652 cases in 2001 and 2002, respectively. There was a small decrease in complaints received – 5,565 in 2003.
- Investigation opened declined from 299 in 2000 to 181 in 2001. The number increased to 508 cases in 2002. 341 of the cases opened in 2002 were assigned to a newly instituted rapid response team, to address complaints involving urgent health and safety issues.

Investigations opened in 2003 declined to 226. Of the 226 investigations opened, 147 were rapid response.

- Investigations closed increased slightly from 291 cases in 2000 to 306 cases in 2001. The number increased to 456 cases in 2002, which includes 290 rapid response cases. In 2003 the number of closed investigations decreased to 322, which includes 199 rapid response cases.
- Five management review audit reports were issued in 2001 and three in 2002. Three management review audits were issued in 2003.
- Six special review reports were issued in 2001 and ten in 2002. Eight special reviews were issued 2003.

Note for 2003 workload.

In August 2003, the OIG’s budget was reduced from 93 positions to 24. In addition, the Governor’s proposed 2004-05 budget eliminated the OIG. As a result, during the last five months of 2003 few projects were initiated, and the focus of the activity was on the closing of the OIG.

1. Finance Letter Request.

The Administration has submitted a Finance Letter requesting a decrease of \$630,000 and six positions at the YACA to reflect the reduction of the proposed funding at YACA to carry out the oversight functions required of the OIG. The Finance Letter also requests an increase of \$3.3 million and 28 positions at the OIG to continue operations in 2004-05.

Positions at OIG			
Current Positions		Proposed Positions for 2004-05	
Positions	Classification	Positions	Classification
1	Inspector General	1	Inspector General
1	Chief Deputy Insp General	1	Chief Deputy Insp General
1	Dep Insp General, In-Charge	1	Dep Insp General, In-Charge
2	Sr Deputy Inspector General	2	Sr Deputy Inspector General
15	Deputy Inspector General	13	Deputy Inspector General
1	SSM II Supervisory	1	SSM II Supervisory
1	Staff Info Systems Analyst	1	Staff Info Systems Analyst
1	Associate Personnel Analyst	1	Associate Personnel Analyst
1	Office Technician	2	Office Technician
1	<i>Office Services Sup II</i>	1	<i>Associate Govt Program Analyst</i>
		1	<i>Executive Assistant</i>
		1	<i>CEA III</i>
		1	<i>Staff Counsel</i>
25	Total	28	Total

What is the appropriate amount of funding for the OIG? The LAO believes that the size of the OIG should be based on the size of the correctional system, the level of oversight responsibility the Legislature requires of the OIG, and the role of OIG in relation to other investigation efforts such as CDC's Office of Investigative Services. The LAO indicates that initially, a restoration of

the current-year funding level of \$2.8 million (and 24 positions) would seem reasonable. In subsequent years, funding could be based on a plan required to be submitted to the Legislature by the incoming Inspector General as part of the 2005-06 budget.

Staff Comments. The Administration has indicated that it is currently considering additional changes for the OIG in the budget year. Any additional changes would be released at the time of the May Revision.

Given the reduction in the size of the OIG from previous levels, the Subcommittee may wish to ask the OIG the following questions.

- How will the OIG prioritize its functions to ensure that the mission of the office is achieved, even with fewer resources?
- Does the Inspector General envision any organizational or structural changes to the Office?
- What is the optimal size of the OIG?

Staff Recommendation. At this time, staff recommends approval of the Finance Letter. The Administration is considering additional changes for the OIG budget that will be released at the time of the May Revision.

Action.

2. Options for Strengthening the OIG's Oversight Role.

In its *Analysis*, the LAO notes that although the Office of the Inspector General has made several significant findings and recommendations over the years, few of these have been acted upon by the Youth and Adult Correctional Agency. The Inspector General's role has been mainly to conduct audits and investigations within the correctional system and report its findings. However, the LAO notes that there is no mechanism in state law for routinely holding the correctional system accountable for addressing OIG's findings, and thus little incentive for departments to implement OIG's findings and recommendations. To address this concern, the LAO recommends that the Legislature consider the following options.

Greater Public Access to Investigations.
Require Annual or Biannual Reports to the Legislature.
Appointing Inspector General for a fixed term in office.

Staff Comments: SB 1342 (Speier and Romero), SB 1352 (Romero and Speier), and SB 1768 (Romero) are scheduled to be heard in Senate Public Safety on April 20. These bills would provide for changes in the duties, responsibilities and authority of the OIG. The subcommittee may wish to ask OIG whether it anticipates proposing any statutory changes to the Office at the May Revision.

Informational Item. No Action Necessary.

0550 Secretary for Youth & Adult Correctional Agency

The Youth and Adult Correctional Agency (YACA) includes the Department of Corrections, Department of the Youth Authority, the Board of Prison Terms, the Youthful Offender Parole Board, Board of Corrections, Prison Industry Authority, the Narcotic Addict Evaluation Authority, and the Commission on Correctional Peace Officers' Standards and Training. The Agency provides communication, coordination, and budget and policy direction for the departments and boards.

January Budget Request. The total proposed budget for the Youth and Adult Correctional Agency is \$1.7 million, which is an increase of \$630,000, or 54.2 percent, from estimated current year expenditures. Of this amount, General Fund support increases by \$630,000 to a total of \$1.5 million. The remainder of the funding is from reimbursements.

YACA – Summary of Program Expenditures					
Program	(dollars in thousands)			Change	Percent Change
	2002-03	2003-04	2004-05		
Secretary for Youth and Adult Correctional Agency	\$1,147	\$1,163	\$1,793	\$630	54.2%
Authorized Positions	10.0	8.9	14.9	6	67.4%

Control Section 4.10 Reduction. Pursuant to Control Section 4.10, YACA was reduced by \$99,000 and 1.3 positions.

1. Finance Letter Adjustment.

Finance Letter Request. The DOF has submitted a Finance Letter requesting a decrease of \$630,000 and 6 positions from YACA. These positions had originally been proposed to carryout the oversight functions of the OIG. This Finance Letter would eliminate these funds and provide \$3.3 million for the OIG. If adopted the Finance Letter would provide YACA with the same funding as in the current year.

Staff Recommendation. Staff recommends approval of the Finance Letter.
Action.

2. Oversight of Departments within YACA.

The YACA's responsibility as parent agency is to provide budget and policy direction among the departments within the Agency, as well as to ensure coordination of resources and program.

In the last several years, a number of the departments within YACA have faced a number of high profile issues in the areas of lawsuits, deficiencies, effectiveness of treatment programs, and efficiency of operations.

- What is YACA doing to make the agencies it oversees more effective and more efficient?

3. \$400 Million Unallocated Reduction

Budget Request. The Governor's *Budget Summary* from January indicated that the Secretary of YACA was developing a proposal with the goal of achieving a savings of \$400 million for the budget year. At the joint hearing on February 11 between Budget Subcommittee #2 and the Select Committee on the California Correctional System, members of both committees requested that details of the plan be made available in time to discuss them at the April Subcommittee hearing regarding the CDC. No new information has been released regarding the plan and the administration indicates that the plan will not be released prior to the May Revise.

- Does YACA have any information on plans for reduction beyond the general information released at the time of the budget?
- Will any part of the plan require implementation which could reduce the amount of savings in the budget year?
- Does YACA still have the full \$400 million as a target in the budget year?

Informational

4. CDC Reports

Monthly Updates on Budget Reforms. The Budget Act of 2003 contains language requiring the CDC to provide monthly updates regarding the status and implementation of the reforms that were adopted. To date, the CDC has only submitted the reports for September and October to the Legislature.

The Legislature approved this language in order to have some oversight over the implementation of the reforms and to keep up-to-date on the fiscal implications. The budget from last year assumed savings of \$191 million in the current year. With updates at the time of the release of the budget in January, those savings for the current year were reduced to \$85.3 million. New information provided to the Subcommittee have reduced the savings to \$15.1 million.

- What is the status of these reports? Why were the reports concerning implementation of the reforms never released to the Legislature?

Institution-by-Institution Reporting. Last year, in order to get more information on institution budgets and as a way to try to build some additional accountability into the process, the Legislature adopted the following budget bill language requiring CDC to report the operating budget of each institution, including the number of authorized and vacant positions. The report was due January 12, 2004 and has still not yet been received.

- What is the status of the report? What caused the delay in the release of the report?

Staff Recommendation. Staff recommends holding the budget for YACA open, pending receipt and review of the outstanding CDC reports, and pending receipt of the proposal for allocating the \$400 million reduction.

Action.

5440 Board of Prison Terms

The Community Release Board was established in 1977 and renamed the Board of Prison Terms (BPT) in 1980. The board considers parole release and establishes the length and conditions of parole for all persons sentenced to prison under the Indeterminate Sentence Law, persons sentenced to prison for specified terms of less than life, and for persons serving a sentence for life with possibility of parole. The board is also responsible for parole revocation hearings and for reviewing applications for clemency. The board has nine commissioners appointed by the Governor and confirmed by the Senate.

Budget Overview. The budget proposes \$28.8 million from the General Fund for the Board of Prison Terms. The proposal represents a decrease of \$2.2 million, or 7.2 percent below current-year expenditures. Total authorized positions are proposed to be 221, which is a decrease of 10 positions from the current year.

Board of Prison Terms -- Program Expenditures					
Program	<i>Expenditures (dollars in thousands)</i>				<i>Percent Change</i>
	2002-03	2003-04	2004-05	Change	
Board of Prison Terms	\$29,771	\$24,967	\$25,205	\$238	1.0%
Total Authorized Positions	205.1	174.4	174.4	0	0.0%

Control Section 4.10 Reduction. The BPT was reduced by \$1.3 million General Fund and 21.5 positions pursuant to Control Section 4.10.

Issues

1. Valdivia v. Schwarzenegger.

Current Revocation Process. The current parole revocation process begins when a parole agent or local law enforcement agency detains a parolee for a suspected violation of the law or conditions of parole. If the parole agent and his or her supervisor feel that parole should be revoked, the parolee is taken into custody and the case is referred to the Board of Prison Terms (BPT) for review. After an initial administrative review of the case, the BPT presents the parolee with a "screening offer" which is a proposal for a specific term of incarceration in exchange for the immediate conclusion of the case. If the parolee accepts the screening offer, he begins the sentence immediately. If the parolee rejects the offer, he must continue to wait in jail or at the state reception center where he is being confined until a revocation hearing can be held.

At the revocation hearing, a BPT deputy commissioner reviews the parolee's case and hears testimony from the parole agent, parolee, and witnesses. Based on the information provided at the hearing, the deputy commissioner decides whether there is sufficient evidence to revoke the parolee and, if so, what sentence would be most appropriate.

According to the LAO, parole agents referred approximately 90,000 revocation cases to BPT last year, and BPT held about 40,000 revocation hearings. The LAO indicates that BPT spent over \$14 million to administer the revocation process last year. This total does not include the costs to the CDC for parole agents' role in revocation or the costs to incarcerate revoked parolees.

Class Action Lawsuit. In 1994, a class action lawsuit was brought against the state, on behalf of parolees, alleging that the parole revocation process violates their rights to due process under the Fourteenth Amendment of the United States Constitution. Specifically, the plaintiffs argued that parolees had no opportunity to challenge the contents of the case against them, present their own evidence, or question witnesses prior to the revocation hearing. Plaintiffs also claimed that the length of time it takes to conduct the revocation process—over a month and sometimes longer than three months—was excessive. In June 2002, a federal district court ruled in favor of the plaintiffs and ordered the state to work with plaintiff's counsel to develop a remedial plan to rectify the identified problems.

Remedial Plan. In December 2003, the parties in the case jointly submitted to the court their plan which includes several significant reforms to the revocation system. These reforms are designed to ensure a timely and fair revocation process for parolees. The most significant of the reforms are as follows.

Establishes Probable Cause Hearing. The plan creates a probable cause hearing to take place prior to the revocation hearing. The probable cause hearing must take place within ten business days of when CDC notifies the parolee that he is being charged with a violation. At the probable cause hearing parolees will be allowed to present evidence on their own behalf, and they will have an opportunity to accept or reject BPT's screening offer.

Requires Revocation Hearing Within 35 Calendar Days. The plan also requires that every revocation hearing be held within 35 days of the parolee's arrest rather than the three months or longer it can take currently.

Requires Attorneys for All Parole Violators. The plan requires that CDC provide attorneys to all parolees who are charged with a violation. These attorneys will prepare the parolee's case for both the probable cause hearing and the revocation hearing. Under current practice, only parolees with disabilities, such as a learning disability that would impair their ability to understand the proceedings, are provided an attorney for their revocation hearing.

Permits Greater Use of Intermediate Sanctions. The implementation plan also allows deputy commissioners of BPT to assign nonviolent and non-serious parole violators to intermediate sanctions, such as electronic monitoring, in lieu of prison time. This provision builds on the reforms instituted by CDC in the current year that allow parole agents to utilize intermediate sanctions, thereby reducing the number of nonviolent parole violators returned to prison. The agreement assumes that the use of intermediate sanctions by parole agents and BPT will reduce the total caseload of parolees in the revocation process, thereby allowing BPT to conduct the remaining hearings within the shortened time limits established in the agreement.

Establishes Implementation Deadlines. The remedial plan requires BPT and CDC to begin the implementation of all provisions except the probable cause hearing by July 2004. All provisions of the remedial plan must be fully implemented by July 2005.

Analyst's Recommendation. The LAO noted at the time of its analysis that the CDC and BPT were unable to identify the fiscal impact of the *Valdivia* settlement, and that no expenditures were proposed in the Governor's budget for the implementation of the remedial plan. Administration officials state that an implementation proposal will be part of the May Revision. However, the LAO raised concerns that submission of the proposal at that time would provide limited opportunity for review by the Legislature. For that reason, the LAO recommends that BPT and CDC report to the Legislature at budget hearings on the fiscal impact of the *Valdivia* remedial plan. In particular, the LAO recommends that the departments provide their estimates of the number of probable cause and revocation hearings that will occur, the staffing required to implement the plan, the amount of any offsetting savings, the projected impact on local governments, and any other expected costs.

Staff Comments. The implementation of the *Valdivia* remedial plan will have a significant operational and fiscal impacts on both CDC and BPT. For BPT, the Administration indicates that the budget will change substantially with the implementation of *Valdivia*.

- What are the estimated fiscal impacts on BPT of *Valdivia* remedial plan?
- Does BPT have any estimates for offsetting savings from the remedial plan due to reduced revocations?

Staff Comments. No formal proposal is before the Subcommittee at this time.

2. Hearings for Life-Term Inmates.

Background. Certain offenders in California prisons, particularly those punished for murder, are serving so-called indeterminate sentences in which the period of time to be served in prison before release to parole is not fixed in advance by the court. These indeterminately sentenced offenders are often called "lifers" even though most are eventually legally eligible for release. The BPT is the state agency primarily responsible under state law for deciding when those lifers who have served the minimum required prison time, and thus are now eligible for parole, will actually be released to the community.

In March 2001, the OIG issued a report that made note of the growing backlog of life-term cases. At hearings last year, BPT reported that the backlog was approximately 2,000 cases. Because of the backlog, most of the hearings were delinquent by more than six months.

The Legislature subsequently approved SB 778 as a temporary measure to assist the BPT in reducing the growing backlog of cases. The legislation allowed BPT to hold two-person panel hearings.

In a follow-up report on OIG's 2000 audit of BPT, OIG indicated that except for the implementation of SB 778, BPT's efforts to improve efficiency and increase hearing capacity had been minimal. Due to the fact that the two-person boards were a temporary measure, the OIG report had noted concerns that once they expire, the backlog may begin to grow again.

In budget hearings last year, the BPT indicated that as of April 2003, the backlog was 523 cases. BPT reports that the backlog of cases as of April 2004 has increased to 1,646.

Staff Recommendation. The Subcommittee may wish to ask BPT for the status of the backlog for lifer hearings.

- What are the reasons for the increase in the backlog from last year, and how will BPT reduce the backlog?
- What operational changes will BPT make to ensure that once the backlog is reduced, it will not return?

Informational issue.

3. Backlog of Appeals from Inmates and Parolees.

In the OIG's follow-up audit on the BPT from two years ago, the OIG reported that the BPT's processes are not adequate to handle appeals in a timely manner. As a result there was a backlog of over 2,200 appeals from inmates and parolees.

New Guidelines Implemented Last Year. Previously, the BPT had no time limits to respond to appeals, although inmates and parolees must submit an appeal within 90 days of receiving written confirmation of a board decision. The BPT reports that last year it changed its guidelines for hearing appeals. For revocations, the guidelines are 90 days, and for lifer appeals the guidelines are 120 days. The number of appeals not completed within these time limits are 205 for lifer appeals and 311 for revocations.

Proposed New Regulatory Changes. The BPT indicates that it is planning regulatory changes that would eliminate the formal appeals function. BPT would maintain an improved quality control unit and allow formal appeals to go directly through the court process. The BPT indicates that staffing for this function will be adjusted as part of the Valdivia May Revise proposal.

Staff Recommendation. The Subcommittee may wish to ask the BPT to describe the regulatory changes for the appeals and to explain the rationale for the changes.

Informational issue.

4. Monitoring Compliance with Armstrong.

Background. In Armstrong, the United States District Court found that the BPT is in violation of Title II of the 1992 Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act of 1973, and the due process clause of the 14th Amendment to the Constitution. The Armstrong court decreed that equal access for disabled prisoners and parolees was not being provided in the hearing process, and issued a permanent injunction requiring that the BPT comply with specified remedies.

The permanent injunction requires that the BPT accommodate the disabled. It was the impetus for expanded staffing and creation of the BPT's ADA Compliance Unit. Plaintiffs' attorneys through their monitoring visits and legal review of other BPT functions scrutinize compliance with all of the injunction's requirements, e.g. a special database identifying disabled prisoners and parolees. The quarterly Armstrong court orders requiring that the BPT pay Plaintiffs' attorney fees relate to these ADA compliance functions. These fees have generally varied in the range between \$300-500, 000 per year.

Budget Request. The budget proposes an augmentation of \$238,000 to pay for attorney fees for monitoring compliance with Armstrong.

Staff Comments. BPT indicates that it expended \$391,000 for this purpose in 2002-03 and \$376,000 in the current year from its general Operating Equipment & Expenses (OE&E) budget. BPT indicates that because of recent reductions they can no longer fund this activity from existing resources.

Staff Recommendation. Staff recommends approval of the request for \$238,000.

Action.

5. Use of Deputy Commissioners.

In 2002, the Inspector General reported that deputy commissioners were not sufficiently supervised and that the BPT could make use of significantly fewer deputy commissioners.

- What measures have been adopted to improve utilization and supervision of deputy commissioners?

Informational Item. No Action Required.

5240 DEPARTMENT OF CORRECTIONS

Budget Proposal. The budget proposes \$5.3 billion for the CDC, which is a decrease of \$446.6 million, or 7.8 percent, from the revised current-year budget. General Fund expenditures are proposed to increase by \$413.4 million, or 8.7 percent above current-year expenditures and federal fund expenditures are proposed to decrease by \$852.3 million. In the current year, the Administration reduced General Fund by \$852 million and increased federal funds by the same amount to reflect one-time expenditure of federal funds provided to California from the federal Jobs and Growth Tax Relief Reconciliation Act of 2003.

CDC – Source of Funding							
Fund	<i>Expenditures (dollars in thousands)</i>					Change	Percent Change
	2000-01	2001-02	2002-03	2003-04	2004-05		
General Fund	\$4,525,648	\$4,934,700	\$5,183,248	\$4,742,236	\$5,155,646	\$413,410	8.7%
Federal Trust Fund	2,565	1,652	2,057	854,748	2,476	-852,272	-99.7%
Inmate Welfare Fund	45,157	45,645	46,816	53,619	51,474	-2,145	-4.0%
Special Deposit Fund	626	1,516	1,163	1,010	1,010	0	0%
Reimbursements	91,239	103,122	101,723	78,575	72,788	-5,787	-7.4%
Totals, Programs	\$4,665,235	\$5,086,635	\$5,335,007	\$5,730,188	\$5,283,394	-\$446,794	-7.8%

Authorized Positions. As shown at the bottom of the next table, authorized positions for the department are proposed to increase by 1,862, or 4 percent, above the current year numbers to 48,655. Of this increase, 1,239 positions are related to a proposed increase in the budgeted relief factor for correctional officers, sergeants, and lieutenants.

CDC – Summary of Program Expenditures						
Program	<i>Expenditures (dollars in thousands)</i>				Change	Percent Change
	2002-03	2003-04	2004-05			
Institution Program	\$3,978,641	\$4,153,235	\$4,078,694		-\$74,541	-1.8%
Health Care Services Program	878,941	974,493	990,396		15,903	1.6%
Community Correctional Program	477,424	602,459	614,303		11,844	2.0%
Administration	136,208	139,099	136,050		-3,049	-2.2%
Distributed Administration	-136,208	-139,099	-136,050		3,049	-2.2%
State Mandated Local Program	1	1	1		0	0.0%
Unallocated Reduction					-400,000	
Total	\$5,335,007	\$5,730,188	\$5,283,394		-\$446,794	-7.8%
Total Authorized Positions	44,453.5	46,793.2	48,655.3		1,862.1	4.0%

The average cost per inmate has been steadily increasing for the last several years.

Average Cost per Inmate at CDC					
1999-00	2000-01	2001-02	2002-03	2003-04*	2004-05*
\$22,737	\$25,307	\$27,705	\$28,654	\$30,929	\$33,152

* Projected

Major Budget Adjustments for 2004-05 (dollars in thousands)			
	Issue	Positions	Dollars
1	Adjustment to the budgeted relief factor for Correctional Officers, Sergeants, and Lieutenants	1,238.8	\$99,513
2	Transfer of local assistance court costs to the Trial Court Funding budget item		-\$2,556
3	Patton State Hospital medical guarding and transportation.	10.6	\$723
4	Augmentation related to the Health Information Portability and Accountability Act of 1996 (one year limited-term).	6.0	\$408
5	Conversion of 20 Clinical Psychologist positions to Psychology Associate positions.		-\$456
6	Spending Authority increase for the Inmate Welfare Fund (special fund).		\$2,500
7	“Pending unallocated reduction” proposal that the Secretary of the Youth and Adult Correctional Agency (YACA) is developing. As part of the May Revision the actual savings amount will be allocated to the affected departments within YACA.		-\$400,000
8	Creation of a Closure Commission that will proactively evaluate and recommend future facility closures for CDC and the Youth Authority.		
9	Budget year savings pursuant to personnel adjustments required in Control Section 4.10 of the 2003 Budget Act.	-765.3	-\$42,900

In addition to these increases, the budget includes an additional \$14.3 million for improvements to the delivery of medical services at CDC institutions. This funding is related to full-year funding for improvements implemented in the current year and to implement improvements in an additional five institutions pursuant to the Plata lawsuit settlement.

The budget includes a baseline adjustment increase of \$5.4 million for the activation of 500 substance abuse treatment slots.

*Issues***1. Population Projections.**

Historical Population Trends. Over the last 15 years, the CDC population has nearly doubled from 82,872 on June 30 1989 to 160,931 on June 30, 2003. More recently, the institution population has been relatively flat. In the last five years, the institution population has decreased slightly from 162,064 on June 1999, to 160,931 on June 30 2003.

Historical Institution and Parole Populations (as of June 30th of each year)		
Year	Institution Population	Parole Population
1989	82,872	53,779
1990	93,810	63,697
1991	101,995	74,997
1992	104,352	85,835
1993	115,534	83,887
1994	124,813	85,197
1995	131,342	91,456
1996	141,017	98,013
1997	152,506	100,828
1998	158,207	108,750
1999	162,064	112,494
2000	162,000	119,298
2001	161,497	119,636
2002	157,979	120,336
2003	160,931	116,173

Spring 2004 Institution and Parole Population Estimates (as of June 30th of each year)		
Year	Institution Population	Parole Population
2004	160,122	115,475
2005	157,218	117,069
2006	156,952	113,111
2007	156,889	109,854
2008	156,884	109,070
2009	157,623	107,087

Population is Projected to Decrease Slightly from Current Levels in Spring 2004 Estimates. On June 30, 2003 the actual population in CDC was 160,931. The Spring 2004 population projections estimate that the June 30, 2004 inmate population decrease slightly to 160,122. The Spring 2004 projections estimate that the population will decrease by 2,904 to 157,218 by the end of the budget year. For the next five years, the population projections are estimated to be relatively flat with the institution population currently projected to be 157,623 by June 30, 2009.

Spring 2004 Population Projections Significantly Higher Than Population Assumptions Contained in the Budget. The Table on the top of the next page highlights the increase in the average daily population (ADP) estimated in the Spring projections compared to the levels assumed in the budget. *In order to fund the difference in the population assumptions, the budget for CDC would have to be augmented by approximately \$87.8 million in the current year and \$149.3 million in the budget year.* Staff notes that these figures do not take into account any additional potential reform proposals that would affect population. More information will be available at the time of the May Revise.

CDC Average Daily Population (ADP) in Budget Versus Spring 2004 Projections.			
Fiscal Year	ADP in January Budget Proposal	Spring 2004 ADP Projections	Difference
2003-04	156,636	161,876	5,240
2004-05	148,390	157,259	8,869

Factors Affecting New Population Projections. The CDC indicates that increases in new admissions have been primarily responsible for the upward trend in population. Staff notes that delays in the implementation of the reforms also may have eroded some savings assumed in the budget.

Increased Felon Admissions. Felon admissions for 2002-03 were up 8.3 percent from 2001-02. This compares to declines of approximately 4.9 percent in each of the previous two years. For July-December 2003, total felon admissions were 20,030, an increase of 14.5 percent when compared to the same period one year ago.

Decreased Parole Violators. There were 30,913 parole violators returned to custody from July through December 2003, a decrease of 5,765, or 15.7 percent, when compared to the same time period a year ago.

Without Reforms from Last Year, Population Would Be Increasing Significantly. As can be seen in the Table below, CDC estimates that without the reforms from last year the institution population would increase to 170,523 by June 30, 2006 (Spring 2004 w/o Budget Reductions). In the new projections, the program impact is estimated to reduce population by 11,046 in the budget year. However because of the increase in new admissions, the net impact of new admissions and program reductions for the budget year is a decrease of 6,402 inmates by June 30, 2005.

	Institution Population Reconciliation		
		As of June 30	
	2004	2005	2006
Fall 2003 Projection	163,536	163,620	163,347
Spring 2004 w/o Budget Reductions	165,755	168,264	170,523
Trend Impact*	2,219	4,644	7,176
Program Impact**	-5,633	-11,046	-13,571
Net Impact	-3,414	-6,402	-6,395
Spring 2004 Projection	160,122	157,218	156,952

* Includes new admissions and parole violator return rates

** Includes budget program reductions

- What is causing the trend of new admissions?
- Is the recent trend just a short term increase?

Staff Recommendation. Staff notes that the administration will make changes to the population projections in the budget proposal with the release of the May Revise. Staff recommends holding this issue open at this time.

Action.

2. Sentencing and Corrections Policies, What Are Other States Doing?

In a publication from March 2004 entitled *Changing Fortunes or Changing Attitudes? Sentencing and Corrections Reforms in 2003*, the Vera Institute of Justice surveyed the most recent changes to sentencing and corrections policies of states to identify the range of reforms being implemented. The publication also considers whether there is more to these changes than just fiscal cost-cutting measures. John Wool, co-author of the report will present some of the findings of the survey and the conclusions of the report.

3. Update on CDC Reforms Adopted Last Year.

Last year the Legislature approved a number of reforms in the CDC budget. These reforms are highlighted below.

Restructuring Educational and Vocational Training Programs. Many inmates are eligible to receive day-for-day credits but are unable to participate because there are not enough programs available to meet the need. Funding was provided to avoid elimination of existing education program staff and to establish education programs in reception centers.

Drug Treatment Furlough. Under the proposal certain inmates would receive drug treatment in secure, supervised, community residential program for the final 120 days of their sentence.

Expansion of the Mentally Ill Parolees Program. This program provides pre-release planning and enhance community treatment services for mentally ill parolees.

Pre-Release Planning and Re-Entry Programs. CDC revokes approximately 74,000 parolees annually. A 5% reduction in this recidivism rate would result in savings of \$28.7 million. To achieve this reduction, CDC was directed to develop an integrated parole program that would (1) prepare inmates for community re-integration through pre-release planning; (2) develop a new risk assessment tool to ensure that parole supervision is targeted in a consistent and effective manner; and (3) expand the existing PACT program so that parolees have access to available community services upon release.

Substance Abuse Treatment & Control Units (SATCU) & Community Detention.

Approximately, 32,000 low level parolees (no underlying violent or serious commitment offense and no violent or serious priors) become parole violators annually and spend an average of 153 days in custody – 72 days in jail pending revocation and another 81 days in prison – most likely a reception center. The custody cost for these low level parole violators is \$254 million.

Further, no programs are available to help reduce the high recidivism risk – particularly related to substance abuse – for these parole violators. Under this proposal, Parole would implement policies that would employ appropriate sanctions for parole violations based on the offense and underlying public safety risk of the parolees. In addition, existing programs would be expanded to provide Parole with placement alternatives:

The Legislature Has Not Received Monthly Reports on Implementation. The Budget Act of 2003 contains language requiring the CDC to provide monthly updates regarding the status and implementation of the reforms that were adopted. To date, the CDC has only submitted the reports for September and October to the Legislature.

Updated Information From CDC Estimates Reduced Savings From Reforms. The budget for CDC was originally reduced by a total of \$191 million due to the expected savings from these legislative reforms. Due to delays in implementation, revised cost estimates, and overlapping savings, at the time of the January budget, CDC estimated that the current year savings would be \$85.3 million. In the recently released data, CDC now estimates savings in the current year will only be \$15.1 million. Savings in the budget year from these proposals was estimated at \$223.3 million with a reduction of 14,748 to the institutions ADP. As can be seen in the Table below, new estimates from CDC reduce the budget year savings to \$106.8 million with a reduction of an estimated 9,381 ADP.

Update on Fiscal Impact of Reforms (Dollars in Millions)								
	2003-04				2004-05			
	January Budget Savings		Updated Savings		January Budget Savings		Updated Savings	
	ADP	Dollars	ADP	Dollars	ADP	Dollars	ADP	Dollars
Educational and Vocational Training	1,706	\$25.5	156	\$2.3	4,645	\$72.3	3,834	\$57.5
Drug Treatment Furlough	438	\$6.8	0	\$4.5	1,500	\$25.3	0	\$17.7
Mentally Ill Parolees Program	888	\$13.1	466	\$6.9	888	\$13.2	1,932	\$31.0
Pre-Release Planning	304	\$4.5	0	\$0	1,208	\$17.6	116	\$1.7
SACTU & Community Detention	2,335	\$34.8	229	\$3.4	6,507	\$94.8	3,449	\$52.0
Total	5,671	\$85.3	851	\$15.1	14,748	\$223.3	9,381	\$106.8

- What are the reasons for the reductions in the amount of estimated savings, especially in the current year?
- Given the significant changes in the estimates, how confident is CDC that the current projections for budget year savings will be accurate?

4. Valdivia v. Schwarzenegger.

Remedial Plan. As noted in the discussion of BPT's budget, in December 2003 the plaintiffs and the state in the case jointly submitted to the court their plan which includes several significant reforms to the revocation system. These reforms are designed to ensure a timely and fair revocation process for parolees. The most significant of the reforms are as highlighted below.

- *Establishes Probable Cause Hearing.*
- *Requires Revocation Hearing Within 35 Calendar Days.*
- *Requires Attorneys for All Parole Violators.*
- *Permits Greater Use of Intermediate Sanctions.*
- *Establishes Implementation Deadlines.*

The budget currently does not propose any expenditures for implementation of the remedial plan.

Analyst's Recommendation. Administration officials state that an implementation proposal will be part of the May Revision. However, the LAO raised concerns that submission of the proposal at that time would provide limited opportunity for review by the Legislature. For that reason, the LAO recommends that BPT and CDC report to the Legislature at budget hearings on the fiscal impact of the *Valdivia* remedial plan. In particular, the LAO recommends that the departments provide their estimates of the number of probable cause and revocation hearings that will occur, the staffing required to implement the plan, the amount of any offsetting savings, the projected impact on local governments, and any other expected costs.

- What staffing at CDC will be required to implement the plan?
- The remedial plan permits greater use of intermediate sanctions. Does CDC have any estimates of savings from the *Valdivia* remedial plan due to reductions in revocations?
- What is the relative magnitude of the costs and savings that CDC estimates for the *Valdivia* remedial plan.

Informational Item

5. \$400 Million Unallocated Reduction

Budget Request. The Governor's *Budget Summary* from January indicated that the Secretary of YACA was developing a proposal with the goal of achieving a savings of \$400 million for the budget year. At the joint hearing on February 11 between Budget Subcommittee #2 and the Select Committee on the California Correctional System, members of both committees requested that details of the plan be made available in time to discuss them at the April Subcommittee hearing regarding the CDC. No new information has been released regarding the plan and the administration indicates that the plan will not be released prior to the May Revise.

Staff Comments. Staff notes that the \$400 million reduction is intended to be allocated across all the departments in YACA. The total General Fund proposed budget for all the YACA agencies is \$5.9 billion – the \$400 million represent a 6.8 percent reduction. The following represent a 6.8 percent reduction for each agency within YACA:

YACA -- \$61,000	BOC – \$91,000	BPT – \$1.7 million
CDC – \$376.7 million	CYA – \$21.5 million	

Analyst's Concerns. The LAO has raised some concerns about the CDC's ability to achieve \$400 million in savings in 2004-05 in light of the major changes that are already underway, and the time it takes to implement significant changes in a department the size of CDC.

Areas for Savings. The LAO points out that in order to achieve significant budget reductions at CDC, as proposed by the administration, consideration must be given to reducing the number of individuals in state custody, the labor costs of providing security and community supervision, or the types and levels of services provided. Based on the budget summary, the savings could also include plans for achieving administrative efficiencies (such as closing institutions), contracting out for services, and improving fiscal control and accountability.

- Does CDC or YACA have any information on plans for reduction beyond the general information released at the time of the budget?
- Will any part of the plan require implementation which could reduce the amount of savings in the budget year?
- Does CDC still have the full \$400 million as a target in the budget year?

Staff Comments. Staff notes that no formal proposal has been presented to the Subcommittee. Staff recommends holding this item open pending release of the plan by the Administration.

Action.

6. Options for CDC Reductions

The Table on the following pages highlights additional alternatives for savings at CDC savings that have been raised in budget hearings and by the LAO in the last several years.. CDC notes that the costs estimates do not take into consideration operating costs, implementation timelines, and in some cases the interrelationship of other proposals (overlap).

Prison Budget Savings Options

SAVINGS
(\$ in Millions)

	2004-05	2005-06
Proposals that Affect New Admissions		
Remove State Prison as a Sentencing Option for the Following Offenses: <i>Petty Theft with a prior, Drug Possession for Sale, Drug Possession, Grand Theft, DUI, Forgery/Fraud, Receiving Stolen Property, Other property Offenses, and Vehicle Theft. Estimates based on a July 2004 implementation date</i>	\$304.1	\$340.8
No Prison for Petty Theft with a Prior. <i>This offense would become a misdemeanor. This would eliminate state prison as a sentencing option for those persons convicted of PC Section 666 (Petty Theft with a Prior) with no other felony and would make the offense a misdemeanor rather than a wobbler (felony/misdemeanor).</i>	27.9	30.2
Reject Short Term Commitments – Persons with 3, 6 or 12 Months to Serve in State Prison would instead go Directly to Parole. <i>This estimate excludes parole violators, lifers, strikers, sex registrants, and offenders with violent or serious priors. Estimates based on a January 1, 2005 implementation.</i>		
-- 0 to 3 months to serve	1.2	3.0
-- 0 to 6 months to serve		
-- 0 to 12 months to serve	29.4	156.3
Proposals that Would Reduce Current Inmate Population		
Release Non Violent Inmates over 60. <i>Release to Parole non violent, non serious Inmates over 60 who are not lifers, strikers, sex registrants, parole violators and no violent or serious priors.</i>	1.7	3.5

Early Release of Inmates. Inmates who have 1,3, or 12 months time remaining to serve on their sentence would be released to parole. The estimate excludes lifers, strikers, sex registrants and offenders with violent or serious priors.		
-- One Month Reduction in Time Served	12.2	24.5
-- Three Month Reduction in Time Served		
-- Thirteen Month Reduction in Time Served	158.8	318.3
Parole Reform Proposals		
Direct Discharge and optional community supervision for specified nonviolent, non serious offenses without a serious or violent prior. Upon completion of the sentence, an inmate would be discharged <u>without</u> going onto parole. The offender would only go back to prison if he commits a new crime and is prosecuted for it.		
For non-violent inmates	159.6	193.3
For nonviolent, non-serious current and prior inmates, non-lifers, non-strikers, and non-sex registrants	107.2	134.0
Early Discharge from Parole for specified non violent, non serious offenders who have 12 consecutive months on active parole. Release of parolee non serious, non violent, non striker, non sex registrant offenders who have remained on active parole for certain periods of time.		
3 months "clean time"	77.2	101.1
12 months "clean time"	34.9	35.6
Expand Eligibility for Intermediate Sanctions. Expand eligibility for Intermediate Sanctions to include offenders who have a violent or serious commitment offense. Current policy excludes all inmates with violent or serious criminal histories. There would be some parolees could be placed into the intermediate sanction process without jeopardizing public safety. LAO option. Unknown savings at this time.		

7. Relief Factor Adjustments

Budget Request. The budget proposes \$99.5 million and 1,238.8 positions in 2004-05 to provide additional relief coverage for posted positions. Posted positions are positions that need to be filled 24 hours a day, seven days a week. Most posted positions are correctional officer assignments, though there are also correctional supervisor, medical, and cook posted positions. The current correctional officer relief coverage for posted positions is 1.67. This means that in order to staff that posted position seven days a week, the department requires not only the full-time officer assigned to the post, but also the equivalent 67 percent of another full-time officer for relief. This proposal would increase the relief factor to a total of 1.76 for officers, sergeants, and lieutenants. The funds and positions are requested for the following:

- \$12.5 million to fund the current relief factor of 1.67. This funding was redirected to pay for filling Institutional Vacancy Plan positions in the 2003 Budget Act, as required by the employee MOU.
- \$2.8 million and restoration of 42.4 positions for salary savings withheld on posted positions in the 2001 Budget Act.
- \$33.6 million and 465.9 positions to increase the existing relief coverage for posted positions to the levels that are currently being utilized. The existing relief coverage would increase as follows: correctional officers from 1.67 to 1.71, correctional sergeants from 1.67 to 1.72, and correctional lieutenants from 1.68 to 1.72.
- \$50.6 million and 730.5 positions for additional relief coverage associated with leave credit usage which is not presently funded, such as training, military leave, bereavement leave, and Family Medical Leave Act (FMLA). This would increase relief coverage to 1.76 for officers, sergeants, and lieutenants.

Under this proposal, an adjustment to this factor would be made annually as a baseline adjustment based on actual relief usage from the previous year.

LAO Concerns. The LAO has raised the following concerns:

- Implementation and fiscal details are lacking.
- CDC may lack necessary fiscal controls.
- Training Provision is biggest new cost driver.

The LAO notes that without such information, it is difficult to assess the proposal's fiscal impact, and to hold CDC accountable for achieving suggested results.

Staff Recommendation. Staff recommends approval of the additional relief factor adjustments. Further, staff recommends that as part of the report on the operating budget for each institution due February 17, 2005 that each institution identify the allocation of the sick leave positions and document their effectiveness in reducing unfunded overtime expenditures related to sick leave, military leave, and FMLA.

Action.

8. Accountability and Fiscal Controls

At the hearing in February, CDC and DOF identified several initiatives to assess accountability and fiscal control to the CDC budget process.

Allotment Methodology. One option for controlling costs at CDC includes the development of a consistent allotment methodology for allocating funding to institutions and holding them accountable for expenditure levels. In the Budget Summary, the Administration has indicated it has become apparent that there is little fiscal accountability among CDC institutions, part of which is related to the institutions having little incentive to expend within the limits of a budget allotment that contains a shortfall from the outset.

- What improvements are being put into place regarding the allotment process.

Institution-by-Institution Reporting. Last year, in order to get more information on institution budgets and as a way to try to build some additional accountability into the process, the Legislature adopted the following budget bill language requiring CDC to report the operating budget of each institution, including the number of authorized and vacant positions.

No later than January 12, 2004, the Director of Corrections shall submit to the chairperson and vice-chairperson of the Committee on Budget in both the Assembly and Senate and to the Legislative Analyst's Office, an operating budget for each of the correctional facilities under the control of the Department of Corrections. For every institution, the operating budget shall clearly identify the number of authorized and vacant employees, the estimated personal service costs, the estimated overtime budget, the estimated benefits budget, the estimated operating expense and equipment budget, and a list of all capital outlay projects occurring or projected to occur during the 2003-04 fiscal year.

The CDC indicates that it is still preparing this report. The DOF has included similar language in the proposed 2004-05 budget, changing only the report date to February 17, 2005.

- What is the status of the report? What caused the delay in the release of the report?

Reconciling Post Assignment Schedules. In order to ensure that each institution is held accountable for its budget, DOF has indicated that CDC will be required to reconcile its post assignments with its approved and proposed budgets, as well as determine meaningful allotments for the institutions that are predicated upon the reconciled post assignments and standardized costs of operating expenses. DOF believes that this process will cause any unauthorized custody-related expenditures to surface and will provide a tool to hold institution management accountable for their expenditures.

The DOF has proposed the following budget bill language.

No later than 60 days following enactment of this Act, and subsequently on February 10 and upon release of the May Revision, the Director of Corrections shall submit to the Director of Finance the Post Assignment Schedule for each institution, reconciled to budgeted authority and consistent with approved program, along with allotments consistent with the reconciled Post Assignment Schedule for each institution.

Results of Initial Reconciliation. In a letter dated April 5, 2004, Secretary Hickman reported on the initial reconciliation. The analysis showed that CDC is expending salaries and wages for regular ongoing positions, overtime, and temp help funds equivalent to 1,905.2 personnel years (PY) above their authorized level. The analysis indicates that YACA has determined that within that number there are PY equivalents associated with authorized functions and activities. The letter describes the reasons for the overrun of the remaining 1,238.7 PY equivalents.

- (a) 327.9 PY for population increases above the current year budget. The population adjustments at the May Revise will propose budget authority for these positions.
- (b) 490 PY related to administrative segregation overflow, and medical transportation and guarding. The letter indicates that YACA is completing a review of the needs in these areas.
- (c) 195.1 related to delayed implementation of Control Section 4.10 reductions.
- (d) 225.0 for activated unauthorized posts.

- What is the status of the positions related to the Control Section 4.10 reductions and the unauthorized posts?

Other Operational Efficiencies and Fiscal Controls.

- What operational efficiencies and fiscal controls is CDC considering or implementing

Staff Recommendation. Staff recommends approval of the proposed budget bill language regarding institutional reporting and the budget bill language regarding reconciling post assignment schedules.

Action.

HEALTHCARE SERVICES

9. BSA Audit of Contract Medical (2003-117: April 6, 2004)

In April 2004, BSA released an audit entitled, *CDC: It Needs to Ensure That All Medical Service Contracts It Enters Are in the State's Best Interest and All Medical Claims It Pays Are Valid.*

According to BSA, contract medical expenditures have increased more than 15 percent in each of the last four fiscal years. The table below shows Contract Medical budget authority versus expenditures for the last few years.

Contract Medical Budget Authority Versus Expenditures			
Year	Budget Authority	Expenditures	Difference
1999-00	\$69,239,000	\$111,337,728	-\$42,098,728
2000-01	\$117,522,060	\$154,934,939	-\$37,412,879
2001-02	\$209,533,000	\$200,626,893	\$8,906,107
2002-03	\$206,419,454	\$239,486,201	-\$33,066,747
2003-04*	\$207,739,303	\$273,000,000	-\$65,260,697
2004-05**	\$207,592,000		

* Estimated expenditures

** Proposed budget

Major Findings of the BSA Audit.

- CDC relies on a 30-year old exemption that allows them to award contracts for most medical services without seeking competitive bids
- CDC's negotiation practices are flawed.
- CDC is unable to justify awarding contracts for rates above its standards.
- CDC sometimes exceeds authorized contract amount and fails to obtain proper approvals before receiving non-emergency services.
- Prisons are not adhering to CDC's utilization management program.

BSA recommendations:

That General Services remove the policy exemption that allows CDC to award medical service contracts without advertising or competitive bidding. At a minimum that CDC use a process that requires prisons to conduct a market survey and prepare a price analysis demonstrating that contract is in the state's best interest.

Improve negotiating practices by obtaining lists of hospitals established rates and using this info during negotiations, enforce its requirements for justifying higher rates, including obtaining and reviewing relevant documentation, establish procedures to ensure that staff negotiating medical service contracts incorporate the use of costs and utilization data and document their use of these data in the contract files, offer its negotiation staff specialized training in effectively negotiating favorable rates.

To fulfill its contract management responsibilities, Corrections should direct its Office of Contract Services (Contract Services) to evaluate late requests using the established criteria, ensure that prisons do not exceed the funding authorized in the contract by requiring Contract

Services to review the contract amount and prisons' existing requests before processing any additional requests, evaluate its contract processes to identify ways to eliminate delays in processing contracts and avoid allowing contractors to begin work before General Services approves the contract.

To improve its efforts to provide only medically necessary services and contain medical services costs, Corrections should ensure that prisons adhere to the UM program guidelines requiring them to perform and retain documentation of their prospective and concurrent reviews, clarify and update the UM program guidelines for performing retrospective reviews, establish a quality control process that includes monthly reviews of a sample of invoices processed by the prisons' HCCUP analyst.

- What is the response of CDC to the audit findings and recommendations?
- The audit highlights instances of overpayments because contracts or bills were not reviewed. What is CDC doing in the short run to correct the deficiencies cited in the audit report?
- Does CDC have sufficient HCCUP analysts to perform contract oversight functions?
- Can the budget for contract services be reduced due to savings and efficiencies?
- What strategies are being pursued to achieve savings and efficiencies in the long run?

10. Use of Medical Registry Contracts

In its report on contract medical, the BSA noted that the use of medical registry contracts is the fastest growing component of contracted medical services. The Table below highlights the annual increases for registry contracts for the last 5 years. Corrections uses registry contracts to provide temporary services when civil servant staff are unavailable or on long-term sick leave. However, prisons are prohibited by state law from using registry staff on a permanent full-time basis and continues recruitment efforts to fill positions.

Growth in Expenditures for Medical Registry Contracts			
Year	Total Expenditures	Increase	Percent Change
1998-99	\$11,722,236	--	--
1999-00	\$14,795,111	\$3,072,875	26.2%
2000-01	\$28,869,934	\$14,074,823	95.1%
2001-02	\$46,790,565	\$17,920,631	62.1%
2002-03	\$63,821,909	\$17,031,344	36.4%

Registry Contracts Used to Fill Vacant Positions. The BSA indicates that its analysis shows that four types of registry contracts comprise 89 percent of total registry expenditures for the five year period they examined. Registry contracts for psychology, psychiatry, and related technician services (37 percent), nursing services (31 percent), physician services (11 percent), and pharmacists and pharmacy technician services (10 percent). Further, the BSA analysis found that for each type of contract, less than nine institutions accounted for about 50 percent of the registry expenditures in 2002-03.

The Table below shows statewide vacancy rates for various healthcare positions. Within these rates, there is wide variations among institutions. For example, a number of institutions have vacancies rates of 5 percent or less for registered nurses – Folsom, Centinela, Pelican Bay, and Norco, while CIW, SATF, CTF, and Salinas Valley have vacancy rates higher than 40 percent (the vacancy rate at Salinas Valley for registered nurses is 79 percent).

Health Care Vacancies as of March 31, 2004			
Classification	Positions	Vacancies	Vacancy Rate
Staff Psychiatrist	169.78	51.25	30.2%
Registered Nurse	977.22	239.27	24.5%
Med Tech Assistant	1,018.23	227.68	22.4%
Psy Social Worker	141.85	28.80	20.3%
Psychologist	393.40	67.55	17.2%

CDC has provided the Subcommittee with HCCUP reports the provide a summary of the registry contracts, including a breakdown of the average cost per hour. Statewide in 2002-03, CDC institutions contracted for 1,353,027 hours from registries for a number of healthcare specialties at an average hourly wage of \$47.17. The Table below highlights the hours and costs for selected specialties at one Institution.

Summary of Registry Contracts for Selected Specialties at Salinas Valley State Prison in Fiscal Year 2002-03			
Specialty	Hours	Costs	Cost Per Hour
Registered Nurse	42,991	\$2,645,458	\$61.53
Psychiatry	6,734	\$733,026	\$108.86
Physician	4,525	\$338,862	\$74.88
Social Worker	2,155	\$109,445	\$50.79
Pharmacist	2,268	\$104,728	\$46.18

Recruitment and Retention. The BSA highlights some of the recruitment and retention bonuses that are available for healthcare positions in order to help CDC fill vacant positions. For example, psychiatrists, psychologists, and psychiatric technicians are eligible for monthly or annual recruitment and retention bonuses ranging from \$200 to \$3,900.

BSA Conclusions. BSA indicates that CDC should continue to monitor prisons' registry contract expenditures and evaluate the prisons' needs so that it can identify opportunities to control expenditures and ensure that prisons are not violating state law by using registry staff on a permanent basis.

Staff Comments. The CDC has provided staff with vacancy rate information on vacancies for certain classifications by institution, and registry contracts by institution. Moving forward, the Subcommittee may wish to get vacancy rates and contract information for hard to fill medical positions by institution to examine the effectiveness of CDC's recruitment and retention efforts for these positions, along with a list of the recruitment and retention efforts made by the department during the year and an analysis of the success of each of the efforts.

11. Costs for Pharmaceutical and Medical Supplies

As can be seen in the Table below, the costs for pharmaceutical and medical supplies has been a growing part of CDC's healthcare budget, and expenditures are greater than budget authority. A number of reports in the last few years, including a BSA report 1001-012: January 2002 have highlighted shortcomings in the area of purchasing, distribution, and the pharmacy IT system.

Medical/Pharmaceutical Supplies

Medical/Pharmaceutical Supplies Budget Authority Versus Expenditures			
Year	Budget Authority	Expenditures	Difference
1998-99	\$40,128,443	\$58,432,655	-\$18,304,212
1999-00	\$55,112,059	\$77,641,803	-\$22,529,744
2000-01	\$97,322,500	\$99,420,032	-\$2,097,532
2001-02	\$78,760,465	\$118,353,185	-\$39,592,720
2002-03	\$121,720,979	\$134,280,552	-\$12,559,573
2003-04*	\$123,919,685	\$139,100,000	-\$15,180,315
2004-05**	\$123,753,391		

* Projected Expenditures

** Proposed Budget

- The Subcommittee may wish to ask CDC what measures have been taken to make improvements in the area in methods of distribution, the principles of cost containment, and purchasing?
- What evidence does CDC have of these improvements?
- What is status of any pharmacy IT system?

12. CDC Support Reappropriations

Finance Letter Request. The Administration has submitted a Finance Letter proposing the following five reappropriations.

- \$799,000 General Fund for the development of the Statewide Offender Management System.
- \$450,000 General Fund for the development of statewide staffing standards for CDC institutions.
- \$360,000 General Fund for the continued development of the Madrid Patient Information System, in relation to the *Madrid* class action.
- \$225,000 General Fund for the implementation of the Health Insurance Portability and Accountability Act.
- \$2,300,000 Inmate Welfare Fund for the development of the Inmate Canteen, Restitution, and Banking System.

Staff Recommendation. No specific issues have been raised for the reappropriations. Staff recommends approval of the Finance Letter request.
Action.

CAPITAL OUTLAY

1. Use of Planning Funds for Preliminary Plans

The budget includes \$1 million for working drawings and construction of a 19 station hemodialysis clinic located at the California Substance Abuse Treatment Facility and State Prison at Corcoran. The LAO has raised concerns about the use of planning monies to fund preliminary plans on future projects.

Item 5240-301-0746(1) of the *2003-04 Budget Act* appropriated \$1 million to the department for "Statewide: Budget Packages and Advance Planning." Provision 1 of that item provides that these funds may be used for "...budget package development, environmental services, architectural programming, engineering assessments, schematic design, *and preliminary plans.*"

In order to maintain the Legislature's options when considering capital outlay proposals, the LAO recommends that Provision 1 of Item 5240-301-0001 of the budget bill be amended to Add the following language.

Prior to using these funds for preliminary plans, the Department of Corrections must provide a 20 day notification letter to the Chairperson of the Joint Legislative Budget Committee, the chairpersons of the respective fiscal committees, and the legislative members of the State Public Works Board discussing the requested action's scope, cost, and future implications.

Staff Recommendation. No issues with the LAO language have been raised. Staff recommends approval of the LAO budget bill language.

Action

2. Capital Outlay Program Administration

The CDC's annual capital outlay budget has averaged around \$140 million over the past five years, ranging from a high of nearly \$300 million to as low as \$22 million. The current budget proposes a further decline in capital spending to its lowest point in the past five years (\$18.8 million). To develop and administer its capital outlay program, the department employs a staff of about 260. In addition, the department has retained a private construction management firm for many years to provide assistance in such areas as program development, consultant selection, contract administration, design management, quality control, design reviews, bid and construction phase services. Since July 2000, this construction management firm has been awarded about \$14 million in contract work and it has about five technical staff dedicated full-time to CDC projects.

LAO Concerns. In light of what appears to be substantial capital outlay resources for design and project management, the LAO has raised concerns regarding the ability of CDC to complete its projects in a timely manner. In the last five years there have been 111 capital outlay reappropriations for the department's projects, a number of them being projects that have been reappropriated more than once. This is evidence that projects are not proceeding on schedule and is symptomatic of problems in the capital outlay program management. The LAO believes this problem is of sufficient importance that the department should report at budget hearings and explain why such a large number of reappropriations have been needed, what improvements to its management processes and structure may be needed, and its plans for implementing those improvements.

3. Capital Outlay Reappropriations

Finance Letter Request. The Administration has submitted a Finance Letter proposing reappropriations for the following seven capital outlay projects.

Staff Recommendation. No specific issues have been raised for the reappropriations. Staff recommends approval of the Finance Letter request.

Action.

- A. **California State Prison, San Quentin, San Quentin: Correctional Treatment Center (CTC), Phase II-Preliminary Plans.** The licensed CTC provides 24-hour skilled nursing care and observation for inmates with sub-acute or chronic medical conditions. The Budget Act of 2003 incorporated the correctional treatment center at San Quentin into the new housing unit for the condemned inmates at San Quentin. The Administration is seeking this reappropriation of preliminary plans in case any contingencies arise in the current year.
- B. **California Rehabilitation Center, Norco: Potable Water System Improvements-Construction.** The project will make various improvements to the existing system to correct the water system deficiencies. This project has been deferred pending review of potential facility closures. Funding of \$1.7 million General Fund for this project was appropriated in the Budget Act of 2002 and reappropriated in the Budget Act of 2003.
- C. **California Correctional Institution, Tehachapi: Wastewater Treatment Plant-Construction.** This project will renovate the existing wastewater treatment plant. The real estate due diligence process has not been completed which prohibits the Department from proceeding to bid, resulting in the proposed reappropriation of the construction funds. Funding of \$15.7 million in lease revenue bonds was appropriated in the Budget Act of 2003.

- D. **California Medical Facility, Vacaville: Mental Health Crisis Beds-Preliminary Plans, Working Drawings, and Construction.** The purpose of this project is to build a new mental health crisis facility. The real estate due diligence process has not been completed which prohibits the Department from proceeding to bid, resulting in the need to reappropriate the preliminary plans, working drawings, and construction funds. Funding of \$16.5 million in lease revenue bonds was appropriated in the Budget Act of 2003.
- E. **Sierra Conservation Center, Jamestown: Effluent Disposal Pipeline-Construction.** The project constructs a new pumping station at the wastewater treatment plant and provides for the appropriate disposal of the effluent. This project has been delayed due to unexpected California Environmental Quality Act permitting issues. These delays have resulted in the need to reappropriate the funds. Funding of \$7.8 million in General Fund was appropriated in the Budget Act of 2001 and reappropriated in the Budget Acts of 2002 and 2003.
- F. **California Institution for Men-East, Chino: Electrified Fence-Preliminary Plans and Working Drawings.** The due diligence process has not been completed, resulting in the need to reappropriate the funds. Funding of \$146,000 from Prison Construction Bond funds was appropriated in the Budget Act of 2003.
- G. **Chuckawalla Valley State Prison, Blythe: Heating, Ventilation, and Air-Conditioning (HVAC) System-Preliminary Plans.** This project installs a centralized HVAC system to repair the existing system damaged from the extreme conditions of the climate. The due diligence process has not been completed, resulting in the need to reappropriate the funds. Funding of \$46,000 from Prison Construction Bond funds was appropriated in the Budget Act of 2002 and reappropriated in the Budget Act of 2003.

SUBCOMMITTEE NO. 2

Agenda

Byron Sher, Chair
Sheila Kuehl
Bruce McPherson



Thursday, April 29, 2004
Upon Adjournment of Session
Room 112

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Resources—Environmental Protection—Public Safety—Energy

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.

Resources Bond Proposal

1. Overview of Resources Bond Proposal—Informational Issue

Background. The administration decided to postpone release of the majority of its resources bond proposal until later in the spring. As part of the April finance letter process, the administration submitted its resources bond proposal to the Legislature. The proposal includes among others expenditures from the following bond funds:

- **Proposition 50**—Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002 (\$3.44 billion);
- **Proposition 40**—California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act of 2002 (\$2.6 billion);
- **Proposition 13**—Safe Drinking Water, Clean Water, Watershed Protection, and Flood Protection Bond Act (\$1.97 billion); and
- **Proposition 12**—Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Act of 2000 (\$2.1 billion).

Governor’s Budget and April Finance Letters. Appendix A provides detail on the administration’s proposal to expend Proposition 40 and Proposition 50 resources bond funds in the budget year. In general, the bond proposal does not represent any significant changes from the five-year expenditure plans made by the previous administration. The administration does propose to slow the allocation of bond funds, and in some cases does not allocate any new bond funds, in the budget year for programs that have not expended bond fund allocations made in the current year. This mainly pertains to Proposition 50 grants for desalination, drinking water pilot projects, water use efficiency, and integrated regional water management. In addition, the administration is proposing to not allocate any program funds to the Santa Monica Mountains Conservancy pending resolution of some legal and administrative issues.

Further details on individual bond funded proposals are summarized under each department, respectively.

0540 Secretary for Resources

Background. The Secretary for Resources heads the Resources Agency. The secretary is responsible for overseeing and coordinating the activities of the following departments that make up the Resources Agency:

- Department of Conservation
- Department of Fish and Game
- Department of Forestry and Fire Protection
- Department of Parks and Recreation
- Department of Boating and Waterways
- Department of Water Resources
- State Lands Commission
- Colorado River Board
- California Conservation Corps
- Energy Resources Conservation and Development Commission
- San Francisco Bay Conservation and Development Commission
- California Bay-Delta Authority
- Wildlife Conservation Board
- State Coastal Conservancy
- San Joaquin River Conservancy
- California Tahoe Conservancy
- California Coastal Commission
- State Reclamation Board
- Baldwin Hills Conservancy
- Special Resources Programs
- San Diego River Conservancy
- San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy
- Santa Monica Mountains Conservancy
- Delta Protection Commission
- Coachella Valley Mountains Conservancy

Governor's Budget. The Governor's budget proposes \$6.8 million to support the Secretary for Resources in 2004-05. This is approximately 96 percent less than the level of expenditures estimated in the current year due to the administration's decision to defer the majority of its bond fund proposal until later in the spring.

The administration's April finance letter proposes to increase the budget for the Secretary for Resources by \$47.4 million in bond funds, thereby increasing the total budget for 2004-05 to \$54.2 million.

Secretary for Resources
Governor's Budget Spending Totals
(Dollars in Thousands)

	Actual 2002-03	Estimated 2003-04	Proposed for 2004-05	
			Amount	Percent Change
Type of Expenditure:				
Administration	\$130,295	\$188,095	\$6,802	-96%
Total	\$130,295	\$188,095	\$6,802	-96%
Funding Source:				
General Fund	\$7,581	\$0	\$0	-
Special Funds	2,630	2,647	2,671	1%
Bond Funds	109,362	184,678	3,347	-98%
<i>Budget Act Total</i>	<i>119,573</i>	<i>187,325</i>	<i>6,018</i>	<i>-97%</i>
Federal Trust Fund	9,975	255	269	5%
Reimbursements	747	515	515	0%
Total	\$130,295	\$188,095	\$6,802	-96%

Budget Change Proposals. No 2004-05 budget change proposals were submitted for the Secretary for Resources.

1. April Finance Letter—Bond Proposal

Summary. The following is a summary of the budget amendments requested by the administration in the 2004-05 April finance letter for the Secretary for Resources.

Secretary for Resources

April Finance Letter, 2004-05

(Dollars in Thousands)

Description	Prop 40	Prop 50	Total	Positions
Urban Streams Reappropriation. Proposes to reappropriate \$4.6 million Proposition 40 for the urban streams program that provides technical and financial assistance to local agencies to address local flooding and erosion problems. The program was delayed by one year because of legal issues relating to prevailing wage regulations. The Department of Water Resources administers the program.	\$0	-	\$0	0.0
Proposition 50 Website Development. Proposes to shift funds to the Department of Parks and Recreation for the development of a website that would allow the public to identify the geographic location of Proposition 50 funded projects.	-	-68	-68	-0.5
River Parkways Program. Proposes to fund the River Parkways Program, which provides grants for park development, habitat restoration, and the development of public access trails along rivers.	7,850	30,500	38,350	0.0
Sierra Nevada Cascade Programs. Proposes to fund the Sierra Nevada Cascade Program, which provides grants for the acquisition of land and water resources to protect lakes, reservoirs, rivers, streams, and wetlands.	-	9,150	9,150	0.0
Administration. State operations support for the River Parkways and Sierra Nevada Cascade Programs.	-	633	633	4.0
Total	\$7,850	\$40,215	\$48,065	3.5

Restructuring the Office of the Secretary for Resources. The administration indicated in its January budget proposal that a plan to revise the structure of the Secretary for Resources is under development and will be released as part of the May Revision.

LAO Recommendation. The Analyst has withheld recommendation on the Secretary for Resources' support budget pending additional information on the proposed restructuring. The Analyst has raised concerns with the effectiveness of certain support expenditures proposed by the Secretary, including the California Environmental Resources Evaluation System and the Legacy Project. Furthermore, the Analyst recommends that the Legislature direct the Secretary to include a detailed description of the activities and positions funded as part of the Secretary's support budget.

Staff Recommendation. Staff recommends that *the subcommittee withhold action on the Secretary for Resources budget pending the forthcoming proposal to restructure the Secretary.* Staff also recommends that the *subcommittee request the administration to provide a detailed*

description of activities and positions funded as part of the Secretary's support budget as part of its restructuring proposal.

2. River Parkways and Sierra Nevada Cascade Programs

Background. As part of the 2003-04 budget deliberations a trailer bill (AB 1748) was sent to the Governor that, among other things, would have defined and established criteria for projects funded by the River Parkways and the Sierra Nevada Cascade programs. The bill provided over \$40 million for these programs from bond funding and proposed transferring the administration of these programs to the Wildlife Conservation Board (even though the bond allocates these funds to the Secretary for Resources). This bill was vetoed by the Governor, which resulted in no new funds for these programs in 2003-04.

Furthermore, the Analyst recommended in its 2003-04 Analysis that the Legislature adopt legislation that defines the River Parkways and Sierra Nevada Programs, including establishing grant or project funding criteria and expenditure priorities.

Governor's Budget. The Governor's April finance letter requests \$38.4 for the River Parkways program (\$30.5 million Proposition 50, \$7.9 million Proposition 40) and \$9.2 million (Proposition 50) for the Sierra Nevada Cascade Program. It also proposes \$633,000 (Proposition 50) to support 4 new positions and 1.5 redirected positions to administer the Proposition 50 funded programs. The Governor's budget includes \$540,000 (Proposition 40) and 4 positions to support Proposition 40 River Parkways appropriations made in 2002-03.

The Proposition 40 funding for River Parkways is proposed for opportunity grants by the Secretary. This is consistent with the \$56 million appropriated for this purpose in the 2002-03 budget. The administration is proposing to award grants for both Proposition 50 River Parkways and Sierra Nevada Cascade programs through opportunity grants and competitive awards. The administration proposed budget bill language that specifies that up to 50 percent of the funds appropriated annually would be available for opportunity grants, with the remaining funds awarded through a competitive grant process.

Competitive Grants Versus Opportunity Grants. Competitive grant processes are considered equitable for allocating funds since they require all projects to compete for funding based on common criteria. In contrast, opportunity grants provide more flexibility for the Secretary in selecting and funding projects. Projects selected under opportunity grants should still comply with specific project criteria, but they are not evaluated against all other eligible projects for funding. All of the Proposition 40 River Parkways funds and up to 50 percent of the Proposition 50 grants for both River Parkways and Sierra Nevada Cascade programs are proposed for opportunity grants.

Program Criteria Has Not Been Established in Statute. Program criteria for the River Parkways and Sierra Nevada Cascade programs have not been established in statute. Legislation to provide the Secretary with guidance on implementing these programs was vetoed by the prior administration in the current year. If the Secretary is to award opportunity grants it is critical that

project criteria reflecting Legislative priorities be enacted to ensure the Secretary follows legislative direction in acquiring properties under these programs.

Staff Recommendation. Staff recommends that the Subcommittee *delete the funding for the River Parkways and Sierra Nevada Cascade programs from the budget and direct staff to develop a trailer bill with the funding and program criteria* that better defines the projects to be acquired under these programs.

3. Bond Funds for Private Water Agencies

Background. The Department of Health Services (DHS) has issued draft guidelines for Proposition 50 bond funds that would allow private water agencies to compete for bond funds. The Legislative Counsel and legal counsel for DHS have issued legal opinions that confirm that private water agencies are eligible for bond funds. Senate Bill 909 (Machado) is currently pending and would specifically allow grants of state bond funds to be made to investor owned water utilities and mutual water companies. The California Public Utilities Commission regulates investor owned water utilities and mutual water companies. Traditionally, these utilities have been relatively small utilities that serve small jurisdictions. However, in recent years, larger investor owned utilities have purchased many of these small utilities.

To date the other state agencies administering water-related grant programs have not published guidelines that explicitly allow private water agencies to compete for bond funds. Staff has been advised that the administration is currently considering this policy issue internally.

Questions the Subcommittee may wish to ask the administration.

- What is the timeline for determining whether to allow private water companies to compete for bond funds?
- Will the current schedule for distributing bond funds be impacted by this decision?

Staff Recommendation. The Subcommittee may wish to request the LAO to provide written information on the pros and cons of allowing private water companies to compete for public bond funds.

4. Prevailing Wage—Informational Issue

Background. The administration became aware of legal issues regarding prevailing wage law in the fall of 2003 that could significantly impact numerous state grant programs. Interpretations of the Labor Code by the Department of Industrial Relations and a recent court decision relating to public works projects indicate that all site work on restoration and watershed projects may be subject to prevailing wage requirements. The prevailing wage could even extend to activities that are often undertaken by volunteers on collaborative grant projects.

The administration is currently working on resolving this issue given the potential impact on program across the state. This issue would have a significant impact on many of the bond-funded programs under the Resources Agency. For example, the Urban Streams Restoration Program

that provides grants to local watershed groups for stream restoration projects was delayed in the current year due to this issue.

The Subcommittee may wish to ask the Department the following questions.

- What is the status of resolving this issue?
- What is the timeline for resolving this issue and how will that impact bond-funded grant programs in the budget year?

State Conservancies

Background. In order to promote the conservation of its land resources, the state has created eight regional conservancies that acquire and protect undeveloped lands in specific regions of the state. The conservancies are departments, located within the Resources Agency, which are charged with among other things, acquiring land in specified geographical areas in order to advance specified goals. While the particular statutory goals of each conservancy differ, in general the conservancies were created to protect certain vital land resources that were endangered by development or other threats.

Issues related to these regional conservancies are discussed below. Please see **Appendix B** for detailed information on the Governor's budget proposal and budget amendments requested in the April finance letters for each conservancy.

1. Conservancy Support Funding

Background. At the March 18, 2004 meeting of this subcommittee concerns were raised regarding the administration's inconsistent approach to reducing the support budgets for the various conservancies. For example, three of the conservancies received reductions in state operations funding, three received augmentations, and one remained at the same funding level as in the current year. The support budget adjustments at the conservancies for 2004-05 range from a 10 percent reduction (Santa Monica Mountains Conservancy) to a 6 percent augmentation (California Tahoe Conservancy). The Environmental License Plate Fund (ELPF) is the primary sources of funding for support costs at the conservancies.

Support Funding Differences Result of Technical Pro Rata Adjustments. The administration has provided the subcommittee with information that indicates that the inconsistencies in funding for the support budgets for the various conservancies can be explained by technical adjustments in the calculation of pro rata for each conservancy funded by the ELPF. (Pro rata is the General Fund recovery of statewide general administrative costs such as the Department of Finance and the Legislature from special funds.) Pro rata calculations are based on a two-year cycle of estimated cost comparisons to actual costs. Therefore, annual appropriations can fluctuate based on past overpayment or underpayment of pro rata by specific departments. Specifically, Santa Monica Mountains Conservancy overpaid pro rata in the current year, which lead to a reduction in the pro rata charged the department in the budget year. Conversely, the California Tahoe Conservancy underpaid pro rata in the current year and is assessed a larger share of the pro rata costs in the budget year.

Pro Rata Adjustments Do Not Impact Staffing Levels. Since pro rata is assessed centrally on a fund and not by department, no positions were eliminated due to pro rata adjustments. Therefore, the technical pro rata adjustments will have negligible impacts on the conservancies support operations.

Staff Recommendation. Staff recommends that the subcommittee approve the support budget for each of the regional conservancies.

2. April Finance Letters—Bond Funding

Summary. The administration submitted its resources bond proposal in its April finance letters. The majority of the state's regional conservancies received allocations of bond funds to expend in the budget year. Below is a summary of the resources bond funds proposed to fund each state conservancy in the April finance letters:

State Conservancies

April Finance Letters - Bond Funding, 2004-05

(Dollars in Thousands)

Description	Prop 12	Prop 40	Prop 50	Total
California Tahoe Conservancy	\$0	\$8,235	\$9,000	\$17,235
State Coastal Conservancy	10,000	26,470	32,270	68,740
Santa Monica Mountains Conservancy	0	0	0	0
San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy	0	6,200	4,500	10,700
San Joaquin River Conservancy	0	11,000	0	11,000
Baldwin Hills Conservancy	0	7,200	0	7,200
San Diego River Conservancy	0	0	0	0
Coachella Valley Mountains Conservancy	686	2,871	0	3,557
Total	\$10,686	\$61,976	\$45,770	\$118,432

Some Bond Funds Not Allocated. Bond funds were not proposed for the Santa Monica Mountains Conservancy (SMMC) in the budget amendments requested by the April finance letters. The Department of Finance (DOF) has informed staff that they made a decision to not allocate funds to SMMC pending resolution of unresolved issues relating to how past bond fund allocations were managed. The SMMC still has \$12.6 million Proposition 40 and \$29 million Proposition 50 that have not been appropriated by the Legislature for expenditure by the conservancy.

Questions the Subcommittee may wish to ask the administration.

- Why has funding not been provided to SMMC to fund its programs in the budget year?

Staff Recommendation. Staff recommends that the subcommittee withhold action on the conservancies April finance letters pending resolution of issues relating to SMMC.

3340 California Conservation Corps

1. April Finance Letter—Bond Funds Only

Summary. The following is a summary of the bond fund related budget amendments requested by the administration in the 2004-05 April finance letter for the California Conservation Corps (Corps).

California Conservation Corps

April Finance Letter - Bond Funds Only, 2004-05

(Dollars in Thousands)

Description	Proposition		Total	Positions
	12	40		
Resource Conservation Projects-- Support. Proposes to fund various resource conservation projects, including fuel hazard reduction, park maintenance, timber stand improvement, and wildlife habitat restoration.	\$633	\$1,224	1,857	0.0
Resource Conservation Projects-- Local Assistance. Proposes to provide grants to local conservation corps for various resource conservation projects, including fuel hazard reduction, park maintenance, timber stand improvement, and wildlife habitat restoration.	2,550	4,003	6,553	0.0
Total	\$3,183	\$5,227	\$8,410	0.0

LAO Options. The Analyst has identified options for increasing the Corps activities in the budget year, thereby potentially offsetting the corpsmember reductions in the budget year. This proposal involves resources bond funds proposed for expenditure in the California Department of Forestry and Fire Protection's (CDF's) bond proposal for fuel reduction activities in the Sierra Nevada. Further information on the specific details of the Analyst's options is detailed in CDF's bond proposal.

Staff Recommendation. Staff recommends that the Subcommittee *withhold action on the Corps bond proposal* pending exploration of potential opportunities to increase activity for the Corps in the area of fuel reduction.

3460 Colorado River Board

Background. The Colorado River Board (CRB) of California was established in 1937 by State statute to protect California's rights and interests in the resources provided by the Colorado River and to represent California in discussions and negotiations regarding the Colorado River and its management.

Governor's Budget. The Governor's budget proposes \$1.2 million to support the CRB in 2004-05. This is approximately the same level of funding as in the current year.

Colorado River Board

Governor's Budget Spending Totals

(Dollars in Thousands)

	Actual 2002-03	Estimated 2003-04	Proposed for 2004-05	
			Amount	Percent Change
Type of Expenditure:				
State Operations	\$1,073	\$1,184	\$1,170	-1%
Total	\$1,073	\$1,184	\$1,170	-1%
Funding Source:				
General Fund	\$166	\$0	\$0	-
Environmental License Plate Fund	14	14	0	-100%
<i>Budget Act Total</i>	<i>180</i>	<i>14</i>	<i>0</i>	<i>-100%</i>
Reimbursements	892	1,170	1,170	0%
Total	\$1,072	\$1,184	\$1,170	-1%

Budget Change Proposals. The following is a summary of the 2004-05 budget change proposals for CRB.

Colorado River Board

Budget Change Proposals, 2004-05

(Dollars in Thousands)

Description	Reim- bursements	Total	Positions
Funding Shift. Proposes increasing funding from reimbursements to support the board's activities. General Fund support for this board was eliminated in the current year.	\$258	\$258	0.0
Total	\$258	\$258	0.0

Staff Recommendation. No issues have been raised with CRB's budget. *Staff recommends approve as budgeted.*

3480 Department of Conservation

1. April Finance Letter—Bond Funds Only

Summary. The following is a summary of the bond fund related budget amendments requested by the administration in the 2004-05 April finance letter for the Department of Conservation (DOC).

Department of Conservation

April Finance Letter - Bond Funds Only, 2004-05

(Dollars in Thousands)

Description	Proposition		Total	Positions
	40	50		
CALFED Watershed Program. Proposes to fund the Watershed Coordinator Grant Program that provides grants to Resource Conservation Districts for watershed restoration/protection projects. Proposes \$225,000 and 2 positions on a 3-year limited-term basis to administer the program.	-	\$3,225	\$3,225	2.0
California Farmland Conservancy Program. Proposes grant funding for the planning and voluntary acquisition of agricultural easements by local governments, non-profit land trusts, and resource conservation districts.	12,000	-	12,000	0.0
Total	\$12,000	\$3,225	\$15,225	2.0

Staff Recommendation. No issues have been raised with the administration's April finance letter for DOC. *Staff recommends approving the finance letter.*

3540 Department of Forestry and Fire Protection

1. April Finance Letter—Bond Funds Only—Informational Display

Summary. The following is a summary of the bond fund related budget amendments requested by the administration in the 2004-05 April finance letter for the Department of Forestry and Fire Protection (CDF).

Department of Forestry and Fire Protection**April Finance Letter - Bond Funds Only, 2004-05***(Dollars in Thousands)*

Description	Prop 12	Prop 40	Prop 50	Total	Positions
Urban Forestry. Proposes funding for the urban forestry grant program to increase tree planting and follow-up care in urban areas and encourage improved tree management practices.	\$1,175	-	-	\$1,175	0.0
Sierra Nevada Forest Land and Fuels Management. Proposes to fund contracts for forest land and fuels management projects in the Sierra Nevada to protect watershed assets at risk to catastrophic wildfire.	-	7,481	-	7,481	8.0
CALFED Watershed Program. Proposes funding to support the CALFED Watershed Program, which includes providing data on vegetation types and monitoring their change over time to improve the design of fuel reduction projects that protect CALFED watersheds.	-	-	240	240	0.0
Total	\$1,175	\$7,481	\$240	\$8,896	8.0

2. Proposed Fuel Reduction Activities Pose Funding Opportunity for California Conservation Corps

Background. At the April 1 meeting of this Subcommittee the Subcommittee directed staff, the LAO, and the administration to develop trailer bill language to fund a portion of the Corps budget with Workforce Investment Act funds to mitigate some of the General Fund reductions proposed to the California Conservation Corps' (Corps') budget.

April Finance Letter. The CDF is requesting \$39 million (Proposition 40) over five years for fuel reduction activities aimed at reducing the risk of wildland fires in the Sierra Nevada region. The CDF proposes that the majority of the funding (about 86 percent) will be used for contracts under the California Forest Improvement Program (CFIP) and the Prefire Management Program (PMP) for mechanical treatments for fuel reduction. In addition, five percent of the program costs will be for prescribed burning.

Benefits of Utilizing Corps for Fuel Reduction Efforts. The Analyst has identified opportunities to use the Corps in the fuel reduction efforts proposed by CDF. The Analyst finds that under existing law, state agencies considering the use of contracted labor for projects such as fuel reduction should give priority to the Corps if Corps crews are available. The Analyst finds that increasing the use of the Corps in fuel reduction efforts might offer the following benefits:

- Provides *increased activity for the corpsmembers* to help mitigate proposed budget impacts that reduce the number of corpsmembers served;
- *Increases the overall level of investment in fuel reduction;*
- *Provides training opportunities for corpsmembers* in fire suppression; and
- *Provides additional crews that are fire trained* to assist in wildland fire suppression.

CDF's Concerns with Using Corps. The Analyst cites that the department resists having to use the Corps for fuel reduction activities since they tend to be more expensive than other sources of labor such as prison crews. In addition, the majority of funding is proposed for allocation to fire safe councils and other local jurisdictions. Therefore, CDF would not be responsible for picking the contractor that actually delivers the service. Furthermore, because of budget reductions over the past several years the Corps no longer has corpsmembers with adequate training for prescribed fuel reduction.

LAO Options. The LAO has proposed three options to increase the use of the Corps in fuel reduction efforts, including addressing CDF's concerns about the high costs of the Corps, and inadequate training for prescribed burning. The LAO's options are summarized below:

- **Increase Corps Activities—Utilizing Grant Funds.** Adopt budget bill language to require criteria for grant programs that give priority to projects that utilize the Corps. Alternatively, adopt language that would require a certain percentage of funds allocated to grant programs be dedicated to projects utilizing the Corps. Furthermore, adopt language to allow the Corps to apply directly to the department for CDF fuel reduction grants.
- **Reduce Cost of Corps—Utilizing Corps Bond Funding.** The April finance letter for the Corps proposes expenditure of \$1.6 million bond funds to support Corps activities. Budget bill language could be adopted to dedicate these funds to fuel reduction top match funds provided by CDF and offset the additional costs of utilizing the Corps to project sponsors.

- ***Increasing Corps Activities--Prescribed Burning.*** Adopt budget bill language to require a certain percentage of funding for proposed prescribed burning activities be dedicated for the Corps.
- ***Training for Fuel Reduction and Prescribed Burning.*** Allocate a portion of the Workforce Investment Act (WIA) funds to implement a Corps training program for fire and fuel reduction activities. This option would increase the number of trained fire crews and provide post training job opportunities for corpsmembers, which is an important condition of utilizing WIA funds.

Staff Recommendation. Staff recommends the Subcommittee *direct staff, the LAO, and the administration to develop trailer bill language that requires CDF to utilize the Corps for 50 percent of the funds proposed for fuel reduction activities. The trailer bill should also restrict funding for a program timberlands EIR.* The proposal should also seek to utilize WIA funds to provide the Corps training in fuel reduction activities.

3600 Department of Fish and Game

1. April Finance Letter—Bond Funds Only

Summary. The following is a summary of the bond fund related budget amendments requested by the administration in the 2004-05 April finance letter for the Department of Fish and Game (DFG).

Department of Fish and Game

April Finance Letter - Bond Funds Only, 2004-05

(Dollars in Thousands)

Description	General Fund	Special Funds	Prop 40	Prop 50	Total	Positions
Fisheries Restoration Grants Program. Proposes funds for grants to tribes, non-profit organizations, public agencies, and private entities for fisheries restoration projects. Funds may be used to match federal funding.	-	-	\$7,000	-	7,000	0.0
CALFED Ecosystem Restoration Program. Proposes funding for grants to fund ecosystem restoration projects to implement elements of CALFED's ecosystem restoration program workplan. Approximately \$2.8 million is for administration of grant program and other state support of the program. Also proposes to shift some funding from the General Fund and reimbursements to bond funds.	-72	-306	-	72,303	71,925	8.0
Total	-72	-\$306	\$7,000	\$72,303	\$78,925	8.0

Fisheries Restoration Grant Funds Maximize Federal Funds. The Analyst recommended in its Analysis that additional bond funds be appropriated to maximize receipt of available federal funds for the Fisheries Restoration Grant Program. The administration's April finance letter provides sufficient funds to fully maximize federal funds available for this program.

Staff Recommendation. No issues have been raised with the administration's April finance letter for DFG. *Staff recommends approving the finance letter.*

3640 Wildlife Conservation Board

Background. The Wildlife Conservation Board (WCB) acquires property in order to protect and preserve wildlife and provide fishing, hunting, and recreational access facilities. The WCB is an independent board in the Department of Fish and Game and is composed of the Director of the Department of Fish and Game, the Director of the Department of Finance, and the Chairman of the Fish and Game Commission. In addition, three members of the Senate and three members of the Assembly serve an advisory capacity to the board.

Governor's Budget. The budget proposes total expenditures of about \$33.2 million in 2004-05, a reduction of about \$1.2 billion, or 97 percent, below estimated expenditures in the current year. This reduction is mainly a result of the administration's decision to defer its submittal of most of its resources bond proposal to later in the spring. Below is a summary of expenditures by type of expenditure and funding source.

The administration's April finance letter proposes to increase the budget for WCB by \$13.3 million, thereby increasing the total budget for 2004-05 to \$40.6 million.

Wildlife Conservation Board

Governor's Budget Spending Totals

(Dollars in Thousands)

	Actual 2002-03	Estimated 2003-04	Proposed for 2004-05	
			Amount	Percent Change
Type of Expenditure:				
State Operations	\$2,242	\$6,552	\$5,888	-10%
Capital Outlay	276,855	1,165,384	21,377	-98%
Total	\$279,097	\$1,171,936	\$27,265	-98%
Funding Source:				
General Fund	\$21,620	\$8,192	\$193	-98%
Special Funds	-2,184	13,932	1,939	-86%
Bond Funds	259,163	1,130,355	25,133	-98%
<i>Budget Act Total</i>	<i>278,599</i>	<i>1,152,479</i>	<i>27,265</i>	<i>-98%</i>
Reimbursements	497	14,457	0	-100%
Oak Woodlands Conservation Fund	0	5,000	0	-100%
Total	\$279,096	\$1,171,936	\$27,265	-98%

Budget Change Proposals. The following is a summary of the 2004-05 budget change proposals for WCB.

Wildlife Conservation Board**Capital Outlay Budget Change Proposals, 2004-05***(Dollars in Thousands)*

Description	Wildlife Restoration Fund	Habitat Conservation Fund	Total
<i>Public Access.</i> Proposes funding for public access acquisition and development. No other funds are provided to WCB for this purpose.	\$500	-	\$500
<i>Habitat Conservation Fund Acquisitions.</i> Proposes funding for acquisition, restoration, and enhancement of habitat necessary to protect wildlife and plant populations.	-	21,000	21,000
Total	\$500	\$21,000	\$21,500

1. Forthcoming Land Acquisitions—Informational Issue

Hearst Ranch. The board is currently in negotiations to acquire a conservation easement on a large portion of the Hearst Ranch, which is comprised of approximately 80,000 acres in San Luis Obispo County including 18 miles along the coast. The WCB, Coastal Conservancy and the Department of Parks and Recreation are currently in discussions with the Hearst Corporation on what would be allowed in the easement has not been reached. The state has not entered into a contract to acquire a conservation easement on the property.

Questions the Subcommittee may wish to ask the department.

- What are the plans for public access on the property?
- Staff understands that the current proposal by Hearst Corporation would retain significant coastal property. How would public access be treated on these sections of the coast?
- Who will hold the easement if it is acquired by the state?

Bolsa-Chica. The board is currently in negotiations to acquire approximately 200 acres of mesa adjacent to the Bolsa-Chica wetlands along the coast in Huntington Beach, Orange County. Proposition 50 allocated a portion of the funds allocated to WCB in the bond for land acquisitions to acquire 100 acres in Bolsa-Chica. The state has not yet entered into a contract to acquire the property. Nevertheless, the subcommittee may wish to ask the following questions regarding this potential acquisition.

Questions the Subcommittee may wish to ask the department.

- What is the status of acquiring the Bolsa-Chica property?

2. Suspend Natural Heritage Preservation Tax Credit Program

Background. The Natural Heritage Preservation Tax Credit Program (Chapter 113, Statutes of 2000 [SB 1647, O’Connell]) provides tax credits to landowners who make qualified land donations to state agencies, local government entities, or qualified nonprofit organizations. In

exchange for a qualified donation, landowners receive a tax credit of 55 percent of the appraised fair market value of the donated property.

Tax credits were awarded under this program in 2000-01 and 2001-02 and the program was suspended during the 2002-03 budget year. During the first two years of program operation, approximately \$33 million in tax credits were awarded. In exchange the state, local governments, and nonprofit organizations received donations of over 7,000 acres of land valued at over \$60 million. Approximately \$67 million remains of the \$100 million in tax credits originally proposed for allocation for this program.

Governor's Proposed Mid-Year Adjustment and Budget—Suspend Tax Credit. The Governor has proposed suspension of the tax credit in the current and budget years, with estimated savings of \$8.7 million and \$10.3 million, respectively. The savings would be in the form of increased General Fund tax revenues due to a reduction in tax credits that would otherwise be claimed if the suspension was not in place. The administration is seeking approval of trailer bill legislation to implement this suspension (SB 1052, Committee on Budget and Fiscal Review). This bill has been referred to the Senate Revenue and Taxation Committee. The Governor is currently administratively suspending the tax credit program in the current year pending enactment of legislation.

Tax Credit Set To Expire Soon. Under current law, the Natural Heritage Preservation Tax Credit program is set to expire on December 31, 2005. Therefore, if the tax credit is suspended in the current and budget years as proposed by the Governor the program will expire and over \$60 million in tax credits will be unallocated.

Substantial Bond Funds Available for Land Acquisitions. The approval of two resources bonds in recent years has provided significant funds for land acquisition activities and a large portion of these funds have not been expended. While the expenditure of general obligation bond funds does incur General Fund costs, these costs are spread out over a long period of time (typically 30 years). On the other hand, the tax credit program does allow the state to acquire land at a substantial discount. However, the reduction in General Fund tax revenues occurs over a significantly shorter time horizon and is not under the control of the state (current law allows the tax credits to be claimed over a period of seven years).

Staff Recommendation. Given the size of the state's projected General Fund deficit in the budget year and the size of the projected structural deficit, ***staff recommends enacting trailer bill language to suspend the tax credit program in the budget year.*** Suspending the tax credit program would result in the expiration of the program leaving approximately \$60 million in tax credits unallocated. Given the need to minimize the structural deficit we think the tax credit should expire given the significant bond funds available for land acquisitions. The expiration of this program does not preclude the Legislature's ability to reinstate a similar program when General Fund tax revenues are available for this purpose.

3. April Finance Letter—Bond Proposal

Summary. The following is a summary of the budget amendments requested by the administration in the 2004-05 April finance letter for WCB.

Wildlife Conservation Board

April Finance Letter, 2004-05

(Dollars in Thousands)

Description	Proposition		
	50	Total	Positions
<i>Colorado River Regulatory Program.</i> Proposes funding for the acquisition, protection, and restoration of land and water resources along the Lower Colorado River.	\$13,250	\$13,250	0.0
Total	\$13,250	\$13,250	0.0

Staff Recommendation. No issues have been raised with the administration's April finance letter. *Staff recommends approving the finance letter.*

3790 Department of Parks and Recreation

1. April Finance Letter—Bond Funds Only

Summary. The following is a summary of the bond fund related budget amendments requested by the administration in the 2004-05 April finance letter for DPR.

Department of Parks and Recreation

April Finance Letter - Bond Funds Only, 2004-05

(Dollars in Thousands)

Description	Reim- bursements	Prop 40	Prop 50	Total	Positions
San Simeon Earthquake Disaster Relief. Proposes funding to repair damage to state park facilities from the San Simeon earthquake. This event was declared a federal disaster and projects are eligible for 75 percent from the Federal Emergency Management Agency (FEMA).	\$2,250	\$750	-	\$3,000	0.0
Southern California Fires Disaster Relief. Proposes funding to repair the Cuyamaca Rancho State Park and the Silverwood Lake State Recreation Area, both parks damaged by the Southern California fires. The Southern California fires were declared a federal disaster and projects are eligible for 75 percent from FEMA.	18,123	6,041		24,164	0.0
Bond Administration. Proposes to establish 2 positions to support Proposition 40 auditing and 2 positions to support Proposition 50 statewide accounting. Funding for these positions was included in the January budget.	-	0	0	0	4.0
Proposition 50 Website Development. Proposes to shift funds from the Resources Agency for the development of a website that would allow the public to identify the geographic location of Proposition 50 funded projects.	-	-	68	68	0.5
Natural Stewardship Projects. Proposes increase in funding for natural stewardship projects to restore and protect natural landscapes on state park properties.	-	1,500	-	1,500	0.0
Local Assistance Programs. Proposes grants for parks, including \$31.7 million for Roberti-Z'berg Harris grants, \$23.3 million for California Youth Soccer and Recreation Development Program, and \$23.3 million for State Urban Parks and Healthy Communities Act.	-	78,413	-	78,413	0.0
Reappropriation of Local Assistance Grants. Proposes to extend the liquidation period to June 30, 2010 for funds appropriated in the 2002 Budget Act for Urban Park Grants and Murray-Hayden Competitive Grants. This is consistent with the bond act language.	-	0	-	0	0.0
Total	\$20,373	\$86,704	\$68	\$107,145	4.5

The following is a summary of the capital outlay budget amendments funded by Proposition 12 bond funds requested by the administration in the 2004-05 capital outlay April finance letter for DPR.

Department of Parks and Recreation**April Finance Letter - Capital Outlay - Prop 12 Only, 2004-05***(Dollars in Thousands)*

Description	Reim- bursements	Prop 12	Total
Angel Island. Proposes funds for construction to stabilize, preserve, and restore several key buildings of the Angel Island Immigration Station.	-	\$12,484	\$12,484
Chino Hills. Proposes funding wildlife corridor restoration project in Coal Canyon (\$1.1 million). Proposes funding for working drawings for an entrance road to the park (\$192,000). Proposes funding construction and purchasing equipment for a new visitors center (\$1.7 million).	-	1,667	1,667
Crystal Cove. Proposes funding construction and purchasing equipment for the conversion of the El Morro trailer park to a public day-use facility and recreational vehicle/tent campground.	287	4,249	4,536
Malibu Creek. Proposes funding for working drawings and construction for restoration of the historic Sepulveda Adobe (\$1.2 million). Proposes funding for preliminary plans to rehabilitate existing day-use facilities at the Tapia area (\$404,000).	-	1,233	1,233
Statewide Budget Development. Proposes funding for development of future projects and budget cost estimates.	-	150	150
Volunteer Enhancement Program. Proposes funding to improve various volunteer facilities, camp host sties, and visitor centers.	-	345	345
Total	\$287	\$20,128	\$20,415

On the following page is a summary of the capital outlay budget amendments funded by Proposition 40 bond funds requested by the administration in the 2004-05 capital outlay April finance letter for DPR.

Staff Recommendation. No issues have been raised with the administration's April finance letter. **Staff recommends approving both the finance letter and the capital outlay finance letter.**

Department of Parks and Recreation**April Finance Letter - Capital Outlay - Prop 40 Only, 2004-05***(Dollars in Thousands)*

Description	Reim- bursements	Prop 40	Total
Calaveras Big Trees. Proposes funds for working drawings (\$245,000), construction (\$3.3 million), and equipment (\$99,000) to construct a new visitor center.	500	3,153	3,653
Chino Hills. Proposes funding wildlife corridor restoration project in Coal Canyon (\$1.1 million). Proposes funding for working drawings for an entrance road to the park (\$192,000). Proposes funding construction and purchasing equipment for a new visitors center (\$1.7 million).	-	1,246	1,246
Doheny. Proposes funding construction and purchasing equipment for new lifeguard headquarters and lifeguard tower.	-	1,121	1,121
Donner Memorial. Proposes funding for working drawings, construction, and purchasing equipment for a new visitor center and museum. A large portion of this project is funded by a federal transportation grant.	3,041	2,886	5,927
Huntington. Proposes funding for working drawings, construction, and purchasing equipment for a remodel of the existing Huntington State Beach Training Facility and Park Lifeguard Headquarters.	-	3,736	3,736
Lake Perris. Proposes funding for construction and purchasing equipment of a new multi-purpose lifeguard facility.	-	824	824
MacKerricher. Proposes funding for construction for rehabilitation of the Pudding Creek Trestle to provide pedestrian and bicycle access to the coastal trail.	-	1,939	1,939
Malibu Creek. Proposes funding for working drawings and construction for restoration of the historic Sepulveda Adobe (\$1.2 million). Proposes funding for preliminary plans to rehabilitate existing day-use facilities at the Tapia area (\$404,000).	-	404	404
Plumas-Eureka. Proposes funding for a study and partial construction costs to provide long-term stabilization and preservation of the historic stamp mill at the Plumas-Eureka State Park.	-	901	901
Railroad Technology Museum. Proposes funding for working drawings and construction to rehabilitate two historical structures in the Union Pacific Rail Yard Building Complex in downtown Sacramento. Also funds a comprehensive facilities plan to guide the development of five Union Pacific buildings to house the Railroad Technology Museum.	5,000	6,626	11,626
Shasta. Proposes funding preliminary plans for the stabilization of twelve gold rush period historic structures at Shasta State Historic Park.	-	521	521
Topanga. Proposes funding for preliminary plans and working drawings for improvements to three public use facilities, including Trippet Ranch, Hub Junction, and Los Liones Canyon.	-	574	574
Minor Projects. Proposes funding for various minor capital outlay projects.		2,647	2,647
Total	\$8,541	\$26,578	\$35,119

3840 Delta Protection Commission

Background. The Delta Protection Commission (DPC) was created by statute in 1992 to develop a long-term resources management plan for land uses within the Sacramento-San Joaquin Delta. This plan is implemented by local governments in their land use planning processes. Broadly speaking, the main goal of the commission is to protect and enhance the overall quality of the Delta environment for agriculture, wildlife habitat, and recreational activities.

Governor's Budget. The Governor's budget proposes \$301,000 to support DPC in 2004-05. This is the same level of funding as estimated for expenditures in the current year.

Delta Protection Commission

Governor's Budget Spending Totals

(Dollars in Thousands)

	Actual 2002-03	Estimated 2003-04	Proposed for 2004-05	
			Amount	Percent Change
Type of Expenditure:				
State Operations	\$282	\$301	\$301	0%
Total	\$282	\$301	\$301	0%
Funding Source:				
General Fund	\$0	\$0	\$0	-
Environmental License Plate Fund	143	138	138	0%
<i>Budget Act Total</i>	<i>143</i>	<i>138</i>	<i>138</i>	<i>0%</i>
Harbors and Watercraft Revolving Fund	128	163	163	0%
Reimbursements	11	0	0	-
<i>less funding provided by other sources</i>				
Total	\$282	\$301	\$301	0%

Budget Change Proposals. No 2004-05 budget change proposal were submitted for DPC.

1. Funding the Commission

Background. Supplemental report language was adopted last year to require the Resources Agency to report to the Legislature on the future value of DPC. Furthermore, this language required the Analyst to review and make findings based on this report in its 2004-05 Analysis. The DPC oversees the local implementation of a regional land use plan for a large part of the Sacramento-San Joaquin Delta.

Governor's Budget. The Governor's budget proposes \$301,000 from special funds for support of DPC.

DPC's Current Role. The Analyst finds that the commission has achieved much of its original statutory mandate, which included completing a regional resource management plan that was incorporated into the general plans of all affected local planning agencies as well as state regulations. The DPC has some oversight over the implementation of this plan by local land use jurisdictions, but has not had any appeals to date. The commission's current activities are focused largely on monitoring local compliance with the regional land use plan and monitoring meetings and actions of the CALFED Bay-Delta Program.

LAO Recommendation. The Analyst recommends adopting budget bill language to shift the DPC's funding support from state funds to locally funded reimbursements. The Analyst finds that the current focus of the commission—monitoring local planning and CALFED activities and serving as a local public forum to speak for and balance Delta interests—appears to be more appropriately funded by local interests rather than by state funds.

Implementation Issues. The Analyst finds that DPC does not have clear statutory authority to override local land use decisions if they do not comply with the current resource management plan. While no land use decisions have been appealed to the commission to date, it is not clear that current statute permits DPC to stop projects that do not comply with the resource management plan. Given the DPC's current lack of enforcement authority over the local land use agencies in the Delta it is not clear that the commission could successfully collect fees from its constituent agencies. Therefore, implementing the Analyst's recommendation may be difficult.

Staff Comments. Staff finds that DPC is in general a regional land-use-planning agency and that the state does not typically fund these types of agencies. Nevertheless, the Delta does have statewide importance in the state's water delivery infrastructure and is the primary focus of the CALFED Bay-Delta program. Furthermore, staff finds that it is critical that land-use decisions in the Delta be coordinated with CALFED efforts.

Assembly Bill 2476 (Wolk) is currently pending in the Assembly to among other things provide the commission with clear statutory authority to enforce a regional resource management plan in the Delta region. The bill also proposes to expand the jurisdiction of DPC to include a secondary zone that surrounds the primary Delta area.

Questions the Subcommittee may wish to ask the department.

- How would the commission implement the Analyst's recommendation to fund commission operations through reimbursements from local agencies?
- How is the resource management plan for the Delta coordinated with CALFED objectives?
- What authority does the commission have to veto local land use decisions that do not comply with the resource management plan?

Staff Recommendation. Staff recommends that the subcommittee approve DPC's budget as proposed. However, the subcommittee may wish to revisit this issue next year pending the enactment of AB 2476 (Wolk).

3860 Department of Water Resources

Background. 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. The department also maintains public safety and prevents damage through flood control operations, supervision of dams, and water projects. The department is also a major implementing agency for the CALFED Bay-Delta Program, which is 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/Sacramento-San Joaquin Delta Estuary.

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 the receipt and delivery of the energy procured by the contracts. (The CERS division of DWR will be discussed at the subcommittee hearing scheduled for May 13.)

Governor's Budget. The budget proposes total expenditures of about \$6.3 billion in 2004-05, a reduction of about \$1.9 billion, or 23 percent, below estimated expenditures in the current year. This reduction is partly a result of the administration's decision to defer its submittal of most of its resources bond proposals to later in the spring. It also reflects a decrease of \$1.4 billion for the energy contracts entered into on behalf of the IOUs during the energy crisis. This reflects a reduction in the amount of electricity purchased under contract for the budget year, as well as lower prices on the electricity currently under contract.

The administration's April finance letter proposes to increase the budget for DWR by approximately \$273 million, thereby increasing the total budget for 2004-05 to \$6.5 billion.

Department of Water Resources
Governor's Budget Spending Totals
(Dollars in Thousands)

	Actual 2002-03	Estimated 2003-04	Proposed for 2004-05	
			Amount	Percent Change
Type of Expenditure:				
Planning	\$173,852	\$448,664	\$74,655	-83%
Bay-Delta Office	42,183	0	0	-
State Water Project Infrastructure	466,743	241,344	247,134	2%
Public Safety	176,175	79,327	35,114	-56%
Services	5,086	6,440	5,428	-16%
California Energy Resources Scheduling	5,176,059	6,814,301	5,414,760	-21%
Capital Outlay	292,086	571,334	514,773	-10%
Administration	0	63,700	63,700	0%
<i>less distributed administration</i>	0	-63,700	-63,700	-
<i>less loan repayments</i>	-4,801	-4,013	-4,013	-
Total	\$6,327,383	\$8,157,397	\$6,287,851	-23%
Funding Source:				
General Fund	\$195,690	\$54,747	\$45,851	-16%
Special Funds	26,513	48,287	9,287	-81%
Bond Funds	131,836	430,766	26,110	-94%
<i>Budget Act Total</i>	354,039	533,800	81,248	-85%
Federal Funds	3,632	11,307	11,307	0%
State Water Project Funds	741,491	761,033	765,092	1%
DWR Electric Power Fund	5,176,059	6,814,301	5,414,760	-21%
Bosco-Keene Renewable Resources Investment Fund	574	20	0	-100%
Reimbursements	53,116	38,470	16,974	-56%
<i>less loan repayments</i>	-1,527	-1,530	-1,530	-
Total	\$6,327,384	\$8,157,401	\$6,287,851	-23%

Budget Change Proposals. The following is a summary of the 2004-05 budget change proposals for DWR.

Department of Water Resources
Budget Change Proposals, 2004-05
(Dollars in Thousands)

Description	General Fund	Total	Personnel Years
Colorado River Management Account. Proposes funding to line the All-American Canal and groundwater storage projects to reduce the state's Colorado River water use. Funding for this program is continuously appropriated pursuant to Chapter 813, Statutes of 1998 (SB 1765, Peace).	\$16,100	\$16,100	0.0
Flood Control Project Sediment Removal. Proposes a one-time redirection of \$2.6 million General Fund and 4.7 positions from capital outlay projects to perform maintenance on the Fremont weir. Sediment has built-up in the Sacramento River Flood Control Project and adversely affected flow capacity, especially the portion of the Yolo Bypass adjacent to the Fremont weir.	0	0	0.0
General Fund Reduction. Proposes to eliminate General Fund support for Watermaster services. Also proposes to reduce funding for California/Mexico border issues, drought panel recommendations, statewide planning, and other environmental review activities.	-1,556	-1,556	0.0
Total	\$14,544	\$14,544	0.0

Capital Outlay Budget Change Proposals. The following is a summary of the 2004-05 capital outlay budget change proposals for DWR.

Department of Water Resources
Capital Outlay Budget Change Proposals, 2004-05
(Dollars in Thousands)

Description	General Fund	Special Funds	Total	Personnel Years
American River Long-Term Flood Protection Project. Proposes to redirect \$270,000 General Fund and 1.8 existing positions from the Folsom Dam Modifications Project to the American River Long-Term Flood Protection Project. The American River Long-Term Flood Protection Project is a recently federally authorized project to raise Folsom Dam by 7 feet and construct a new bridge downstream from the dam. This project has not been authorized by the state.	\$0	-	\$0	0.0
Total	\$0	\$0	\$0	0.0

1. April Finance Letter—Excluding Bond Funds—Informational Display

Summary. The following is a summary of the budget amendments, excluding bond fund related proposals, requested by the administration in the 2004-05 April finance for DWR.

Department of Water Resources

April Finance Letter - Excluding Bond Funds, 2004-05

(Dollars in Thousands)

Description	General Fund	Special Funds	Reimbursements	Total
Capital Outlay Reappropriations. Proposes to reappropriate \$17.1 million General Fund and \$8 million in reimbursements for various capital outlay projects, including the Folsom Dam Modifications (\$15.4 million GF, \$7.4 million Reimb.), Sacramento Riverbank Protection Project (\$900,000 GF), Tehama Section 205 Flood Control (\$750,000 GF, \$682,000 Reimb.), Lower Sacramento Area Levee Reconstruction (\$50,000 GF), and Merced County Streams (\$30,000 GF).	\$0	-	\$0	\$0
State Maintenance Areas. Proposes to increase reimbursements and redirect 2 positions to fund flood control maintenance responsibilities in San Luis Obispo County, since San Luis Obispo recently transferred their flood control maintenance responsibilities to the state. Proposes trailer bill language to amend current law to give DWR discretion over whether to form a maintenance area outside the Central Valley and to authorize the department to fully recover all costs related to establishing a new state maintenance area.	-	-	321	321
Watermaster Services. Proposes to increase reimbursements to fully fund the Watermaster Program from user fees at a level of \$2.5 million. The January 10 budget proposed elimination of all General Fund support for this program. Historically, costs for this program have been shared by the General Fund and water users, but this proposal includes trailer bill language that would require full reimbursement from water users for this program.	-	-	1,562	1,562
Dam Safety Program. Proposes to increase fee authority to backfill recent General Fund reductions to the dam safety program.	-	431		431
Salton Sea Restoration Studies. Proposes to increase reimbursement authority to fund a habitat restoration study and other planning activities related to the restoration and protection of the Salton Sea. Funds are available from a Proposition 50 appropriation to the Wildlife Conservation Board.	-	-	7,200	7,200
Total	\$0	\$431	\$9,083	\$9,514

2. Colorado River Management Account

Background. Chapter 813, Statutes of 1998 (SB 1765, Peace) provides a continuous General Fund appropriation for Colorado River management, mainly to reimburse local beneficiary agencies for the lining of the All-American Canal and other projects that help the state live within its Colorado River water allocation. The legislation allocated \$235 million General Fund for this purpose that is transferred to the Colorado River Management Account when it is needed to reimburse local agencies' construction costs. While not explicitly part of the Quantification Settlement Agreement, the allocation of these funds was part of the general agreement made between several southern California water agencies and the state.

Governor's Budget. The Governor's budget proposes to transfer \$16.1 million from the General Fund to the Colorado River Management Account in the budget year. This is despite a 2003-04 budget trailer bill (Chapter 228, Statutes of 2003 [AB 1756, Budget Committee]) that explicitly directs the administration to exclude funding for the All-American Canal lining in the 2004-05 budget proposal.

Current Year Allocation Is Sufficient. Approximately \$58 million was allocated to this account in the current year. About \$39 million was from the General Fund and the remainder was from Proposition 50 bond funds. These funds are used to reimburse locals for up-front construction costs associated with lining the canals. The department has indicated that the funding allocated in the current year will be sufficient to meet projected needs in 2004-05 due to slippage in construction schedules. The department has indicated that this will have no impact on projected activities in the budget year, but may slow down projected construction schedules.

LAO Option. The Analyst has suggested that the \$16.1 million could be deferred as an option for General Fund savings in the budget year.

Remaining General Fund Obligation. The state currently owes local beneficiary agencies \$172 million General Fund from the original allocation. Current law requires that the funding be allocated no later than 2008-09. Based on current estimates of the General Fund condition in the budget year and future years it is unlikely that there will be sufficient funds to make these required payments without reducing funding for other activities.

Questions the Subcommittee may wish to ask the department.

- How does the administration plan on funding the remainder of the obligations to the Colorado River Management Account prior to 2008-09?

Staff Recommendation. Staff recommends that the Subcommittee *defer the proposed transfer of \$16.1 million General Fund to the Colorado River Management Account* to create General Fund savings in the budget year given the state's current General Fund condition. This action would not change the current obligation of the state to provide \$172 million to the Account by 2008-09.

3. Funding Flood Management

Background. Flood management encompasses both structural flood control projects and floodplain management. The state shares the responsibility of *funding structural flood control projects* with federal and local governments. Typically the federal government contributes 65 percent of the planning and construction costs of federally authorized flood control projects. The state has historically contributed 70 percent of the nonfederal share of costs, with locals contributing the remaining 30 percent. However, Chapter 1071, Statutes of 2000 (AB 1147, Honda) modified the state-local cost-sharing formula. Specifically, the state's funding share was reduced to 50 percent of the nonfederal share of the total costs, but this share can rise to 70 percent if DWR finds that a project provides multiple benefits, including habitat, open space, and/or recreation. The state is generally the sponsor of flood control projects in the Central Valley and participates significantly in the development of the project. The DWR's involvement in locally sponsored projects outside of the Central Valley is generally limited.

The state has a relatively small role in *floodplain management*. Floodplain management encompasses actions that restrict development in the floodplain through mapping and land-use decisions. The state generally has a relatively small role in floodplain management outside of the Central Valley. The State Reclamation Board (an independent board housed within DWR) has the authority to designate floodways in the Central Valley. Allowable development in designated floodways is significantly reduced since all development requires a permit from the board. Outside of the Central Valley, the state's role in floodplain management is more minimal, consisting only of providing technical assistance to communities to improve compliance with the National Flood Insurance Program standards and expanding the mapped areas prone to flooding that are outside of the 100-year floodplain.

Governor's Budget. The Governor's budget proposes \$79 million for flood management programs for 2004-05. This includes \$19.9 million Proposition 50 bond funds for the CALFED Levees Program and \$ 21.7 million Proposition 13 for flood control projects specifically identified in the bond. The budget includes \$1.4 million for floodplain management activities, which includes Proposition 13 funding to provide technical assistance and floodplain mapping. Furthermore, \$3.7 million from Proposition 13 has been proposed for flood control subventions to local agencies for the state's share of federally authorized flood control projects.

LAO Finds State's Flood-Related Losses Are Increasing. The Analyst finds that development in and around floodplains has contributed to increased losses due to floods. In addition, California's current pattern of development is likely to result in more people living in flood-prone areas of the state. Despite this, the state has reduced its floodplain management efforts. The Analyst also finds that the state's role in floodplain management is made more important given deficiencies in the federal National Flood Insurance Program (NFIP) standards, which are the primary standards used by local governments in land-use decisions in and round the state's floodplains. The NFIP program is based on outdated floodplain maps that do not cover the majority of streams likely to be developed in California over the next 20 years. The federal government is currently embarking on a nationwide map modernization effort to rectify this problem.

State Owes Locals For Its Share of Costs. The Analyst finds that a large portion of the state's expenditures on flood management has been to fund the state's share of federally authorized flood control projects. The state currently owes local governments outside the Central Valley approximately \$180 million for its share of costs of federally authorized projects sponsored by the locals. The funding owed locals is projected to grow to \$400 million over the next ten years for projects already authorized. Most of these projects will receive state funding to cover 70 percent of the nonfederal costs of the total project since they were authorized before the law change that reduced the state's share to 50 percent. The General Fund has historically funded these expenditures. However, bond funds have been used in the past and the administration is proposing to provide \$3.7 million Proposition 13 bond funds for this purpose in the budget year. Nevertheless, given the state's current fiscal condition it is unlikely that the state will have General Fund resources available to meet these obligations in the near future. In addition, there are limited bond funds available for this purpose.

LAO Recommendation. The Analyst recommends enactment of *legislation that reduces the state's share of the nonfederal costs for federally authorized flood control projects* from 50 percent to 30 percent. The Analyst estimates that it could save the state between \$115 million and \$230 million in future budget years if the new state-local cost sharing provision was applied to authorized projects where the state's share of costs is currently owing. The Analyst finds that flood control projects provide direct benefits to local communities. For example, in addition to the direct public safety benefits, the projects often allow for new development and/or exemption from NFIP requirements, which provide significant economic benefits to local communities.

The Analyst also finds that *savings created by this recommendation would provide an opportunity for the state to be more strategic in its approach to funding flood management activities*. Specifically, the Analyst finds that the state's flood management activities would be more effective if investments were made for (1) increased oversight and review of local flood control projects outside of the Central Valley and (2) floodplain management. The Analyst notes that a relatively small portion of the estimated saving (about \$10 million) would be needed to improve the state's current approach to flood management activities.

Impacts of Paterno Case. *Paterno v. State of California* arose out of flooding in February 1986 on the Yuba River, in which a section of levee failed, flooding the communities of Linda and Olivehurst. In November of 2003, the Court of Appeals reversed an earlier decision by the trial court and held the state exclusively liable for damages resulting from the levee failure. The court found that shortcomings of the levee as originally built could have been discovered and should have been remedied by the state. The State Supreme Court recently refused to hear the state's appeal. As a result, *the state is now faced with paying \$500 million to \$1 billion in damages* to the residents of Linda and Olivehurst for damages caused by the failed levee.

This decision will have significant impacts on the state since approximately 50 percent of the levees that comprise the Sacramento River Flood Control Project were originally built with inferior materials with methods that did not meet engineering standards. The department has indicated that the Paterno ruling *could make the state potentially liable for any levee failure where it can be demonstrated that the core of the levee did not meet engineering standards* of

the day at the time it was constructed. The department has indicated that it is currently working on a white paper on how to manage the liabilities presented by the Paterno case.

Staff Comments. The Paterno case further elevates the importance of prioritizing the limited state resources currently dedicated to flood management. Since the General Fund has been the primary source of funding for flood management activities, funding levels have been unstable and do not coincide with infrastructure needs. A long-term strategy for funding flood management activities needs to be developed to address funding needs. The Analyst's recommendation is one option for freeing up state funds so that they can be prioritized to fund critical needs, including baseline investments in floodplain management. However, the state also needs to deal with the more immediate potential financial liability that the Paterno case presents, given the hundreds of miles of inferior levees under the state's jurisdiction.

Questions the Subcommittee may wish to ask the administration.

- How does the department currently prioritize flood management activities?
- What funding options does the state have to finance the state's flood management obligations?
- What is the status of the white paper the department is currently developing to address the potential liability created by the Paterno decision?

Staff Recommendation. Staff recommends the subcommittee *direct staff to develop trailer bill language consistent with the LAO's recommendation to reduce the state's share of federally authorized flood control projects from 50 percent to 30 percent.* Furthermore, staff also recommend the subcommittee *adopt supplemental report language* to direct the department to develop a report on options for dealing with the potential liability created by the Paterno decision.

4. State Maintenance Areas

Background. The state is currently directly responsible for maintenance of around 150 miles of levees in ten "state maintenance areas" located in the Central Valley and significant portions of the Sacramento River Flood Control Project. Current law allows local reclamation districts to voluntarily transfer its obligation to maintain any flood control structure to the state if the local district declares that it no longer desires to operate and maintain the structure. Therefore, increasing the state's maintenance areas. In setting up a new maintenance area DWR is authorized to collect assessments from the local reclamation district to cover the costs associated with maintaining the local flood control structures. However, the law does not allow the department's start-up costs associated with forming a new maintenance area to be reimbursed from the local district.

April Finance Letter. In an April finance letter the administration requests a \$321,000 increase in DWR's reimbursement authority to cover the costs associated with the creation of a new maintenance area. During 2003 two local public agencies that maintain federal flood control projects turned over maintenance of its projects to DWR. This is the first time the department has had to form a maintenance area outside of the Central Valley. The April finance letter also proposes trailer bill language to amend current law to give DWR discretion over whether to form

a maintenance area outside the Central Valley in the future. It would also authorize the department to fully recover all costs related to establishing a new state maintenance area.

LAO Recommendation. The Analyst has recommended trailer bill language similar to that proposed by the department in its April finance letter.

Staff Comments. The department has indicated that local agencies have sought to transfer maintenance responsibilities to the state for a variety of reasons. Some of the reasons cited include the limitations of Proposition 218 on the ability to increase taxes, the costs of environmental compliance needed to perform the maintenance work, and the risk of liability for damages resulting from flood events. Staff recognizes that these are legitimate issues that local reclamation districts are faced with, however, current law places unwarranted burden and liability on the state. This is especially of concern in light of the Paterno decision that could make the state potentially liable for any levee failure where it can be demonstrated that the core of the levee did not meet engineering standards of the day at the time it was constructed.

Staff Recommendation. Staff recommends the subcommittee *approve the April finance letter proposal to increase reimbursements to fully fund the departments flood control maintenance activities, including adopting the trailer bill language* to amend current law to give DWR discretion over whether to form new maintenance areas.

5. Watermaster Service Program

Background. The Watermaster Service Program was established to ensure water is allocated according to established water rights as determined by court adjudication. This program applies to a number of streams in northern California and several groundwater basins in southern California. The department's Watermaster program provides a physical presence in the field to ensure that water is distributed in a manner consistent with court adjudication and put to beneficial uses.

Governor's Budget and April Finance Letter. The Governor's budget proposes eliminating all General Fund support for the Watermaster program (\$713,000). The April finance letter proposes to increase reimbursements by \$1.6 million to make the Watermaster program fully funded by fees assessed on water users. This program was historically funded equally between the General Fund and water users. The administration is also proposing trailer bill language to make this program fully reimbursable from water users. This proposal also increases the programs baseline funding to \$2.5 million to reflect the full costs of the program. Funding for this program had been reduced over the past decade, while costs had increased leaving the program underfunded.

Staff Comments. Water users are clearly beneficiaries of the Watermaster program. The department has indicated that current fees are based on the size of the water diversion and are set to reflect the actual cost of providing the Watermaster program. This approach is a reasonable and equitable way to cover the costs of this program.

Staff Recommendation. Staff recommends that the subcommittee *adopt the April finance letter proposal to increase reimbursements by \$1.6 million to fund the Watermaster program,*

including adopting the proposed trailer bill language necessary to make this program fully reimbursable.

6. April Finance Letter—Bond Proposal—Informational Display

Summary. A summary of the resource bond-related budget amendments that were requested by the administration in the 2004-05 April finance letter for DWR is included in **Appendix C**. The amendments include proposals to expend approximately \$263 million from all bond sources. The administration also requests reappropriation of about \$220 million bond funds that were appropriated in prior years. These funds were not expended for a variety of reasons, including delays due to the need to develop criteria to implement new programs and delays caused by the hiring freeze. Finally, the administration also requests an extension of the liquidation period for approximately \$124 million in bond funds to assure funds are available to complete various projects and contracts.

7. Bond Fund Program Support

Background. In the current year budget Control Section 4.10 was enacted that required the elimination of 16,000 positions across state government. This control section resulted in the elimination of many newly established bond positions that were vacant at the time of these reductions. The DWR eliminated about 200 positions as a result of the reductions made by Control Section 4.10. A portion of these positions was bond funded.

April Finance Letter. The administration's bond proposal provides four new bond funded positions. Two of the positions are to support the CALFED Watershed Program that is a new grant program managed by the department. The remaining two positions are for additional administration and accounting support for Proposition 13 bond funds.

Substantial Prior Year Bond Fund Appropriations Remain Unexpended. The department is requesting reappropriation of a significant level of funds appropriated in prior years that have not been expended. In some cases these funds have not been expended because the funds appropriated are for new programs and the department is still developing criteria to allocate the funds. For example, the Integrated Regional Water Management Program funds would fall into this category. However, it is not clear why some programs have been delayed. These programs include the following:

- Groundwater Storage Grant Program (\$77.3 million)
- CALFED Water Supply Reliability Program (\$72.4 million)
- CALFED Water Use Efficiency (\$34.2 million)

LAO Recommendation. The Analyst finds that staffing reductions have substantially delayed the implementation of some new bond-funded programs. Furthermore, the Analyst recommends that the administration report to the Legislature on the status of expenditures made from current-and prior-year bond fund appropriations and its plans to improve the timeliness of implementing bond-funded programs.

Staff Comments. Staff observes that other departments have requested positions to implement bond funded programs and restore positions eliminated as a result of Control Section 4.10 reductions. Since DWR essentially requests no new positions to implement its bond funded programs it is not clear that these programs are staffed at levels adequate to implement these programs in a timely manner.

Staff Recommendation. Staff recommends the subcommittee *withhold action on the department's bond proposal and direct the department to provide information to the subcommittee before the May Revision meeting of this subcommittee on proposed staffing levels for each bond funded program, along with information on the bond-funded positions eliminated as part of Control Section 4.10 reductions.*

8. Integrated Regional Water Management Program

Background. The Integrated Regional Water Management (IRWM) Program being implemented jointly by DWR and the State Water Resources Control Board (SWRCB) represents a departure from the way the state has traditionally funded water-related projects. This program is designed to award grants to projects that propose regional integrated solutions to solving water problems. This differs from traditional single purpose projects, such as water use efficiency projects or water recycling projects.

Governor's Budget. The Governor's budget proposes \$400,000 to continue to support the IRWM program at DWR and \$1.3 million to support SWRCB. No new program funds have been proposed for appropriation to DWR in the budget year since the departments have not allocated any of the appropriation for projects made in the current year. The SWRCB is proposing \$10 million for projects in addition to funding provided in the current year. Approximately, \$47 million was provided for DWR for projects in the current year, and \$31.5 million for SWRCB.

Statutory Guidance Minimal. Presently the department and board are developing guidelines and criteria for awarding grants under this program. However, current law provides relatively little guidance as to what type of projects should be funded from this program. Implementing legislation currently guiding this process is summarized below:

- Chapter 618, Statutes of 2002 (SB 1473, Macahdo)—Allocates Chapter 8 funds equally to DWR and SWRCB and provides a funding split for northern and southern California.
- Chapter 767, Statutes of 2002 (SB 1672, Costa)—Defines a regional water management group as a group of three or more local public agencies.
- Chapter 240, Statutes of 2003 (AB 1747, Oropeza)—Expend at least \$20 million from the Integrated Regional Water Management Account on competitive grants for groundwater and recharge projects.

None of this legislation provides the department significant legislative direction in developing criteria for awarding these grants. For example, it is not clear how the departments will define integrated or region. It is also not clear that priority will be given to projects that have integrated solutions versus single objective projects.

Staff Recommendation. Staff recommends that the Subcommittee *direct staff, the LAO, and the department to develop trailer bill language to provide more statutory guidance for implementing the Integrated Regional Water Management Program.*

9. Environmental Water Account—Informational Issue

Background. The Environmental Water Account (EWA) program is to acquire water for endangered species protection and recovery and to hold this water in reserve to use when endangered species need it most. The goal is to reduce the likelihood of fishery agencies placing new restrictions on the operations of state and federal water projects that could reduce water deliveries to agricultural and urban users. Trailer bill language (Chapter 240, Statutes of 2003 [AB 1747, Budget Committee]) that accompanied the 2003-04 Budget Act included a requirement that not less than 50 percent of the funds made available for the EWA be used for the acquisition of long-term water purchase contracts and permanent water rights.

Governor's Budget. The Governor's budget proposes approximately \$32.5 million for EWA activities. In addition, approximately \$70 million appropriated in the current year for the CALFED Water Supply Reliability program may also be dedicated to support EWA. Staff are not aware of any long-term water purchase contracts or permanent water rights purchased to date to support EWA.

Staff Comments. The CALFED Record of Decision (ROD) specifies, "The EWA will provide for fishery protection actions that are supplemental to a baseline level of protection established by an existing set of regulatory programs." (Excerpt from page 55 of the ROD.) Presumably the regulatory programs referred to in the ROD includes programs like the endangered species act, the federal clean water act, and other regulatory programs. Staff has been advised that EWA water purchases may be used to compensate water users for actions the water users would have otherwise been required to make under existing regulatory programs. Given this, it is not clear that state funds should provide the sole support for the EWA since water provided through this account directly benefits specified water users.

Questions the Subcommittee may wish to ask the department.

- How has the EWA been used to provide benefits to the water users, specifically Central Valley Project and State Water Project exporters?
- About how much of the EWA water has been used to provide these benefits to the water users?
- Are EWA funds being used to compensate water users for actions water users would have otherwise been required to do to comply with current law? How does the department track this?
- If the EWA is being used to compensate water users for actions it otherwise would have been required to do to comply with current law, should the CALFED Program require EWA beneficiaries to fund a share of the EWA program compensatory with benefits received?

3870 California Bay-Delta Authority

Background. Pursuant to a federal-state accord signed in 1994, CALFED was administratively created as a consortium of state and federal agencies that have regulatory authority over water and resource management responsibilities in the Bay-Delta region. The CALFED program now encompasses 12 state and 13 federal agencies. The objectives of the program are to:

- Provide good water quality for all uses.
- Improve fish and wildlife habitat.
- Reduce the gap between water supplies and projected demand.
- Reduce the risks from deteriorating levees.

After five years of planning, CALFED began to implement programs and construct projects in 2000. The program's implementation—which is anticipated to last 30 years—is guided by the "Record of Decision" (ROD). The ROD represents the approval of the lead CALFED agencies of the final environmental review documents for the CALFED "plan." Among other things, the ROD lays out the roles and responsibilities of each participating agency, sets goals for the program and types of projects to be pursued, and includes an estimate of the program's costs for its first seven years. In the ROD, these costs are projected to total \$8.5 billion for the program's first seven years (2000-01 through 2006-07). This amount has recently been revised upward to \$9.2 billion.

The California Bay-Delta Authority (CBDA) oversees the CALFED program. Among the duties of CBDA are the annual review and approval of long-term expenditure plans of the implementing agencies and the preparation of a comprehensive program budget proposal.

Governor's Budget. The Governor's budget proposes \$30.9 million to support CBDA in 2004-05. This is approximately 84 percent less than the level of expenditures estimated in the current year due to the administration's decision to defer its bond proposal until the spring.

The administration's April finance letter proposes to increase the budget for CBDA by \$21.7 million, thereby increasing the total budget for 2004-05 to \$52.6 million.

California Bay-Delta Authority**Governor's Budget Spending Totals***(Dollars in Thousands)*

	Actual 2002-03	Estimated 2003-04	Proposed for 2004-05	
			Amount	Percent Change
Type of Expenditure:				
Program Support	-	\$191,999	\$30,909	-84%
Total	-	\$191,999	\$30,909	-84%
Funding Source:				
General Fund	-	\$10,916	\$8,515	-22%
Bond funds	-	135,222	884	-99%
<i>Budget Act Total</i>	-	<i>146,138</i>	<i>9,399</i>	<i>-94%</i>
Federal Funds	-	29,352	5,000	-83%
Reimbursements	-	16,510	16,510	0%
Total	-	\$192,000	\$30,909	-84%

Budget Change Proposals. No budget change proposals were submitted in 2004-05 for BDA.

1. CALFED Bay-Delta Program Funding—Informational Display

Summary. A summary of the proposed funding for the entire CALFED Bay-Delta Program is included in **Appendix D**. The administration proposes \$370.8 million state funds for the CALFED program in the budget year. The majority of that funding is from various bond funds. The General Fund provides about \$12 million to support the CALFED program, which is a 90 percent reduction in funding from the General Fund since 2000-01.

2. CALFED User Fee

Background. The CALFED Record of Decision (ROD) envisions a federal-state-local-user funding partnership. In most cases, the cost sharing reflects a 50-50 split between state and federal sources or a 33-33-33 split among federal, state, and local/private sources. State bond funds and the General Fund have largely funded the CALFED program. Funding from federal sources and other non-state support has lagged significantly. The Legislature enacted budget bill language that stated legislative intent that CBDA submit a broad-based user fee proposal for inclusion in the 2004-05 Governor's Budget, consistent with the beneficiary pays principle in the ROD.

Governor's Budget. The Governor's budget does not include a broad-based user fee as directed by the Legislature in the current year. However, CBDA continues to work on an options report that will present a range of options for implementing a broad-based user fee.

LAO Recommendation. The Analyst recommends the enactment of legislation to impose a fee on Bay-Delta water diverters to pay an appropriate share of costs of CALFED activities that benefit them. The Analyst finds that many CALFED activities provide benefits that are shared between the public-at-large and water users that divert water from the Bay-Delta system. The CBDA is currently evaluating the portion of each of its program elements benefits Bay-Delta water diverters as a broad group. The Analyst finds that to a large degree the benefits of CALFED to the Bay-Delta water diverters are in the form of increased water supply reliability. For example, ecosystem restoration expenditures for fish habitat improvements can facilitate the easing of restrictions on pumping water from the system, thereby making water deliveries more reliable. The Analyst also indicates that it might be necessary to amend existing reporting requirements related to water rights to enable CBDA to identify all diverters from the Bay-Delta system.

Staff Comments. CALFED programs have largely relied on resources bond funds to support its programs over the past few years. However, these funds are finite and bond funding for some program elements will be running out as early as 2005-06. Therefore, it is critical that a CALFED user fee be put in place to continue funding many of the CALFED program elements. Furthermore, the CALFED ROD specifies that a user fee raising at least \$35 million annually for ecosystem restoration be in place by 2003-04.

The subcommittee may wish to ask the department the following questions.

- What is the timeline for finalizing the options report?
- What additional work needs to be completed before BDA can make a recommendation on a user fee structure?

Staff Recommendation. Staff recommends that the *subcommittee adopt the following trailer bill language to implement a broad-based user fee:*

It is the intent of the Legislature that water users that benefit from the implementation of the CalFed Record of Decision and the Bay-Delta Program shall be responsible for funding one half of the non-federal portion of those costs that provide general and shared benefits to users and to the public. This funding shall be in addition to costs that are charged to direct and identifiable beneficiaries of specific projects and programs.

79425. (a) The authority shall collect a fee annually from those agencies and persons diverting water from the Bay-Delta watershed, in an amount that is equal to one half of the State CalFed Budget as defined in paragraph (c). These fees shall be adjusted to reflect any fees paid in the same year under other provisions of law or agreements if the authority finds that the revenues of those fees are applied to appropriate Bay-Delta Program activities.

(b) The fee imposed by this section shall be in proportion to the amount of water diverted except that the authority may develop an alternative formula that sets minimum diversion amount, and establishes such other criteria as are necessary for the effective and equitable implementation of this section.

(c) For the purpose of this section “State CalFed Budget” means the total amount of funds provided each year to the authority and the implementing agencies to achieve balanced implementation of the program’s goals and objectives, including revenues from the fees identified in paragraph (a), but excluding federal funds, local agency cost share of projects, and costs charged to direct beneficiaries for projects implemented pursuant to this chapter.

(d) The Board shall transmit funds collected pursuant to this section, after deducting reasonable administrative costs, to the appropriate implementing agencies for expenditure.

3. Adoption of the Beneficiary Pays Principle

Background. The CALFED ROD states that “a fundamental philosophy of the CALFED program is that costs should, to the extent possible, be paid by beneficiaries of the program actions.” The Legislature has made several statements of intent consistent with the application of the beneficiary pays principle in funding CALFED. However, this funding principle has not been adopted as a statutory policy to guide CALFED’s funding on an ongoing basis. Applying the beneficiary pays principle will result in a more appropriate allocation of the program’s costs to those who benefit from the program.

Governor’s Budget. The Governor’s budget does not include a specific proposal to fund the CALFED program based on the beneficiary pays principle.

LAO Recommendation. The Analyst recommends enacting legislation that adopts the beneficiary pays principle as a policy for funding the CALFED program and provides guidance on its application. Specifically, the Analyst recommends that the legislation require that the General Fund be reimbursed for planning costs of surface storage projects that proceed to construction. Furthermore, the Analyst recommends that the legislation provide parameters for using state general-purpose funds to support CALFED activities.

Staff Recommendation. Staff recommends that the subcommittee *direct staff, the LAO, and the department to develop trailer bill language to establish the beneficiary pays principle as state policy for funding the CALFED program.* The trailer bill language should include language to require water users to pay for their share of EWA relative to the benefits received, consistent with the beneficiary pays principle.

4. CALFED Science Program

Background. The CALFED Science program is one of the program elements of the CALFED Bay-Delta Program. The goal of this program is to ensure that the best possible scientific information guides decision-making within every aspect of the program. The BDA is the lead agency for implementing the CALFED Science program.

Governor's Budget. The Governor's budget proposes \$22.7 million to fund the CALFED Science program in 2004-05. The majority of the funding is proposed for allocation to BDA to support its program wide science activities.

Staff Comments. The CALFED ROD identifies numerous actions, both general and specific, to improve the conditions of key fish species. The CALFED ROD also states that the Ecosystem Restoration Program (ERP) "will be informed by the Science Program, which will monitor and evaluate the implementation of the ERP actions and conduct pertinent research." Staff has been advised that to date, the science program has yet to address the fundamental question of how much water the fish need for restoration.

Questions the Subcommittee may wish to ask the department.

- What is the status of studies to evaluate how much water is needed to restore fisheries?

Staff Recommendation. The Subcommittee may wish to direct staff to develop language to require the CALFED Science program to address the issue of how much water is needed to restore fisheries.

5. CALFED Watershed Grant Process—Informational Issue

Background. The CALFED Watershed grant program has been the subject of significant criticism from participants in the process. Many parties have cited that the grant process is extremely slow and non-transparent. Adding to the confusion, administration of the program has been shared over the life of the program. Year 1 of these grants is managed by DWR, years 2 and 3 are being managed by SWRCB, and in year 4 of this program (2004-05) administration of this program is proposed to transfer back to DWR.

BDA's Response. In response to numerous comments and input received from the Bay-Delta Public Advisory Committee, its Watershed Subcommittee, BDA, and the public, on the process used to select the recent Watershed grants, BDA has prepared recommendations to improve the process for selecting watershed grants.

Questions the Subcommittee may wish to ask the department.

- What are the details of BDA's proposal to improve the current Watershed grant process?

6. April Finance Letter—Bond Proposal

Summary. The following is a summary of the budget amendments requested by the administration in the 2004-05 April finance letter for BDA.

California Bay-Delta Authority

April Finance Letter, 2004-05

(Dollars in Thousands)

Description	Proposition 50	Personnel Years
CALFED Science Program. Proposes \$7.5 million for data analysis and a competitive grant process to address critical information needs. Also proposes \$1.7 million to fund the Science Board, participation in other expert panels, and collaborative studies called "signature projects" that study cross-program impacts on the Delta. Proposes \$1.95 million to commission white papers for use in management decisions. Proposes \$850,000 to support and review performance measures developed and used by individual CALFED programs. Proposes \$750,000 to support the communication of scientific information between scientists and managers in the programs.	\$12,768	0.0
CALFED Ecosystem Restoration Program. Proposes \$3.4 million to support contracts to maintain the necessary levels of scientific review of the proposals and ensure competitiveness and transparency in the proposal selection process. Proposes \$1.8 million to provide external scientific and technical review of the ecological returns of a project after the projects has been completed.	5,217	0.0
CALFED Watershed Program. Proposes funding to support the coordination of the watershed program among the implementing agencies, track and evaluate the performance of the program, and provide education and outreach to support adaptive management of the program.	3,751	0.0
Reappropriation-Proposition 50. Proposes to reappropriate \$52,000 for the CALFED conveyance program that has been delayed. Proposes to reappropriate \$12.5 million for the Science program that has been delayed due to the recent freeze on state contracting.	0	0.0
Reappropriation-Proposition 204. Proposes to reappropriate \$18.4 million for the ecosystem restoration program that has been delayed due to extensive negotiations for land acquisitions to support this program.	-	0.0
Total	\$21,736	0.0

Staff Recommendation. Staff recommends that the subcommittee withhold action on the April finance letter for BDA pending resolution of budget issues discussed earlier.

3940 State Water Resources Control Board

1. April Finance Letter—Bond Funds Only

Summary. The following is a summary of the budget amendments requested by the administration in the 2004-05 April finance letter for SWRCB.

State Water Resources Control Board**April Finance Letter - Bond Proposal, 2004-05***(Dollars in Thousands)*

Description	Prop 13	Prop 50	Positions
State Operations. Proposes funding and positions to administer grant and local assistance programs. Of the positions requested, 9 are extensions of positions established in the current year on a one-time basis and 6.2 are new positions. The 1.5 positions supporting the Ag Water Quality Program are proposed on a one-year limited term basis.	-	\$1,399	15.2
Groundwater Monitoring. Proposes local assistance funding for the Groundwater Monitoring Program, which is mandated by Chapter 522, Statutes of 2001 (AB 599, Liu). Funding is proposed from Chapter 8 of the bond.	-	10,000	0.0
Agricultural Water Quality Program. Proposes reappropriation of local assistance funds appropriated in the current year for the Agricultural Water Quality Program. These funds were not distributed in the current year due to requirements to adopt project guidelines, ensure public participation, and provide outreach to disadvantaged communities that extended the timeframe for awarding grants. Funding is proposed from Chapter 5 of the bond.	-	9,500	0.0
State Operations. Proposes funding and positions to accelerate implementation of watershed protection and non-point source pollution control grants. The new positions are proposed as three-year limited term positions. In addition, four existing Proposition 204 positions are proposed to be redirected to support the accelerated implementation of Proposition 13 grants.	\$574	-	6.0
Water Recycling. Proposes additional local assistance funds for the Water Recycling Program that provides construction grants and loans to local agencies to design and construct water recycling facilities.	21,689	-	0.0
Watershed Protection. Proposes local assistance funds for the Watershed Protection Program that provides grant funding to local agencies and nonprofit organizations for projects that assist in implementing watershed plans.	1,423	-	0.0
Non-Point Source (NPS) Pollution. Proposes local assistance funds for the NPS Pollution Control Program to provide grant funds to local agencies and nonprofit organizations for projects that control NPS pollution.	1,047	-	0.0
Coastal NPS Pollution. Proposes local assistance funds for the Coastal NPS Pollution Control Program to provide grant funds to local agencies, educational institutions, and nonprofit organizations to fund projects that protect water quality of coastal waters.	2,941	-	0.0
Total	\$27,674	\$20,899	21.2

Background. Concerns have been raised regarding the length of time it takes the board to award grants and contracts. These problems were in part a result of administrative actions such as the hiring freeze and Control Section 4.10 reductions that eliminated many newly created bond-funded positions that had not been filled. Staffing issues have caused some delays in many of the board's grant programs. Specifically, the water recycling grant program was delayed

significantly. In addition, specific concerns have been raised regarding the board's administration of the CALFED Watershed Grant program.

April Finance Letter. The April finance letter for SWRCB requests 21 additional positions to implement its bond funded programs. Many of these positions restore positions lost in the Control Section 4.10 reductions. In addition, the administration proposes to transfer the CALFED Watershed Grant program to the Department of Water Resources in the budget year. However, the board will continue to administer grant funds allocated in 2002-03 and 2003-04. **Appendix E** provides a summary of the board's current schedule for implementing its various bond-funded programs.

Water Recycling Grant Program. Staff has been informed that the board is not considering funding some water recycling projects that have already started to construction. These projects were on the board's category 1A list, which put them first in line for Proposition 50 funding. However, due to delays in the grant process, some of these projects went to construction without a grant award from the board. In these specific cases, the local agencies could not wait for Proposition 50 awards from the board due to the need to start construction to satisfy commitments made to other funding partners. Staff understands that this applies to a small number of projects.

Questions the Subcommittee may wish to ask the department.

- What reforms have been made to reduce the time it takes to issue grants at the board?
- Will the board consider awarding grants to projects from the category 1A list that have already gone to construction?

Staff Recommendation. Staff recommends the subcommittee withhold action on the board's April finance letter pending additional information on improvements made in the board's grant process and information regarding funding for high priority water recycling projects that have already started construction.

Appendix A—Proposition 40 and 50 Expenditures

Proposition 40**Summary of 2004-05 Bond Proposal and Remaining Bond Funds***(Dollars in Thousands)*

#	Department	Description	Bond Allocation	Proposed 2004-05	Balance Available
Section a - State Park System					
3790	Parks and Recreation	State Park Development and Acquisition.	181,325	16,616	4,312
3790	Parks and Recreation	State Park Development and Acquisition Administration.	7,005	1,437	-
3790	Parks and Recreation	State Park Development and Acquisition Capital Outlay.	28,795	26,578	-
		Statewide Bond Costs.	7,875	-	-
<i>Subtotal</i>			<i>225,000</i>	<i>44,631</i>	<i>4,312</i>
Section b					
3790	Parks and Recreation	Per capita grants to cities and districts.	197,974	0	0
3790	Parks and Recreation	Per capita grants to cities and districts - Administration.	4,676	681	-
3790	Parks and Recreation	Per capita grants to counties and regional park districts.	131,981	0	0
3790	Parks and Recreation	Per capita grants to counties and regional park districts - Administration.	3,119	453	-
3790	Parks and Recreation	Roberti-Z'berg-Harris Grant Program.	188,542	31,739	0
3790	Parks and Recreation	Roberti-Z'berg-Harris Grant Program - Administration.	4,458	646	-
3790	Parks and Recreation	Specified Per Capita - Los Angeles	21,209	0	0
3790	Parks and Recreation	Specified Per Capita - Los Angeles - Administration.	503	71	-
3790	Parks and Recreation	Murray-Hayden competitive grants.	47,139	0	0
3790	Parks and Recreation	Murray-Hayden competitive grants - Administration.	1,111	163	-
3790	Parks and Recreation	Specified Urban Grants - Rancho Cucamonga, Hansen Dam, Sepulveda Basin.	18,856	0	0
3790	Parks and Recreation	Specified Urban Grants - Rancho Cucamonga, Hansen Dam, Sepulveda Basin - Administration.	444	67	-
3790	Parks and Recreation	Youth Soccer and Recreation Development Grant Program.	23,564	23,337	0
3790	Parks and Recreation	Youth Soccer and Recreation Development Grant Program - Administration.	561	79	-
3790	Parks and Recreation	State Urban Parks and Healthy Communities Grant Program.	23,564	23,337	0
3790	Parks and Recreation	State Urban Parks and Healthy Communities Grant Program - Administration.	561	79	-
3790	Parks and Recreation	Urban Parks Initiative.	131,981	0	0
3790	Parks and Recreation	Urban Parks Initiative - Administration.	3,119	453	-

		Statewide Bond Costs.	29,138	-	-
<i>Subtotal</i>			832,500	81,105	0
Section c					
3640 Wildlife Conservation	Land, Air, and Water Conservation Acquisitions.		275,798	0	1,500
3640 Wildlife Conservation	Land, Air, and Water Conservation Acquisitions - Administration.		13,702	439	-
3760 Coastal Conservancy	Land, Air, and Water Conservation Acquisitions.		188,364	20,000	0
3760 Coastal Conservancy	Land, Air, and Water Conservation Acquisitions - Administration.		4,636	851	-
3125 Tahoe Conservancy	Land, Air, and Water Conservation Acquisitions.		37,203	9,922	21,429
3125 Tahoe Conservancy	Land, Air, and Water Conservation Acquisitions - Administration.		1,397	603	-
3810 Santa Monica Cons.	Land, Air, and Water Conservation Acquisitions.		37,241	0	12,600
3810 Santa Monica Cons.	Land, Air, and Water Conservation Acquisitions - Administration.		1,359	218	-
3850 Coachella Cons.	Land, Air, and Water Conservation Acquisitions.		19,082	2,871	0
3850 Coachella Cons.	Land, Air, and Water Conservation Acquisitions - Administration.		218	100	-
3830 San Joaquin Cons.	Land, Air, and Water Conservation Acquisitions.		23,768	11,000	1,545
3830 San Joaquin Cons.	Land, Air, and Water Conservation Acquisitions - Administration.		357	106	-
3825 San Gabriel Cons.	Land, Air, and Water Conservation Acquisitions.		38,405	6,200	0
3825 San Gabriel Cons.	Land, Air, and Water Conservation Acquisitions - Administration.		195	734	-
3835 Baldwin Hills Cons.	Land, Air, and Water Conservation Acquisitions.		38,261	7,200	8,648
3835 Baldwin Hills Cons.	Land, Air, and Water Conservation Acquisitions - Administration.		339	101	-
3760 Coastal Conservancy	San Francisco Bay Area Conservancy Acquisitions.		36,600	6,400	4,200
3760 Coastal Conservancy	San Francisco Bay Area Conservancy Acquisitions - Administration.		2,000	0	-
0540 Resources Agency	River parkways program.		65,502	7,850	0
0540 Resources Agency	River parkways program - Administration.		2,048	525	-
0540 Resources Agency	Urban Streams Program.		4,741	0	0
0540 Resources Agency	Urban Streams Program - Administration.		84	83	-
Various	Clean beaches, watershed protection, and water quality.		259,349	14,481	4,161
Various	Clean beaches, watershed protection, and water quality - Administration.		30,151	1,204	-
3900 Air Resources Board	Air Pollution Reduction.		48,000	0	0

3900 Air Resources Board	Air Pollution Reduction - Administration.	250	0	-
3340 Conservation Corps	Conservation Corps - Capital Outlay.	2,302	1,052	0
3340 Conservation Corps	Conservation Corps - Local Assistance to Local Corps.	12,224	4,003	0
3340 Conservation Corps	Conservation Corps - Administration.	4,774	172	-
3480 Conservation	Agricultural Lands.	55,891	12,000	9,362
3480 Conservation	Agricultural Lands - Administration.	16,484	529	-
3540 Forestry	Urban Forestry	9,150	0	9,150
3540 Forestry	Urban Forestry - Administration.	500	0	-
	Statewide Bond Costs.	44,625	-	-
<i>Subtotal</i>		<i>1,275,000</i>	<i>108,644</i>	<i>72,595</i>

Section d

Various	Historical and cultural resources.	221,879	0	332
Various	Historical and cultural resources - Administration.	71	1,636	-
3790 Parks and Recreation	Specified Cultural - Golden Gate Park/El Pueblo Cultural and Performing Arts Center.	35,356	0	0
3790 Parks and Recreation	Specified Cultural - Golden Gate Park/El Pueblo Cultural and Performing Arts Center - Administration.	832	123	-
	Statewide Bond Costs.	9,362	-	-
<i>Subtotal</i>		<i>267,500</i>	<i>1,759</i>	<i>332</i>

Total		\$2,600,000	\$236,139	\$77,239
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Proposition 50**Summary of 2004-05 Bond Proposal and Remaining Bond Funds***(Dollars in Thousands)*

#	Department	Description	Bond Allocation	Proposed 2004-05	Balance Available
Chapter 3 - Water Security					
4260	Health Services	Drinking water security.	47,250	10,112	22,328
4260	Health Services	Administration	1,000	262	480
		Statewide Bond Costs	1,750	-	-
<i>Subtotal</i>			<i>50,000</i>	<i>10,374</i>	<i>22,808</i>
Chapter 4 - Safe Drinking Water					
4260	Health Services	Safe drinking water infrastructure improvements - Northern California.	164,942	17,000	126,942
4260	Health Services	Safe drinking water infrastructure improvements - Southern California.	247,413	80,839	87,367
4260	Health Services	Administration	7,420	1,945	3,561
		Statewide Bond Costs	15,225	-	-
<i>Subtotal</i>			<i>435,000</i>	<i>99,784</i>	<i>217,870</i>
Chapter 5 - Clean Water and Water Quality					
3940	Water Control Board	Water Quality Competitive Grants.	91,500	0	25,162
3940	Water Control Board	Water Quality Grant - Administration	5,000	1,150	2,481
0540	Resources Secretary	River Parkways	91,500	30,500	61,000
0540	Resources Secretary	River Parkways - Administration.	5,000	439	4,561
3125	Tahoe Conservancy	Tahoe Environmental Improvement Program.	36,600	9,000	27,245
3125	Tahoe Conservancy	Tahoe Environmental Improvement Program - Administration.	2,000	355	2,000
3940	Water Control Board	Coastal waters program.	73,200	0	66,200
3940	Water Control Board	Coastal waters program - Administration.	4,000	406	3,230
3940	Water Control Board	Coastal waters - Santa Monica Bay Restoration.	18,300	0	300
3940	Water Control Board	Coastal waters - Santa Monica Bay Restoration - Administration.	1,000	131	869
0540	Resources Secretary	Sierra Nevada Cascade Program.	27,450	9,150	18,300
0540	Resources Secretary	Sierra Nevada Cascade Program - Administration.	1,500	194	1,306
		Statewide Bond Costs	12,950	-	-
<i>Subtotal</i>			<i>370,000</i>	<i>51,325</i>	<i>212,654</i>
Chapter 6 - Contaminant and Salt Removal Technologies					
3860	Water Resources	Desalination Program.	46,290	0	21,290
3860	Water Resources	Desalination Program - Administration.	1,960	264	1,560
3860	Water Resources	Drinking water pilot projects.	45,750	0	34,500
3860	Water Resources	Drinking water pilot projects - Administration.	2,500	146	1,892
		Statewide Bond Costs	3,500	-	-
<i>Subtotal</i>			<i>100,000</i>	<i>410</i>	<i>59,242</i>

Chapter 7 - CALFED Bay-Delta Program

Various	CALFED Surface water storage.	48,250	20,137	430
Various	CALFED Water Conveyance.	72,375	1,210	68,729
Various	CALFED Delta Levee Program.	65,113	22,103	18,400
Various	CALFED Delta Levee Program - Administration.	2,437	419	1,209
Various	CALFED Water Supply Reliability - Environmental Water Account.	169,827	36,839	15,000
Various	CALFED Water Supply Reliability - Environmental Water Account - Administration.	3,873	716	1,647
Various	CALFED Ecosystem restoration program.	146,390	72,638	8,748
Various	CALFED Ecosystem restoration program - Administration.	8,010	3,651	3,112
Various	CALFED Ecosystem restoration program - agricultural activities.	18,310	7,647	3,645
Various	CALFED Ecosystem restoration program - agricultural activities - Administration.	990	307	463
Various	CALFED Watershed program.	82,350	28,344	716
Various	CALFED Watershed program - Administration.	4,500	1,687	2,269
Various	CALFED Water use efficiency.	168,719	3,072	73,338
Various	CALFED Water use efficiency - Administration	4,981	1,258	2,190
	Statewide Bond Costs	28,875	-	-
<i>Subtotal</i>		<i>825,000</i>	<i>200,028</i>	<i>199,895</i>

Chapter 8 - Integrated Regional Water Management

3860 Water Resources	Integrated Regional Water Management	213,744	6,400	153,955
3860 Water Resources	Integrated Regional Water Management - Administration.	8,206	400	6,690
3860 Water Resources	Groundwater Management.	18,586	0	8,586
3860 Water Resources	Groundwater Management - Administration.	714	0	714
3940 Water Control Board	Integrated Regional Water Management.	45,750	2,000	37,250
3940 Water Control Board	Integrated Regional Water Management - Northern California	91,500	4,000	74,500
3940 Water Control Board	Integrated Regional Water Management - Southern California	91,500	4,000	74,500
3940 Water Control Board	Integrated Regional Water Management - Administration.	12,500	1,299	10,541
3640 Wildlife Conservation	Water quality grants and acquisitions.	133,637	0	0
3640 Wildlife Conservation	Water quality grants and acquisitions - Administration.	1,463	550	224
	Statewide Bond Costs	22,400	-	-
<i>Subtotal</i>		<i>640,000</i>	<i>18,649</i>	<i>366,960</i>

Chapter 9 - Colorado River

3860 Water Resources	All-American Canal Lining.	19,300	300	0
3640 Wildlife Conservation	Colorado River Regulatory Program	45,750	13,250	0
3640 Wildlife Conservation	Colorado River Regulatory Program - Administration.	2,500	195	2,108

	Statewide Bond Costs	2,450	-	-
<i>Subtotal</i>		<i>70,000</i>	<i>13,745</i>	<i>2,108</i>
Chapter 10 - Coastal Watershed and Wetland Protection				
3760 Coastal Conservancy	Coastal watershed Protection Grants - transfer to Habitat Conservation Fund.	101,250	26,271	47,607
3760 Coastal Conservancy	Coastal watershed - public access.	11,250	2,769	6,981
3760 Coastal Conservancy	San Francisco Bay coastal watershed protection.	16,875	4,057	8,718
3760 Coastal Conservancy	San Francisco Bay coastal watershed - public access.	1,875	451	1,024
3760 Coastal Conservancy	Coastal watershed Programs - Administration.	3,850	643	2,634
3810 Santa Monica Cons.	Los Angeles River Watershed Protection	16,650	0	12,375
3810 Santa Monica Cons.	Los Angeles River Watershed Protection - public access.	1,850	0	1,375
3810 Santa Monica Cons.	Los Angeles River Watershed Protection - Administration	800	106	589
3810 Santa Monica Cons.	Santa Monica Bay/Ventura County Coastal Watershed protection.	16,650	0	12,375
3810 Santa Monica Cons.	Santa Monica Bay/Ventura County Coastal Watershed protection - public access.	1,850	0	1,375
3810 Santa Monica Cons.	Santa Monica Bay/Ventura County Coastal Watershed protection - Administration.	800	106	589
3825 San Gabriel Cons.	San Gabriel/Lower Los Angeles River watershed protection.	16,830	5,580	7,200
3825 San Gabriel Cons.	San Gabriel/Lower Los Angeles River watershed protection - public access.	1,870	620	800
3825 San Gabriel Cons.	San Gabriel/Lower Los Angeles River watershed protection - Administration.	600	0	600
3640 Wildlife Conservation	Southern California coastal acquisitions.	238,735	0	0
3640 Wildlife Conservation	Southern California coastal acquisitions - Administration.	2,515	982	303
3640 Wildlife Conservation	Los Angeles/Ventura coastal acquisitions.	286,506	0	0
3640 Wildlife Conservation	Los Angeles/Ventura coastal acquisitions - Administration.	2,994	1,184	330
3640 Wildlife Conservation	San Francisco Bay coastal acquisitions.	190,966	0	0
3640 Wildlife Conservation	San Francisco Bay coastal acquisitions - Administration.	2,034	783	270
	Statewide Bond Costs	33,250	-	-
<i>Subtotal</i>		<i>950,000</i>	<i>43,552</i>	<i>105,145</i>
Statewide Costs				
Various	Statewide Costs	-	1,890	0
<i>Subtotal</i>		<i>0</i>	<i>1,890</i>	<i>0</i>
Total		\$3,440,000	\$439,757	\$1,186,682

Appendix B—State Conservancies

3125 California Tahoe Conservancy

Background. The California Tahoe Conservancy (CTC) acquires and manages land to protect the natural environment, provide public access and recreational facilities, and preserve wildlife habitat areas. It also awards grants to other agencies and nonprofit organizations for the purposes of its programs.

Governor's Budget. The Governor's Budget proposes \$5.1 million to support CTC in 2004-05. This is a reduction of over \$34 million (87 percent) from the current year budget due to the administration's decision to defer the majority of its bond fund proposal until later in the spring.

The administration's April finance letter proposes to increase the budget for CTC by \$17.5 million, thereby increasing the total budget for 2004-05 to \$23.2 million.

California Tahoe Conservancy				
Governor's Budget Spending Totals				
<i>(Dollars in Thousands)</i>				
	Actual	Estimated	Proposed for 2004-05	
	2002-03	2003-04	Amount	Percent
				Change
Type of Expenditure:				
State Operations	\$3,984	\$3,877	\$4,091	6%
Local Assistance	5,051	11,977	0	-100%
Capital Outlay	12,195	23,574	1,569	-93%
Total	\$21,230	\$39,428	\$5,660	-86%
Funding Source:				
General Fund	\$2,739	\$63	\$0	-100%
Special Funds	5,887	4,874	4,210	-14%
Bond Funds	11,391	33,784	854	-97%
<i>Budget Act Total</i>	<i>20,017</i>	<i>38,721</i>	<i>5,064</i>	<i>-87%</i>
Tahoe Conservancy Fund	180	186	186	0%
Reimbursements	1,033	521	410	-21%
Total	\$21,230	\$39,428	\$5,660	-86%

Budget Change Proposals. No 2004-05 budget change proposals were submitted for CTC.

April Finance Letter. The following is a summary of the budget amendments requested by the administration in the 2004-05 April finance letter for CTC. This letter constitutes the administration's bond proposal for CTC.

California Tahoe Conservancy

April Finance Letter, 2004-05

(Dollars in Thousands)

Description	Special Funds	Reimb- ursemnts	Prop 40	Prop 50	Total	Positions
<i>Environmental Improvement Program (EIP)--Support.</i> Proposes to increase support for California's ongoing commitment to the EIP for the Lake Tahoe Basin. Also proposes to redirect an additional \$191,000 of bond funds already in the base budget for this activity.	\$18	\$27	\$248	-	\$293	6.0
<i>EIP--Local Assistance.</i> Proposes to implement various programs in support of the EIP, including soil erosion control grants (\$7.5 million), public access and recreation (\$2.4 million), stream environment zone and watershed restoration (\$1.5 million), wildlife enhancement (\$350,000), and land acquisitions (\$250,000).	-	-	3,000	9,000	12,000	0.0
<i>Environmentally Sensitive Acquisitions.</i> Proposes funding to acquire environmentally sensitive land to support the EIP.	-	-	1,500	-	1,500	0.0
<i>Stream Environment Zones/Watershed Restoration.</i> Proposes funding for projects to restore degraded natural areas to help preserve water clarity in support of the EIP.	-	226	3,487	-	3,713	0.0
<i>Public Access and Recreation.</i> Proposes to fund acquisition and site improvement projects to improve public access and recreation opportunities in the Lake Tahoe Basin in support of the EIP.	-	-	1,223	-	1,223	0.0
<i>Wildlife Enhancement Program.</i> Proposes to fund acquisitions and site improvements to enhance wildlife habitat in support of the EIP.	-	-	712	-	712	0.0
Total	\$18	\$253	\$8,235	\$9,000	\$17,506	6.0

3760 State Coastal Conservancy

Background. The State Coastal Conservancy (SCC) is authorized to acquire land, undertake projects, and award grants for the purposes of (1) preserving agricultural land and significant coastal resources, (2) consolidating subdivided land, (3) restoring wetlands, marshes, and other natural resources, (4) developing a system of public accessways, and (5) improving coastal urban land uses. In general, the projects must conform to California Coastal Act policies and be approved by the conservancy governing board.

Governor's Budget. The Governor's budget proposes \$16.4 million to support SCC in 2004-05. This is a reduction of over \$290 million (95 percent) from the current year budget due to the administration's decision to defer the majority of its bond fund proposal until later in the spring.

The administration's April finance letter proposes to increase the budget for SCC by \$68.7 million, thereby increasing the total budget for 2004-05 to \$85.1 million.

State Coastal Conservancy

Governor's Budget Spending Totals

(Dollars in Thousands)

	Actual 2002-03	Estimated 2003-04	Proposed for 2004-05	
			Amount	Percent Change
Program:				
Coastal Resource Development	\$4,170	\$4,632	\$4,324	-7%
Coastal Resource Enhancement	2,096	3,685	3,041	-17%
Capital Outlay	128,349	301,344	9,000	-97%
Administration	1,642	2,245	2,497	11%
<i>less distributed administration</i>	<i>-1,642</i>	<i>-2,245</i>	<i>-2,497</i>	<i>-</i>
Total	\$134,615	\$309,661	\$16,365	-95%
Funding Source:				
General Fund	\$652	\$0	\$0	-
Special Funds	2,635	10,555	3,752	-64%
Bond Funds	125,509	276,655	4,057	-99%
<i>Budget Act Total</i>	<i>\$128,796</i>	<i>\$287,210</i>	<i>\$7,809</i>	<i>-97%</i>
State Coastal Conservancy Fund	\$3,984	\$8,326	\$4,520	-46%
Federal Funds	502	4,745	2,120	-55%
Reimbursements	1,332	9,380	1,916	-80%
Total	\$134,614	\$309,661	\$16,365	-95%

Budget Change Proposals. The following is a summary of the 2004-05 budget change proposals for SCC.

State Coastal Conservancy
Capital Outlay Budget Change Proposals, 2004-05
(Dollars in Thousands)

Description	Coastal Access Account	Coastal License Plate Fund	Violation Remediation Account	Total
<i>Public Access Program.</i> These funds are proposed to continue implementation of SCC's public access, education, and related programs.	\$400	\$700	\$100	\$1,200
Total	\$400	\$700	\$100	\$1,200

April Finance Letter. The following is a summary of the budget amendments requested by the administration in the 2004-05 April finance letter for SCC.

State Coastal Conservancy

April Finance Letter, 2004-05

(Dollars in Thousands)

Description	Special Funds	Prop 12	Prop 40	Prop 50	Total	Positions
Bond Administration. Proposes to fund 2 new permanent positions to address the additional reporting and auditing activities required by Proposition 50.	-	-	\$70	\$70	\$140	2.0
Office Move and Rent Increase. Proposes one-time funding of \$100,000 to cover moving costs and \$160,000 ongoing to cover increased rent costs.	260	-	-	-	260	0.0
Public Access Program. Proposes to reduce this program to shift some of the Whale Tail License Plate funding to the California Coastal Commission to fund its Coastal Marine Public Education Program grants. After this shift the Conservancy has \$900,000 remaining for its Public Access Program.	-300	-	-	-	-300	0.0
Conservancy Programs. Proposes funding for acquisitions, grants, and projects to provide public access to the coast, urban waterfront restoration, and wetlands enhancement.	-	-	20,000	-	20,000	0.0
San Francisco Bay Conservancy Program. Proposes funding for acquisitions, grants, and projects to enhance wetlands within the San Francisco Bay Area and to complete portions of the San Francisco Bay Trail, the Bay Area Ridge Trail, and other public access facilities.	-	-	6,400	-	6,400	0.0
Watershed Programs. Proposes funding to acquire protect, and restore land and water resources to protect coastal watersheds.	-	-	-	32,200	32,200	0.0
Central Coast Projects/California Coastal Trail. Proposes \$6.5 million for projects to preserve land in the Central Coast region. Proposes \$3.5 million for the implementation of the Coastal Trail, including building new trails, acquiring and developing new trail properties, and improving existing trails.	-	10,000	-	-	10,000	0.0
Total	-\$40	\$10,000	\$26,470	\$32,270	\$68,700	2.0

3810 Santa Monica Mountains Conservancy

Background. The Santa Monica Mountains Conservancy (SMMC) acquires, restores, and consolidates lands in the Santa Monica Mountains Zone for park, recreation, or conservation purposes.

Governor's Budget. The Governor's budget proposes \$629,000 to support the Santa Monica Mountains Conservancy in 2004-05. This is a reduction of over 97 percent from the current year due to the administration's decision to defer the majority of its bond fund proposal until later in the spring.

Santa Monica Mountains Conservancy

Governor's Budget Spending Totals

(Dollars in Thousands)

	Actual 2002-03	Estimated 2003-04	Proposed for 2004-05	
			Amount	Percent Change
Program:				
State Operations	\$662	\$698	\$629	-10%
Capital Outlay	11,964	23,602	0	-100%
Total	\$12,626	\$24,300	\$629	-97%
Funding Source:				
General Fund	\$0	\$0	\$0	-
Special Funds	464	269	200	-26%
Bond Funds	11,808	23,692	429	-98%
<i>Budget Act Total</i>	<i>\$12,272</i>	<i>\$23,961</i>	<i>\$629</i>	<i>-97%</i>
Santa Monica Mountains Conservancy Fund	\$354	\$189	\$0	-100%
Reimbursements	0	150	0	-100%
Total	\$12,626	\$24,300	\$629	-97%

Budget Change Proposals. No 2004-05 budget change proposals were submitted for SMMC.

April Finance Letter. No 2004-05 April finance letter was submitted for SMMC.

3825 San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy

Background. The San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy (Rivers and Mountains) acquires and manages public lands in the San Gabriel basin, along the San Gabriel river and its tributaries, the lower Los Angeles river and its tributaries, and the San Gabriel Mountains. The conservancy acquires land to provide open space, low-impact recreational and educational uses, water conservation, watershed improvement, and wildlife and habitat restoration and protection.

Governor's Budget. The Governor's budget proposes \$767,000 to support the Rivers and Mountains Conservancy. This is a 98 percent reduction from the current year estimated expenditures due to the administration's decision to defer the majority of its bond fund proposal until later in the spring. The administration's bond

The administration's April finance letter proposes to increase the budget for the Rivers and Mountains Conservancy by \$10.7 million in bond funds, thereby increasing the total budget for 2004-05 to \$11.5 million.

San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy

Governor's Budget Spending Totals

(Dollars in Thousands)

	Actual 2002-03	Estimated 2003-04	Proposed for 2004-05	
			Amount	Percent Change
Program:				
State Operations	\$625	\$804	\$767	-5%
Capital Outlay	575	34,325	0	-100%
Total	\$1,200	\$35,129	\$767	-98%
Funding Source:				
General Fund	\$0	\$0	\$0	-
Environmental License Plate Fund	265	263	33	-87%
Bond Funds	934	34,866	734	-98%
Total	\$1,199	\$35,129	\$767	-98%

Budget Change Proposals. No 2004-05 budget change proposals were submitted for the Rivers and Mountains Conservancy.

April Finance Letter. The following is a summary of the budget amendments requested by the administration in the 2004-05 April finance letter for the Rivers and Mountains Conservancy.

San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy**April Finance Letter, 2004-05***(Dollars in Thousands)*

Description	Prop 40	Prop 50	Total	Positions
Conservancy Programs. Proposes funding for capital outlay and grants for parkway and open space lands within the San Gabriel River watershed, the lower Los Angeles River watershed, and the San Gabriel Mountains.	\$6,200	\$4,500	\$10,700	0.0
Total	\$6,200	\$4,500	\$10,700	0.0

3830 San Joaquin River Conservancy

Background. The San Joaquin River Conservancy (SJRC) acquires and manages public lands within the San Joaquin river parkway, which consists of approximately 5,900 acres on both sides of the San Joaquin River between Friant Dam and the Highway 99 crossing.

Governor's Budget. The Governor's budget proposes \$347,000 to support SJRC in 2004-05. This is a 75 percent reduction from the current year due to a reduction in reimbursement funds available for capital outlay projects.

The administration's April finance letter proposes to increase the budget for SJRC by \$12 million in bond funds, thereby increasing the total budget for 2004-05 to \$12.3 million.

San Joaquin River Conservancy
Governor's Budget Spending Totals
(Dollars in Thousands)

	Actual 2002-03	Estimated 2003-04	Proposed for 2004-05	
			Amount	Percent Change
Program:				
State Operations	\$201	\$365	\$347	-5%
Capital Outlay	0	1,000	0	-100%
Total	\$201	\$1,365	\$347	-75%
Funding Source:				
General Fund	\$0	\$0	\$0	-
Environmental License Plate Fund	201	248	241	-3%
Bond Funds	0	117	106	-9%
<i>Budget Act Total</i>	<i>201</i>	<i>365</i>	<i>347</i>	<i>-5%</i>
Reimbursements	0	1,000	0	-100%
Total	\$201	\$1,365	\$347	-75%

Budget Change Proposals. No 2004-05 budget change proposals were submitted for SJRC.

April Finance Letter. The following is a summary of the budget amendments requested by the administration in the 2004-05 April finance letter for SJRC.

San Joaquin River Conservancy
April Finance Letter, 2004-05
(Dollars in Thousands)

Description	Reim- bursements	Prop 40	Total	Positions
Capital Outlay and Grants. Proposes funding for acquisitions and development of the San Joaquin River Parkway. Also includes a \$1 million increase in reimbursement authority for funds from local nonprofit organizations involved in the development of the parkway.	1,000	9,000	10,000	0.0
Public Access, Recreation, and Environmental Restoration. Proposes funding for capital outlay and grants to implement the five-year public access and recreation capital improvement program and advance its environmental restoration program.	-	2,000	2,000	0.0
Total	\$1,000	\$11,000	\$12,000	0.0

3835 Baldwin Hills Conservancy

Background. The Baldwin Hills Conservancy (BHC) acquires and manages public lands within the Baldwin Hills area to provide recreational facilities, open space, wildlife habitat restoration, and educational services.

Governor's Budget. The Governor's budget proposes \$393,000 to support BHC in 2004-05. This is a 99 percent reduction for the estimated expenditures in the current year due to the administration's decision to defer the majority of its bond fund proposal until later in the spring.

The administration's April finance letter proposes to increase the budget for BHC by \$7.2 million in bond funds, thereby increasing the total budget for 2004-05 to \$7.6 million.

Baldwin Hills Conservancy

Governor's Budget Spending Totals

(Dollars in Thousands)

	Actual 2002-03	Estimated 2003-04	Proposed for 2004-05	
			Amount	Percent Change
Program:				
State Operations	\$266	\$377	\$393	4%
Capital Outlay	465	37,735	0	-100%
Total	\$731	\$38,112	\$393	-99%
Funding Source:				
General Fund	\$0	\$0	\$0	-
Environmental License Plate Fund	266	266	292	10%
Bond Funds	220	22,092	101	-100%
<i>Budget Act Total</i>	<i>486</i>	<i>22,358</i>	<i>393</i>	<i>-98%</i>
Reimbursements	245	15,755	0	-100%
Total	\$731	\$38,113	\$393	-99%

Budget Change Proposals. No 2004-05 budget change proposals were submitted for BHC.

April Finance Letter. The following is a summary of the budget amendments requested by the administration in the 2004-05 April finance letter for BHC. This letter constitutes the administration's bond proposal for BHC.

Baldwin Hills Conservancy**April Finance Letter, 2004-05***(Dollars in Thousands)*

Description	Prop		Positions
	40	Total	
<i>Conservancy Programs.</i> Proposes funding for direct acquisition and development and grants for open space and public lands within the Baldwin Hills area of Culver City.	\$7,200	\$7,200	0.0
Total	\$7,200	\$7,200	0.0

3845 San Diego River Conservancy

Background. The San Diego River Conservancy (SDRC) acquires and manages public lands within the San Diego River Area. It acquires lands to provide recreational opportunities, open space, wildlife habitat, species protection, wetland protection and restoration, and protection and maintenance of the quality of the San Diego River.

Governor's Budget. The Governor's budget proposes \$265,000 to support SDRC in 2004-05. This is the same level of expenditures as estimated in the current year.

San Diego River Conservancy**Governor's Budget Spending Totals***(Dollars in Thousands)*

	Actual 2002-03	Estimated 2003-04	Proposed for 2004-05	
			Amount	Percent Change
Funding Source:				
Environmental License Plate Fund	\$0	\$265	\$265	0%
Budget Act Total	\$0	\$265	\$265	0%

Budget Change Proposals. No 2004-05 budget change proposals were submitted for SDRC.

April Finance Letter. No April finance letter was submitted by the administration for SDRC.

3850 Coachella Valley Mountains Conservancy

Background. The Coachella Valley Mountains Conservancy (CVMC) acquires and holds, in perpetual open space, mountainous lands surrounding the Coachella Valley and natural community conservation lands within the Coachella Valley.

Governor's Budget. The Governor's budget proposes \$407,000 to support CVMC in 2004-05. This is a 98 percent reduction from current year estimated expenditures due to the administration's decision to defer the majority of its bond fund proposal until later in the spring.

The administration's April finance letter proposes to increase the budget for CVMC by \$3.6 million in bond funds, thereby increasing the total budget for 2004-05 to \$4 million.

Coachella Valley Mountains Conservancy				
Governor's Budget Spending Totals				
<i>(Dollars in Thousands)</i>				
	Actual	Estimated	Proposed for 2004-05	
	2002-03	2003-04	Amount	Percent
				Change
Program:				
State Operations	\$232	\$391	\$407	4%
Capital Outlay	3,869	20,592	0	-100%
Total	\$4,101	\$20,983	\$407	-98%
Funding Source:				
General Fund	\$0	\$0	\$0	-
Special Funds	128	261	288	10%
Bond Funds	3,844	14,728	100	-99%
<i>Budget Act Total</i>	<i>3,972</i>	<i>14,989</i>	<i>388</i>	<i>-97%</i>
Reimbursements	129	5,994	19	-100%
Total	\$4,101	\$20,983	\$407	-98%

Budget Change Proposals. No 2004-05 budget change proposals were submitted for CVMC.

April Finance Letter. The following is a summary of the budget amendments requested by the administration in the 2004-05 April finance letter for CVMC. This letter constitutes the administration's bond proposal for CVMC.

Coachella Valley Mountains Conservancy				
April Finance Letter, 2004-05				
<i>(Dollars in Thousands)</i>				
Description	Proposition		Total	Positions
	12	40		
Capital Outlay and Grants. Proposes funding for capital outlay and grants for acquisition, protection, and development of lands within the Coachella Valley and the surrounding mountains.	\$686	\$2,871	\$3,557	0.0
Total	\$686	\$2,871	\$3,557	0.0

Appendix C—DWR Bond Proposal

Department of Water Resources

April Finance Letter - Bond Funds, 2004-05

(Dollars in Thousands)

Description	Prop 13	Prop 50	Prop 204	Other Bonds	Total	Personnel Years
Arroyo Pasajero Flood Control. Proposes funding for improvements to existing flood control facilities at the San Luis Canal/California Aqueduct juncture with the Arroyo Pasajero stream.	\$4,750	-	-	-	4,750	0.0
Flood Control Subventions. Proposes funding for local flood control subventions to fund federally authorized flood control projects.	3,742	-	-	-	3,742	0.0
Yuba Feather Flood Protection Program. Proposes funding for grants to address flooding along the Yuba/Feather River and the Colusa Basin Drain. Baseline support for this program was included in the January 10 budget proposal (\$978,000 Prop 13).	16,855	-	-	-	16,855	0.0
Groundwater Storage Grant Program. Proposes to provide funding for this program. These funds were originally appropriated several years ago, but reverted at the end of 2002-03 because the department did not expend these funds.	77,336	-	-	-	77,336	0.0
Proposition 13 Administration. Proposes funding for the fiscal administration, coordination, and oversight of Proposition 13 funding.	248	-	-	-	248	2.0
Local Water Projects. Proposes to fund eligible construction projects or feasibility studies for various water reliability projects. These funds were originally appropriated several years ago, but were reverted at the end of 2002-03 because the department did not expend these funds.	-	-	3,289	-	3,289	0.0
CALFED Watershed Program. Proposes funding for competitive grants to carry out the CALFED Watershed Program. Proposal requests \$250,000 and 2 positions for administration of this program. Also proposes budget bill language to enable funding to be encumbered through 2006-07.	-	19,250	-	-	19,250	2.0
CALFED Watershed Program. Proposes additional support for this program. Baseline support for this program was also included in the January 10 budget (\$813,000 Prop 50).	-	872	-	-	872	0.0

<p>CALFED Conveyance Program - Delta Cross Channel. Proposes funding to complete the technical feasibility of reoperating the Delta Cross Channel, constructing a through-Delta facility, and restoring Franks Tract. These projects are part of stage 1 actions in the CALFED ROD.</p>	8,800	-	-	-	8,800	0.0
<p>CALFED Conveyance Program - Clifton Court Fish Screens. Proposes to collect information to determine the adequacy of fish screens to be installed at a new State Water Project intake at the north end of Clifton Court Forebay.</p>	1,101	-	-	-	1,101	0.0
<p>CALFED Conveyance Program. Proposes additional funding for this program. Baseline support for this program was included in the January 10 budget proposal (\$858,000 Prop 13). No new Prop 50 funds were allocated to the conveyance program.</p>	1,336	-	-	-	1,336	0.0
<p>CALFED Ecosystem Restoration Program. Proposes funding to support DWR's Aquatic Restoration Planning and Implementation section and 4 positions for planning and implementing habitat restoration actions in the Yolo Bypass. This proposal continues a program previously supported by Proposition 204 and supports implementation of the CALFED ROD, including the Ecosystem Restoration Program Plan and Multi-Species Conservation Strategy.</p>	-	1,000	-	-	1,000	0.0
<p>CALFED Ecosystem Restoration Program. Proposes additional support for this program. Baseline support for this program was included in the January 10 budget proposal (\$553,000 Prop 50).</p>	10,016	579	-	-	10,595	0.0
<p>CALFED Environmental Water Account. Proposes additional funding for this program. Baseline support for this program was included in the January 10 budget proposal (\$570,000 Prop 50).</p>	-	31,768	-	-	31,768	0.0
<p>CALFED Levee Program. Proposes \$3.1 million additional support for this program. Baseline support for this program was also included in the January 10 budget (\$1.5 million Prop 50). Also proposes \$16.8 million for program implementation.</p>	-	19,873	-	-	19,873	0.0

CALFED Storage Program. Proposes additional support for the storage program. Baseline support for this program was included in the January 10 budget proposal (\$5.4 million Prop. 50).	-	13,639	-	-	13,639	0.0
CALFED Science Program. Proposes support for this program.	2,030	-	-	-	2,030	0.0
CALFED Drinking Water Quality. Proposes additional support for this program. Baseline support for this program was included in the January 10 budget proposal (\$146,000 Prop 50).	2,022	15	-	-	2,037	0.0
CALFED Water Supply Reliability. Proposes additional support for this program. Baseline support for this program was included in the January 10 budget (\$1.8 million Prop 50).	-	30	-	-	30	0.0
CALFED Water Use Efficiency. No new Prop 50 funds were provided for this program. Baseline support for this program was included in the January 10 budget proposal (\$845,000 Prop 50).	-	0	-	-	0	0.0
Drought Panel Recommendations. Proposes funding for grants to implement the drought panel recommendations consistent with the level of funding approved in the 2003-04 Budget Act .	-	6,400	-	-	6,400	0.0
Desalination. Proposes additional support for this program. Baseline support for this program was included in the January 10 budget (\$112,000 Prop 50).	-	137	-	-	137	0.0
Integrated Regional Water Management. Proposes additional support for this program. Baseline support for this program was included in the January 10 budget (\$395,000 Prop 50).	-	5	-	-	5	0.0
Colorado River. Proposes local assistance funding for the Colorado River program.	-	300	-	-	300	0.0
Drinking Water Pilot Projects. No new Prop 50 funds were provided for this program.	-	0	-	-	0	0.0
Water Conservation Projects. Proposes to restore funding for various water conservation projects consistent with the schedule approved in the 2003-04 Budget Act. Proposes \$18 million Prop 13 for infrastructure rehabilitation grants and \$8.3 million Prop 13 for agricultural water conservation loans and grants.	26,282	-	-	10,574	36,856	0.0

<i>Flood Protection Corridor Program.</i>	222	-	-	-	222	0.0
Proposes to restore support budget to its original funding level. Also proposes to revert \$1.1 million in local assistance funding that was over allocated to this program in the 2003-04 Budget Act .						
Total	\$154,740	\$93,868	\$3,289	\$10,574	\$262,471	4.0

Department of Water Resources**April Finance Letter - Bond Fund Reappropriations, 2004-05***(Dollars in Thousands)*

Description	Proposition			Total
	13	50	204	
<i>Sacramento Valley Water Management Agreement.</i> Proposes to reappropriate funds to support this agreement due to delays in getting approval from the State Water Resources Control Board for expenditure of these funds.	-	-	\$2,240	\$2,240
<i>CALFED Conveyance Program.</i> Proposes to reappropriate funds to continue to study how the water and fish are influenced by various operational changes in the Delta. The completion of these studies has been delayed by their complexity.	5,030	-	-	5,030
<i>CALFED Conveyance Program.</i> Proposes reappropriation of funds to continue science supporting the CALFED fish collection, handling, transportation, and release study, which has been delayed due to complexity.	-	100	-	100
<i>CALFED Science Program.</i> Proposes to reappropriate funds to study how fish are affected by export operations in the Delta, which was delayed due to lack of available staff.	2,030	-	-	2,030
<i>CALFED Water Supply Reliability Program.</i> Proposes to reappropriate funds to provide possible long-term financing of the Environmental Water Account and to provide \$1.4 million to supplement Prop 13 funding for groundwater storage projects.	-	72,360	-	72,360
<i>Water Use Efficiency.</i> Proposes to reappropriate funds for the water use efficiency grant program due to delays in the grant process.	-	34,240	-	34,240
<i>Drinking Water Pilot Projects.</i> Proposes to reappropriate funds for pilot projects to remove drinking water contaminants to allow coordination with the Department of Health Services.	-	11,450	-	11,450
<i>CALFED Surface Storage Program.</i> Proposes to reappropriate funds for surface storage investigations due to contracting delays.	-	10,744	-	10,744
<i>CALFED Watershed Program.</i> Proposes to reappropriate funds for technical assistance and capacity building efforts delayed due to delays in the grant process.	-	1,000	-	1,000
<i>CALFED Ecosystem Restoration Program.</i> Proposes to reappropriate funds to continue an existing contract to improve the salmonid passage at Daguerre Point Dam.	-	140	-	140
<i>Integrated Regional Water Management Program.</i> Proposes to reappropriate funds for the integrated regional water management grant program due to delays in the grant process.	-	49,830	-	49,830
<i>Desalination Grants.</i> Proposes to reappropriate funds for the desalination grant program due to delays in the grant process.	-	25,000	-	25,000
<i>Drought Panel Implementation.</i> Proposes to reappropriate funds to implement drought panel program recommendations due to delays in the grant process.	-	6,400	-	6,400
Total	\$7,060	\$211,264	\$2,240	\$220,564

Department of Water Resources**April Finance Letter - Extension of Liquidation Period, 2004-05***(Dollars in Thousands)*

Description	General Fund	Proposition 13	Proposition 204	Total
Northern California Water Management. Proposes to extend liquidation to allow for the completion of a contract with Department of Fish and Game.	\$50	-	-	\$50
Local Projects. Proposes to extend liquidation to allow for the completion of contracts with several local water agencies for feasibility study grants for water supply development projects.	-	-	603	603
Sacramento Valley Water Management. Proposes to extend liquidation to allow for the completion of a contract for the development of environmental documentation that was delayed.	-	-	1,374	1,374
Awareness Floodplain Mapping Program. Proposes to extend liquidation to allow for a cost share of this program with the federal government.	-	375	-	375
Urban Streams Restoration. Proposes to extend liquidation to allow for the implementation of projects that were delayed due to the controversy over the need to pay the prevailing wage to volunteers on state-funded projects.	-	5,984	-	5,984
Colusa Basin Drainage District. Proposes to extend liquidation to allow for the completion of a feasibility study and environmental documentation on flood control measures in the Colusa Basin.	-	160	-	160
Bond Implementation. Proposes to extend liquidation to allow for the completion of a contract that will provide the department with recommendations on loan and grant funding with bonds.	-	68	-	68
Infrastructure Rehabilitation Program. Proposes to extend liquidation to allow for the completion of contracts with various local agencies for construction projects and feasibility studies.	-	1,103	-	1,103
Groundwater Recharge Program. Proposes to extend liquidation to complete contracts with various local agencies for construction loans and feasibility studies.	-	10,000	-	10,000
Urban Water Conservation Grant Program. Proposes to extend liquidation to complete contracts with various local agencies for the implementation of water use efficiency projects.	-	7,342	-	7,342
Agricultural Water Conservation Grant Program. Proposes to extend liquidation to complete contracts with various local agencies to fund feasibility study grants and construction loans for agricultural water use efficiency.	-	585	-	585
Groundwater Storage Program. Proposes to extend liquidation to complete contracts with various local agencies to fund feasibility study grants and construction projects.	-	91,000	-	91,000

<i>CALFED Conveyance Program.</i> Proposes to extend liquidation to complete contracts for several studies on the Delta cross channel reoperation, through Delta facility, and Clifton Court forebay fish screen projects.	-	683	-	683
<i>Interim Water Supply and Water Quality Infrastructure.</i> Proposes to extend liquidation to allow for the completion of the Santa Clara Valley Water District's San Luis By-Pass feasibility study.	-	4,818	-	4,818
Total	\$50	\$122,118	\$1,977	\$124,145

Appendix D—CALFED Bay-Delta Program Funding Summary

Proposed State FY 2004-05 CALFED Bay-Delta Program Funding ¹
(dollars in thousands)
April 19, 2004

	General Fund	Prop 204	Prop 13	Prop 50 ²	SWP ³	Other ⁴	Total State Funding	Federal Reimb ⁵	Total (including Fed Reimb)
Ecosystem Restoration	\$946	\$1,573	\$10,016	\$81,185	\$7,331		\$101,051	\$295	\$101,346
BDA (Jan 10 Budget)	\$246			\$533			\$779		\$779
BDA (Spring Revision)				\$5,217			\$5,217		\$5,217
Subtotal (BDA)	\$246			\$5,750			\$5,996		\$5,996
DWR (Jan 10 Budget)		\$1,573		\$553	\$7,331		\$9,457		\$9,457
DWR (Spring Revision)			\$10,016	\$1,579			\$11,595		\$11,595
Subtotal (DWR)		\$1,573	\$10,016	\$2,132	\$7,331		\$21,052		\$21,052
DFG (Jan 10 Budget)	\$700			\$1,000			\$1,700	\$295	\$1,995
DFG (Spring Revision)				\$72,303			\$72,303		\$72,303
Subtotal (DFG)	\$700			\$73,303			\$74,003	\$295	\$74,298
EWA	\$55		\$0	\$32,498			\$32,553		\$32,553
BDA (Jan 10 Budget)	\$55						\$55		\$55
Subtotal (BDA)	\$55						\$55		\$55
DWR (Jan 10 Budget)				\$570			\$570		\$570
DWR (Spring Revision)				\$31,768			\$31,768		\$31,768
Subtotal (DWR)				\$32,338			\$32,338		\$32,338
DFG (Jan 10 Budget)				\$160			\$160		\$160
Subtotal (DFG)				\$160			\$160		\$160
Water Use Efficiency	\$1,444		\$8,640	\$1,723		\$1,696	\$13,503		\$13,503
BDA (Jan 10 Budget)	\$333						\$333		\$333
Subtotal (BDA)	\$333						\$333		\$333
DWR (Jan 10 Budget)	\$1,111		\$358	\$845		\$1,696	\$4,010		\$4,010
DWR (Spring Revision)			\$8,282				\$8,282		\$8,282
Subtotal (DWR)	\$1,111		\$8,640	\$845		\$1,696	\$12,292		\$12,292
SWRCB (Jan 10 Budget)			\$0	\$510			\$510		\$510
SWRCB (Spring Revision)				\$368			\$368		\$368
Subtotal (SWRCB)			\$0	\$878			\$878		\$878
Water Transfers	\$460					\$144	\$604		\$604
DWR (Jan 10 Budget)	\$460						\$460		\$460
Subtotal (DWR)	\$460						\$460		\$460
SWRCB (Jan 10 Budget)						\$144	\$144		\$144
Subtotal (SWRCB)	\$0					\$144	\$144		\$144
Watershed	\$117			\$28,491			\$28,608		\$28,608
BDA (Jan 10 Budget)	\$117			\$55			\$172		\$172
BDA (Spring Revision)				\$3,751			\$3,751		\$3,751
Subtotal (BDA)	\$117			\$3,806			\$3,923		\$3,923
DWR (Jan 10 Budget)				\$813			\$813		\$813
DWR (Spring Revision)				\$20,122			\$20,122		\$20,122
Subtotal (DWR)				\$20,935			\$20,935		\$20,935
DOC (Jan 10 Budget)							\$0		\$0
DOC (Spring Revision)				\$3,225			\$3,225		\$3,225
Subtotal (DOC)				\$3,225			\$3,225		\$3,225
CDF (Jan 10 Budget)							\$0		\$0
CDF (Spring Revision)				\$240			\$240		\$240
Subtotal (CDF)				\$240			\$240		\$240
SWRCB (Jan 10 Budget)				\$285			\$285		\$285
Subtotal (SWRCB)				\$285			\$285		\$285

Proposed State FY 2004-05 CALFED Bay-Delta Program Funding ¹
(dollars in thousands)
April 19, 2004

	General Fund	Prop 204	Prop 13	Prop 50 ²	SWP ³	Other ⁴	Total State Funding	Federal Reimb ⁵	Total (including Fed Reimb)
Drinking Water Quality	\$231		\$2,022	\$697			\$2,950		\$2,950
BDA (Jan 10 Budget)	\$150						\$150		\$150
Subtotal (BDA)	\$150						\$150		\$150
DWR (Jan 10 Budget)	\$81			\$146			\$227		\$227
DWR (Spring Revision)			\$2,022	\$15			\$2,037		\$2,037
Subtotal (DWR)	\$81		\$2,022	\$161			\$2,264		\$2,264
SWRCB (Jan 10 Budget)				\$536			\$536		\$536
Subtotal (SWRCB)				\$536			\$536		\$536
Levees	\$14			\$21,391	\$373		\$21,778		\$21,778
BDA (Jan 10 Budget)	\$14						\$14		\$14
Subtotal (BDA)	\$14						\$14		\$14
DWR (Jan 10 Budget)				\$1,518	\$373		\$1,891		\$1,891
DWR (Spring Revision)				\$19,873			\$19,873		\$19,873
Subtotal (DWR)				\$21,391	\$373		\$21,764		\$21,764
Storage	\$334		\$79,224	\$25,731			\$105,289	\$3,607	\$108,896
BDA (Jan 10 Budget)	\$334						\$334		\$334
Subtotal (BDA)	\$334						\$334		\$334
DWR (Jan 10 Budget)			\$1,888	\$5,357			\$7,245	\$3,667	\$10,912
DWR (Spring Revision) ⁶			\$77,336	\$20,039			\$97,375	-\$60	\$97,315
Subtotal (DWR)			\$79,224	\$25,396			\$104,620	\$3,607	\$108,227
DFG (Jan 10 Budget)				\$335			\$335		\$335
Subtotal (DFG)				\$335			\$335		\$335
Conveyance	\$1,116		\$12,095	\$0	\$19,462		\$32,673		\$32,673
BDA (Jan 10 Budget)	\$556						\$556		\$556
Subtotal (BDA)	\$556						\$556		\$556
DWR (Jan 10 Budget)	\$465		\$858		\$19,462		\$20,785		\$20,785
DWR (Spring Revision)			\$11,237				\$11,237		\$11,237
Subtotal (DWR)	\$465		\$12,095		\$19,462		\$32,022		\$32,022
DFG (Jan 10 Budget)	\$95						\$95		\$95
Subtotal (DFG)	\$95						\$95		\$95
Science	\$3		\$2,030	\$13,364	\$6,201	\$1,050	\$22,648	\$2,463	\$25,111
BDA (Jan 10 Budget)	\$3			\$296			\$299		\$299
BDA (Spring Revision)				\$12,768			\$12,768		\$12,768
Subtotal (BDA)	\$3			\$13,064			\$13,067		\$13,067
DWR (Jan 10 Budget)					\$6,201		\$6,201		\$6,201
DWR (Spring Revision)			\$2,030				\$2,030	\$2,000	\$4,030
Subtotal (DWR)			\$2,030	\$0	\$6,201		\$8,231	\$2,000	\$10,231
DFG (Jan 10 Budget)				\$300		\$1,050	\$1,350	\$463	\$1,813
Subtotal (DFG)				\$300		\$1,050	\$1,350	\$463	\$1,813
Water Supply Reliability				\$1,834			\$1,834		\$1,834
DWR (Jan 10 Budget)				\$1,804			\$1,804		\$1,804
DWR (Spring Revision)				\$30			\$30		\$30
Subtotal (DWR)				\$1,834			\$1,834		\$1,834

Proposed State FY 2004-05 CALFED Bay-Delta Program Funding ¹
(dollars in thousands)
April 19, 2004

	General Fund	Prop 204	Prop 13	Prop 50 ²	SWP ³	Other ⁴	Total State Funding	Federal Reimb ⁵	Total (including Fed Reimb)
Program Oversight & Coordination	\$7,320						\$7,320	\$5,000	\$12,320
BDA (Jan 10 Budget)	\$6,707						\$6,707	\$5,000	\$11,707
Subtotal (BDA)	\$6,707						\$6,707	\$5,000	\$11,707
DWR (Jan 10 Budget)	\$263						\$263		\$263
Subtotal (DWR)	\$263						\$263		\$263
DFG (Jan 10 Budget)	\$166						\$166		\$166
Subtotal (DFG)	\$166						\$166		\$166
BCDC (Jan 10 Budget)	\$88						\$88		\$88
Subtotal (BCDC)	\$88						\$88		\$88
DOC (Jan 10 Budget)	\$96						\$96		\$96
Subtotal (DOC)	\$96						\$96		\$96
GRAND TOTAL	\$12,040	\$1,573	\$114,027	\$206,914	\$33,367	\$2,890	\$370,811	\$11,365	\$382,176

¹ January 10 Budget amounts include base amounts plus current year adjustments that were made after the FY 03-04 Supplemental report was published, including executive order reductions and Section 3.60 retirement contribution adjustments. Baseline adjustments to FY 04-05 amounts include retirement adjustments, one-time cost adjustments, etc. State reimbursable authority is not included in this table to avoid double-counting.

² Prop 50 total includes Chapter 7 funding. Chapters 4, 5, 6, & 8 include funding for statewide programs. It is expected that a portion of the funding from these chapters will support California Bay-Delta Program (CBDP) objectives. However, funding from these chapters will not be included in the CALFED totals until projects are selected and the amount that will support CALFED objectives is known.

³ State Water Project funds will be credited as part of the water user/local share.

⁴ Other funding sources include: Energy Resources Program Account (DWR), Water Rights Fund (SWRCB), and the Striped Bass Stamp Fund (DFG).

⁵ Federal Reimbursements provide authority for the State to spend federal funds. The amounts shown in this table represent the budgeted authorities for the State departments, but actual federal funding may or may not be provided for these purposes.

⁶ DWR storage total includes \$6.4 million from Prop 50, Chapter 8 for the Local Groundwater Assistance Program and \$77.3 million from Prop 13 for groundwater storage that was originally budgeted for Year 3, but not spent.

Appendix E—SWRCB Schedule for Bond Funded Programs



SUBCOMMITTEE NO. 2

Agenda

Byron Sher, Chair
Sheila Kuehl
Bruce McPherson



Thursday, April 29, 2004
Upon Adjournment of Session
Room 112

Outcomes

Resources Bond Proposal

1. Overview of Resources Bond Proposal—Informational Issue

- *Action.* No action taken.

0540 Secretary for Resources

1. April Finance Letter—Bond Proposal

- *Action.* Held open, pending reorganization proposal.

2. River Parkways and Sierra Nevada Cascade Programs

- *Action.* Delete the funding for the River Parkways and Sierra Nevada Cascade programs from the budget and develop trailer bill language with the funding and program criteria.

Resources—Environmental Protection—Public Safety—Energy

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.

- *Vote.* 2-0 (McPherson)

3. Bond Funds for Private Water Agencies

- *Action.* Request LAO to provide background information on awarding bond funds to private water agencies prior to the Subcommittee's hearing on the May Revise.

4. Prevailing Wage—Informational Issue

- *Action.* No action taken.

5. Tidelands Oil Issue (Not on the Agenda)

- *Action.* Hold open 3640-401 language that sweeps Tidelands Oil Revenues (Resources Trust Fund) into the General Fund instead of being used on resources-related activities as directed by statute.

State Conservancies

1. Conservancy Support Funding

- *Action.* Approve as budgeted support budgets for all of the conservancies.
- *Vote.* 2-0 (McPherson)

2. April Finance Letters—Bond Funding

- *Action.* Approve as budgeted April finance letters (all funds) for all of the conservancies, except Santa Monica Mountains Conservancy (SMMC). Augment SMMC budget by \$22.1 million (\$9.7 million Proposition 50 and \$12.4 million Proposition 40).
- *Vote.* 2-0 (McPherson)

3. State Coastal Conservancy—Reappropriate Prop 12—Laguna Coast Wilderness Park (not on the agenda)

- *Action.* Adopt the following language to reappropriate unspent Proposition 12 funds for the Laguna Coast Wilderness Park:
- *Vote.* 2-0 (McPherson)

3340 California Conservation Corps

1. April Finance Letter—Bond Funds Only

- *Action.* Held Open.
- *Vote.*

3460 Colorado River Board

- *Action.* Approve as budgeted.
- *Vote.* 2-0 (McPherson)

3480 Department of Conservation

1. April Finance Letter—Bond Funds Only

- *Action.* Approve April finance letter (resources bond funds only).
- *Vote.* 2-0 (McPherson)

3540 Department of Forestry and Fire Protection

1. April Finance Letter—Bond Funds Only—Informational Display

- *Action.* No action taken.

2. Proposed Fuel Reduction Activities Pose Funding Opportunity for California Conservation Corps

- *Action.* Approved April finance letter (resources bond funds only) and adopt trailer bill language that: (1) requires CDF to utilize the California Conservation Corps for 50 percent of its proposed fuel reduction activities, (2) utilize a portion of Workforce Investment Act funds for training corpsmembers for fuel reduction activities, and (3) restricts funds from being spent on the program timberlands EIR.
- *Vote.* 2-0 (McPherson)

3600 Department of Fish and Game

1. April Finance Letter—Bond Funds Only

- *Action.* Approve April finance letter (resources bond funds only).
- *Vote.* 2-0 (McPherson)

3640 Wildlife Conservation Board

1. Forthcoming Land Acquisitions—Informational Issue

- *Action.* No action taken.

2. Suspend Natural Heritage Preservation Tax Credit Program

- *Action.* Adopt trailer bill language to suspend the tax credit in the budget year and extend the credit for three years beyond 2004-05.
- *Vote.* 2-0 (McPherson)

3. April Finance Letter—Bond Proposal

- *Action.* Approve April finance letter (resources bond funds only)
- *Vote.* 2-0 (McPherson)

3790 Department of Parks and Recreation

1. April Finance Letter—Bond Funds Only

- *Action.* Approve April finance letter and capital outlay April finance letter (resources bond funds only).
- *Vote.* 2-0 (McPherson)

3840 Delta Protection Commission

1. Funding the Commission

- *Action.* Approve as budgeted.
- *Vote.* 2-0 (McPherson)

3860 Department of Water Resources

1. April Finance Letter—Excluding Bond Funds—Informational Display

- *Action.* No action taken.

2. Colorado River Management Account

- *Action.* Deny budget change proposal to transfer \$16.1 million General Fund to the Colorado River Management Account, thereby deferring this transfer (\$16.1 million General Fund savings).
- *Vote.* 2-0 (McPherson)

3. Funding Flood Management

- *Action.* Hold flood management budget open pending receipt of white paper on dealing with potential liability created by the Paterno decision.

4. State Maintenance Areas

- **Action.** Approve April finance letter proposal on state maintenance areas, including proposed trailer bill language.
- **Vote.** 2-0 (McPherson)

5. Watermaster Service Program

- **Action.** Approve April finance letter proposal on Watermaster Service Program, including proposed trailer bill language.
- **Vote.** 2-0 (McPherson)

6. April Finance Letter—Bond Proposal—Informational Display

- **Action.** No action taken.

7. Bond Fund Program Support

Action. Withhold action on the department's bond proposal and direct the department to provide information to the subcommittee before the May Revision meeting of this subcommittee on proposed staffing levels for each bond funded program, along with information on the bond-funded positions eliminated as part of Control Section 4.10 reductions.

8. Integrated Regional Water Management Program

- **Action.** Hold issue open pending staff review of draft criteria for program.

9. Environmental Water Account—Informational Issue

- **Action.** Request department respond in writing to questions on page 39 of the agenda prior to the May Revision meeting of this subcommittee.

3870 California Bay-Delta Authority

1. CALFED Bay-Delta Program Funding—Informational Display

- **Action.** No action taken.

2. CALFED User Fee

- **Action.** Direct staff to develop a trailer bill to implement a broad-based user fee to support the CALFED program. The trailer bill should also include adoption of the beneficiary pay principle as state policy for funding the CALFED program. The trailer bill should utilize the draft options report as guidance and use the following language as a starting point:

It is the intent of the Legislature that water users that benefit from the implementation of the CalFed Record of Decision and the Bay-Delta Program shall be responsible for

funding one half of the non-federal portion of those costs that provide general and shared benefits to users and to the public. This funding shall be in addition to costs that are charged to direct and identifiable beneficiaries of specific projects and programs.

79425. (a) The authority shall collect a fee annually from those agencies and persons diverting water from the Bay-Delta watershed, in an amount that is equal to one half of the State CalFed Budget as defined in paragraph (c). These fees shall be adjusted to reflect any fees paid in the same year under other provisions of law or agreements if the authority finds that the revenues of those fees are applied to appropriate Bay-Delta Program activities.

(b) The fee imposed by this section shall be in proportion to the amount of water diverted except that the authority may develop an alternative formula that sets minimum diversion amount, and establishes such other criteria as are necessary for the effective and equitable implementation of this section.

(c) For the purpose of this section “State CalFed Budget” means the total amount of funds provided each year to the authority and the implementing agencies to achieve balanced implementation of the program’s goals and objectives, including revenues from the fees identified in paragraph (a), but excluding federal funds, local agency cost share of projects, and costs charged to direct beneficiaries for projects implemented pursuant to this chapter.

(d) The Board shall transmit funds collected pursuant to this section, after deducting reasonable administrative costs, to the appropriate implementing agencies for expenditure.

- **Vote.** 2-0 (McPherson)

3. Adoption of the Beneficiary Pays Principle

- **Action.** See action above.

4. CALFED Science Program

- **Action.** Adopt supplemental report language that requests a summary of how the CALFED Science program is addressing the issue of how much water is needed to restore fisheries.
- **Vote.** 2-0 (McPherson)

5. CALFED Watershed Grant Process—Informational Issue

- **Action.** No action taken.

6. April Finance Letter—Bond Proposal

- **Action.** Approve April finance letter (resources bond funds only).
- **Vote.** 2-0 (McPherson)

3940 State Water Resources Control Board

1. April Finance Letter—Bond Funds Only

- *Action.* Hold issue open pending receipt of additional information on improvements made in the board's grant process.

SUBCOMMITTEE NO. 2

Agenda

Byron Sher, Chair
Sheila Kuehl
Bruce McPherson



Thursday, May 6, 2004
Upon Adjournment of Session
Room 112

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Resources--Environmental Protection—Public Safety—Energy

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.

0690 Office of Emergency Services

Finance Letters Proposed For Consent

1. Finance Letter – Nuclear Planning Assessment Special Account.

Finance Letter Request. This Finance Letter requests that Item 0690-001-0029 be increased by \$20,000 and that Item 0690-001-0001 be amended to reflect this change, and Item 0690-101-0029 be increased by \$49,000 to reflect the 2003 calendar year consumer price index increase for the Nuclear Planning Assessment Special Account pursuant to Government Code Section 8610.5.

2. Finance Letter – 2003 Federal Urban Area Security Initiative Grant.

Finance Letter Request. This Finance Letter requests that that Item 0690-101-0890 be increased by \$49,452,000 to provide the 2003 federal Urban Area Security Initiative (UASI) grant to Los Angeles, San Francisco, San Diego, Sacramento, and Long Beach. The State is prohibited from using any of the UASI funds included in this grant, therefore all of the funds from this grant will be given to the five cities to fund various activities, including: development of the urban area homeland security strategies, acquisition of eligible equipment, and training exercises related to emergency responders who would prevent and respond to a terrorist attack.

3. Finance Letter -- Addition of Budget Bill Item 0690-490, Capital Outlay

Finance Letter Request. This Finance Letter requests that that Item 0690-490 be added to reappropriate Item 0690-301-0001 Budget Act of 2003.

1. 80.10.008-Sacramento: OES Headquarters Perimeter Fence-Working drawings.

This reappropriation of working drawings is necessary due to delays in negotiating the Architect and Engineering firm contract.

Staff Recommendation. No issues have been raised regarding these Finance Letters. Staff recommends approval of the Finance Letters.
Action.

Issue to be Heard

4. Domestic Violence Grants

Background. In FY 2001/02, OCJP released a competitive Request for Proposal (RFP), which resulted in ten shelters previously funded under DVAP not being reselected for funding. Shortly thereafter, AB 664 was passed to appropriate \$2 million per year for three years to fund the ten shelters previously funded by OCJP. The OES notes that the former Interim Executive Director of OCJP indicated in a Senate Oversight Hearing on Domestic Violence, that the ten shelters would be merged into the DVAP after AB 664 expired.

The OES indicates that the funding level for the AB 664 shelters was based on the shelter's funding level in FY 2000/01. This resulted in some of the ten shelters receiving a different funding amount than they

would have received if selected for funding through DVAP. In addition, these projects have not received any cuts over the last three years.

Three-year emergency funding for the 10 AB 664 shelters ends September 30, 2004. OCJP notified the AB 664 shelters in August that this was the final year of funding. It is the OES's Criminal Justice Programs Division's (CJPD) goal to give at least six months notice to any grant funded project whose funding may be affected by the DVAP funding, in order to give them adequate time to prepare for reductions/loss of funds.

OCJP/OES Funding for Domestic Violence Shelters for the Last Three Years (Dollars in Thousands)			
Source of Funds	2001-02	2002-03	2003-04
Federal Family Violence Prevention	\$4,882	\$4,763	\$4,959
Federal Victims of Crime	7,428	8,954	8,143
Federal Violence Against Women	925	277	0
State General Funds/ AB 664	2,025	2,025	2,025
State General Funds	1,460	727	730
Total	\$16,719	\$16,744	\$15,857

Staff Comments. The OES has indicated that if the 10 AB 664 shelters had been reduced in the last three years at the same proportion as the 75 shelters, the \$2 million would be reduced by \$156,000. The OES indicates that have not found any money to backfill the loss of funding through AB 664. The OES indicates that should the 10 AB 664 shelters be folded in with the 75 that all the shelters would take a 13 percent decrease in funding.

Staff Recommendation. Staff recommends holding this issue open pending May Revise and the potential for identifying additional funds for this program.

Action.

8140 State Public Defender

Previous Action. At the hearing on March 11, the Subcommittee held open the budget for the OSPD.

Staff Recommendation. No issues have been raised. Staff recommends approval as budgeted.

Action.

0820 Department of Justice

Finance Letters Proposed for Consent.

1. Finance Letter – Criminal Offender Record Information Workload for the Department of Consumer Affairs and the Department of Real Estate.

An increase of \$1,839,000 Fingerprint Fee Authority and 26.0 positions (9.0 positions on a two-year limited term basis) to process new criminal offender record information requests for Department of Consumer Affairs and Department of Real Estate licensees.

2. Finance Letter -- Division of Law Enforcement Reimbursement Funding

A reduction of \$3.0 million in reimbursement authority to reflect the expiration of various interagency agreements and grants to the Division.

Staff Recommendation. No issues have been raised. Staff recommends approval of the Finance Letters.

Action.

5430 Board of Corrections

1. Conversion of General Fund Programs to Fee Based

Budget Request. The budget proposes to convert the funding source for the Executive Office, Local Adult and Juvenile Facilities Standards and Inspections, and Juvenile Hall Suitability Inspection Process from General Fund to a city/county reimbursed fee structure. The proposal would authorize an Administration Fund and would implement a county-reimbursed fee structure whereby counties and cities would reimburse the state for the operation of the Executive Office of the BOC and a portion of the costs associated with the establishment, promulgation, and maintenance of minimum standards for adult and juvenile detention facilities, as well as the biennial inspection of all adult and juvenile detention facilities. Trailer bill language to enact these changes

Costs For These Programs. The total costs for these functions is \$1.8 million. Under the proposal, the BOC would charge locals a fee per type of facility. Assuming all the counties elected to continue the services provided by the BOC, the charge per adult facility would be from \$1,500 up to \$3,150 annually, depending upon the type and size of facility, and the charge per facility would be from \$3,000 up to \$45,000 annually, depending upon the type and size of facility.

Trailer Bill Language. The proposed trailer bill language authorizes rather than requires the BOC to perform inspections of facilities, eliminates the biennial frequency of the inspections, and authorizes the BOC to charge fees to reimburse the BOC for services. The proposal would allow counties to opt out of standards and inspections by not paying the BOC for the service.

Background on Previous Elimination of Juvenile Inspections. Budget constraints in 1992 resulted in the elimination of juvenile hall and camp inspections by the California Youth Authority (CYA), which had

been authorized in 1955 to establish standards for the operation and maintenance of local juvenile facilities. In lieu of these inspections, the Legislature instituted a process of self-certification.

In response to growing concern about deteriorating conditions in some juvenile facilities, the Legislature reinstated an independent inspection process in the 1995 Budget Act, which transferred responsibility for all local juvenile facilities from the CYA to the BOC and set in statute the requirement that the Board inspect and report on the management, operation, and physical plant condition of all of California's county juvenile halls camps, and ranches (Welfare and Institutions Code Sections 209, 210, 885, and 886.5). Additionally, juvenile detention facilities are inspected for compliance with standards set forth in Title 15 and 24, California Code of Regulations to ensure they operate at constitutionally adequate levels.

According to the BOC, in 1996/97 after the first inspection cycle, the BOC found that a majority of facilities inspected (46 of 58 facilities) were operating in non-compliance with minimum standards. The initial review also revealed numerous other deficiencies related to such issues as crowding, use of force, discipline, staffing, services, and other operational areas.

Elimination of Juvenile Facility Data Collection. The language also eliminates the requirement that BOC collect and publish biennial data on the number, place, and duration of confinements of minors in jails and lockups. The "Juvenile Detention Survey" data is the only statewide source of data on the number, characteristics, and conditions of juveniles incarcerated in local juvenile justice facilities.

Issues to Consider.

- Given the fiscal constraints being felt by counties, will counties decide to pay fees for the services?
- Given the experience with self-certification between 1992 and 1996 with juvenile facilities does it make sense to continue mandatory oversight by the BOC?
- What level of accountability and oversight is responsible?

Staff Comments. The BOC indicates that it has been working with the federal government to see if some of its administrative costs regarding facility reviews and inspections can be funded through federal funds. It may be possible that federal funds could be used to offset about \$600,000 of the General Fund portion of BOC's budget. Any proposal to use federal funds for these functions would be made at the time of the May Revise.

Staff Recommendation. Staff recommends rejecting the proposal to convert the funding source for the Executive Office, Local Adult and Juvenile Facilities Standards and Inspections, and Juvenile Hall Suitability Inspection Process from General Fund to a city/county reimbursed fee structure. This action would entail (1) rejecting the proposed trailer bill language, (2) restoring \$1.7 million in General Fund, and (3) providing \$176,000 for the program responsible for the inspection of county juvenile facilities.

Action.

5460 Department of the Youth Authority

Issues

1. Staff Resources at CYA

At the request of the Subcommittee, the LAO examined the Youth Authority's staffing at selected institutions in 1995-96 and 2002-03, focusing mainly on the areas of custody and treatment. For this analysis, the LAO used data on actual filled positions from the *Salaries and Wages*. The 1995-96 year was chosen because at that time the Youth Authority's population was at its highest level with slightly over 10,000 wards. Since then, the population has been steadily declining and reached 5,091 in 2002-03 (the latest year for which actual data on filled positions are available).

	1995-96	2002-03	Change Actual	Percent
Population	6,176	3,004	-3,172	-51.4%
Total Staff	2,525	2,095	-430	-17.0%
Executive	35	37	2	5.7%
Treatment/Group Living	1,142	823	-319	-27.9%
Support Services	956	965	9	0.9%
Education	392	270	-122	-31.1%

*Selected Institutions: Chad, Stark, Robles, Preston, Nelson and Southern YRCC

Summary of Findings

- **Staffing at the Selected Institutions Declined More Slowly Than Population.** From 1995-96 through 2002-03, total staffing at the selected institutions decreased by about 17 percent, while the population at these institutions decreased over 50 percent.
- **Treatment and Education Positions Decreased While Others Increased.** The *Salaries and Wages* displays youth authority positions in four program categories—executive, treatment and group living, support services, and education. Our analysis shows that overall (for the selected institutions) the treatment and group living staff was reduced by 28 percent, and the education staff by 31 percent. In contrast, there were slight increases in total positions for the support services (which includes custody staff), and executive functions.
- **Youth Authority Lost More Treatment Than Custody Staff.** As you requested, we compared the change in the number of Youth Correctional Counselor (YCC) positions to the change in the number of Youth Correctional Officer (YCO) positions. It should be noted that YCCs are part of the treatment and group living category discussed above, and YCOs are part of support services. From 1995-96 through 2002-03, for the selected institutions, the number of YCC positions decreased by 154, or 26 percent. The number of YCO positions decreased by 23, or 6 percent.
- **Treatment Reductions Are Greater at Selected Institutions.** All of the institutions we looked at lost YCC positions. Over half—four of the six institutions we examined, also lost YCO positions. (The exceptions were Dewitt and Chaderjian.) The YCC position reductions tended to be larger than the YCO position reductions.

The Subcommittee may wish to have CYA respond to the analysis by the LAO.

2. Closure of Nelles Youth Correctional Facility

Background.

Fiscal Impact of Closing Youth Authority Facilities (In Thousands)							
		2003-04			2004-05		
Institution	Date	Savings	Offset for CS 4.10	Net Savings	Savings	Offset for CS 4.10	Net Savings
Karl Holton YCF	10/1/03	-\$7,360	\$3,542	-\$3,818	-\$9,858	\$3,542	-\$6,316
Ventura - Male	3/1/04	-1,169	548	-621	-3,068	548	-2,520
Northern Ca. Reception Center	3/1/04	-4,168	4,168	0	-15,404	4,168	-11,236
Accelerated Closure of 8 Living Units		-2,832	2,832	0			
Nelles YCF	7/1/04				25,939		-25,939
Mt. Bullion Camp	7/1/04				2,380		-2,380
Totals		-\$15,529	\$11,090	-\$4,439	-\$56,649	\$8,258	-\$48,391

Last year, the CYA indicated that it was closing down the Holton facility and the male portion of the Ventura facility. Due to the population declines at CYA, the Legislature approved statutory changes that required CYA to close a facility with a capacity of at least 640 by March 1, 2005.

Budget Proposal. The budget proposes savings of \$25.9 million in the 2004-05 from the closure of the Nelles facility in Whittier. The CYA indicates that the other four institutions considered for closure other than Nelles were Preston, Paso de Robles, Heman G. Stark, and Ventura. CYA indicated that the factors for choosing Nelles include

- Infrastructure repairs at Nelles are estimated at \$70 million, which CYA indicated was more than double the cost of any other facility.
- The fact that Nelles had only one specialized program to be moved.
- The population at Nelles had fallen to 340 (from a capacity of 640).

Status of the Plan Specifying Priorities for Enhanced Services. Legislation requiring the closure of a facility by March 5, 2005 also provided that up to 50 percent of the initial year of savings shall be available to the department in 2005-06 to implement a plan specifying priorities for enhanced services. That plan is due to the Legislature at the time of the May Revise this year.

- Will the plan be released at the time of the May Revise?

Staff Comments. Concerns have been raised about the closure of Nelles because it is the only institution in Southern California for wards under 18. The CYA has submitted a capital outlay Finance Letter requesting funds for Southern Youth Correctional Reception Center and Clinic (SYCRCC) and Heman G. Stark Youth Correctional Facility (HGSYCF) to accommodate wards that will be transferred because of the closure of Fred C. Nelles. Housing modifications to accommodate wards in the Sex Offender Program Unit at SYCRCC and modifications to increase the educational facilities at both SYCRCC and HGSYCF are needed.

Staff Recommendation. Staff recommends approval of the proposed closure.
Action.

3. Closure of Mount Bullion Camp.

Budget Request. The budget proposes savings of \$2.4 million in 2004-05 from the closure of the Mount Bullion Camp in Mariposa County. This camp is located on CDF property and assists CDF fire crews during fire season. This is one of four camp programs operated by the CYA. According to departmental regulations CYA staff is responsible for the custody and supervision and treatment of assigned offenders while the CDF staff plans and supervises the work projects performed by the wards.

Department Rationale. The CYA indicates that it is proposing the closure of this camp because there are not enough qualified wards to fill the camp facilities. CDF has minimum criteria for accepting wards into the program. Current criteria includes: physical fitness, no history of arson, no escapes, no sex offenses, only low level offenders, no suicidal behavior for two years, free from psychotropic medication for at least 4 months, and the ward must be discipline free for six months. CYA indicates that Mt. Bullion was proposed for closure because it had the lowest population of the camps at the time – 38 wards. The design capacity is 80 wards.

The closure of the camp is expected to save \$2.4 million or approximately \$30,000 per-year-per-ward at capacity. The average cost if filled to the 100 level would approach \$24,000 per-year-per-ward. This is significantly lower than the average cost for the department of nearly \$74,000 per-year-per-ward.

The Subcommittee may wish to ask CYA the following:

- Why should the Subcommittee endorse the closure of any CYA-operated camp or forestry camp, when these smaller scale facilities appear to be a much closer fit with accepted youth corrections standards and models?
- Can the criteria for placement in the camp program be changed?
- Can CYA offer alternative programs camps to expand the placement of wards in camp locations?
- Will the population eligible for camp placement increase if counties reduce local camp and ranch programs as a result of the proposed TANF reduction to county probation?

Staff Recommendation. Staff recommends holding this item open at this time.

Action.

4. Structural Reform Issues – Informational Issue

At the hearing on March 25, the Subcommittee requested that CYA provide additional information to the Subcommittee on structural reform. Based on the responses provided by the department in its April 26th letter, the Subcommittee may wish to ask CYA the following:

- 1) The CYA response indicates that action plans in response to the findings of the reports are complete but are awaiting final approval. What date do you expect final approval?
- 2) With regard to the closure plan discussion, the response indicates that the CYA is in the process of opening an additional 132 beds at SYRCC for wards under 18. Are these new beds in new living units? What are the size of the living units? How do these new beds fit into the policy goal of reducing the size of living units?

- 3) Similarly, the response describes "a major living unit renovation project at SYCRCC." What is this project, what will be the size of living unit(s), and how does this major new project fit into the policy goal of reducing the size of living units?
- 4) On the vision to reduce the total population at CYA, the response did not fully answer the question. Is it the department's policy to reduce its population significantly over the next five years and, if so, how will they accomplish that goal?
- 5) The response did not fully answer the question concerning their plans to convert large scale institutions to smaller-scale facilities, although the response does indicate that it is CYA's "vision" to do so. Does the department intend to develop plans to convert to smaller living unit facilities, in accordance with its vision?
- 6) With respect to gang management, what outside contractor is developing the department's training modules? What "best practices" models are the department's gang management policies based on? Aside from gang validation, tracking and intelligence networking, what pro-active efforts are made by the department to discourage gang membership and affiliation among wards? Are families involved in anti-gang programming efforts? Does the department consult with community-based gang prevention organizations in coordinating its gang prevention efforts and, if so, which organizations?

CYA Capital Outlay

5. Finance Letter – Housing Modifications Related to Nelles Closure.

The Finance Letter proposes to add Item 5460-301-0747 for a total of \$1.5 million and Item 5460-301-0751 for a total of \$500,000 to make modifications to Southern Youth Correctional Reception Center and Clinic (SYCRCC) and Heman G. Stark Youth Correctional Facility (HGSYCF) to accommodate wards that will be transferred because of the closure of Fred C. Nelles. Housing modifications to accommodate wards in the Sex Offender Program Unit at SYCRCC and modifications to increase the educational facilities at both SYCRCC and HGSYCF are needed. These projects in the Southern facilities are proposed for funding in an effort to keep the wards who would be housed in Nelles closer to their families to avoid moving them to the Paso Robles facility in Central California.

Staff Recommendation. Staff recommends approval of the Finance Letter.
Action.

5180-101-0001 Reduction in TANF Funding for Probation Services – Informational Issue

Background. In California, counties are the primary provider of services to youthful offenders and juveniles at risk of becoming involved in the criminal justice system, handling more than 95 percent of juveniles involved in the criminal justice system. County probation departments provide a range of services designed to meet the diverse needs of juvenile offenders, at-risk youth, and to a lesser degree their families. These services range from after-school programs designed for relatively low-level at-risk youth, to formal counseling, alcohol and drug treatment services. Services are provided both in the community and in residential facilities, such as juvenile halls, camps, and ranches. Generally, the purpose of these programs is public safety and rehabilitation. The effectiveness of the counties in responding to juvenile crime has an impact on public safety, as well as the population of the state's youth correctional facilities and prisons.

How Are Juvenile Probation Programs Funded? Juvenile probation programs are funded by a combination of sources, including local general fund, state subvention grants, and federal funds. The most significant state funding source is the Juvenile Justice Crime Prevention Act (JJCPA) grant program administered by the Board of Corrections. In 2003-04, this program provided \$100 million for crime prevention programs. The most significant source of federal funds is the federal Temporary Assistance for Needy Families (TANF) block grant, which has historically provided approximately \$200 million for probation services. Data on county general fund spending for probation services statewide are not available. Staff notes that in its report on the Comprehensive Youth Services Act (CYSA) and TANF, the Rand Corporation estimated that TANF funding for CYSA (which funds the camps and ranches programs) made up about 10 percent of total funds (including county funds) for County Probation departments. Attachment 1 to the agenda provides an overview of TANF and the CALWORKS program.

Before the establishment of the TANF block grant, county juvenile probation services were partially supported by federal Title IV-A funds (named after the section of the Social Security Act authorizing the funding program). However, this program was eliminated in 1995. In order to restore juvenile probation services, the Legislature enacted the Comprehensive Youth Services Act as part of welfare reform, which authorized TANF funding for the counties based upon their Title IV-A probation services expenditures. (Welfare reform also established the California Work Opportunity and Responsibility to Kids [CalWORKs] program which provides cash grants and employment services to low-income families.) It should be noted that county probation department claims filed for reimbursement under the old Title IV-A program were taken into consideration by the federal government in determining California's share of TANF funds, and thus increased the state's TANF block grant by approximately \$140 million. Under current law, the TANF block grant for juvenile probation programs sunsets in October 2004.

What Services Are Funded by the TANF Block Grant? While comprehensive data are not available on precisely how the TANF block grant funds are used by county probation departments, a 2003 report on TANF-funded probation services conducted by the RAND Corporation suggests that these funds support a variety of juvenile probation services, including anger management, family mentoring, and mental health assessment and counseling to name a few. However, the report indicates that most of the funding is probably used for services provided to youth detained in juvenile halls, camps, and ranches.

Governor's Budget Proposal. The administration has proposed to allow the block grant funding to sunset in October 2004, resulting in a reduction of \$134 million in 2004-05 for juvenile probation programs. The budget includes \$67 million for these services from July through October 2004.

Impact of Proposal on Probation Services for At Risk Juveniles. While data are not readily available on total spending for juvenile probation programs statewide, a report by RAND estimates that the TANF block grant represents between 10 percent and 15 percent of county spending for juvenile probation

services. The loss of these funds will affect counties differently depending on how the funds are used, and whether and to what extent counties backfill for the loss of these funds. The LAO's Analysis indicates that their discussions with county probation department representatives and other criminal justice experts suggest that the proposed reduction could have a significant impact on the ability of counties to operate their juvenile camps.

The grants funded from this source range from \$5,000 (Sierra County) to \$68 million (Los Angeles County). In some counties, the TANF funds are used largely to contract with community-based organizations, while in other counties the funds are used to support county probation department staff. In 1995, when the Title IV-A funding was eliminated, some county boards of supervisors increased funds from other sources to backfill for the loss of those funds, while others did not.

Impact on Public Safety and State Costs. The LAO notes that the local system of juvenile probation is the first line of defense against future criminality for these youthful offenders and that research has shown that early intervention programs can be effective in preventing future crime by youthful offenders. To the extent that these programs are no longer available, it could result in a reduced level of public safety. For example, because of the potential reduced number of residential treatment beds, lower level juvenile offenders—who currently benefit from intervention services provided in the camps and ranches—may be retained in the community with no intervention services, thereby posing a greater risk to public safety.

The proposed reduction could also result in more juveniles being sent to the state Youth Authority, thereby increasing General Fund costs. Because of the reduced number of residential treatment beds at the local level, juvenile court judges and probation officers may have few alternatives to sending certain juveniles to the Youth Authority. This effect would be somewhat mitigated by the sliding fee schedule that requires counties to pay a share of the cost for Youth Authority commitments that fall into lower-level offense categories. According to the LAO, it is unknown whether these potential costs resulting from a greater number of Youth Authority commitments would fully offset the General Fund savings resulting from the Governor's proposal to eliminate the TANF block grant. This would depend on the number of juveniles placed in the Youth Authority rather than in local facilities due to this proposal.

Information Provided By Los Angeles. Los Angeles County has provided the Subcommittee with data that suggests that if the State funding for Juvenile Probation is eliminated that the State will have to spend more for juvenile incarceration and group home costs than the current State funding for juvenile probation camps. The county believes that the over 4,000 youth served by camps each year will instead receive care in the California Youth Authority and in Group Home placements.

The chart below illustrates the potential fiscal effect that closing the Juvenile Probation Camps would have in Los Angeles County in the budget year:

Program	If TANF Funds Restored (2004-04)			Funds Eliminated (2004-05)			Funds Eliminated (2005-06)		
	Pop	County Costs	State Costs	Pop	County Costs	State Costs	Pop	County Costs	State Costs
CYA	1,179	14,216,000	70,740,000	2,213	15,397,000	104,280,000	3,247	17,581,000	166,320,000
Camps	4,136		83,001,000	1,379		27,663,000	0	0	0
Home on Probation	18,000	39,116,000	0	20,102	40,083,000	0	20,102	40,083,000	0
Group Home	2,242	73,973,000	45,165,000	3,242	93,209,000	56,077,000	3,242	107,058,000	65,310,000
Total	25,557	127,305,000	198,906,000	26,936	148,689,000	188,020,000	26,591	164,722,000	231,630,000

Although the county has a wide range of services, the county has commented that the TANF funding it receives are devoted to discretionary programs like the Juvenile Camps. The County believes that it will have to eliminate its discretionary programs to concentrate on the core programs that are required by State law.

The Governor's Budget assumes no increase in the CYA or Group Home caseloads resulting from the loss of the juvenile probation funding. The Department of Social Services notes that the same State funding was eliminated for an 18-month period in the mid-1990's and the counties continued to operate these programs. Thus, it is assumed that counties would continue to operate their camps and other programs if this funding was eliminated.

LAO Options. In its *Analysis*, the LAO indicated that the proposed TANF block grant reduction could result in the loss of core probation services for juvenile offenders, which could result in a lower level of public safety, and increased General Fund costs resulting from a greater number of Youth Authority commitments. The LAO identified other programs that could be eliminated or suspended as an alternative to the TANF block grant. Based on the LAO's analysis and discussions with probation officials and other criminal justice experts, the LAO concluded that the elimination or suspension of COPS and/or JJCPA grants would achieve the same (or a greater) level of budget savings, and potentially have less of an impact on public safety, without increasing General Fund costs.

Currently, the State uses federal TANF funds as its funding source for money it provides to counties. Although there are historical arguments for why these funds have been allocated for Juvenile Probation costs; the current fiscal constraints within the TANF block grant would require the Subcommittee to identify an offsetting reduction within the block grant to restore funding for this program.

There is a policy bill on this issue. AB 2947 (Pacheco) would repeal the October 31, 2004, sunset on the Comprehensive Youth Services Act, providing services to juveniles detained in juvenile halls, camps and ranches, funded by the state's Temporary Assistance for Needy Families (TANF) block grant.

Informational Issue – No Action Necessary

5240 Department of Corrections

1. Separate Education Schedule.

Background. Currently the budget bill schedules CDC expenditures among four major program areas – (1) Institutions Program, (2) Health Care Services Program, (3) Community Correctional Program, and (4) Administration. The budget bill also contains a provision that allows CDC to transfer up to 5 percent of the amounts appropriated in the schedules for Institutions Program, Health Care Services, and Community Corrections between these schedules. Any transfer greater than that amount requires approval by DOF and 30 day notice to the Legislature pursuant to Control Section 26.

Education Programs a Part of the Institution Budget Line Item. Currently the Inmate Employment/Training Program (which includes academic and vocational education programs) is scheduled within the Institution Program. For the proposed budget, the Inmate Employment/Training Program is \$218.2 million out of the proposed Institution Program budget appropriation of \$4.1 billion. Other programs within the Institution Schedule include Reception and Diagnosis, Security, Transportation, and Inmate Support.

CDC Can Transfer Funds Among Programs Within the Institution Budget Line Item. While the Education program is displayed separately in the Governor's Budget, having it scheduled within the Institutions Program allows CDC to transfer money from the education programs to other components of the Institutions Program. For example the Governor's budget displays show that in January 2002, anticipated expenditures for Inmate Employment/Training for the 2001-02 fiscal year was \$250 million. Actual expenditures for 2001-02 reported in January 2003 were \$209.1 million, a decrease of \$40.9 million or 16.4 percent. While some of this reduction may have been due to population factors, for some portion of the amount CDC held education positions open and used the savings from those positions to fund other activities within the Institutions Program.

Staff Comments A separate schedule and appropriation in the budget bill for the education programs would make it more difficult to transfer money from education for other purposes, and would provide the Legislature with notification of such transfers through Control Section 26. At a time when the state is trying to do a better job of reducing recidivism it may make sense to appropriate funds specifically for education programs to ensure that funds are prioritized for that purpose.

Staff Recommendation. Staff recommends that the Subcommittee approve a separate program schedule within the budget bill for education programs at CDC.

Action.

2. RN Recruitment and Retention Funding – Informational Item

Background. As part of the May Revise for 2002-03 fiscal year, the Legislature approved a Finance Letter to continue implementation of the Inmate Medical Services Program (IMSP) as part of the basis of the Plata litigation surrounding inmate health care services.

In its Budget Change Proposal (BCP), the CDC indicated that the implementation of the IMSP relies heavily on nurse staffing and that the shortage of nurses in California, and the availability of higher paying positions in the community has led to difficulty in recruiting and retaining qualified nurse staff. The original BCP notes “Finally, it is imperative to the success of the IMSP and compliance with the Plata settlement that the CDC’s Recruitment and Retention incentives for nurses are successful in attracting and retaining registered nurses.” As a result, part of the IMSP proposal included monthly Recruitment and Retention (R&R) bonus and an Enhanced Employee Compensation Funding (EEC) program for registered nurse classifications at CDC.

The BCP notes that the calculations for the EEC program and the R&R s would change based on actual filled positions and the number of new positions, and that CDC and DOF would recalculate the level of funding required during the planning estimate process and as part of the May Revise. The IMSP program was proposed to be implemented in all of CDC’s institutions over a six year period, so no new BCPs are submitted but rather the additional costs for the entire IMSP are adjusted through the planning adjustment process. The original BCP notes that the Department of Personnel Administration (DPA) was negotiating a Memorandum of Understanding with nurses. The BCP also states, “To the extent that DPA approves additional salary incentives, the impact on the IMSP would have to be assessed and funded based on any future labor agreements.”

Vacant Nursing Positions. The CDC has provided information to the Subcommittee indicating that as of March 31, 2004 there were 977.22 registered nurse positions allocated to the institutions. Of that amount 239.27 positions, or 24.5 percent were vacant. As was discussed at the hearing on April 21, the CDC has increased expenditures for registry contracts which are primarily used to backfill vacant positions. The Table below shows the recent increases in this area, which the recent BSA audit indicated was the fastest growing component of contract medical services.

Growth in Expenditures for Medical Registry Contracts			
Year	Total Expenditures	Increase	Percent Change
1998-99	\$11,722,236	--	--
1999-00	\$14,795,111	\$3,072,875	26.2%
2000-01	\$28,869,934	\$14,074,823	95.1%
2001-02	\$46,790,565	\$17,920,631	62.1%
2002-03	\$63,821,909	\$17,031,344	36.4%

Attachment 2 shows the monthly R&Rs and the EEC program prior to the IMSP program, the amount authorized and funded by the Legislature in the Budget Act of 2002-03, the amount approved by DPA and the difference between the amount authorized originally and the amount approved by DPA.

The Subcommittee may wish to ask the following questions.

- Have the R&Rs and the EEC program been effective in helping recruit additional nurse positions at CDC?
- How much was the budget reduced due to the lower amounts for the R&R and EEC that were approved by DPA? Does CDC have an estimate for the costs for registry contracts for RNs? Has CDC or DPA done an analysis to determine the cost effectiveness of the reduced R&Rs and the impact on the provision of healthcare services?
- Why did DPA approve funding levels below the amounts included by DOF in the Finance Letter and authorized by the Legislature.
- What efforts are being made to reduce the number of vacancies for RNs?

3. Technical Finance Letter Change.

Finance Letter Request. This Finance Letter proposes to amend the CDC capital outlay budget item 5240-301-0001 to change to title of the project. The 2004 Governor's Budget erroneously titled the project (61.10.049) at CMC, San Luis Obispo as the Potable Water Treatment Facility Upgrade. The project should be named the Potable Water Distribution System Upgrade. The scope and costs of the project do not change and accurately reflect the corrected title.

Staff Recommendation. No Issues have been raised. Staff recommends approval of the Finance Letter.

8180 Payments to Counties for the Costs of Homicide Trials

1. Finance Letter -- Transfer Expenditure Authority.

This Finance Letter requests a decrease of \$254,000 to reflect a transfer to Item 0450-101-0001 (State Trial Court Funding). This is a conforming issue with Item 0450 101 0001 which would increase State Trial Court Funding by \$254,000.

The Administrative Office of the Courts has indicated that courts in two counties (Mendocino and Shasta) were able to obtain funding from Payment to Counties for Costs of Homicide Trials because the county applied on its behalf. This request would transfer the actual level of reimbursements from 2002-03 that the courts were able to obtain (\$254,000) from Payment to Counties for Costs of Homicide Trials to the State Trial Court Funding. Trailer bill language and provisional language will be proposed that would prohibit the counties from accessing funds for the extraordinary costs of homicide trials on behalf of the courts. Since this is a transfer of appropriation authority, there is no effect on the General Fund as a result of this transfer.

Staff Comments. As of May 5, the Finance Letter for the increase has not been received, nor has any proposed trailer bill language or provisional language related to this issue.

Staff Recommendations. Staff recommends holding the issue open pending receipt and review of the Finance Letter in the Trial Court Funding Item that will include the trailer bill language and the provisional language changes.

Action.

8700 California Victim Compensation and Government Claims Board

1. State Operations Expenditures

California Victim Compensation and Government Claims Board – Total Expenditures (Claim Payments and Administrative Expenses)								
Type of Expenditure	<i>Expenditures (dollars in thousands)</i>				<i>Estimated</i>			
	1999-00	Percent	2000-01	Percent	2001-02	Percent	2002-03	Percent
Administrative Expense	\$35,012	29%	\$41,339	32%	\$45,879	27%	\$53,078	25%
Claim Payment	85,687	71%	88,253	68%	123,952	73%	158,679	75%
Totals, Programs	\$120,699	100%	\$129,592	100%	\$169,831	100%	\$211,757	100%

Due to the projected fiscal problems in the Restitution Fund, last year the Subcommittee requested the LAO to review the budget proposal for the Victims of Crime (VOC) Program and to make any recommendations to reduce expenditures and enhance revenues for the VOC Program, as well as review the program's administrative expenditures.

LAO Findings. Regarding VOC administrative expenses, the LAO found that the program's administrative expenses are relatively high compared to other states. Given the relatively high administrative costs, the LAO recommended that the Legislature consider reducing the board's administrative expenses by eliminating the Criminal Restitution Compacts (CRCs) with the counties because the LAO's analysis indicated that the costs were not justified. This would have generated \$2.3 million in savings in the current year.

The LAO's review showed that the administrative expenditures for the VOC Program was \$41.5 million or 23 percent of the VOC Program's total budget. The Table below compares administrative costs with victim programs in other states. The LAO indicates that these states were selected because their programs offer similar benefits to those in California and, in the case of Florida and Texas, are among the largest states with victim compensation programs.

The board indicates that for some of these agencies from other states, the total does not include some overhead administrative costs such as human resources, legal, and budget staff.

Victim Compensation Program Administrative Expenses In a Selected Sample of States ¹	
State	Administrative Expenses ²
Texas ³	10%
Utah ³	10%
Colorado ³	14%
Washington	17%
Florida ³	19%
California	23%
Oregon ³	24%

¹ With the exception of California, administrative expenses are for 2001-02.
² Administrative expenses represent the percent of total program budget.
³ Also administer victim assistance programs.

The following table shows administrative costs of several other California state programs as compared to the VOC program. The LAO compared VOC to these programs because they had similar administrative functions, including outreach and education, application processing, and claims payments.

Victim Compensation Program Administrative Expenses Compared with Selected California Programs ¹	
Program	Administrative Expenses ²
Healthy Families	1%
Unemployment Insurance	7%
Medi-Cal	8%
State Workers' Compensation Program	13%
VOC Program	23%
¹ With the exception of Medi-Cal (2002-03) and the State Workers' Compensation Program (2001-02), expenses are for 2003-04. ² Administrative expenses represent the percent of total program budget.	

The LAO notes that due to variation in the administration of state victim programs, and different economies of scale in other programs, these are not perfect comparisons. For example, for the Healthy Families program, much of the administration is performed by contractors. However, the LAO also notes that the comparisons do suggest that California could effectively administer the VOC program at a lower cost.

Criminal Restitution Compacts (CRCs). The board supports county staff through 25 CRCs with local law enforcement agencies. The main responsibility of these state-funded county positions is to encourage judges to impose restitution orders on offenders whose victims have filed claims with the board. As such, the LAO notes that these positions should help increase revenue to the Restitution Fund.

As can be seen in the following Table, the LAO finding show that the state spends more to fund the CRC positions than the amount of revenue collected related to these positions.

Criminal Restitution Compact Expenditures And Related Revenue					
1997-98 Through 2001-02 (In Thousands)					
	1997-98	1998-99	1999-00	2000-01	2001-02
Expenditures	\$1,018	\$1,279	\$1,579	\$1,833	\$2,208
Related Revenue	241	249	353	566	838
Totals, Programs	-\$777	-\$1,030	-\$1,226	-\$1,267	-\$1,370

Each year there was a net cost to the state associated with the CRCs has ranged from \$777,000 to \$1.4 million. The CRC revenue ranged from about 20 percent of program costs in 1998-99 to about 38 percent in 2001-02. The LAO notes that despite the poor returns, the board has spent increasing amounts to support this component of the program.

The board indicates that in addition to revenues going to the Restitution Fund, that CRCs generate additional Restitution orders for victims.

LAO Recommendation. The LAO recommended that the Legislature consider eliminating the CRCs with the counties, which would provide about \$2.3 million in the budget year that could be used to pay victim claims.

Staff Recommendation. At the hearing on March 11, the Subcommittee held this issue open pending receipt of additional information from the board related to how this program works and potential other benefits of the program. The board provided additional information to the LAO and the Subcommittee on May 4. Pending review of the information, staff recommends holding this issue open.

Action.

Overview of CalWORKs Funding Structure and Maintenance-of-Effort Requirement

Background: CalWORKs is funded through a federal TANF block grant, which combined with required state matching funds amounts to \$6.4 billion. As a condition of receiving TANF funds, state funding must be at least 75 percent of the state's federal fiscal year (FFY) 1994 expenditures level (\$2.7 billion). As a matter of policy, California has chosen to treat the federally required maintenance of effort (MOE) level as a ceiling for program spending.

Over time, California has broadened its definition of expenditures that can be considered to meet the state's maintenance of effort requirement. Additionally, the state has transferred a growing amount of TANF funds to non-CalWORKs programs. As a result, available direct funding for the CalWORKs program has substantially declined. Since 1998, total funding for the CalWORKs program has decreased by \$757.5 million.

Slowing caseload declines, scheduled cost of living adjustments and a growing demand for welfare-to-work services are estimated to increase CalWORKs costs in the budget year. Absent statutory or funding changes, costs are estimated to rise \$402.6 million above the maintenance of effort level. A recent court ruling in *Guillen v. Schwarzenegger*, a legal challenge which seeks to compel the state to provide a cost-of-living adjustment, may increase CalWORKs spending to \$618.9 million above the TANF maintenance of effort level (an increase of \$216.3 million above the aforementioned \$402.6 million estimate).

Governor's Budget: The Governor's Budget maintains state spending at the federally required TANF maintenance of effort level and transfers additional TANF funds to offset General Fund costs in non-CalWORKs programs. The budget provides \$4.7 billion to support CalWORKs in the budget year. This constitutes a \$359.97 million, or a 7.1 percent decrease in CalWORKs expenditures from the current year appropriation.

Under the Governor's Budget, the total CalWORKs program funding reduction from the 1998-99 level will be \$757.5 million, equal to a 14 percent reduction. TANF/MOE funding for non-CalWORKs programs has increased by 50 percent to \$1.1 billion since 1998-99.

CalWORKs Program Funding

	FY 1998-99	FY 2003-04	FY 2004-05	98-99 to 04-05	
Total TANF Grant/Required MOE	6,640,971,000	6,413,211,000	6,401,369,000	-239,602,000	-3.61%
CalWORKs Program (Actuals)	5,459,880,441	5,062,397,000	4,702,394,000	-757,486,441	-13.87%
Grants	3,728,895,597	3,072,954,000	2,820,982,000	-907,913,597	-24.35%
Administration	518,317,463	615,931,553	582,485,155	64,167,692	12.38%
Services	418,503,052	776,479,603	734,315,104	315,812,052	75.46%
Child Care	360,733,329	597,031,844	564,611,741	203,878,412	56.52%
<i>Estimated County Share of Admin/Services</i>	60,400,000				
Performance Incentives(budgeted)	373,031,000	0	0	-373,031,000	-100.00%
Probation	201,413,000	201,413,000	67,138,000	-134,275,000	-66.67%
KinGAP	0	85,310,000	92,319,000	92,319,000	
Non-CalWORKs MOE in CDSS	(11,269,000)	(12,363,000)	(10,322,000)	947,000	-8.40%
Other MOE in CDSS	305,663,000	329,544,000	340,155,000	34,492,000	11.28%
MOE In Other Department Budgets	402,839,000	460,336,000	444,759,000	41,920,000	10.41%
State Support	29,016,000	27,242,000	27,242,000	-1,774,000	-6.11%
Total Expenditures	6,387,542,441	6,153,879,000	5,663,685,000	-723,857,441	-11.33%
Federal TANF	3,480,389,441	3,474,486,000	2,996,134,000	-484,255,441	-13.91%
General Fund	2,753,530,610	2,478,518,000	2,462,788,000	-290,742,610	-10.56%
Other State Funds (<i>ETF, Prop 10</i>)	0	56,400,000	56,400,000	56,400,000	
County Funds	153,622,390	144,475,000	148,363,000	-5,259,390	-3.42%
Total TANF transfers	284,965,000	747,993,000	832,627,000	547,662,000	192.19%
Non-CalWORKs Transfers	0	100,135,000	194,535,000	194,535,000	
Transfers to Stage 2, Tribal TANF and Reserve	284,965,000	647,858,000	479,657,000	194,692,000	68.32%
Total Available Funding	7,257,991,000	6,996,815,000	6,496,312,000	-761,679,000	-10.49%
Total TANF/MOE Expends	6,672,507,441	6,901,872,000	6,496,312,000	-176,195,441	-2.64%
NET TANF Carry-over Funds	585,483,559	94,943,000	0	-585,483,559	-100.00%
CalWORKs contribution to the General Fund	708,502,000	1,155,325,000	1,251,768,000	543,266,000	85.09%

**COMPARISON OF R&R AND PLATA RECRUITMENT DIFFERENTIAL (EEC)
APPROVED IMSP FL VS. DPA APPROVED**

CLASSIFICATION	PRE-IMSP R&R LEVEL	R&R LEVEL INCREASE PER IMSP FL	REVISED TOTAL R&R PER IMSP FL	R&R LEVEL INCREASE APPROVED BY DPA	NEW R&R LEVEL (PRE IMSP LEVEL + INCR LEVEL APPR BY DPA)	R&R INCREASE DIFFERENCE: APPROVED IMSP FL TO DPA APPROVED	IMSP FL APPROVED EEC LEVEL	DPA APPROVED IMSP EEC LEVEL	DIFFERENCE: APPROVED IMSP FL TO DPA APPROVED
All Classifications listed below who are New to State Service (Enhanced Employee Comp)							[A] \$5000 (Sign On) \$2400 (after Second Year) \$3000 (after Third Year) \$5000 (after 5 Years) \$15,400	[B] \$1500 (after First Month) \$1500 (after Sixth Month) \$1000 (after Eighteenth Month) \$4,000	\$11,400
Registered Nurses (New to State Service on or before 1/1/2003.)	\$200	\$600	\$800	\$600	\$800	\$0	\$5000 (Sign On) \$2400 (after Second Year) \$3000 (after Third Year) \$5000 (after 5 Years) \$15,400	\$1500 (after First Month) \$1500 (after Sixth Month) \$1000 (after Eighteenth Month) \$4,000	\$11,400
Registered Nurses (Employed on or before 10/31/2002 based on number of months of service.)	\$200	\$600	\$800	\$600	\$800	\$0	\$2400 (First Year) \$3000 (Second Year) \$5000 (Fifth Year) \$10,400	\$1,500 \$2000 (24-Month) \$3,500	\$6,900
Supervising Registered Nurse I	\$200	\$800	\$1,000	\$200	\$400	\$600	SAME AS LETTER A ABOVE	SAME AS LETTER B ABOVE	\$11,400
Supervising Registered Nurse II	\$200	\$800	\$1,000	\$200	\$400	\$600	SAME AS LETTER A ABOVE	SAME AS LETTER B ABOVE	\$11,400
Supervising Registered Nurse III	\$200	\$800	\$1,000	\$200	\$400	\$600	SAME AS LETTER A ABOVE	SAME AS LETTER B ABOVE	\$11,400
Nurse Consultant I	\$200	\$800	\$1,000	\$100	\$300	\$700	SAME AS LETTER A ABOVE	SAME AS LETTER B ABOVE	\$11,400
Nurse Consultant II	\$200	\$800	\$1,000	\$100	\$300	\$700	SAME AS LETTER A ABOVE	SAME AS LETTER B ABOVE	\$11,400
Nurse Consultant III (Spec)	\$0	\$1,000	\$1,000	\$300	\$300	\$700	SAME AS LETTER A ABOVE	SAME AS LETTER B ABOVE	\$11,400
Nurse Consultant III (Supvr)	\$0	\$1,000	\$1,000	\$300	\$300	\$700	SAME AS LETTER A ABOVE	SAME AS LETTER B ABOVE	\$11,400

IN THE 2004/05 FULL YEAR, \$2,460,000 WAS BACKED OUT OF HCSD - HQ AND \$139,544 OUT OF HCSD - FIELD FOR EEC BUILT INTO THE 2003/04 FULL YEAR EXERCISE.

SUBCOMMITTEE NO. 2

Agenda

Byron Sher, Chair
Sheila Kuehl
Bruce McPherson



Summary of Actions

**Thursday, May 6, 2004
Upon Adjournment of Session
Room 112**

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Resources--Environmental Protection—Public Safety—Energy

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.

0690 Office of Emergency Services

Finance Letters Proposed For Consent

1. Finance Letter – Nuclear Planning Assessment Special Account.

Finance Letter Request. This Finance Letter requests that Item 0690-001-0029 be increased by \$20,000 and that Item 0690-001-0001 be amended to reflect this change, and Item 0690-101-0029 be increased by \$49,000 to reflect the 2003 calendar year consumer price index increase for the Nuclear Planning Assessment Special Account pursuant to Government Code Section 8610.5.

2. Finance Letter – 2003 Federal Urban Area Security Initiative Grant.

Finance Letter Request. This Finance Letter requests that that Item 0690-101-0890 be increased by \$49,452,000 to provide the 2003 federal Urban Area Security Initiative (UASI) grant to Los Angeles, San Francisco, San Diego, Sacramento, and Long Beach. The State is prohibited from using any of the UASI funds included in this grant, therefore all of the funds from this grant will be given to the five cities to fund various activities, including: development of the urban area homeland security strategies, acquisition of eligible equipment, and training exercises related to emergency responders who would prevent and respond to a terrorist attack.

3. Finance Letter -- Addition of Budget Bill Item 0690-490, Capital Outlay

Finance Letter Request. This Finance Letter requests that that Item 0690-490 be added to reappropriate Item 0690-301-0001 Budget Act of 2003.

1. 80.10.008-Sacramento: OES Headquarters Perimeter Fence-Working drawings.

This reappropriation of working drawings is necessary due to delays in negotiating the Architect and Engineering firm contract.

Staff Recommendation. No issues have been raised regarding these Finance Letters. Staff recommends approval of the Finance Letters..

Action.

Without objection approved Finance Letters (3-0)

Issue to be Heard

4. Domestic Violence Grants

Background. In FY 2001/02, OCJP released a competitive Request for Proposal (RFP), which resulted in ten shelters previously funded under DVAP not being reselected for funding. Shortly thereafter, AB 664 was passed to appropriate \$2 million per year for three years to fund the ten shelters previously funded by OCJP. The OES notes that the former Interim Executive Director of OCJP indicated in a Senate Oversight Hearing on Domestic Violence, that the ten shelters would be merged into the DVAP after AB 664 expired.

The OES indicates that the funding level for the AB 664 shelters was based on the shelter's funding level in FY 2000/01. This resulted in some of the ten shelters receiving a different funding amount than they would have received if selected for funding through DVAP. In addition, these projects have not received any cuts over the last three years.

Three-year emergency funding for the 10 AB 664 shelters ends September 30, 2004. OCJP notified the AB 664 shelters in August that this was the final year of funding. It is the OES's Criminal Justice Programs Division's (CJPD) goal to give at least six months notice to any grant funded project whose funding may be affected by the DVAP funding, in order to give them adequate time to prepare for reductions/loss of funds.

OCJP/OES Funding for Domestic Violence Shelters for the Last Three Years (Dollars in Thousands)			
Source of Funds	2001-02	2002-03	2003-04
Federal Family Violence Prevention	\$4,882	\$4,763	\$4,959
Federal Victims of Crime	7,428	8,954	8,143
Federal Violence Against Women	925	277	0
State General Funds/ AB 664	2,025	2,025	2,025
State General Funds	1,460	727	730
Total	\$16,719	\$16,744	\$15,857

Staff Comments. The OES has indicated that if the 10 AB 664 shelters had been reduced in the last three years at the same proportion as the 75 shelters, the \$2 million would be reduced by \$156,000. The OES indicates that have not found any money to backfill the loss of funding through AB 664. The OES indicates that should the 10 AB 664 shelters be folded in with the 75 that all the shelters would take a 13 percent decrease in funding.

Staff Recommendation. Staff recommends holding this issue open pending May Revise and the potential for identifying additional funds for this program.

Action.

Issue held open.

8140 State Public Defender

Previous Action. At the hearing on March 11, the Subcommittee held open the budget for the OSPD.

Staff Recommendation. No issues have been raised. Staff recommends approval as budgeted.

Action.

Without objection approved as budgeted. (3-0)

0820 Department of Justice

Finance Letters Proposed for Consent.

1. Finance Letter – Criminal Offender Record Information Workload for the Department of Consumer Affairs and the Department of Real Estate.

An increase of \$1,839,000 Fingerprint Fee Authority and 26.0 positions (9.0 positions on a two-year limited term basis) to process new criminal offender record information requests for Department of Consumer Affairs and Department of Real Estate licensees.

2. Finance Letter -- Division of Law Enforcement Reimbursement Funding

A reduction of \$3.0 million in reimbursement authority to reflect the expiration of various interagency agreements and grants to the Division.

Staff Recommendation. No issues have been raised. Staff recommends approval of the Finance Letters.

Action.

Without objection approved Finance Letters (3-0)

5430 Board of Corrections

1. Conversion of General Fund Programs to Fee Based

Budget Request. The budget proposes to convert the funding source for the Executive Office, Local Adult and Juvenile Facilities Standards and Inspections, and Juvenile Hall Suitability Inspection Process from General Fund to a city/county reimbursed fee structure. The proposal would authorize an Administration Fund and would implement a county-reimbursed fee structure whereby counties and cities would reimburse the state for the operation of the Executive Office of the BOC and a portion of the costs associated with the establishment, promulgation, and maintenance of minimum standards for adult and juvenile detention facilities, as well as the biennial inspection of all adult and juvenile detention facilities. Trailer bill language to enact these changes

Costs For These Programs. The total costs for these functions is \$1.8 million. Under the proposal, the BOC would charge locals a fee per type of facility. Assuming all the counties elected to continue the services provided by the BOC, the charge per adult facility would be from \$1,500 up to \$3,150 annually, depending upon the type and size of facility, and the charge per facility would be from \$3,000 up to \$45,000 annually, depending upon the type and size of facility.

Trailer Bill Language. The proposed trailer bill language authorizes rather than requires the BOC to perform inspections of facilities, eliminates the biennial frequency of the inspections, and authorizes the BOC to charge fees to reimburse the BOC for services. The proposal would allow counties to opt out of standards and inspections by not paying the BOC for the service.

Background on Previous Elimination of Juvenile Inspections. Budget constraints in 1992 resulted in the elimination of juvenile hall and camp inspections by the California Youth Authority (CYA), which had

been authorized in 1955 to establish standards for the operation and maintenance of local juvenile facilities. In lieu of these inspections, the Legislature instituted a process of self-certification.

In response to growing concern about deteriorating conditions in some juvenile facilities, the Legislature reinstated an independent inspection process in the 1995 Budget Act, which transferred responsibility for all local juvenile facilities from the CYA to the BOC and set in statute the requirement that the Board inspect and report on the management, operation, and physical plant condition of all of California's county juvenile halls camps, and ranches (Welfare and Institutions Code Sections 209, 210, 885, and 886.5). Additionally, juvenile detention facilities are inspected for compliance with standards set forth in Title 15 and 24, California Code of Regulations to ensure they operate at constitutionally adequate levels.

According to the BOC, in 1996/97 after the first inspection cycle, the BOC found that a majority of facilities inspected (46 of 58 facilities) were operating in non-compliance with minimum standards. The initial review also revealed numerous other deficiencies related to such issues as crowding, use of force, discipline, staffing, services, and other operational areas.

Elimination of Juvenile Facility Data Collection. The language also eliminates the requirement that BOC collect and publish biennial data on the number, place, and duration of confinements of minors in jails and lockups. The "Juvenile Detention Survey" data is the only statewide source of data on the number, characteristics, and conditions of juveniles incarcerated in local juvenile justice facilities.

Issues to Consider.

- Given the fiscal constraints being felt by counties, will counties decide to pay fees for the services?
- Given the experience with self-certification between 1992 and 1996 with juvenile facilities does it make sense to continue mandatory oversight by the BOC?
- What level of accountability and oversight is responsible?

Staff Comments. The BOC indicates that it has been working with the federal government to see if some of its administrative costs regarding facility reviews and inspections can be funded through federal funds. It may be possible that federal funds could be used to offset about \$600,000 of the General Fund portion of BOC's budget. Any proposal to use federal funds for these functions would be made at the time of the May Revise.

Staff Recommendation. Staff recommends rejecting the proposal to convert the funding source for the Executive Office, Local Adult and Juvenile Facilities Standards and Inspections, and Juvenile Hall Suitability Inspection Process from General Fund to a city/county reimbursed fee structure. This action would entail (1) rejecting the proposed trailer bill language, (2) restoring \$1.7 million in General Fund, and (3) providing \$176,000 for the program responsible for the inspection of county juvenile facilities.

Action.

Rejected proposed trailer bill language, restored \$1.7 million in General Fund, and approved \$176,000 for the for the program responsible for the inspection of county juvenile facilities

5460 Department of the Youth Authority

Issues

1. Staff Resources at CYA

At the request of the Subcommittee, the LAO examined the Youth Authority's staffing at selected institutions in 1995-96 and 2002-03, focusing mainly on the areas of custody and treatment. For this analysis, the LAO used data on actual filled positions from the *Salaries and Wages*. The 1995-96 year was chosen because at that time the Youth Authority's population was at its highest level with slightly over 10,000 wards. Since then, the population has been steadily declining and reached 5,091 in 2002-03 (the latest year for which actual data on filled positions are available).

Summary of Staff Changes at Selected Youth Authority Institutions (1995 and 2002)				
	1995-96	2002-03	Change Actual	Percent
Population	6,176	3,004	-3,172	-51.4%
Total Staff	2,525	2,095	-430	-17.0%
Executive	35	37	2	5.7%
Treatment/Group Living	1,142	823	-319	-27.9%
Support Services	956	965	9	0.9%
Education	392	270	-122	-31.1%

*Selected Institutions: Chad, Stark, Robles, Preston, Nelson and Southern YRCC

Summary of Findings

- **Staffing at the Selected Institutions Declined More Slowly Than Population.** From 1995-96 through 2002-03, total staffing at the selected institutions decreased by about 17 percent, while the population at these institutions decreased over 50 percent.
- **Treatment and Education Positions Decreased While Others Increased.** The *Salaries and Wages* displays youth authority positions in four program categories—executive, treatment and group living, support services, and education. Our analysis shows that overall (for the selected institutions) the treatment and group living staff was reduced by 28 percent, and the education staff by 31 percent. In contrast, there were slight increases in total positions for the support services (which includes custody staff), and executive functions.
- **Youth Authority Lost More Treatment Than Custody Staff.** As you requested, we compared the change in the number of Youth Correctional Counselor (YCC) positions to the change in the number of Youth Correctional Officer (YCO) positions. It should be noted that YCCs are part of the treatment and group living category discussed above, and YCOs are part of support services. From 1995-96 through 2002-03, for the selected institutions, the number of YCC positions decreased by 154, or 26 percent. The number of YCO positions decreased by 23, or 6 percent.
- **Treatment Reductions Are Greater at Selected Institutions.** All of the institutions we looked at lost YCC positions. Over half—four of the six institutions we examined, also lost YCO positions. (The exceptions were Dewitt and Chaderjian.) The YCC position reductions tended to be larger than the YCO position reductions.

The Subcommittee may wish to have CYA respond to the analysis by the LAO.

No Action

2. Closure of Nelles Youth Correctional Facility

Background.

Fiscal Impact of Closing Youth Authority Facilities (In Thousands)							
		2003-04			2004-05		
Institution	Date	Savings	Offset for CS 4.10	Net Savings	Savings	Offset for CS 4.10	Net Savings
Karl Holton YCF	10/1/03	-\$7,360	\$3,542	-\$3,818	-\$9,858	\$3,542	-\$6,316
Ventura - Male	3/1/04	-1,169	548	-621	-3,068	548	-2,520
Northern Ca. Reception Center	3/1/04	-4,168	4,168	0	-15,404	4,168	-11,236
Accelerated Closure of 8 Living Units		-2,832	2,832	0			
Nelles YCF	7/1/04				25,939		-25,939
Mt. Bullion Camp	7/1/04				2,380		-2,380
Totals		-\$15,529	\$11,090	-\$4,439	-\$56,649	\$8,258	-\$48,391

Last year, the CYA indicated that it was closing down the Holton facility and the male portion of the Ventura facility. Due to the population declines at CYA, the Legislature approved statutory changes that required CYA to close a facility with a capacity of at least 640 by March 1, 2005.

Budget Proposal. The budget proposes savings of \$25.9 million in the 2004-05 from the closure of the Nelles facility in Whittier. The CYA indicates that the other four institutions considered for closure other than Nelles were Preston, Paso de Robles, Heman G. Stark, and Ventura. CYA indicated that the factors for choosing Nelles include

- Infrastructure repairs at Nelles are estimated at \$70 million, which CYA indicated was more than double the cost of any other facility.
- The fact that Nelles had only one specialized program to be moved.
- The population at Nelles had fallen to 340 (from a capacity of 640).

Status of the Plan Specifying Priorities for Enhanced Services. Legislation requiring the closure of a facility by March 5, 2005 also provided that up to 50 percent of the initial year of savings shall be available to the department in 2005-06 to implement a plan specifying priorities for enhanced services. That plan is due to the Legislature at the time of the May Revise this year.

- Will the plan be released at the time of the May Revise?

Staff Comments. Concerns have been raised about the closure of Nelles because it is the only institution in Southern California for wards under 18. The CYA has submitted a capital outlay Finance Letter requesting funds for Southern Youth Correctional Reception Center and Clinic (SYCRCC) and Heman G. Stark Youth Correctional Facility (HGSYCF) to accommodate wards that will be transferred because of the closure of Fred C. Nelles. Housing modifications to accommodate wards in the Sex Offender Program Unit at SYCRCC and modifications to increase the educational facilities at both SYCRCC and HGSYCF are needed.

Staff Recommendation. Staff recommends approval of the proposed closure.

Action.

Without objection, approved closure of Nelles (3-0)

3. Closure of Mount Bullion Camp.

Budget Request. The budget proposes savings of \$2.4 million in 2004-05 from the closure of the Mount Bullion Camp in Mariposa County. This camp is located on CDF property and assists CDF fire crews during fire season. This is one of four camp programs operated by the CYA. According to departmental regulations CYA staff is responsible for the custody and supervision and treatment of assigned offenders while the CDF staff plans and supervises the work projects performed by the wards.

Department Rationale. The CYA indicates that it is proposing the closure of this camp because there are not enough qualified wards to fill the camp facilities. CDF has minimum criteria for accepting wards into the program. Current criteria includes: physical fitness, no history of arson, no escapes, no sex offenses, only low level offenders, no suicidal behavior for two years, free from psychotropic medication for at least 4 months, and the ward must be discipline free for six months. CYA indicates that Mt. Bullion was proposed for closure because it had the lowest population of the camps at the time – 38 wards. The design capacity is 80 wards.

The closure of the camp is expected to save \$2.4 million or approximately \$30,000 per-year-per-ward at capacity. The average cost if filled to the 100 level would approach \$24,000 per-year-per-ward. This is significantly lower than the average cost for the department of nearly \$74,000 per-year-per-ward.

The Subcommittee may wish to ask CYA the following:

- Why should the Subcommittee endorse the closure of any CYA-operated camp or forestry camp, when these smaller scale facilities appear to be a much closer fit with accepted youth corrections standards and models?
- Can the criteria for placement in the camp program be changed?
- Can CYA offer alternative programs camps to expand the placement of wards in camp locations?
- Will the population eligible for camp placement increase if counties reduce local camp and ranch programs as a result of the proposed TANF reduction to county probation?

Staff Recommendation. Staff recommends holding this item open at this time.

Action.

Issue held open

4. Structural Reform Issues – Informational Issue

At the hearing on March 25, the Subcommittee requested that CYA provide additional information to the Subcommittee on structural reform. Based on the responses provided by the department in its April 26th letter, the Subcommittee may wish to ask CYA the following:

- 1) The CYA response indicates that action plans in response to the findings of the reports are complete but are awaiting final approval. What date do you expect final approval?
- 2) With regard to the closure plan discussion, the response indicates that the CYA is in the process of opening an additional 132 beds at SYRCC for wards under 18. Are these new beds in new living units? What are the size of the living units? How do these new beds fit into the policy goal of reducing the size of living units?

- 3) Similarly, the response describes "a major living unit renovation project at SYCRCC." What is this project, what will be the size of living unit(s), and how does this major new project fit into the policy goal of reducing the size of living units?
- 4) On the vision to reduce the total population at CYA, the response did not fully answer the question. Is it the department's policy to reduce its population significantly over the next five years and, if so, how will they accomplish that goal?
- 5) The response did not fully answer the question concerning their plans to convert large scale institutions to smaller-scale facilities, although the response does indicate that it is CYA's "vision" to do so. Does the department intend to develop plans to convert to smaller living unit facilities, in accordance with its vision?
- 6) With respect to gang management, what outside contractor is developing the department's training modules? What "best practices" models are the department's gang management policies based on? Aside from gang validation, tracking and intelligence networking, what pro-active efforts are made by the department to discourage gang membership and affiliation among wards? Are families involved in anti-gang programming efforts? Does the department consult with community-based gang prevention organizations in coordinating its gang prevention efforts and, if so, which organizations?

CYA to provide written responses

CYA Capital Outlay

5. Finance Letter – Housing Modifications Related to Nelles Closure.

The Finance Letter proposes to add Item 5460-301-0747 for a total of \$1.5 million and Item 5460-301-0751 for a total of \$500,000 to make modifications to Southern Youth Correctional Reception Center and Clinic (SYCRCC) and Heman G. Stark Youth Correctional Facility (HGSYCF) to accommodate wards that will be transferred because of the closure of Fred C. Nelles. Housing modifications to accommodate wards in the Sex Offender Program Unit at SYCRCC and modifications to increase the educational facilities at both SYCRCC and HGSYCF are needed. These projects in the Southern facilities are proposed for funding in an effort to keep the wards who would be housed in Nelles closer to their families to avoid moving them to the Paso Robles facility in Central California.

Staff Recommendation. Staff recommends approval of the Finance Letter.

Action.

Without objection, Finance Letter approved. (3-0)

5180-101-0001 Reduction in TANF Funding for Probation Services – Informational Issue

Background. In California, counties are the primary provider of services to youthful offenders and juveniles at risk of becoming involved in the criminal justice system, handling more than 95 percent of juveniles involved in the criminal justice system. County probation departments provide a range of services designed to meet the diverse needs of juvenile offenders, at-risk youth, and to a lesser degree their families. These services range from after-school programs designed for relatively low-level at-risk youth, to formal counseling, alcohol and drug treatment services. Services are provided both in the community and in residential facilities, such as juvenile halls, camps, and ranches. Generally, the purpose of these programs is public safety and rehabilitation. The effectiveness of the counties in responding to juvenile crime has an impact on public safety, as well as the population of the state's youth correctional facilities and prisons.

How Are Juvenile Probation Programs Funded? Juvenile probation programs are funded by a combination of sources, including local general fund, state subvention grants, and federal funds. The most significant state funding source is the Juvenile Justice Crime Prevention Act (JJCPA) grant program administered by the Board of Corrections. In 2003-04, this program provided \$100 million for crime prevention programs. The most significant source of federal funds is the federal Temporary Assistance for Needy Families (TANF) block grant, which has historically provided approximately \$200 million for probation services. Data on county general fund spending for probation services statewide are not available. Staff notes that in its report on the Comprehensive Youth Services Act (CYSA) and TANF, the Rand Corporation estimated that TANF funding for CYSA (which funds the camps and ranches programs) made up about 10 percent of total funds (including county funds) for County Probation departments. Attachment 1 to the agenda provides an overview of TANF and the CALWORKS program.

Before the establishment of the TANF block grant, county juvenile probation services were partially supported by federal Title IV-A funds (named after the section of the Social Security Act authorizing the funding program). However, this program was eliminated in 1995. In order to restore juvenile probation services, the Legislature enacted the Comprehensive Youth Services Act as part of welfare reform, which authorized TANF funding for the counties based upon their Title IV-A probation services expenditures. (Welfare reform also established the California Work Opportunity and Responsibility to Kids [CalWORKs] program which provides cash grants and employment services to low-income families.) It should be noted that county probation department claims filed for reimbursement under the old Title IV-A program were taken into consideration by the federal government in determining California's share of TANF funds, and thus increased the state's TANF block grant by approximately \$140 million. Under current law, the TANF block grant for juvenile probation programs sunsets in October 2004.

What Services Are Funded by the TANF Block Grant? While comprehensive data are not available on precisely how the TANF block grant funds are used by county probation departments, a 2003 report on TANF-funded probation services conducted by the RAND Corporation suggests that these funds support a variety of juvenile probation services, including anger management, family mentoring, and mental health assessment and counseling to name a few. However, the report indicates that most of the funding is probably used for services provided to youth detained in juvenile halls, camps, and ranches.

Governor's Budget Proposal. The administration has proposed to allow the block grant funding to sunset in October 2004, resulting in a reduction of \$134 million in 2004-05 for juvenile probation programs. The budget includes \$67 million for these services from July through October 2004.

Impact of Proposal on Probation Services for At Risk Juveniles. While data are not readily available on total spending for juvenile probation programs statewide, a report by RAND estimates that the TANF block grant represents between 10 percent and 15 percent of county spending for juvenile probation

services. The loss of these funds will affect counties differently depending on how the funds are used, and whether and to what extent counties backfill for the loss of these funds. The LAO's Analysis indicates that their discussions with county probation department representatives and other criminal justice experts suggest that the proposed reduction could have a significant impact on the ability of counties to operate their juvenile camps.

The grants funded from this source range from \$5,000 (Sierra County) to \$68 million (Los Angeles County). In some counties, the TANF funds are used largely to contract with community-based organizations, while in other counties the funds are used to support county probation department staff. In 1995, when the Title IV-A funding was eliminated, some county boards of supervisors increased funds from other sources to backfill for the loss of those funds, while others did not.

Impact on Public Safety and State Costs. The LAO notes that the local system of juvenile probation is the first line of defense against future criminality for these youthful offenders and that research has shown that early intervention programs can be effective in preventing future crime by youthful offenders. To the extent that these programs are no longer available, it could result in a reduced level of public safety. For example, because of the potential reduced number of residential treatment beds, lower level juvenile offenders—who currently benefit from intervention services provided in the camps and ranches—may be retained in the community with no intervention services, thereby posing a greater risk to public safety.

The proposed reduction could also result in more juveniles being sent to the state Youth Authority, thereby increasing General Fund costs. Because of the reduced number of residential treatment beds at the local level, juvenile court judges and probation officers may have few alternatives to sending certain juveniles to the Youth Authority. This effect would be somewhat mitigated by the sliding fee schedule that requires counties to pay a share of the cost for Youth Authority commitments that fall into lower-level offense categories. According to the LAO, it is unknown whether these potential costs resulting from a greater number of Youth Authority commitments would fully offset the General Fund savings resulting from the Governor's proposal to eliminate the TANF block grant. This would depend on the number of juveniles placed in the Youth Authority rather than in local facilities due to this proposal.

Information Provided By Los Angeles. Los Angeles County has provided the Subcommittee with data that suggests that if the State funding for Juvenile Probation is eliminated that the State will have to spend more for juvenile incarceration and group home costs than the current State funding for juvenile probation camps. The county believes that the over 4,000 youth served by camps each year will instead receive care in the California Youth Authority and in Group Home placements.

The chart below illustrates the potential fiscal effect that closing the Juvenile Probation Camps would have in Los Angeles County in the budget year:

Program	If TANF Funds Restored (2004-04)			Funds Eliminated (2004-05)			Funds Eliminated (2005-06)		
	Pop	County Costs	State Costs	Pop	County Costs	State Costs	Pop	County Costs	State Costs
CYA	1,179	14,216,000	70,740,000	2,213	15,397,000	104,280,000	3,247	17,581,000	166,320,000
Camps	4,136		83,001,000	1,379		27,663,000	0	0	0
Home on Probation	18,000	39,116,000	0	20,102	40,083,000	0	20,102	40,083,000	0
Group Home	2,242	73,973,000	45,165,000	3,242	93,209,000	56,077,000	3,242	107,058,000	65,310,000
Total	25,557	127,305,000	198,906,000	26,936	148,689,000	188,020,000	26,591	164,722,000	231,630,000

Although the county has a wide range of services, the county has commented that the TANF funding it receives are devoted to discretionary programs like the Juvenile Camps. The County believes that it will have to eliminate its discretionary programs to concentrate on the core programs that are required by State law.

The Governor's Budget assumes no increase in the CYA or Group Home caseloads resulting from the loss of the juvenile probation funding. The Department of Social Services notes that the same State funding was eliminated for an 18-month period in the mid-1990's and the counties continued to operate these programs. Thus, it is assumed that counties would continue to operate their camps and other programs if this funding was eliminated.

LAO Options. In its *Analysis*, the LAO indicated that the proposed TANF block grant reduction could result in the loss of core probation services for juvenile offenders, which could result in a lower level of public safety, and increased General Fund costs resulting from a greater number of Youth Authority commitments. The LAO identified other programs that could be eliminated or suspended as an alternative to the TANF block grant. Based on the LAO's analysis and discussions with probation officials and other criminal justice experts, the LAO concluded that the elimination or suspension of COPS and/or JJCPA grants would achieve the same (or a greater) level of budget savings, and potentially have less of an impact on public safety, without increasing General Fund costs.

Currently, the State uses federal TANF funds as its funding source for money it provides to counties. Although there are historical arguments for why these funds have been allocated for Juvenile Probation costs; the current fiscal constraints within the TANF block grant would require the Subcommittee to identify an offsetting reduction within the block grant to restore funding for this program.

There is a policy bill on this issue. AB 2947 (Pacheco) would repeal the October 31, 2004, sunset on the Comprehensive Youth Services Act, providing services to juveniles detained in juvenile halls, camps and ranches, funded by the state's Temporary Assistance for Needy Families (TANF) block grant.

Informational Issue – No Action Necessary

The Subcommittee will send a letter to Subcommittee #3 recommend that all effort should be made to fund county probation, if not under TANF then another funding stream.

5240 Department of Corrections

1. Separate Education Schedule.

Background. Currently the budget bill schedules CDC expenditures among four major program areas – (1) Institutions Program, (2) Health Care Services Program, (3) Community Correctional Program, and (4) Administration. The budget bill also contains a provision that allows CDC to transfer up to 5 percent of the amounts appropriated in the schedules for Institutions Program, Health Care Services, and Community Corrections between these schedules. Any transfer greater than that amount requires approval by DOF and 30 day notice to the Legislature pursuant to Control Section 26.

Education Programs a Part of the Institution Budget Line Item. Currently the Inmate Employment/Training Program (which includes academic and vocational education programs) is scheduled within the Institution Program. For the proposed budget, the Inmate Employment/Training Program is \$218.2 million out of the proposed Institution Program budget appropriation of \$4.1 billion. Other programs within the Institution Schedule include Reception and Diagnosis, Security, Transportation, and Inmate Support.

CDC Can Transfer Funds Among Programs Within the Institution Budget Line Item. While the Education program is displayed separately in the Governor's Budget, having it scheduled within the Institutions Program allows CDC to transfer money from the education programs to other components of the Institutions Program. For example the Governor's budget displays show that in January 2002, anticipated expenditures for Inmate Employment/Training for the 2001-02 fiscal year was \$250 million. Actual expenditures for 2001-02 reported in January 2003 were \$209.1 million, a decrease of \$40.9 million or 16.4 percent. While some of this reduction may have been due to population factors, for some portion of the amount CDC held education positions open and used the savings from those positions to fund other activities within the Institutions Program.

Staff Comments A separate schedule and appropriation in the budget bill for the education programs would make it more difficult to transfer money from education for other purposes, and would provide the Legislature with notification of such transfers through Control Section 26. At a time when the state is trying to do a better job of reducing recidivism it may make sense to appropriate funds specifically for education programs to ensure that funds are prioritized for that purpose.

Staff Recommendation. Staff recommends that the Subcommittee approve a separate program schedule within the budget bill for education programs at CDC.

Action.

Without objection, approved a separate program schedule for education.

2. RN Recruitment and Retention Funding – Informational Item

Background. As part of the May Revise for 2002-03 fiscal year, the Legislature approved a Finance Letter to continue implementation of the Inmate Medical Services Program (IMSP) as part of the basis of the Plata litigation surrounding inmate health care services.

In its Budget Change Proposal (BCP), the CDC indicated that the implementation of the IMSP relies heavily on nurse staffing and that the shortage of nurses in California, and the availability of higher paying positions in the community has led to difficulty in recruiting and retaining qualified nurse staff. The original BCP notes “Finally, it is imperative to the success of the IMSP and compliance with the Plata settlement that the CDC’s Recruitment and Retention incentives for nurses are successful in attracting and retaining registered nurses.” As a result, part of the IMSP proposal included monthly Recruitment and Retention (R&R) bonus and an Enhanced Employee Compensation Funding (EEC) program for registered nurse classifications at CDC.

The BCP notes that the calculations for the EEC program and the R&R s would change based on actual filled positions and the number of new positions, and that CDC and DOF would recalculate the level of funding required during the planning estimate process and as part of the May Revise. The IMSP program was proposed to be implemented in all of CDC’s institutions over a six year period, so no new BCPs are submitted but rather the additional costs for the entire IMSP are adjusted through the planning adjustment process. The original BCP notes that the Department of Personnel Administration (DPA) was negotiating a Memorandum of Understanding with nurses. The BCP also states, “To the extent that DPA approves additional salary incentives, the impact on the IMSP would have to be assessed and funded based on any future labor agreements.”

Vacant Nursing Positions. The CDC has provided information to the Subcommittee indicating that as of March 31, 2004 there were 977.22 registered nurse positions allocated to the institutions. Of that amount 239.27 positions, or 24.5 percent were vacant. As was discussed at the hearing on April 21, the CDC has increased expenditures for registry contracts which are primarily used to backfill vacant positions. The Table below shows the recent increases in this area, which the recent BSA audit indicated was the fastest growing component of contract medical services.

Growth in Expenditures for Medical Registry Contracts			
Year	Total Expenditures	Increase	Percent Change
1998-99	\$11,722,236	--	--
1999-00	\$14,795,111	\$3,072,875	26.2%
2000-01	\$28,869,934	\$14,074,823	95.1%
2001-02	\$46,790,565	\$17,920,631	62.1%
2002-03	\$63,821,909	\$17,031,344	36.4%

Attachment 2 shows the monthly R&Rs and the EEC program prior to the IMSP program, the amount authorized and funded by the Legislature in the Budget Act of 2002-03, the amount approved by DPA and the difference between the amount authorized originally and the amount approved by DPA.

The Subcommittee may wish to ask the following questions.

- Have the R&Rs and the EEC program been effective in helping recruit additional nurse positions at CDC?
- How much was the budget reduced due to the lower amounts for the R&R and EEC that were approved by DPA? Does CDC have an estimate for the costs for registry contracts for RNs? Has CDC or DPA done an analysis to determine the cost effectiveness of the reduced R&Rs and the impact on the provision of healthcare services?
- Why did DPA approve funding levels below the amounts included by DOF in the Finance Letter and authorized by the Legislature.
- What efforts are being made to reduce the number of vacancies for RNs?

No Action

3. Technical Finance Letter Change.

Finance Letter Request. This Finance Letter proposes to amend the CDC capital outlay budget item 5240-301-0001 to change to title of the project. The 2004 Governor's Budget erroneously titled the project (61.10.049) at CMC, San Luis Obispo as the Potable Water Treatment Facility Upgrade. The project should be named the Potable Water Distribution System Upgrade. The scope and costs of the project do not change and accurately reflect the corrected title.

Staff Recommendation. No Issues have been raised. Staff recommends approval of the Finance Letter.

Action

Approved Finance Letter without objection (3-0).

8180 Payments to Counties for the Costs of Homicide Trials

1. Finance Letter -- Transfer Expenditure Authority.

This Finance Letter requests a decrease of \$254,000 to reflect a transfer to Item 0450-101-0001 (State Trial Court Funding). This is a conforming issue with Item 0450 101 0001 which would increase State Trial Court Funding by \$254,000.

The Administrative Office of the Courts has indicated that courts in two counties (Mendocino and Shasta) were able to obtain funding from Payment to Counties for Costs of Homicide Trials because the county applied on its behalf. This request would transfer the actual level of reimbursements from 2002-03 that the courts were able to obtain (\$254,000) from Payment to Counties for Costs of Homicide Trials to the State Trial Court Funding. Trailer bill language and provisional language will be proposed that would prohibit the counties from accessing funds for the extraordinary costs of homicide trials on behalf of the courts. Since this is a transfer of appropriation authority, there is no effect on the General Fund as a result of this transfer.

Staff Comments. As of May 5, the Finance Letter for the increase has not been received, nor has any proposed trailer bill language or provisional language related to this issue.

Staff Recommendations. Staff recommends holding the issue open pending receipt and review of the Finance Letter in the Trial Court Funding Item that will include the trailer bill language and the provisional language changes.

Action.

Held open

8700 California Victim Compensation and Government Claims Board

1. State Operations Expenditures

California Victim Compensation and Government Claims Board – Total Expenditures (Claim Payments and Administrative Expenses)								
Type of Expenditure	<i>Expenditures (dollars in thousands)</i>				<i>Estimated</i>			
	1999-00	Percent	2000-01	Percent	2001-02	Percent	2002-03	Percent
Administrative Expense	\$35,012	29%	\$41,339	32%	\$45,879	27%	\$53,078	25%
Claim Payment	85,687	71%	88,253	68%	123,952	73%	158,679	75%
Totals, Programs	\$120,699	100%	\$129,592	100%	\$169,831	100%	\$211,757	100%

Due to the projected fiscal problems in the Restitution Fund, last year the Subcommittee requested the LAO to review the budget proposal for the Victims of Crime (VOC) Program and to make any recommendations to reduce expenditures and enhance revenues for the VOC Program, as well as review the program’s administrative expenditures.

LAO Findings. Regarding VOC administrative expenses, the LAO found that the program’s administrative expenses are relatively high compared to other states. Given the relatively high administrative costs, the LAO recommended that the Legislature consider reducing the board’s administrative expenses by eliminating the Criminal Restitution Compacts (CRCs) with the counties because the LAO’s analysis indicated that the costs were not justified. This would have generated \$2.3 million in savings in the current year.

The LAO’s review showed that the administrative expenditures for the VOC Program was \$41.5 million or 23 percent of the VOC Program’s total budget. The Table below compares administrative costs with victim programs in other states. The LAO indicates that these states were selected because their programs offer similar benefits to those in California and, in the case of Florida and Texas, are among the largest states with victim compensation programs.

The board indicates that for some of these agencies from other states, the total does not include some overhead administrative costs such as human resources, legal, and budget staff.

Victim Compensation Program Administrative Expenses In a Selected Sample of States ¹	
State	Administrative Expenses ²
Texas ³	10%
Utah ³	10%
Colorado ³	14%
Washington	17%
Florida ³	19%
California	23%
Oregon ³	24%

¹ With the exception of California, administrative expenses are for 2001-02.
² Administrative expenses represent the percent of total program budget.
³ Also administer victim assistance programs.

The following table shows administrative costs of several other California state programs as compared to the VOC program. The LAO compared VOC to these programs because they had similar administrative functions, including outreach and education, application processing, and claims payments.

Victim Compensation Program Administrative Expenses Compared with Selected California Programs ¹	
Program	Administrative Expenses ²
Healthy Families	1%
Unemployment Insurance	7%
Medi-Cal	8%
State Workers' Compensation Program	13%
VOC Program	23%
¹ With the exception of Medi-Cal (2002-03) and the State Workers' Compensation Program (2001-02), expenses are for 2003-04. ² Administrative expenses represent the percent of total program budget.	

The LAO notes that due to variation in the administration of state victim programs, and different economies of scale in other programs, these are not perfect comparisons. For example, for the Healthy Families program, much of the administration is performed by contractors. However, the LAO also notes that the comparisons do suggest that California could effectively administer the VOC program at a lower cost.

Criminal Restitution Compacts (CRCs). The board supports county staff through 25 CRCs with local law enforcement agencies. The main responsibility of these state-funded county positions is to encourage judges to impose restitution orders on offenders whose victims have filed claims with the board. As such, the LAO notes that these positions should help increase revenue to the Restitution Fund.

As can be seen in the following Table, the LAO finding show that the state spends more to fund the CRC positions than the amount of revenue collected related to these positions.

Criminal Restitution Compact Expenditures And Related Revenue					
1997-98 Through 2001-02 (In Thousands)					
	1997-98	1998-99	1999-00	2000-01	2001-02
Expenditures	\$1,018	\$1,279	\$1,579	\$1,833	\$2,208
Related Revenue	241	249	353	566	838
Totals, Programs	-\$777	-\$1,030	-\$1,226	-\$1,267	-\$1,370

Each year there was a net cost to the state associated with the CRCs has ranged from \$777,000 to \$1.4 million. The CRC revenue ranged from about 20 percent of program costs in 1998-99 to about 38 percent in 2001-02. The LAO notes that despite the poor returns, the board has spent increasing amounts to support this component of the program.

The board indicates that in addition to revenues going to the Restitution Fund, that CRCs generate additional Restitution orders for victims.

LAO Recommendation. The LAO recommended that the Legislature consider eliminating the CRCs with the counties, which would provide about \$2.3 million in the budget year that could be used to pay victim claims.

Staff Recommendation. At the hearing on March 11, the Subcommittee held this issue open pending receipt of additional information from the board related to how this program works and potential other benefits of the program. The board provided additional information to the LAO and the Subcommittee on May 4. Pending review of the information, staff recommends holding this issue open.

Action.

Held Open

SUBCOMMITTEE NO. 2

Agenda

Byron Sher, Chair
Sheila Kuehl
Bruce McPherson



Part 1

Monday, May 17, 2004
1:30 p.m.
Room 112

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Resources—Environmental Protection—Public Safety—Energy

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.

Part I—Energy Agenda

3360 Energy Resources Conservation Development Commission

Background. 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 proposes \$355 million to support CEC in 2004-05. This is approximately 16 percent more than the level of expenditures estimated in the current year due to projected increases in utilization of the subsidies provided by the Renewable Resources program due to implementation of the Renewable Portfolio Standard. The large reduction in energy conservation expenditures is due to a one-time allocation of bond funds for energy efficiency projects in the current year.

Energy Resources Conservation and Development Commission

Governor's Budget Spending Totals

(Dollars in Thousands)

	Actual 2002-03	Estimated 2003-04	Proposed for 2004-05	
			Amount	Percent Change
Type of Expenditure:				
Regulatory and Planning	\$26,183	\$26,021	\$26,933	4%
Energy Resources Conservation	34,954	53,986	22,106	-59%
Research and Development	170,672	233,638	313,152	34%
Administration	11,091	11,641	10,951	-6%
<i>less distributed administration</i>	<i>-11,091</i>	<i>-11,641</i>	<i>-10,951</i>	-
<i>less loan repayments</i>	<i>-7,502</i>	<i>-6,373</i>	<i>-7,074</i>	-
Total	\$224,307	\$307,272	\$355,117	16%
Funding Source:				
General Fund	\$250	\$620	-	-
Special Funds	203,282	286,616	340,268	19%
<i>Budget Act Total</i>	<i>203,532</i>	<i>287,236</i>	<i>340,268</i>	<i>18%</i>
Reimbursements	6,209	8,495	5,745	-32%
Federal Funds	4,845	11,266	9,104	-19%
Total	\$214,586	\$306,997	\$355,117	16%

Budget Change Proposals. The following is a summary of the 2004-05 budget change proposals for CEC.

Energy Resources Conservation and Development Commission
Budget Change Proposals, 2004-05*(Dollars in Thousands)*

Description	General Fund	Special Funds	Total	Positions
Technical Adjustment. Proposes to shift funding for two positions in the grants and loans office and one position in the accounting office from the Petroleum Violation Escrow Account to the Energy Resources Program Account and Energy Conservation Assistance Account, which is a more appropriate source of funding for these positions given changes in workload.	-	-	\$0	-
Total	\$0	\$0	\$0	0

1. April Finance Letter

Summary. The following is a summary of the budget amendments requested by the administration in the 2004-05 April finance letter for CEC.

Energy Resources Conservation and Development Commission
April Finance Letter, 2004-05*(Dollars in Thousands)*

Description	General Fund	Special Funds	Total	Positions
Renewable Portfolio Standard. Proposes to increase support from the Renewable Resources Trust Fund for certifying eligible renewable resources for participation in the Renewable Portfolio Standard.	-	\$190	\$190	2.0
Total	\$0	\$190	\$190	2.0

Staff Recommendation. No issues have been raised with the administration's April finance letter for CEC. **Staff recommends approving the finance letter.**

2. Reappropriation of PVEA Funds

Summary. The commission has requested the reappropriation of \$925,000 in Petroleum Violation Escrow Account (PVEA) funds for allocation to the Alameda-Contra Costa Transit District (AC Transit) in support of their ongoing Fuel Cell Demonstration Program. These funds would be used to construct a permanent hydrogen fueling station. These funds were originally appropriated to the CEC in the Budget Act of 2000, and were encumbered into an agreement with AC Transit, however, contracting difficulties and project delays associated with the development of emerging and advanced hydrogen fueling technology have delayed the project beyond the life of the funds.

Governor's Budget. The administration was not aware of the need to reappropriate these funds at the time the budget proposals were being developed. The language proposed by the department is as follows:

3360- -Reappropriation, Energy Resources Conservation and Development Commission. \$925,000 of the appropriation provided in the following citation is reappropriated for the purposes provided for in the appropriation, and shall be available for encumbrance and expenditure until June 30, 2005.

(1) Item 3360-001-0853, Budget Act of 2000, for issuing a contract or grant to Alameda-Contra Costa Transit District (AC Transit) for the development and demonstration of a gaseous hydrogen fueling station on AC Transit property for their Fuel Cell Demonstration Program.

Staff Recommendation. Staff recommends the Subcommittee *approve the reappropriation* for this project.

3. Extension of Energy Technologies Research, Development and Demonstration Account

Summary. The Commission has requested that the Energy Technologies Research, Development and Demonstration Account (ETRDDA) be extended beyond its current sunset date of January 1, 2005. This account contains PVEA funds that support two revolving loan programs (Small Business Energy Technology Loan Program and Agricultural Industry Energy Program). These programs do not have a sunset date and there are still funds available to continue to make loans to small businesses and the agricultural industry to purchase or install energy efficient equipment.

Governor's Budget. The administration was not aware of the need to extend this account at the time the budget proposals were being developed. The language proposed by the department is as follows:

Section 25630 of the Public Resources Code is amended to read:

25630. (a) The commission shall establish a small business energy assistance low-interest revolving loan program to fund the purchase of equipment for alternative technology energy projects for California's small businesses.

(b) ~~The loan program may use royalty agreements, as provided in Chapter 7.4 (commencing with Section 25645), to replenish program funds beyond the amount of loan repayments.~~ Loan repayments, interest, and royalties shall be deposited in the Energy Technologies Research, Development, and Demonstration Account. The interest rate shall be ~~determined as provided in subdivision (g) of Section 25647.~~ *based on surveys of existing financial markets and at rates not lower than the Pooled Money Investment Account. Notwithstanding the expiration of Public Resources Code Chapter 7.8 (commencing with Section 25680), the Controller shall continue to maintain within the General Fund the Energy Technologies Research, Development, and Demonstration Account established under Public Resources Code Section 25683.*

Section 25650 of the Public Resources Code is amended to read:

25650. (a) All funds from loan repayments and interest that become due and payable for loans made by the commission pursuant to an agriculture energy assistance program shall be deposited in the Energy Technologies Research, Development, and Demonstration Account, and shall be available for loans and technical assistance pursuant to this section, upon appropriation in the Budget Act. Up to 20 percent of the annual appropriation may be available for technical assistance. *Notwithstanding the expiration of Public Resources Code Chapter 7.8 (commencing with Section 25680), the Controller shall continue to maintain within the General Fund the Energy Technologies Research, Development, and Demonstration Account established under Public Resources Code Section 25683.*

(b) Loans made pursuant to this section shall be for the purchase of equipment and services for agriculture energy efficiency and development demonstration projects, including, but not limited to, production of methane or ethanol, use of wind, photovoltaics, and other sources of energy for irrigation pumping, application of load management conservation techniques, improvements in water pumping and pressurization techniques, and conservation tillage techniques.

(c) The loans shall contain terms that provide for a repayment period of not more than seven years and for interest at a rate that is not less than 2 percent below the rate earned by moneys in the Pooled Money Investment Account.

Staff Recommendation. Staff recommends the Subcommittee *adopt trailer bill language*, as outlined above, to extend the Energy Technologies Research, Development and Demonstration Account.

4. California Climate Action Registry

Background. The California Climate Action Registry was established by Chapter 1018, Statutes of 2000 (SB 1771, Sher) as a non-profit voluntary registry for greenhouse gas (GHG) emissions. The purpose of the Registry is to help companies and organizations with operations in the state to establish GHG emissions baselines against which any future GHG emission reduction requirements may be applied. The registry is also responsible for adopting standards for verifying emissions reductions, establishing emissions reduction goals, designing and implementing efficiency improvement plans, and maintaining a record of emissions reductions as measured against the baseline established by the registry.

In 2002, Chapter 200 (AB 1493, Pavley) was enacted by the Legislature to reduce GHG emissions from cars and light trucks and provides an opportunity for automobile manufacturers to take advantage of incentives from early action. The law will regulate GHG emissions in 2009, and encourages earlier reductions through the registry.

This year, the registry has written to the subcommittee requesting \$200,000 to support the registry's activities in 2004-05. The funding will be used to develop new software capabilities for recording GHG emissions and to recruit more power industry participants to the registry. Approximately \$200,000 from CEC's Public Interest Energy Research Development and Demonstration (PIER) Fund was provided to support the registry in the current year.

Staff Recommendation. The subcommittee may wish to adopt the following budget bill language to provide \$200,000 from the PIER fund to support the registry.

3360-001-0381—Of the amount appropriated in this item, \$200,000 shall be made available for grants to support the California Climate Action Registry program activities.

5. Energy Resources Programs Account

Background. The Energy Resources Programs Account (ERPA) funds most of the commission's basic programs, general operations and staffing. Revenues from this account derive from a charge on the consumption of electricity by California ratepayers. Chapter 1033, Statutes of 2002 (AB 3009, Budget) enabled the commission to increase the ERPA surcharge to a capped amount of \$0.0003 per kilowatt-hour (kWh) to cover budgetary expenditures. The ERPA fund is considered a General Fund fungible account and the *2003-04 Budget Act* transferred \$5.75 million to the General Fund to help solve the state's budget problem.

Governor's Budget. The commission took action to raise the surcharge to the capped amount (\$0.0003) effective January 1, 2004. The budget assumes that the surcharge will remain at the higher amount for the entire 2004 calendar year, but assumes a reduction in the surcharge to \$0.0002 starting January 1, 2005. This increase has resulted in an \$14.5 million projected balance in the ERPA fund at the end of the budget year. The fund balance would increase by \$11 million if the commission did not reduce its surcharge starting January 1, 2005 as currently planned.

Staff Recommendation. Staff recommends that the Subcommittee *transfer \$12 million to the General Fund to help address the state's budget problem*. This will leave the ERPA fund with a 5 percent reserve (approximately \$2.5 million). The Subcommittee may also wish to consider transferring an additional \$11 million and requesting CEC to keep the ERPA surcharge at the higher level.

3860 Department of Water Resources (California Energy Resources Scheduling Division)

Background. 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 the receipt and delivery of the energy procured by the contracts.

Governor's Budget. The budget proposes total expenditures of about \$5.4 billion in 2004-05 for the CERS division of DWR. This is \$1.4 billion, or 21 percent, below estimated expenditures in the current year, which reflects a reduction in the amount of electricity purchased under contract for the budget year, as well as lower prices on the electricity currently under contract.

Department of Water Resources

California Energy Resources Scheduling Division, Electric Power Fund

(Dollars in Thousands)

Description	Actual 2002-03	Estimated 2003-04	Proposed for 2004-05	
			Amount	Percent Change
Energy purchases	\$5,129,257	\$6,759,813	\$5,367,133	-21%
Administration	46,802	54,488	47,627	-13%
Total	\$5,176,059	\$6,814,301	\$5,414,760	-21%

Budget Change Proposals. No 2004-05 budget change proposals were submitted for the DWR CERS division.

1. April Finance Letter—Energy Related

Summary. The following is a summary of the energy-related budget amendments requested by the administration in the 2004-05 April finance letter for DWR.

Department of Water Resources

April Finance Letter - CERS Related, 2004-05

(Dollars in Thousands)

Description	General Fund	Special Funds	Reimbursements	Total
Williams Settlement. Proposes to reimburse DWR's costs associated with the development of two power generation projects that were the result of a settlement with Williams Energy.	-	-	489	489
Total	\$0	\$0	\$489	\$489

Staff Recommendation. No issues have been raised with the administration's April finance letter for the CERS division of DWR. **Staff recommends approving the finance letter.**

2. CERS Administration Support

Background. The CERS division of DWR continues to manage billions of dollars of long-term electricity contracts signed during the electricity crisis. 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 the receipt and delivery of the energy procured by the contracts. Despite this reduction in responsibilities, the department continues to rely heavily on expensive consulting contracts and personal service contracts. The Legislature adopted budget bill language in the 2003-04 Budget Act to direct the department to continue its efforts to reduce administrative costs of the division by replacing contractors with state employees. Supplemental report language was also adopted to require the department to update the Legislature on the status of this transition.

Governor's Budget. The Governor's budget proposes \$47.6 million for administrative support of the CERS division. This is a slight reduction from the current year estimated expenditures due to a reduced level of pro rata expenditures. Therefore, actual support for CERS operations is about the same as estimated in the current year. The department has also budgeted a \$2.5 million contingency for unanticipated costs, including potential data requests to support litigation.

Department of Water Resources

CERS Administration

(Dollars in Thousands)

Description	Actual 2002-03	Estimated 2003-04	Proposed for 2004-05	
			Amount	Percent Change
Salaries, benefits, and distributed administration	\$7,636	\$9,597	\$9,235	-4%
Consulting companies	34,015	12,100	10,141	-16%
Personal service contracts	4,089	2,000	2,500	25%
Other operating expenses and equipment	1,062	2,922	2,443	-16%
Pro Rata	0	27,869	21,169	-24%
Contingency reserve	0	0	2,500	-
Total	\$46,802	\$54,488	\$47,988	-12%

Supplemental Report Findings. The department submitted its supplemental report (due December 1, 2003) to staff in May 2004. This report indicated that the department is no longer pursuing a new personnel service classification with the Department of Personnel Administration. Instead the department is actively transitioning work from consulting companies to personal service contracts. The department indicates that the average personal service contract costs the state roughly one-third the hourly rate of the consulting companies.

Contingency Reserve. The report also indicates that the department has included a contingency reserve in case unexpected expenditures arise in the budget year. Extra funds have not been budgeted for a contingency reserve in the past and it is not clear what additional uncertainties the department is planning for in the budget year.

Staff Recommendation. Given the ongoing concerns related to the CERS division's over-reliance on expensive contracts. Staff recommends the Subcommittee **reduce the contingency reserve by one-half** (reduce CERS' budget by \$1.25 million) and **adopt budget bill language** to require the department to notify the Legislature 30 days prior to entering new contracts for the contingency reserve funds.

3. Status of Contract Renegotiations—Informational Item

Summary. The department has been actively renegotiating the electricity contracts signed during the energy crisis. The department signed 56 contracts during the crisis at a projected cost of \$42.5 billion. Since then, 34 of these contracts have been renegotiated with 18 entities for savings of approximately \$6.34 billion. The current projected value of DWR's energy portfolio is \$28.3 billion. The state continues to renegotiate the remaining contracts. **Appendix A** is a summary of the state's renegotiated electricity contracts.

8660 California Public Utilities Commission

Background. 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 passenger and household goods carriers. The commission's primary objective is to ensure adequate facilities and services for the public at equitable and reasonable rates. The commission also promotes energy conservation through its various regulatory decisions.

Governor's Budget. The Governor's budget proposes \$1.2 billion to support CPUC in 2004-05. This is a \$74 million reduction from the current year due to lower expenditures in funds that support various universal service telecommunications programs.

California Public Utilities Commission

Governor's Budget Spending Totals

(Dollars in Thousands)

	Actual 2002-03	Estimated 2003-04	Proposed for 2004-05	
			Amount	Percent Change
Type of Expenditure:				
Regulation of Utilities	\$359,059	\$338,712	\$333,177	-2%
Universal Service Telephone Programs	710,369	926,065	857,384	-7%
Regulation of Transportation	13,907	13,722	14,207	4%
Administration	14,926	17,832	17,207	-4%
<i>less distributed administration</i>	<i>-14,926</i>	<i>-17,832</i>	<i>-17,207</i>	-
Total	\$1,083,335	\$1,278,499	\$1,204,768	-6%
Funding Source:				
General Fund	\$0	\$0	\$0	-
Special Funds	1,068,415	1,265,009	1,191,069	-6%
<i>Budget Act Total</i>	<i>1,068,415</i>	<i>1,265,009</i>	<i>1,191,069</i>	<i>-6%</i>
Federal Funds	971	997	993	0%
Reimbursements	13,949	12,493	12,706	2%
Total	\$1,083,335	\$1,278,499	\$1,204,768	-6%

Budget Change Proposals. The following is a summary of the 2004-05 budget change proposals for CPUC.

California Public Utilities Commission**Budget Change Proposals, 2004-05***(Dollars in Thousands)*

Description	General Fund	Special Funds	Total	Personnel Years
Facility Repairs. Proposes funding for special repair and replacement projects for the Edmund G. Brown Building in San Francisco that houses CPUC.	-	\$435	\$435	0.0
Staffing Universal Telecommunications Programs. Proposes to establish permanently 18 positions to support these programs. These CPUC started directly supporting these programs in 2002-03, and since there was no workload data to justify the level of support staff required to administer the programs the positions were originally requested on a limited term basis in the 2002-03 budget.	-	1,026	1,026	18.0
Total	\$0	\$1,461	\$1,461	18.0

1. April Finance Letter

Summary. The following is a summary of the budget amendments requested by the administration in the 2004-05 April finance letter for CPUC.

California Public Utilities Commission**April Finance Letter, 2004-05***(Dollars in Thousands)*

Description	General Fund	Special Funds	Total	Personnel Years
Universal Lifeline Telephone Service Program. Proposes to increase funding for this program to align spending authority with the CPUC's most recent estimates of estimated program expenditures for the budget year.	-	\$11,263	\$11,263	0.0
Total	\$0	\$11,263	\$11,263	0.0

Staff Recommendation. No issues have been raised with the administration's April finance letter for CPUC. **Staff recommends approving the finance letter.**

2. California Teleconnect Fund Program

Background. The CPUC administers six universal service telephone programs that seek to expand access to telecommunications services. It does so by subsidizing the cost of telephone services for certain people through surcharges applied to telephone customers' monthly bills for in-state services. One of these programs is the California Teleconnect Fund (CTF) program. This program provides discounts on telephone service, and other advanced telecommunication services that provide access to the Internet (such as digital subscriber line [commonly referred to

as DSL] services) to schools, libraries, and qualifying hospitals and community-based organizations. Currently, the CTF program provides a 50 percent discount regardless of the particular qualifying service or recipient. Chapter 820, Statutes of 2003 (AB 855, Firebaugh), established the CTF program in statute, although CPUC has been managing a similar program that it established administratively in 1996.

The federal government has a similar program called the E-Rate program. This program provides discounts on the same services as the CTF, but also provides discounts on the purchase and installation of telecommunications hardware. The level of discount received through the E-Rate program is based on the schools participation in the free lunch program. California receives approximately \$330 million annually from the federal E-Rate program.

Governor's Budget. The 2004-05 Governor's Budget proposes expenditure of \$5.3 million for the CTF program in the budget year. This is significantly less than has been provided in prior years for this program.

Budget Year Funding. The Analyst finds that the Governor's budget does not provide expenditure authority sufficient to cover all of the projected CTF program expenditures in the budget year. The commission has informed staff that it will need approximately \$18 million in the budget year to cover all program expenditures in 2004-05. In the 2003-04 Budget Act \$150 million was loaned from the CTF to the General Fund. The budget does not propose to repay this loan even though Chapter 820 requires that this loan be repaid when the CTF program needs the funds to meet program requirements. The Analyst finds that the Legislature has the following choices for providing additional funding to the commission to support the CTF program:

- Direct CPUC to raise the CTF surcharge (currently suspended). A 0.1 percent surcharge applied to intrastate telephone calls would yield approximately \$20 million.
- Repay a portion of the General Fund loan, which would increase General Fund expenditures by about \$12.7 million.

LAO Recommendation. The Analyst finds that the CTF program could be improved and makes the following recommendations relative to the CTF program:

- **CTF Program Does Not Maximize Federal Funds.** The CPUC does not require schools and libraries to participate in the federal E-Rate program as a condition of eligibility for the CTF program. This results in increased costs to the state's program and a loss of available federal funds. The Analyst recommends legislation that requires that eligible schools and libraries participate in the federal E-Rate program as a condition for participating in the CTF program.
- **CTF Program More Effective if Discounts Targeted.** Recent legislation has expressed legislative intent that a priority for the state's telecommunications policy is to assist in bridging the "digital divide." However, the current CTF program does not target its discounts and instead provides a 50 percent discount to all qualified participants. The federal E-Rate program provides discounts on a sliding scale based on participation in the free lunch program. Since the CTF discount is applied after the E-Rate discount the need-based targeting of the federal program is reduced, since more CTF funds are provided to schools with fewer students from low-income families. The Analyst recommends legislation that would require CPUC to adopt criteria for targeting discounts from the CTF program to low-income and rural individuals that are typically the most affected by digital divide issues.

- ***Program Funding Parameters Would Improve Legislative Oversight.*** There are no limits on the number of participants or level of subsidies awarded in the CTF program. Instead, CPUC is given broad authority to administer the CTF program, including the authority to raise the surcharge that supports this program to cover increased program costs. The Legislature does exercise spending control over the program through the annual budget appropriation. However, there is no legislative control over the surcharge rate or program revenues. The Analyst recommends legislation that sets a statutory cap on annual CTF program expenditures to improve legislative oversight of the program.

Staff Recommendation. Staff recommends the following:

- (1) Increase expenditure authority from CTF by \$12.7 million to cover all CTF program costs in 2004-05 using revenues from an increase in the CTF surcharge on telephone users.
- (2) Adopt trailer bill language that limits the CTF subsidy only to the remaining portion of telecommunications bill after application of the federal E-Rate subsidy for eligible schools and libraries (regardless of whether they participate in E-Rate). Apply the federal need-based sliding scale to the Teleconnect discount for schools. Make these provisions effective July 1, 2005 to allow time for schools to apply to the E-Rate program and plan for potential reductions in CTF discounts.
- (3) Adopt supplemental report language directing CPUC to report to the Legislature by February 1, 2005 with (a) an estimate of the program savings resulting from the adoption of the need-based sliding scale for schools and from applying the E-Rate discount prior to any CTF discount, (b) recommendations for alternative uses for CTF funds to most effectively address the Digital Divide, and (c) an estimate of the surcharge level needed to meet the needs of the CTF program.

8665 California Consumer Power and Conservation Financing Authority

Background. The California Consumer Power and Conservation Financing Authority (California Power Authority, or CPA) was created by Chapter 10x, Statutes of 2001 (SB 6x, Burton), to assure a reliable supply of power to Californians at just and reasonable rates, including planning for a prudent energy reserve. The CPA was also created to encourage energy efficiency, conservation, and the use of renewable resources. The CPA is authorized to issue up to \$5 billion in revenue bonds to finance these activities. Chapter 10x also directs that the operation of the authority sunset on January 1, 2007.

Governor's Budget. The budget proposes to eliminate CPA in the budget year. Specifically, the proposal would eliminate three positions and five contract positions. The budget provides \$424,000 to CPA through September 30, 2004 for purposes of winding down the agency, including finishing remaining work and terminating existing contracts.

California Consumer Power and Conservation Financing Authority

Governor's Budget Spending Totals

(Dollars in Thousands)

	Actual 2002-03	Estimated 2003-04	Proposed for 2004-05	
			Amount	Percent Change
Type of Expenditure:				
Administration	\$3,232	\$3,778	\$424	-89%
Off-budget expenditures	3,761	75,057	0	-100%
Total	\$6,993	\$78,835	\$424	-99%
Funding Source:				
Budget Act Total	0	0	0	-
CPA Fund	6,993	78,835	424	-99%
Total	\$6,993	\$78,835	\$424	-99%

1. Future of CPA

Background. The CPA was established during the height of the energy crisis that started in 2000 with the broad charge of assuring a reliable supply of power to Californians at just and reasonable rates, including planning for a prudent energy reserve. In order to meet these goals, CPA was authorized to purchase, lease, or build new power plants using its revenue bonding authority to supplement private and public sector power supplies, and was granted eminent domain powers. These significant powers reach beyond those of other state energy agencies. It was intended that CPA would be able to exercise these powers in the event that the market did not produce enough electricity to serve all of the state's needs.

In addition to these core powers, CPA was also charged with encouraging energy conservation and the use of renewable energy sources. It was also given the authority to finance natural gas transportation and storage projects recommended by the California Public Utilities Commission (CPUC), as well as to provide financing to retrofit old and inefficient power plants. Finally, CPA was also required to develop an energy resource investment plan for California.

Governor's Budget. The budget proposes to eliminate CPA in the budget year. The administration has indicated that the decision to eliminate CPA was based on a number of factors. These include findings that CPA has had limited success in fulfilling its statutory objectives and that CPA has not achieved financial self-sufficiency as intended when it was created. In addition, the administration is of the view that other state energy agencies and private entities already perform activities similar to that performed by CPA.

Specifically, the proposal would eliminate the authority's administrative budget (\$3.4 million special funds). However, the budget also proposes to eliminate CPA's bonding authority (almost \$5 billion remaining). Furthermore, the budget proposes terminating all of CPA's current work in progress. This work includes an initiative to install solar energy on state buildings and background work on financing several peak electricity generation projects and a base load power plant in the San Diego area. Finally, the budget proposal terminates CPA's Demand Reserves Partnership Program that provided 250 megawatts of energy conservation during the summer of 2003.

LAO Recommendation. The Analyst finds that the elimination of some of CPA's functions may be premature and provides the following options for retaining these functions:

- (1) **Option One: Retain CPA, But Only as a Self-Supporting Entity.** This option would allow the state to continue to retain the authority to augment energy supplies if needed, until adequate incentives are in place to assure a sufficient energy supply to meet future demand. However, the Analyst thinks the role of CPA should be evaluated as policy changes continue to be made in the future.
- (2) **Option Two: Transfer Certain Functions to Other Existing Agencies.** This options would transfer the bonding authority so that the state could retain its ability to finance power plants if needed. The CPA's bonding authority could be transferred to an existing financing authority, which has a consistent mission with CPA's bond financing authority (for example, the California Infrastructure Bank). Furthermore, The Analyst would also recommend transferring CPA's Demand Reserve Partnership Program to another entity so that it may continue to provide energy savings over the next several years (CPA's program currently has a contract to deliver energy savings that does not expire until 2007). This program could be transferred to another existing state agency involved in promoting energy conservation, such as CEC.

Staff Comments. Staff recognizes that CPA has not been able to carry out its mission due to market influences. However, since CPUC is still in the relatively early stages of implementing Chapter 835, Statutes of 2000 (AB 57, Wright) there is still uncertainty regarding whether this law will provide sufficient incentives to build new generation to meet the state's future electricity demands. Given this, staff agrees with the LAO that it is premature to eliminate CPA's functions.

The administration has indicated to staff that it is developing a more comprehensive proposal to reorganize the state's energy agencies. Staff thinks it would be more appropriate to evaluate the future of CPA and its functions in the context of this comprehensive plan.

Staff Recommendation. Staff recommends the Subcommittee ***adopt the Analyst's Option One to retain the CPA as a self-supporting agency.*** This action would:

- (1) Reject the administration's proposed trailer bill to eliminate CPA.
- (2) Increase CPA's budget by \$800,000 to cover reduced operations funded solely from CPA generated revenues.

8770 Electricity Oversight Board

Background. The Electricity Oversight Board (EOB) was created by Chapter 854, Statutes of 1996 (AB 1890, Brulte), which deregulated California's wholesale electricity industry. The board was created to oversee the California Independent System Operator (ISO), which manages the transmission grid serving most of California, and the Power Exchange (PX), which for a time was the marketplace in which all electricity in the state was bought and sold. The EOB was also given very broad authority over ensuring reliability of the state's supply of electricity.

Governor's Budget. The Governor's budget proposes \$3.6 million to support EOB. This reflects the reversion of a one-time General Fund appropriation and reductions as a result of the Control Section 4.10.

Electricity Oversight Board

Governor's Budget Spending Totals

(Dollars in Thousands)

	Actual 2002-03	Estimated 2003-04	Proposed for 2004-05	
			Amount	Percent Change
Type of Expenditure:				
Administration	\$3,456	\$3,894	\$3,637	-7%
Total	\$3,456	\$3,894	\$3,637	-7%
Funding Source:				
General Fund	-	\$240	-	-
Special Funds	3,455	3,655	3,637	0%
<i>Budget Act Total</i>	3,455	3,895	3,637	-7%
Total	\$3,455	\$3,895	\$3,637	-7%

Budget Change Proposals. No 2004-05 budget change proposals were submitted for EOB.

1. Future of Board

Background. Central to the original role of the EOB was overseeing the activities of the ISO and the PX and determining the composition of the governing boards of these two organizations. However, among the many developments associated with the 2001 energy crisis was the bankruptcy of the PX in January, and the replacement of the EOB-appointed ISO stakeholder board with a board of gubernatorial appointees. Thus, the EOB's original duties have drastically changed.

The EOB has reported to staff that it is presently involved in the following activities:

- **Market Monitoring.** This includes market investigation, market rate complaints, and market redesign proceedings.

- **Monitoring ISO Operations.** This includes evaluating the operations of ISO administered markets, operations of the transmission system, transmission planning, and the reasonableness of the costs of ISO services.
- **FERC Representation.** This includes representing California policy and consumer interests regarding wholesale markets and transmission system operations at the Federal Energy Regulatory Commission.
- **Power Exchange Oversight.** The EOB continues to represent California's public interests related to the wind-up of the California PX. (More than \$1 billion in outstanding claims remain.)

Board Structure Obsolete. The EOB's board presently has only one voting member and has not met in over a year. It has been regular practice for several years that board staff reports directly to the Governor as opposed to the board members. It is not clear that a board structure is needed to carry out the current activities of EOB.

Attorney General Has Big Role in Resolving Energy Crisis Litigation. The Attorney General (AG) has been very involved in the litigation at FERC and in other venues related to market behavior during the energy crisis. The AG has also been central to the contract renegotiations between the Department of Water Resources and the electricity generators. The EOB and CPUC have also been involved in these activities. Specifically, EOB has been the lead in the state's refund proceedings at FERC.

Legislative Oversight. As shown above, EOB has indicated to staff that it is currently working on several important issues. These issues include oversight of ISO activities and the reasonableness of the ISO's costs to California consumers. As well as, the susceptibility of California's wholesale electricity market to future failures and the impacts of FERC's market design decisions on the state's market. These issues are of interest to the Legislature as they continue to develop the state's future energy policy. However, under current practice there has been no mechanism to communicate the findings of EOB's work on these issues to the Legislature. This has reduced legislative oversight in this area.

Staff Comments. There has been concern regarding the number of separate boards and commissions that currently implement the state's energy policy. The administration has indicated to staff that it is developing a comprehensive proposal to reorganize the state's energy agencies. Staff believes that the EOB's core activities are important to continue, but does not believe a separate board structure is needed to carry out these functions effectively. Furthermore, staff believes that litigation related to the energy crisis could be consolidated at the AG's office. This would give EOB staff more time to focus on issues at FERC and the ISO that affect the current and future wholesale electricity market in California.

Staff Recommendation. Staff recommends the Subcommittee take the following actions:

- (1) **Eliminate the board structure** and transfer EOB litigation related to the energy crisis to the AG, except for those cases when the AG has a direct conflict. Transfer EOB staff to the Governor's Office of Planning and Research until a more comprehensive evaluation of all the state's energy related agencies has been performed.

- (2) *Adopt supplemental report language* to require EOB staff to report to the Legislature on:
- (a) the reasonableness of costs to California consumers of ISO operations and
 - (b) the susceptibility of California's wholesale electricity market to future failures and recommendations to protect the public from wholesale market failures.

Appendix A—Summary of Renegotiated Electricity Contracts



Summary of Renegotiated Power Purchase Agreements

April 2004



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Contract Overview

- **Number of Original agreements: 56**
- **Original portfolio projected cost: \$42.5 billion**
- **Agreements Renegotiated: 34**
- **Number of original counter-parties: 28** – Allegheny, Alliance Colton, BPA, CalPeak, Calpine, Capitol, Clearwood, Constellation, High Desert, Coral, Dynegy, El Paso, GWF, Intercom, PG&E Energy Trading, PacifiCorp, Pinnacle West, Mirant, Morgan Stanley, Primary Power (Imperial Valley), PX Block Forward, Santa Cruz, Sempra, Soledad, Sunrise, Whitewater Energy, Williams, Wellhead.
- **Number of counter-parties with renegotiated contracts: 18** -- Calpine, High Desert, Constellation, Whitewater Energy, Capitol Power, CalPeak, GWF, Colton Power, Mountain View Power Partners (formerly PG&E Trading contract), Williams, Clearwood, Wellhead, County of Santa Cruz, Sunrise Power, Goldman Sachs (formerly Allegheny contract), Soledad, El Paso, Morgan Stanley.
- **Cost reductions through renegotiations: Approximately \$6.34 billion**
- **Agreements expired: 14**
- **Agreements terminated: 2**
- **Number of agreements remaining (from original 56): 40**
- **Current Projected portfolio cost: \$28.3 billion**



Summary Results from Renegotiations



Summary Results - cont.

Of the 22 counterparties CDWR has contracts with, only four have standing contracts under their original terms.

Number of Counterparties with Contracts under Renegotiated Terms	Savings (\$ Millions)	Counterparties with Contract under Original Terms	Counterparties with Expired Contracts	Contracts Terminated
1 Calpine	\$2,900	Coral	BPA	Capitol Power ³
2&3 High Desert / Constellation Power ¹	\$560	Dynergy	Constellation Power ¹	Santa Cruz County ⁴
4 Shell Wind Energy ² (formerly Whitewater Energy Corp)	\$38	PacifiCorp	Intercom	
5 Capitol Power ³	\$6.3	Sempra	Mirant ⁵	
6 CalPeak	\$71		Pinnacle West	
7 Soledad	\$1.7		Primary Power	
8 GWF	\$215		PX Block Forward	
9 Colton Power (formerly Alliance contract)	\$14.6			
10 Mountain View Power Partners, LLC (formerly PG&E ET Wind contract)	\$2.8			
11 Williams	\$1,373			
12 Clearwood	\$28			
13 Wellhead	\$8.2			
14 Santa Cruz County ⁴	\$1.8			
15 Sunrise	\$121			
16 Goldman Sachs Group (formerly Allegheny contract)	\$836			
17 El Paso	\$125			
18 Morgan Stanley	\$40			
Total Savings (\$'s Millions)	\$6,342			

Notes:

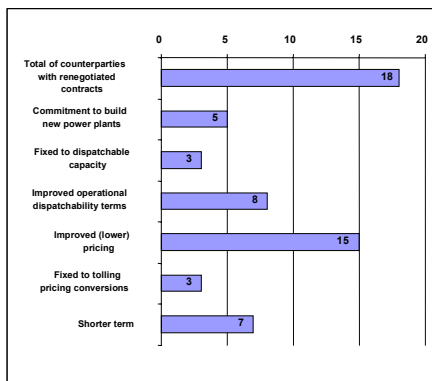
(1) Constellation Power Systems contract, Product 1 expired Jun-'03 and Product 2 expired Oct-'03; (2) Shell Wind Energy consists of two wind projects, formerly Whitewater Hill and Cabazon; (3) Capitol Power was terminated in Nov '02; (4) Santa Cruz County was terminated in early Jan. '04; (5) Mirant contract is in FERC settlement proceedings.

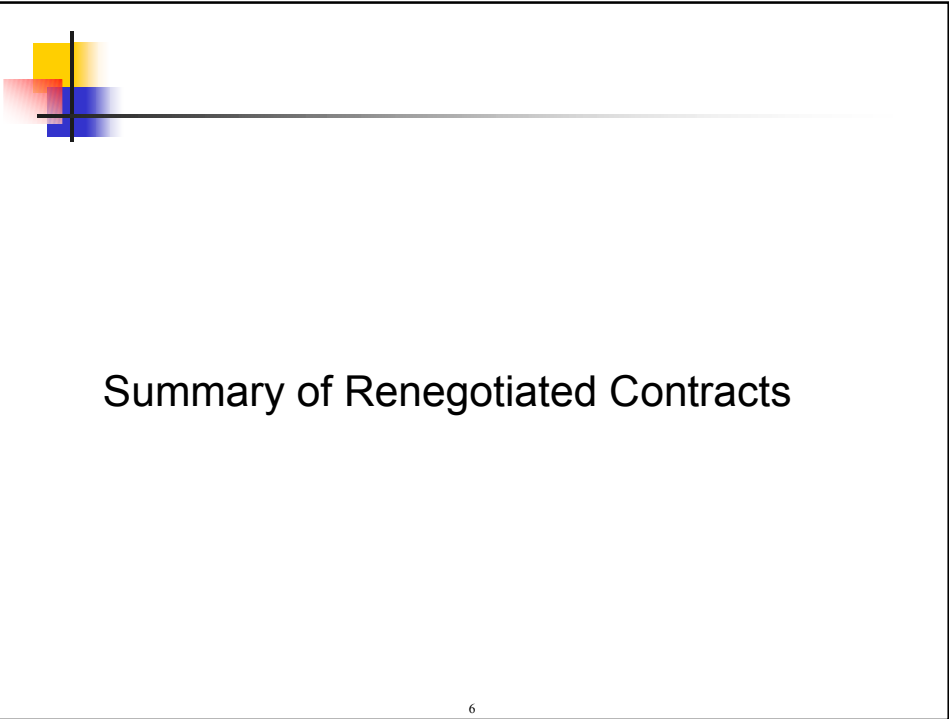


Summary Results - cont.

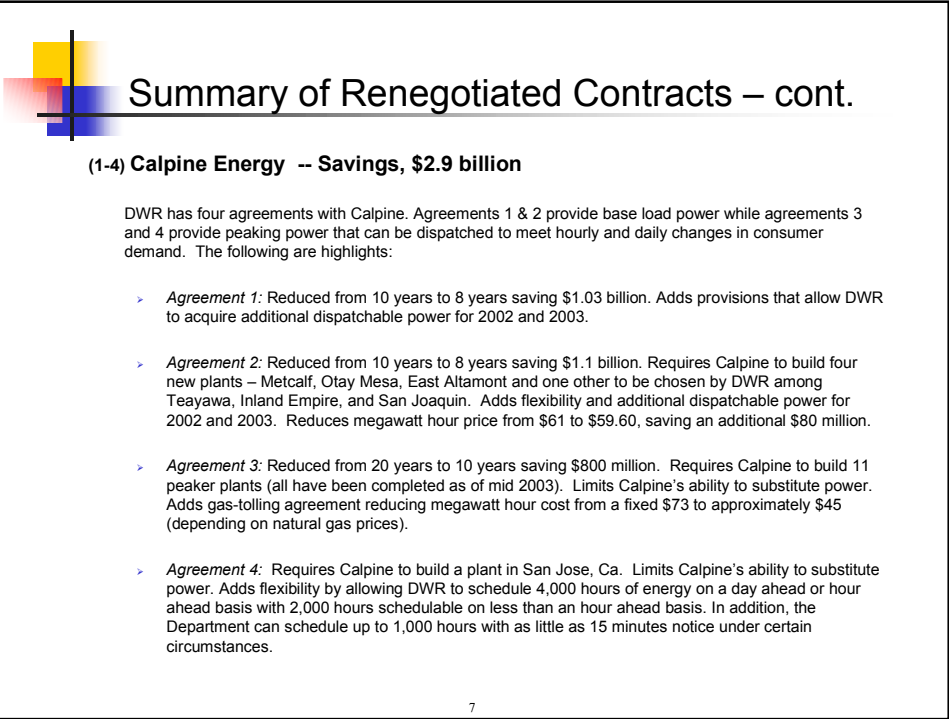
Renegotiations have resulted in improved reliability and contract savings of \$6.3 billion (a 15% reduction from the initial projection of \$42.5 billion). Improved reliability is the result of securing generator commitment to build new power plants. Savings are based on improved contract terms, such as lower pricing and shorter terms, and increased dispatchability.

CDWR Improvement in Contract Terms due to Renegotiations





Summary of Renegotiated Contracts



Summary of Renegotiated Contracts – cont.

(1-4) Calpine Energy -- Savings, \$2.9 billion

DWR has four agreements with Calpine. Agreements 1 & 2 provide base load power while agreements 3 and 4 provide peaking power that can be dispatched to meet hourly and daily changes in consumer demand. The following are highlights:

- > *Agreement 1:* Reduced from 10 years to 8 years saving \$1.03 billion. Adds provisions that allow DWR to acquire additional dispatchable power for 2002 and 2003.
- > *Agreement 2:* Reduced from 10 years to 8 years saving \$1.1 billion. Requires Calpine to build four new plants – Metcalf, Otay Mesa, East Altamont and one other to be chosen by DWR among Teayawa, Inland Empire, and San Joaquin. Adds flexibility and additional dispatchable power for 2002 and 2003. Reduces megawatt hour price from \$61 to \$59.60, saving an additional \$80 million.
- > *Agreement 3:* Reduced from 20 years to 10 years saving \$800 million. Requires Calpine to build 11 peaker plants (all have been completed as of mid 2003). Limits Calpine’s ability to substitute power. Adds gas-tolling agreement reducing megawatt hour cost from a fixed \$73 to approximately \$45 (depending on natural gas prices).
- > *Agreement 4:* Requires Calpine to build a plant in San Jose, Ca. Limits Calpine’s ability to substitute power. Adds flexibility by allowing DWR to schedule 4,000 hours of energy on a day ahead or hour ahead basis with 2,000 hours schedulable on less than an hour ahead basis. In addition, the Department can schedule up to 1,000 hours with as little as 15 minutes notice under certain circumstances.



Summary of Renegotiated Contracts – cont.

(5-6) High Desert/Constellation – Savings, \$560 million

- > Eight-year, three-month contract with Constellation subsidiary High Desert Power Plant LLC
- > Reduced 6 months, saving the State \$155 million
- > Price per megawatt hour drops from a fixed \$58 to a fixed capacity payment and an energy price based on actual fuel costs times the plant's heat rate. The estimated decrease in the average megawatt hour cost is expected to be more than 15 percent.
- > DWR no longer required to take energy around the clock in amounts unrelated to consumer needs, resulting in savings of roughly \$405 million.
- > Signed 4/22/02

(7-8) Whitewater Energy, Savings \$38 million

Cabazon: Signed 4/22/02

- > 41 MW wind, Savings \$11 million
- > Reduced from 12 years to 11 years 6 months
- > Reduced cost from \$60 MWh to \$54 MWh for all units (62 units)
- > Original cost was \$81.2 million

Whitewater Hill

- > 61.5 MW wind, Savings, \$27 million
- > Reduced from 12 years to 11 years 6 months
- > First amendment signed 4/22/02 reduced cost from \$60 MWh to \$54 MWh for units on-line before 8/31/02, or \$40 MWh for units on-line after 8/31/02
- > Original cost was \$123 million

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Summary of Renegotiated Contracts – cont.

(9) Capitol Power (15MW biomass) – Savings, \$6.3 million

- > Reduced from 5 years to 4 years, 6 months
- > Price per megawatt hour drops from \$89 to \$87
- > New contract cost is \$46.3 million
- > Signed 4/22/02

TERMINATED – 11/15/02

(10-13) CalPeak Power – Savings, \$71 million

- > Reduces number of peaker plants from seven to six (terminates Mission Bay plant) saving \$58 million
- > Relocates Midway plant from south path to north path to relieve transmission constraints
- > Midway project shortened by one year saving \$5 million
- > Reduced capacity payments by a total \$750,000 per year for 10 years, resulting in \$7.5 million savings
- > Total cost is \$332 million
- > Signed 5/2/02
- > Terminated Lodi plant 6/13/03 for failure to meet COD – Cost savings \$52 million.

14) GWF Energy – Savings, \$215 million

- > Total cost is \$776 million
- > Remains a 10-year, 340 MW agreement (two 88 MW plants and one 164 MW plant)
- > Improves dispatch notice from two to three hours to 30 minutes
- > Reduces capacity payments by \$65 million from \$665 million
- > Reduces the amount of energy the Department must take, saving an additional \$150 million
- > Signed 8/27/02

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Summary of Renegotiated Contracts – cont.

(15) Soledad – Savings, \$1.7 million

- 13 MW renewable Biomass, NP 15
- Reduces contract prices from \$82 MWh in 2002 and \$84 in 2003-2006 to annual cost of service adjustment with a cap of \$79.90 for all years
- No substitution
- Contract cost is now \$31.3 million

(16) Colton Power LP – Savings, \$14.6 million

- Lowers capacity payment by \$14.6 million
- Remains an 8-year, 80 MW peaker contract
- Total cost is now \$143 million
- Signed 9/20/02

(17) Mountain View Power Partners LLC – Savings \$2.8 million

- (formerly PG&E Energy Trading Contract)
- Reduces cost from \$58.50 per MWh to \$57
 - Remains a 10-year, 66 MW wind contract
 - Total contract cost is now \$107 million
 - Signed 9/20/02

10



Summary of Renegotiated Contracts – cont.

(18-21) Williams – Savings, \$1.373 billion

- 7x24 -- \$62.5 MWh – 40/200 MW reduced from 8 years to 5 years (savings \$1.27 billion)
- 6x16 -- \$87 MWh – 150/450 MW, Added 8 years (increase \$177 million)
- 6x16 -- \$70 MWh – 50 MW – 3 year to 8 year (savings \$175 million)
- 6x16 -- \$62.5 – 500 MW – Eliminated 8 years (savings \$1.242 billion)
- Avoided cost of must take energy = \$2.510 billion
- New agreement – Dispatchable, \$140 KW-yr – 350 / 1200 MW, (cost \$1.137 billion)
- Signed 11/11/02

(22) Clearwood Electric Company LLC – Savings \$28 million

- Geothermal 25 MW
- Reduced from \$140 million to \$112 million
- 10 years to 8 years, 2005 to 2012
- \$67.40 MWh – no change
- Signed 11/20/02

(23-25) Wellhead Power LLC – Savings \$8.2 million

- Three 10-year agreements
- 118 MW total – dispatchable
- \$109.51 KW/year cost (lowest in portfolio)
- Improve reliability
- Signed 12/20/02

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Summary of Renegotiated Contracts – cont.

(26) County of Santa Cruz – Savings \$1.8 million

- Buena Vista Landfill Gas project
- 3 MW – new plant in Watsonville
- Cost now \$7.2 million
- 4 year term, down from five years originally
- Signed 12/20/02

TERMINATED – 12/31/03

(27-28) Sunrise Power Company LLC -- Savings \$121 million

- 560 MW
- Cost reduced from \$1.8 billion to \$1.753 billion
- Capacity payment reduced 5% or \$44 million
- One year Sunrise extension option substituted for 6-month fix – saving \$76 million
- Signed 12/31/02

(29-31) Goldman Sachs Group (formerly Allegheny contract) – Savings \$836 million

- 10 year deal (savings is for remaining 8 years of contract)
- Original cost was \$4.2 billion, now \$3.4 billion
- Off-Peak prices reduced from \$61 to \$60 MWh in 2004; \$59 MWh in 2005; and \$58 MWh from 2006-2011
- Volumes reduced from 1,000 mw in 2005-2011 to 750 mw in 2005 and 800 mw from 2006-2011
- Improves reliability and flexibility
- Adds termination rights for non-deliveries, anti-gaming provisions
- State can assign contract to credit-worthy utility
- Signed 6/10/03

12



Summary of Renegotiated Contracts – cont.

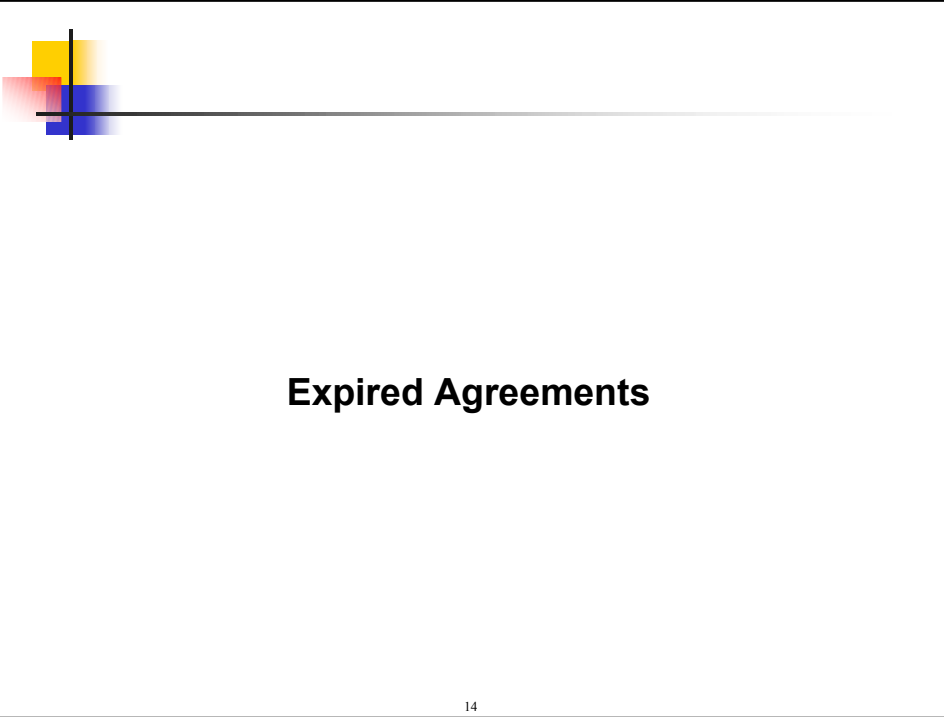
(32-33) El Paso Merchant Energy L.P. – Savings \$125 million

- Contract length is from Feb. 2001 to Dec. 31, 2005
- Original Cost of contract is \$295 million
- CERS will also receive cash & cash equivalence (company stock) totaling approximately \$360 million
- Savings will be reflected in CERS' revenue requirement to lower ratepayer cost
- Signed 6/26/03

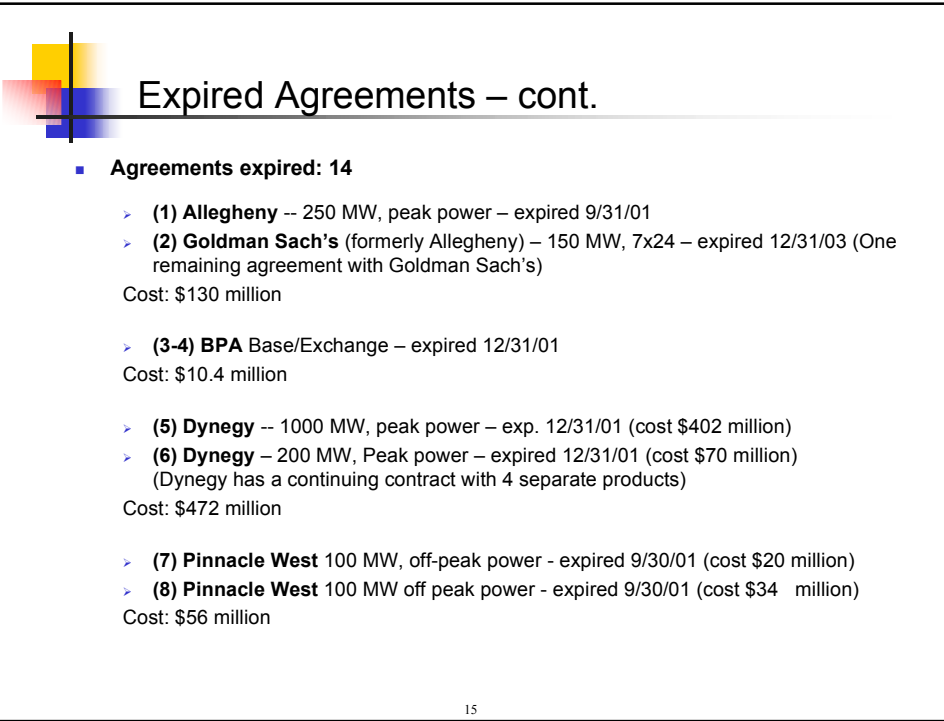
(34) Morgan Stanley Capital Group – Savings \$40 million

- Saves \$40 million from original cost of \$209 million
- Reduces MWh price from \$95 to \$81
- Reduces MW from 50 to 40 in 2003; to 35 MW in 2004/05
- Option to buy 30,000 MMBTU of natural gas – enough for 260 MW for 16 hours a day for 3 years
- Signed on 7/11/03

13



Expired Agreements



Expired Agreements – cont.

- **Agreements expired: 14**
 - (1) **Allegheny** -- 250 MW, peak power – expired 9/31/01
 - (2) **Goldman Sach's** (formerly Allegheny) – 150 MW, 7x24 – expired 12/31/03 (One remaining agreement with Goldman Sach's)
Cost: \$130 million
 - (3-4) **BPA** Base/Exchange – expired 12/31/01
Cost: \$10.4 million
 - (5) **Dynegy** -- 1000 MW, peak power – exp. 12/31/01 (cost \$402 million)
 - (6) **Dynegy** – 200 MW, Peak power – expired 12/31/01 (cost \$70 million)
(Dynegy has a continuing contract with 4 separate products)
Cost: \$472 million
 - (7) **Pinnacle West** 100 MW, off-peak power - expired 9/30/01 (cost \$20 million)
 - (8) **Pinnacle West** 100 MW off peak power - expired 9/30/01 (cost \$34 million)
Cost: \$56 million



Expired Agreements – cont.

- **(9) PX Block Forward**, 125 MW, NP 15 - expired 12/31/01 (Cost \$140 million)
- **(10) PX Block Forward**, 450 MW, SP 15 - expired 12/31/01 (Cost \$210 million) - PX Block Forward contracts completely expired
Cost: \$350 million

- **(11) Mirant** – 500 MW, NP 15, 6x16, must take – expired 12/31/02
Cost: \$590 million

- **(12) Intercom** – 200 MW, NP 15, 6x16, must take – expired 8/31/2003
Cost \$73.7 million

- **(13) Constellation** – 200 MW, SP15, 6X16, must take - expired 10/31/03
Cost \$347 million

- **(14) Imperial Valley (Primary Power)** – 16 MW, 7x24 – expired 12/31/03
Cost \$34 million



Terminated Contracts



Terminated Contracts – cont.

- **Contracts terminated: 2**

- **(1) Capitol Power**, 15 MW, biomass, renegotiated 4/22/02, terminated 11/15/02 for failure to meet major construction milestones; missed COD date

Cost \$47.8 million

- **(2) County of Santa Cruz**, 3 MW, biomass, renegotiated 12/20/02, terminated 1/02/04 for failure to meet required construction milestones, missed COD date

Cost \$7.2 million

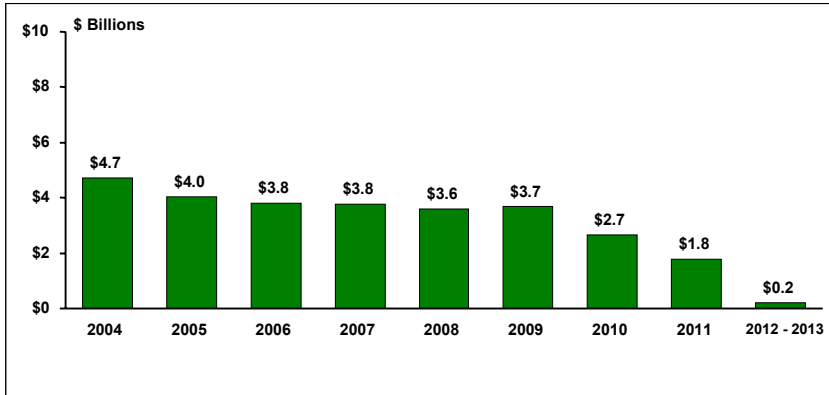


Long-Term Contracts Portfolio



Long-Term Contracts Portfolio – cont.

The remaining cost for the portfolio of contracts, from 2004 through 2013, is approximately \$28.3 billion dollars (totals exclude surplus energy sales, bond charges, reserves, and other costs)



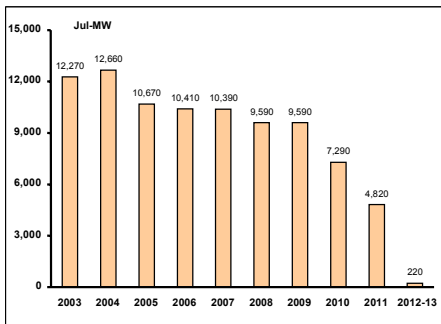
(*) Annual projections may vary due to updates to gas price forecasts, contract utilization, and other assumptions. Excludes surplus energy sales, bond charges, reserves, and other costs



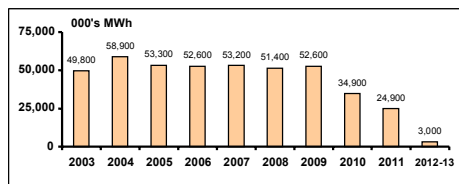
Long-Term Contracts Portfolio – Cont.

The long-term contracts portfolio peaks in 2004 at 12,660 MW's, remains above 10,000 MW's from 2005 through 2007, and then significantly drops off after 2009

Contract Capacity (MW)



Contract Energy (MWh)



	% of Annual Energy										
	'03	'04	'05	'06	'07	'08	'09	'10	'11	12-'13	
Must-Take	82%	87%	85%	86%	85%	82%	80%	69%	76%	39%	
Dispatchable	16%	12%	13%	13%	14%	16%	18%	29%	22%	46%	
Renewable	1%	1%	1%	1%	1%	1%	1%	2%	2%	15%	

(%s may not add to 100% due to rounding)

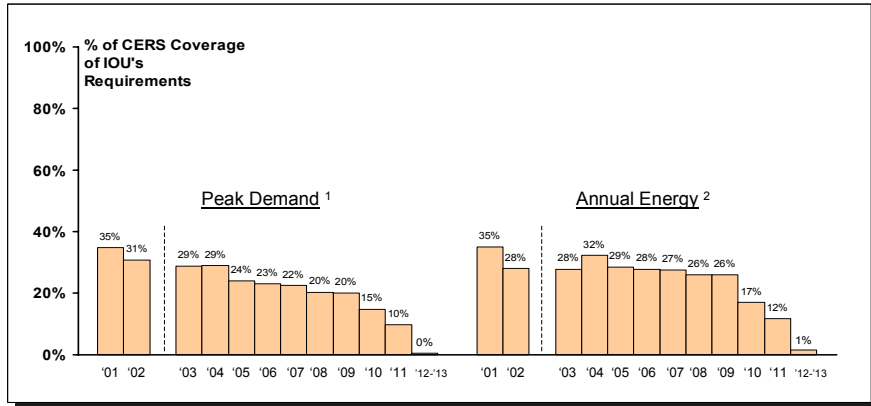
Notes:

Includes all renegotiated contracts to-date. Wind projects have been de-rated and includes an additional 1,000 MW system-contingent option in Dynegy contract (contract expires end of 2004).



Long-Term Contracts Portfolio – cont.

In 2001, CERS covered 35% of the three utilities peak demand and energy requirements. By 2010, the remaining long-term contracts will only cover approximately 15% of the utilities requirements



Notes:

- For 2001 through 2003, percentage based on MW's scheduled by CERS and CAISO peak demand. PG&E, SCE, and SDG&E primarily account for CAISO total demand. For 2004 and beyond, percentage based on MW's under contract and 2% annual escalation of '03 peak demand.
- For 2001 and 2002, percentage based on CERS recorded and energy deliveries to utility customers as reported in utilities financial statements. For 2003 and beyond percentage based on total contract deliveries (excluding surplus sales) and 2% annual escalation of '02 total energy requirements of the three utilities.

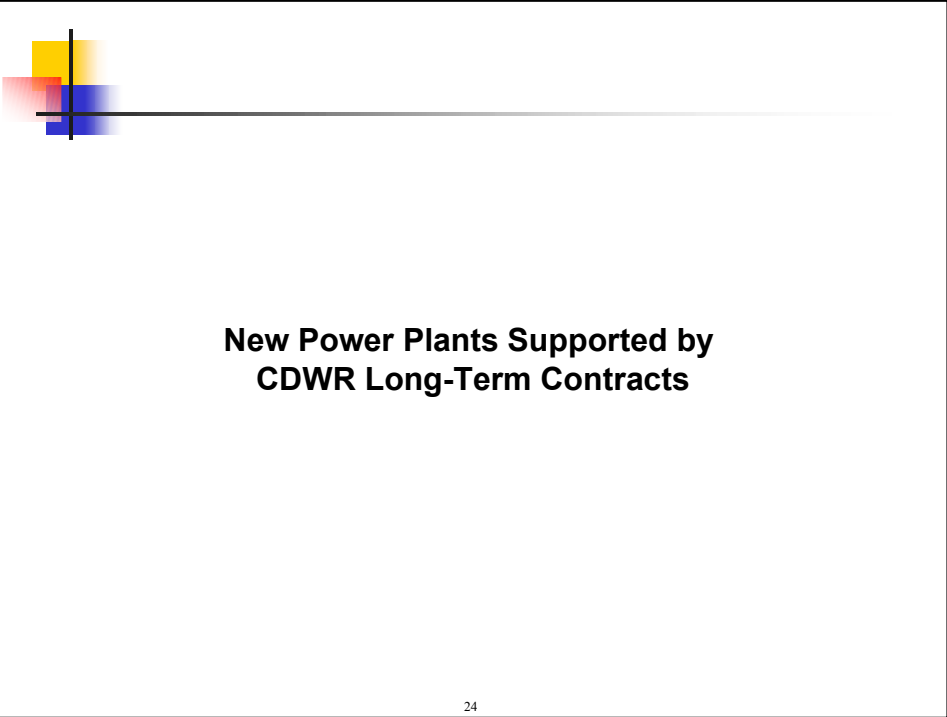


Long-Term Contracts Portfolio – cont.

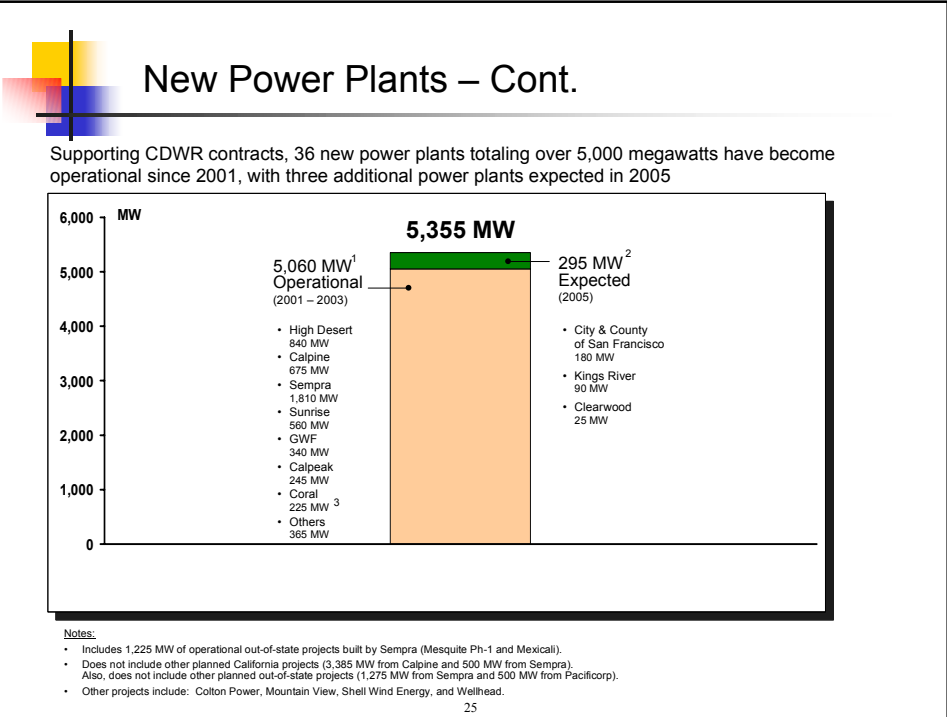
Expiration dates of the remaining long-term contracts portfolio

Year of Expiration (Year-end unless otherwise noted)										
2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Constellation Power <small>(Prod 1 expired Jun-'03, Prod 2 expired Oct-'03)</small>	Dynergy	Calpine <small>(San Jose)</small>	Soledad <small>(Oct-'06)</small>	Williams <small>(Product A)</small>		Calpine 1&2	Colton Power <small>(Oct-'10)</small>	Calpeak(s) <small>(2 projects Oct-'11, 3 projects Dec-'11)</small>	Clearwood	Shell Wind Energy
Goldman Sachs Group <small>(NP-15 product)</small>		El Paso					Williams <small>(Product B, C, D, & Gas Supply Contract)</small>	Calpine 3 <small>(Jul-'11)</small>	Coral <small>(Jun-'12)</small>	
Intercom <small>(Expired Aug-'03)</small>		Morgan Stanley						Goldman Sachs Group <small>(SP-15 Product)</small>	GWf Ph3 <small>(Oct-'12)</small>	
Primary Power								GWf <small>(Phase 1 & 2)</small>	Sunrise <small>(Jun-'12)</small>	
								High Desert <small>(Mar-'11)</small>		
								Mountain View <small>(Sept-'11)</small>		
								PacifiCorp <small>(Jun-'11)</small>		
								Sempra <small>(Sept-'11)</small>		
								Wellhead(s) <small>(Oct-'11)</small>		
Contract MW's Expiring* <small>(non-coincident)</small>										
970	2,100	360	10	200	0		2,000	1,450	4,640	1,300

(* MW's shown were available during all or part of the calendar year that will not be available the following year. Contract MW's expiring are non-coincident and not cumulative due to expiration date and annual MW's may vary. For Dynergy contract, includes 1,000 MW system-contingent option.



New Power Plants Supported by CDWR Long-Term Contracts



SUBCOMMITTEE NO. 2

Agenda

Byron Sher, Chair
Sheila Kuehl
Bruce McPherson



Part II

Monday, May 17, 2004
1:30 p.m.
Room 112

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Resources—Environmental Protection—Public Safety—Energy

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.

Part II—Open Issues

Consent Agenda

3560 State Lands Commission

1. April Finance Letter

Summary. The following is a summary of the budget amendments requested by the administration in the 2004-05 April finance letter for State Lands Commission (SLC).

State Lands Commission

April Finance Letter, 2004-05

(Dollars in Thousands)

Description	Special Funds	Total	Positions
<i>Liquified Natural Gas (LNG) Facilities</i>	\$101	\$101	1.0
<i>Environmental Review.</i> Proposes to increase reimbursements from two LNG companies to review land leases for subsea pipelines through state waters associated with the construction of LNG facilities off Ventura and Santa Barbara counties.			
Total	\$101	\$101	1.0

Staff Recommendation. No issues have been raised with the administration's April finance letter for SLC. *Staff recommends approving the finance letter.*

2. May Revision

Summary. The following is a summary of the budget amendments requested by the administration in the 2004-05 May Revision for SLC.

State Lands Commission

May Revision, 2004-05

(Dollars in Thousands)

Description	Special Funds	Total	Positions
General Fund Reduction. Proposes reductions in support for land management, mineral resources management, and administrative staff.	-\$244	-\$244	-2.9
Total	-\$244	-\$244	-2.9

Staff Recommendation. No issues have been raised with the administration's May Revision for SLC. *Staff recommends approving the May Revision for SLC.*

3680 Department of Boating and Waterways**1. April Finance Letter**

Summary. The following is a summary of the budget amendments requested by the administration in the 2004-05 April finance letter (including additional April 30 amendments) for the Department of Boating and Waterways (DBW).

Department of Boating and Waterways**April Finance Letter (including Amendments), 2004-05***(Dollars in Thousands)*

Description	Special Funds	Federal Funds	Total	Positions
<i>Clean Vessel Act Program Support.</i> Proposes to permanently increase support funding for the federal Clean Vessel Act Grant Program, which provides grant and education programs to help reduce water pollution caused by boating activities.	-	\$240	\$240	0.0
<i>Clean Vessel Act Program Grants.</i> Proposes to increase funding for the federal Clean Vessel Act Program for pump-out equipment grants to marina operators in order to maximize federal funds available for this program.	-	90	90	0.0
<i>Transfer Funding from Capital Outlay to Support.</i> Proposes to transfer \$180,000 from capital outlay to state support to support the department's costs to administer various capital outlay projects.	0	-	0	0.0
<i>Reallocation of Funds Between Projects.</i> Proposes to redistribute funds within three projects in the City of Long Beach considered under the Small Craft Harbors Loan Program. The City of Long Beach has requested these adjustments.	0	-	0	0.0
<i>Reappropriate Capital Outlay.</i> Proposes to reappropriate \$310,000 for working drawings for the Channel Islands boating and instruction safety center.	0	-	0	0.0
Total	\$0	\$330	\$330	0.0

Staff Recommendation. No issues have been raised with the administration's April finance letter for DBW. ***Staff recommends approving the finance letter, including additional amendments.***

3820 San Francisco Bay Conservation and Development Commission

Summary. The following is a summary of the budget amendments requested by the administration in the 2004-05 May Revision for the San Francisco Bay Conservation and Development Commission (BCDC).

San Francisco Bay Conservation and Development Commission

May Revision, 2004-05

(Dollars in Thousands)

Description	General Fund	Total
<i>Permit Fee Increase.</i> Proposes budget bill language to increase the commission's permit fees so they cover 20 percent of the cost of its regulatory program.	\$0	\$0
Total	\$0	\$0

Previous Subcommittee Action. At the April 1 meeting of the Subcommittee the Subcommittee adopted budget bill language to require the commission to increase permit fees to cover 20 percent of the cost of its regulatory program. The administration's proposal is consistent with the earlier action taken by the Subcommittee.

Staff Recommendation. No issues have been raised with this proposal. Staff recommends the Subcommittee *approve the May Revision for BCDC*, which is consistent with prior action by the Subcommittee.

3900 Air Resources Board

Summary. The following is a summary of the budget amendments requested by the administration in the 2004-05 May Revision for the Air Resources Board (ARB).

Air Resources Board

May Revision, 2004-05

(Dollars in Thousands)

Description	General Fund	Special Funds	Total	Personnel Years
<i>Air Quality Workload.</i> Proposes restoration of positions reduced during the Control Section 4.10 reductions. These positions are needed to carry out the state's implementation plan as required by the federal Clean Air Act.	-	\$2,091	\$2,091	26.0
Total	\$0	\$2,091	\$2,091	26.0

Staff Recommendation. No issues have been raised with the administration's May Revision proposal for ARB. *Staff recommends the subcommittee approve the May Revision amendments for ARB.*

3910 Integrated Waste Management Board

Summary. The following is a summary of the budget amendments requested by the administration in the 2004-05 May Revision for the Integrated Waste Management Board (IWMB).

California Integrated Waste Management Board

May Revision, 2004-05

(Dollars in Thousands)

Description	General Fund	Special Funds	Total	Personnel Years
<i>E-Waste Recycling Program.</i> Proposes to increase expenditure authority for the E-Waste recycling program due to an expansion of covered products to include liquid crystal display (LCD) monitors and LCD/Plasma televisions.	-	\$21,100	\$21,100	0.0
Total	\$0	\$21,100	\$21,100	0.0

Staff Recommendation. No issues have been raised with the administration's May Revision proposal for IWMB. *Staff recommends the subcommittee approve the May Revision amendments for IWMB.*

0555 Secretary for Environmental Protection

1. Consolidation of Administrative Functions

Background. When the California Environmental Protection Agency (Cal-EPA) was created in 1991, then Governor Pete Wilson committed to the Legislature that Cal-EPA would be a coordinated, accountable agency focusing on the greatest risks to public health and the environment. In the reorganization plan a number of goals for Cal-EPA were established, including better coordination of the state's environmental programs and reducing overlap, duplication, and conflict in the regulation and administration of these programs.

Funding Environmental Protection Programs. Over the past several years, General Fund support for environmental protection programs has been reduced approximately 85 percent from its peak in the 2000-01 budget year. Some of these expenditures have been replaced with fees assessed on the industry or other resource user groups. Nevertheless, overall funding for environmental protection programs (less bond funding) has declined by over 15 percent over the past five years. Despite these reductions the environmental problems facing the state continue to rise.

Administrative Functions Could Be Streamlined. The funding gap facing many environmental protection programs increases the urgency for streamlining functions to the extent possible to achieve savings that can be reinvested into programs to improve the state's environment. Nearly \$100 million or approximately 18 percent of all funds expended by Cal-EPA boards, departments, and offices are for various administrative functions, including legal, communications, information technology, and various other administrative functions. Currently, each board, department, or office within Cal-EPA has separate staffs that administer these functions. These functions could be consolidated and streamlined in order to reduce overlap and duplication of these activities. The consolidation of these functions would result in savings due to economies of scale and the reduction of duplicating activities. This in turn would free up additional funds to invest in environmental protection programs across the state.

Staff Recommendation. Staff recommends the Subcommittee direct staff, the LAO, and the administration to develop trailer bill language that accomplishes a consolidation of common administrative functions at all Cal-EPA boards, departments, and offices.

3480 Department of Conservation

1. April Finance Letter

Summary. The following is a summary of the budget amendments requested by the administration in the 2004-05 April finance letter for Department of Conservation (DOC). The following listing excludes bond-funded amendments since these amendments were approved at the Subcommittee's April 29 meeting.

Department of Conservation

April Finance Letter - Excluding Bond Funds, 2004-05

(Dollars in Thousands)

Description	Special Funds	Total	Positions
Surface Mining and Reclamation Act (SMARA)	0	0	6.0
Program Staffing. Requests the establishment of 6 permanent positions to meet statutory responsibilities under SMARA. Funding for these positions is made possible by Chapter 794, Statutes of 2003 (SB 649, Kuehl) that increased the maximum annual reporting fee on mining operations resulting in an increase in revenues of about \$1.2 million. These additional revenues are proposed for expenditure in the Governor's budget.			
Abandoned Mine Remediation. Proposes funds from the Abandoned Mine Reclamation and Mineral Fund to remediate abandoned mine features that pose physical safety hazards to the public. The expenditure level is an estimate of revenues this fund will receive from a new fee on gold and silver established by SB 649 (Kuehl).	180	180	0.0
Total	\$180	\$180	6.0

Previous Subcommittee Discussion. The Subcommittee discussed the implementation SB 649 (Kuehl) at its April 1 meeting. This bill adopted a new fee schedule for silver and gold producers and dedicated that funding to abandoned mine reclamation. Revenues estimated to be generated by this bill ranged from \$400,000 to \$800,000. However, the department has indicated that it will only collect and expend \$180,000 for this purpose in the budget year.

Questions the Subcommittee may wish to ask the department.

- Why are the revenues less than previously estimated?

Staff Recommendation. Staff recommends the Subcommittee *approve the finance letter.*

2. May Revision

Summary. The following is a summary of the budget amendments requested by the administration in the 2004-05 May Revision for DOC.

Department of Conservation

May Revision, 2004-05

(Dollars in Thousands)

Description	Special Funds	Total	Positions
<i>Computer Network Maintenance.</i> Proposes to fund hardware and software maintenance for the department's computer network.	\$268	\$268	0.0
Total	\$268	\$268	0.0

Williamson Act Penalty Revenues. At the April 1 meeting of the Subcommittee, the Subcommittee questioned the department's estimates of Williamson Act penalty revenues. The estimates were significantly less than in prior years and did not reflect increased revenues due to the implementation of Chapter 694, Statutes of 2003 (AB 1492, Laird) that expanded penalties to landowners found to be in breach of a Williamson Act contract. The Governor's May Revision assumes increased Williamson Act penalty revenues of \$4.6 million in the current year and \$2 million in the budget year. This results in total Williamson Act cancellation penalty revenues of \$11.8 million in the current year and \$4.2 million in the budget year. (Current year revenues are especially high due to one large property sale.) The Governor proposes to transfer \$2 million of the revenues in the budget year to the Soil Conservation Fund to support DOC programs. The remaining revenues are deposited in the General Fund to help address the state's budget problem.

Staff Recommendation. No issues have been raised with the administration's May Revision proposal. *Staff recommends approving the May Revision proposal for DOC.*

3720 California Coastal Commission

1. Alternative Funding Source for Coastal Commission's Permitting Functions

Subcommittee's Previous Direction. At the April 1 meeting of this subcommittee staff were directed to develop trailer bill language that would direct the Coastal Commission to increase its fees. The subcommittee also directed that the trailer bill language amend current law that requires all permit revenues to be transferred to the State Coastal Conservancy, thereby allowing a portion of these revenues to be deposited in the General Fund to support the commission's permitting functions.

Staff Recommendation. Staff recommends the Subcommittee adopt trailer bill language as drafted in **Appendix B**. The language does the following:

- (1) Directs the commission to increase their permitting fees so that the fees would cover roughly 50 percent of the program costs related to permitting. The fees will be adjusted annually for inflation by the consumer price index.
- (2) Amends current law to limit the transfer of fee revenues to the State Coastal Conservancy to \$500,000 and adjust this transfer annually by the consumer price index. This will allow the remaining fee revenues to be deposited in the General Fund for support of the commission's permitting activities.

2. April Finance Letter

Summary. The following is a summary of the budget amendments requested by the administration in the 2004-05 April finance letter for the California Coastal Commission.

California Coastal Commission

April Finance Letter, 2004-05

(Dollars in Thousands)

Description	General Fund	Special Funds	Total	Positions
Coastal Marine Public Education Program Support. Proposes to permanently shift support for one position from the General Fund to the Coastal Beach and Coastal Enhancement Account, which is supported by revenues from the Whale Tail License Plate.	-\$163	\$163	\$0	0.0
Coastal Marine Public Education Program Grants. Proposes to provide a one-time augmentation of Whale Tail License Plate funds available for grants to non-profits and government agencies to educate the public on conservation of coastal and ocean resources. A portion of these funds (\$300,000) were proposed by the State Coastal Conservancy to be shifted from the conservancy to the commission due to a lack of funding available at the commission for these grants.	-	430	430	0.0
Total	-\$163	\$593	\$430	0.0

Allocation of Whale Tail Funds. The Analyst has identified a technical inconsistency in current law regarding the allocation of the whale tail environmental license plate funds. Trailer bill language has been suggested to correct this issue.

Staff Recommendation. No issues have been raised with the administration's April finance letter for the Coastal Commission. **Staff recommends approving the finance letter and adopting the following trailer bill language to clarify current law.** Staff has been advised that the commission and DOF agree to the language change.

Vehicle Code Section 5067

(c) (1) One-half in the California Beach and Coastal Enhancement Account, which is hereby created in the California Environmental License Plate Fund. (a) Upon appropriation by the Legislature, the money in the account shall be allocated by the Controller *first* to the California Coastal Commission for expenditure for the Adopt-A-Beach program, the Beach Cleanup Day program, coastal public education programs, and grants to local governments and nonprofit organizations for the costs of operating and maintaining public beaches related to these programs, *and then, from remaining available funds, -Any funds remaining in the California Beach and Coastal Enhancement Account at the end of a fiscal year shall be allocated by the Controller, after appropriation by the Legislature,* to the State Coastal Conservancy for coastal natural resource restoration and enhancement projects and for other projects consistent with the provisions of Division 21 (commencing with Section 31000) of the Public Resources Code.

(2) One-half in the California Environmental License Plate Fund.

3790 Department of Parks and Recreation

1. April Finance Letter—Excluding Resources Bond Funds

Summary. The following is a summary of the budget amendments requested by the administration in the 2004-05 April finance letter for the Department of Parks and Recreation (DPR). The following listing excludes resources bond-funded amendments since these amendments were approved at the Subcommittee's April 29 meeting.

Department of Parks and Recreation

April Finance Letter - Excluding Bond Funds, 2004-05

(Dollars in Thousands)

Description	Reim- bursements	Total	Positions
<i>Joint Communication Services.</i> Proposes to transfer 7 permanent positions on a two-year limited term basis to Department of Parks and Recreation from Department of Fish and Game (DFG) and increased reimbursements to provide statewide dispatch services for DFG as part of a cooperative joint venture to allow DFG to gain 24-hour communications to help ensure warden safety and timely responses to oil spills.	\$417	\$417	7.0
Total	\$417	\$417	7.0

The administration has also submitted amendments to its April finance letters. The following reappropriations for capital outlay projects at DPR were included as amendments to the April finance letter.

Department of Parks and Recreation**April Finance Letter Amendment - Bond Fund Reappropriations, 2004-05***(Dollars in Thousands)*

Description	Prop 12	Prop 40	Special Funds	Total
<i>East Bay Regional Park District.</i> Proposes to reappropriate bond funds to complete public park improvements in the East Bay Shoreline. The project required a comprehensive environmental review resulting in delay.	\$1,201	-	-	\$1,201
<i>Statewide Opportunity Acquisitions.</i> Proposes to reappropriate bond funds to make opportunity land purchases.	3,000	-	-	3,000
<i>Statewide Redwood Acquisitions.</i> Proposes to reappropriate bond funds to make opportunity Redwood-related acquisitions.	0	-	-	0
<i>Statewide Habitat Acquisitions.</i> Proposes to reappropriate bond funds to make habitat acquisitions.	4500	-	-	4,500
<i>Topanga State Park.</i> Proposes to reappropriate bond funds for Topanga Canyon acquisitions that have been delayed because of tenant appeals and legal challenges.	1,191	-	-	1,191
<i>Pfeiffer Big Sur State Park.</i> Proposes to reappropriate bond funds for constructing a park entrance and day use redevelopment project that was delayed by the process of acquiring a local coastal permit.	3,222	-	-	3,222
<i>Pigeon Point Light Station State Historic Park.</i> Proposes to reappropriate bond funds for acquiring land at Bolsa Point/Whaler's Cove.	3,999	-	-	3,999
<i>Habitat Conservation Acquisitions.</i> Proposes to reappropriate funds for habitat-related land acquisitions.	-	-	508	508
<i>Oceano Dunes State Vehicle Recreation Area.</i> Proposes to reappropriate funds for acquisition of the La Grande Tract.	-	-	3,227	3,227
<i>Leland Stanford Mansion State Historic Park.</i> Proposes to reappropriate bond funds for construction related to rehabilitating the mansion grounds.	-	2,121	-	2,121
Total	\$17,113	\$2,121	\$3,735	\$22,969

Staff Recommendation. No issues have been raised with the administration's April finance letter for DPR or the proposed amendments. ***Staff recommends approving the finance letter and the amendments.***

2. Governor's Park Fee Proposal

Subcommittee's Previous Direction. At the April 1 meeting of the Subcommittee staff was directed to develop supplemental report language with the LAO and the administration to require the department to report on the impacts of the administration's new fee policy and to include the

broad policy directives recommended by the LAO. The Analyst has drafted the following language. Staff has been informed that both the department and DOF are fine with the language.

Item 3790-001-000—Department of Parks and Recreation

1. The Department of Parks and Recreation shall, on or before January 10, 2005, submit to the budget and fiscal committees of both houses and the Legislative Analyst's Office a report on its progress in implementing a new fee structure for the Department of Parks and Recreation. The report shall include:

- Fee schedule for all units of the state park system.
- Actual monthly revenue collections for day use, camping, and other fees through October, 2004.
- An analysis, based on actual revenues received to date, on whether the department will reach its total revenue projections as enacted in the 2004-05 Budget Act.
- Monthly visitor attendance for 2003-04 and 2004-05 (to date).

2. It is the intent of the Legislature that the setting and collecting of park fees should be guided by the following policy parameters:

- ***The Role of Fees in State Park Funding.*** Funding for state parks should include a reasonable sharing of costs between the users of state parks and the general public.
- ***Fee Structure Should Include Differential Pricing.*** The fee structure should reflect the different levels of service and facilities that are offered by state parks.
- ***Fees Should be Comparable With the Fees of Similarly Situated Recreational Providers.*** Fees for the use of state parks should be comparable with the fees for the use of similar privately and publicly owned facilities in the vicinity of the state park.
- ***Fee Collection Should Be User-Friendly and Convenient to Park Users.*** Visitors should be offered convenient methods of payment (such as automated fee machines and payment) in order to facilitate fee collection.
- ***Fees Should Be Used to Support Deferred Maintenance When Feasible.*** The department should maintain a portion of the fee revenues when feasible at the site where they are collected in order to address deferred maintenance needs.

Staff Recommendation. Staff recommends the Subcommittee ***adopt the supplemental report language.***

3. California Main Street Program

Background. The California Main Street Program (CMSP) was developed to save historic commercial architecture, but has also provided economic development opportunities and opportunities to enhance the social, cultural, and environmental well being of traditional commercial districts in California. The California program is part of the National Main Street program, which is part of the National Trust for Historic Preservation. The California program does not provide funding to local communities for revitalization projects, but does provide a network of information and technical assistance to assist local communities in successful main street redevelopment projects that focus on historic preservation.

Recent Budget Reductions. Funding to support CMSP was eliminated in 2002-03. Subsequently, the agency that managed the program, the Technology, Trade, and Commerce Agency, was also eliminated. The program as administered by TTCA had a General Fund cost of \$350,000.

Recent Legislation. In 2003, AB 1123 (Parra) sought to move CMSP from TTCA to the Department of Parks and Recreation's (DPR's) Office of Historic Preservation (OHP). The OHP is responsible for statewide administration of the historic preservation program in California, including local outreach activities. The office's local outreach activities include certification of local preservation programs and technical assistance to communities. These activities are similar to activities performed by CMSP. Therefore, the purpose of the bill was to continue the CMSP as a program at DPR, given the similar missions of the CMSP and DPR's OHP.

Staff Recommendation. (1) The Subcommittee may wish to take action to adopt trailer bill language that would establish the California Main Street Program within the Office of Historic Preservation at the Department of Parks and Recreation. (2) To support this program, the Subcommittee may wish to increase the department's expenditure authority by \$175,000 from a new California Main Street Program Fund to support 2 positions. Revenues to this fund are not on deposit, but could include funds received from any of the following sources in the budget year, private contributions, federal funds, and/or fees for services provided by the department for services related to the California Main Street Program. Given the state's General Fund shortfall staff does not recommend dedicating additional General Fund resources to this program at this time.

4. Various Reappropriations

Summary. Staff has been notified that the following items require reappropriation by the Legislature to avoid the funds reverting to the state on June 30, 2004. In all cases, the funds proposed for reappropriation will be spent consistent with the original appropriation.

Department of Parks and Recreation

Legislative Requests - Reappropriations, 2004-05

(Dollars in Thousands)

Description	General Fund	Special Funds	Bond Funds	Total
City of Santa Monica. Request to reappropriate \$350,000 for EIRs and Planning related to the 415 PCH Project at Santa Monica Beach.	-	-	\$350	\$350
Total	\$0	\$0	\$350	\$350

Staff Recommendation. The Subcommittee may wish to adopt the following budget bill language to facilitate the reappropriation listed above.

3790-492—Reappropriation, Department of Parks and Recreation.

Notwithstanding any other provision of law, the period to liquidate encumbrances of the following citation is extended to June 30, 2005:

0005—Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Fund

(1) Item 3790-302-0005, Budget Act of 2001 (Ch. 106, Stats. 2001)

(15) 90.FH.100—Santa Monica SB:415 PCH Project – EIRs and Planning

8570 California Department of Food and Agriculture

1. Position Management

Previous Subcommittee Direction. At the March 18 meeting of the Subcommittee, the Subcommittee directed staff, LAO, and the California Department of Food and Agriculture (CDFA) develop trailer bill language that requires the department to comply with standard administrative procedures related to establishing new positions. This direction was in response to findings by the Analyst that the department currently has over 500 permanent positions in its position blanket. (The position blanket at the State Controller's Office (SCO) is typically utilized to establish short-term positions for addressing emergencies or peak-workloads.) The Analyst made findings that CDFA's current position management practices limit legislative oversight and recommends CDFA follow normal administrative practices for establishing permanent positions.

Department's Concerns. The CDFA continues to maintain that they need to be able to establish permanent positions outside of normal state administrative procedures. They cite the need to hire highly qualified scientists and other experts quickly on a permanent basis to address food and other human-health emergencies as one of the reasons they need increased flexibility. However, the department has not been able to make sufficient determinations as to why its operations differ significantly from other departments that also address emergencies in the state such as the Department of Health Services and the Office of Emergency Services.

Staff Recommendation. Staff recommends the Subcommittee adopt trailer bill language as drafted in **Appendix B**. The language does the following:

- (1) Requires the department to establish all permanent positions with the State Controller's Office (SCO), pursuant to standard state administrative policies. This applies to positions currently in the blanket and any permanent positions established in the future.
- (2) Requires the department to report to the Legislature January 10, 2005 on the permanent positions currently in the department's blanket that are established with SCO.
- (3) Exempts positions funded by the Agriculture Fund from the administrative rule that eliminates vacant positions if they have been vacant for 6 months. This action seems appropriate given the cyclical nature of the agriculture industry that is served by these programs and positions.

2. April Finance Letter

Summary. The following is a summary of the budget amendments requested by the administration in the 2004-05 April finance letter for CDFA.

California Department of Food and Agriculture
April Finance Letter, 2004-05
(Dollars in Thousands)

Description	General Fund	Personnel Years
<i>Mediterranean Fruit Fly Preventative Release Program.</i> Proposes a one-time appropriation to continue this program in the budget year.	\$8,021	132.0
Total	\$8,021	132.0

Background. The Mediterranean Fruit Fly Preventative Release Program (Medfly program) involves raising sterile medflies and releasing them throughout the Los Angeles Basin. Program costs have historically been shared equally between the state and the federal government.

LAO Recommendation. The Analyst recommended in 2003 the enactment of legislation authorizing CDFA to assess fees for the nonfederal cost of the Medfly program. The Analyst finds that benefits from the Medfly program are directly accrued by fruit growing industries in southern California.

CDFA's Supplemental Report Response. In 2003, supplemental report language was adopted by the Legislature to require the department to report on alternative funding mechanisms for supporting this program in order to reduce General Fund expenditures. The department concluded that any industry assessment would need to be applied to California growers as well as imported food items and would require federal authorization. Furthermore, the department concluded that additional federal funding would also be difficult to secure without a sufficient state match.

Staff Recommendation. Staff recommends approving this proposal. (See Item 3 – General Fund Budget for related recommendations.)

3. General Fund Budget

Previous Subcommittee Direction. At the March 18 meeting of the Subcommittee, the Subcommittee directed the department and DOF to develop options for reducing CDFA's General Fund budget an additional 5 percent and 10 percent. Staff has not received options from the department for additional General Fund savings. However, the department did provide the following detail on its General Fund expenditures.

California Department of Food and Agriculture
General Fund Budget Detail, 2004-05*(Dollars in Thousands)*

Description	General Fund
Animal Health and Food Safety Services	\$22,742
Animal Health and Food Safety Services.	7,880
California Animal Health and Food Safety Laboratory System.	10,620
Meat and Poultry Inspection.	2,682
Milk and Dairy Foods Control.	1,560
Agricultural Plant Health and Pest Prevention	\$50,366
Exclusion of Plant, Pests, and Disease.	11,310
Integrated Pest Management.	2,589
Pierce's Disease.	4,408
Pest Detection and Emergency Projects.	17,107
Plant Diagnostics Lab.	5,403
Mediterranean Fruit Fly Preventative Release Program.	8,021
Sterile Fruit Fly Production Facility.	1,528
Measurement Standards	\$1,922
General Agricultural Activities	\$85
Agricultural Export Program	85
Local Assistance	\$5,911
Agricultural Plant Health and Pest Prevention.	5,528
General Support.	383
Total	\$81,026

Governor's Budget. The Governor's budget proposes to redirect \$4.5 million from the County Agricultural Commissioners' (CACs') pest exclusion activities in order to restore funding for the state border inspection stations.

County Agricultural Commissioner's Pest Exclusion Activities Reduced. The \$4.5 million reduction in the CACs' pest exclusion activities has resulted in an 80 percent reduction to the CACs' high-risk pest exclusion activities. This has reduced the effectiveness of the border inspection station program since CACs are responsible for more detailed inspections of agricultural product shipments after they cross the border.

Staff Recommendation. The Subcommittee may wish to take the following two actions:

- (1) Reduce \$2.5 million General Fund from the department's state operations for agricultural plant health and pest prevention and augment local assistance to the County Agricultural Commissioners by a similar amount to fund county high-risk pest exclusion activities. This should help to make the investments in state's border inspection stations more effective since local CACs will have more resources available for detailed inspections of agricultural product shipments from out of state. An unallocated reduction will enable the department to prioritize its current expenditures in this area to address the state's greatest needs.

- (2) Increase the department's state operations budget for agricultural plant health and pest prevention by \$2.5 million from the department's Agriculture Fund. This will allow the department to expend any contributions made by the agricultural industry in the budget year to fund programs reduced due to the shift of General Fund to the CACs. This is consistent with the LAO's recommendation to require industry contributions for support of the Medfly program.
- (3) Given the state's current General Fund condition, the subcommittee should also eliminate General Fund support for the Pierce's disease program, thereby saving the state \$4.4 million General Fund.

4. Capital Outlay

Previous Subcommittee Direction. At the March 18 meeting of the Subcommittee, the Analyst raised concerns with the department's proposal to spend \$416,000 from the Agriculture Fund for preliminary plans, working drawings, and construction to repair an existing Medfly rearing facility in Waimanalo, Hawaii. The Analyst was concerned that the proposal was to fund repairs to an existing facility, which would have been more appropriately funded by the department's operating expenses. The department has since revised its proposal and the Analyst no longer has its concerns. The following is a summary of all of the department's capital outlay proposals for the budget year.

California Department of Food and Agriculture
Capital Outlay Budget Change Proposals and April Finance Letter, 2004-05
(Dollars in Thousands)

Description	Lease Revenue	
	Bonds	Total
Truckee Agricultural Inspection Station. Proposes to relocate the current inspection station. The new station will be built east of the town of Truckee on property near the California Highway Patrol's existing weigh station. Proposal funds working drawings and construction of the project.	\$19,236	\$19,236
Hawaii Medfly Rearing Facility Upgrades. Proposes to make refinements to the heating, cooling, humidification, and ventilation systems of this facility. Proposal funds preliminary plans, working drawings, and construction costs.	416	416
Yermo Agriculture Inspection Station. Proposes to reappropriate funding to complete working drawings and construction to relocate this station. Project was delayed due to environmental mitigation issues.	0	0
Hawaii Medfly Rearing Facility. Proposes to reappropriate \$583,000 for working drawings and construction of this facility due to delays in lease negotiations with the state of Hawaii.	0	0
Total	\$19,652	\$19,652

Staff Recommendation. Staff recommends approving the department's capital outlay April finance letter.

Appendix B—Trailer Bill Language

1. California Coastal Commission—Fee language
2. California Department of Food and Agriculture—Positions language

3720 California Coastal Commission—Trailer Bill Language

Language accomplishes the following:

- Directs the commission to increase their permitting fees so that the fees would cover roughly 50 percent of the program costs related to permitting. The fees will be adjusted annually for inflation by the consumer price index.
- Amends current law to limit the transfer of fee revenues to the State Coastal Conservancy to \$500,000 and adjust this transfer annually by the consumer price index. This will allow the remaining fee revenues to be deposited in the General Fund for support of the commission's permitting activities.

Draft Date: 5/17/04

Public Resources Code

Section 1:

- It is the intent of the Legislature that the California Coastal Commission revise its permit fee schedule to recover at least fifty percent of the costs incurred in processing and enforcing coastal development permits. Notwithstanding any other provision of law to the contrary, the Commission may collect fees from public agencies for processing a request for action by the Commission that is necessary for new development proposed by the public agency.***
- The adoption of permit fee increases pursuant to this subdivision shall be exempt from the review of the Office of Administrative Law and from the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.***
- It is the intent of the Legislature that the Governor's annual budget document display the Coastal Commission's permit fee revenues for past, current, and future budget years.***

Section 2.

30620. (a) By January 30, 1977, the commission shall, consistent with this chapter, prepare interim procedures for the submission, review, and appeal of coastal development permit applications and of claims of exemption. These procedures shall include, but are not limited to, the following:

- (1) Application and appeal forms.
- (2) Reasonable provisions for notification to the commission and other interested persons of any action taken by a local government pursuant to this chapter, in sufficient detail to ensure that a preliminary review of that action for conformity with this chapter can be made.
- (3) Interpretive guidelines designed to assist local governments, the commission, and persons subject to this chapter in determining how the policies of this division shall be applied in the coastal zone prior to the

certification of local coastal programs. However, the guidelines shall not supersede, enlarge, or diminish the powers or authority of the commission or any other public agency.

(b) Not later than May 1, 1977, the commission shall, after public hearing, adopt permanent procedures that include the components specified in subdivision (a) and shall transmit a copy of those procedures to each local government within the coastal zone and make them readily available to the public. The commission may thereafter, from time to time, and, except in cases of emergency, after public hearing, modify or adopt additional procedures or guidelines that the commission determines to be necessary to better carry out this division.

(c) (1) The commission may require a reasonable filing fee, ***to be adjusted annually by the increase in the consumer price index***, and the reimbursement of expenses for the processing by the commission of any application for a coastal development permit under this division and, except for local coastal program submittals, for any other filing, including, but not limited to, a request for revocation, categorical exclusion, or boundary adjustment, submitted for review by the commission.

(2) Any coastal development permit fees collected by the commission under paragraph (1) shall be deposited ***directly into the General Fund with the first \$500,000 transferred to the Coastal Access Account***, which is hereby created in the State Coastal Conservancy Fund. The money in the account shall be available, upon appropriation by the Legislature in the annual Budget Act, to the State Coastal Conservancy for grants to public agencies and private nonprofit entities or organizations for the development, maintenance, and operation of new or existing facilities that provide public access to the shoreline of the sea, as defined in Section 30115. Any grant funds that are not expended for those purposes shall revert to the account. Nothing in this paragraph authorizes an increase in fees or creates any new authority on the part of the commission.

(d) With respect to any appeal of an action taken by a local government pursuant to Section 30602 or 30603, the executive director shall, within five working days of receipt of an appeal from any person other than members of the commission or any public agency, determine whether the appeal is patently frivolous. If the executive director determines that an appeal is patently frivolous, the appeal shall not be filed unless a filing fee in the amount of three hundred dollars (\$300) is deposited with the commission within five working days of the receipt of the executive director's determination. If the commission subsequently finds that the appeal raises a substantial issue, the filing fee shall be refunded.

Section 3.

This act is an urgency statute and shall take effect immediately.

8570 California Department of Food and Agriculture—Trailer Bill Language

Language accomplishes the following:

- (1) Requires the department to establish all permanent positions with the State Controller's Office (SCO), pursuant to standard state administrative policies. This applies to positions currently in the blanket and any permanent positions established in the future.
- (2) Requires the department to report to the Legislature January 10, 2005 on the permanent positions currently in the department's blanket that are established with SCO.
- (3) Exempts positions funded by the Agriculture Fund from the administrative rule that eliminates vacant positions if they have been vacant for 6 months. This action seems appropriate given the cyclical nature of the agriculture industry that is served by these programs and positions.

Draft Date: 5/17/04

Food and Agriculture Code

221. The "Department of Food and Agriculture Fund," which is a special fund, is continued in existence. Any money that is directed by law to be paid into the fund shall be paid into it and, unless otherwise specifically provided, shall be expended solely for the enforcement of the law under which the money was derived. The expenditure from the fund for the enforcement of any law shall not, unless otherwise specifically provided, exceed the amount of money that is credited to the fund pursuant to the law.

221.1 Notwithstanding Section 13340 of the Government Code, all money deposited in the fund under the provisions enumerated below is hereby continuously appropriated to the department without regard to fiscal years for expenditure in carrying out the purposes for which the money was deposited and for making the refunds authorized by Section 302.

221.2 All money deposited in the fund under the provisions enumerated below is hereby exempted from Sections 13320 to 13324, inclusive, of the Government Code:

- (a) Article 7 (commencing with Section 5821) and Article 7.5 (commencing with Section 5850) of Chapter 8 of Part 1 of Division 4, Chapter 1 (commencing with Section 6701) of Part 3 of Division 4, and Chapter 5 (commencing with Section 53301) of Division 18.
- (b) Article 5 (commencing with Section 6001) of Chapter 9 of Part 1 of Division 4.
- (c) Article 8.5 (commencing with Section 6047.1) of Chapter 9 of Part 1 of Division 4.
- (d) Article 4.5 (commencing with Section 6971) and Article 5 (commencing with Section 6981) of Chapter 2 of Part 3 of Division 4.
- (e) Chapter 4 (commencing with Section 14200), Chapter 5 (commencing with Section 14501), and Chapter 6 (commencing with Section 14901) of Division 7.
- (f) Part 1 (commencing with Section 16301) and Part 2 (commencing with Section 17401) of Division 9.
- (g) Sections 19225, 19227, 19312, and 19315.
- (h) Division 10 (commencing with Section 20001).
- (i) Division 11 (commencing with Section 23001).
- (j) Part 4 (commencing with Section 27501) of Division 12.
- (k) Division 16 (commencing with Section 40501).
- (l) Chapter 9 (commencing with Section 44971) of Division 17.
- (m) Chapter 1 (commencing with Section 52001) of Division 18.

- (n) Chapter 2 (commencing with Section 52251) of Division 18.
- (o) Chapter 3 (commencing with Section 52651) of Division 18.
- (p) Chapter 4 (commencing with Section 52851) of Division 18.
- (q) Chapter 6 (commencing with Section 55401), Chapter 7 (commencing with Section 56101), and Chapter 7.5 (commencing with Section 56701) of Division 20.
- (r) Section 58582.
- (s) Chapter 1 (commencing with Section 61301), Chapter 2 (commencing with Section 61801), and Chapter 3 (commencing with Section 62700) of Part 3 of Division 21.
- (t) Chapter 5.5 (commencing with Section 12531) of Division 5 of the Business and Professions Code.
- (u) Chapter 7 (commencing with Section 12700) of Division 5 of the Business and Professions Code.
- (v) Chapter 14 (commencing with Section 13400) and Chapter 15 (commencing with Section 13700) of Division 5 of the Business and Professions Code.

221.3 Notwithstanding Section 221, 221.1, and 221.2, (a) the Department of Food and Agriculture shall establish all permanent positions with the State Controller's Office, pursuant to standard state administrative practices.

(b) The department shall report to the Chairs of the fiscal committees of the Legislature and the Legislative Analyst's Office, not later than January 10, 2005, on the positions established pursuant to subdivision (a) that have been funded from the department's blanket authority. The report shall include a description of the positions by program, classification, and fund source, as well as a complete description of the workload for the positions.

Government Code Section

12439. (c) The Controller shall reestablish any position for which the director of the department in which that position existed prior to abolishment certifies by August 15 that one or more of the following conditions existed during part or all of the six consecutive pay periods.

- (1) The position is necessary for directly providing 24-hour care in an institution operated by the state.
- (2) The position is necessary for the state to satisfy any licensing requirements adopted by a local, state, or federal licensing or other regulatory agency.
- (3) The position is directly involved in services for public health, public safety, or homeland security.
- (4) The position is being held vacant because the previous incumbent is eligible to exercise a mandatory right of return from a leave of absence as may be required by any provision of law including, but not limited to, leaves for industrial disability, nonindustrial disability, military service, pregnancy, childbirth, or care of a newborn infant.
- (5) The position is being held vacant because the department has granted the previous incumbent a permissive leave of absence as may be authorized by any provision of law including, but not limited to, leaves for adoption of a child, education, civilian military work, or to assume a temporary assignment in another agency.
- (6) Elimination of the position will directly reduce state revenues or other income by more than would be saved by elimination of the position.
- (7) ***The position is (i) funded entirely from monies appropriated pursuant to Section 221.1 of the Food and Agriculture Code, (ii) was established with the State Controller pursuant to Section 221.3 of the Food and Agriculture Code, and (iii) directly responds to unforeseen agricultural circumstances requiring the relative expertise that the position provides.***

- (d) Each department shall maintain for future independent audit all records on which the department relied in determining that any position or positions satisfied one or more of the criteria specified in paragraphs (1) to (6), inclusive, of subdivision (c).
- (e) The only other exceptions to the abolishment required by subdivision (a) are those positions exempt from civil service or those instructional and instruction-related positions authorized for the California State University. No money appropriated by the subsequent Budget Act shall be used to pay the salary of any otherwise authorized state position that is abolished pursuant to this section.
- (f) The Controller, no later than September 10 of each fiscal year, shall furnish the Department of Finance in writing a preliminary report of any authorized state positions that were abolished effective on the preceding July 1 pursuant to this section.
- (g) The Controller, no later than October 15 of each fiscal year, shall furnish the Joint Legislative Budget Committee and the Department of Finance a final report on all positions that were abolished effective on the preceding July 1.
- (h) Departments shall not execute any personnel transactions for the purpose of circumventing the provisions of this section.
- (i) Each department shall include a section discussing its compliance with this section when it prepares its report pursuant to Section 13405.
- (j) As used in this section, department refers to any department, agency, board, commission, or other organizational unit of state government that is empowered to appoint persons to civil service positions.
- (k) This section shall become operative July 1, 2002.

SUBCOMMITTEE NO. 2

Agenda

Byron Sher, Chair
Sheila Kuehl
Bruce McPherson



Monday, May 17, 2004
1:30 p.m.
Room 112

Outcomes

(Sher absent)

Part I—Energy Agenda

3360 Energy Resources Conservation Development Commission

1. April Finance Letter

- *Action.* Approve Finance letter.
- *Vote.* 2-0 (Sher)

2. Reappropriation of PVEA Funds

- *Action.* Approve reappropriation budget bill language for PVEA funds to finance Alameda-Contra Costa hydrogen fueling station.
- *Vote.* 2-0 (Sher)

Resources—Environmental Protection—Public Safety—Energy

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.

3360- -Reappropriation, Energy Resources Conservation and Development Commission. \$925,000 of the appropriation provided in the following citation is reappropriated for the purposes provided for in the appropriation, and shall be available for encumbrance and expenditure until June 30, 2005.

(1) Item 3360-001-0853, Budget Act of 2000, for issuing a contract or grant to Alameda-Contra Costa Transit District (AC Transit) for the development and demonstration of a gaseous hydrogen fueling station on AC Transit property for their Fuel Cell Demonstration Program.

3. Extension of Energy Technologies Research, Development and Demonstration Account

- **Action.** Approve trailer bill language to extend account.
- **Vote.** 2-0 (Sher)

Section 25630 of the Public Resources Code is amended to read:

25630. (a) The commission shall establish a small business energy assistance low-interest revolving loan program to fund the purchase of equipment for alternative technology energy projects for California's small businesses.

~~(b) The loan program may use royalty agreements, as provided in Chapter 7.4 (commencing with Section 25645), to replenish program funds beyond the amount of loan repayments. Loan repayments, interest, and royalties shall be deposited in the Energy Technologies Research, Development, and Demonstration Account. The interest rate shall be determined as provided in subdivision (g) of Section 25647, based on surveys of existing financial markets and at rates not lower than the Pooled Money Investment Account. Notwithstanding the expiration of Public Resources Code Chapter 7.8 (commencing with Section 25680), the Controller shall continue to maintain within the General Fund the Energy Technologies Research, Development, and Demonstration Account established under Public Resources Code Section 25683.~~

Section 25650 of the Public Resources Code is amended to read:

25650. (a) All funds from loan repayments and interest that become due and payable for loans made by the commission pursuant to an agriculture energy assistance program shall be deposited in the Energy Technologies Research, Development, and Demonstration Account, and shall be available for loans and technical assistance pursuant to this section, upon appropriation in the Budget Act. Up to 20 percent of the annual appropriation may be available for technical assistance. *Notwithstanding the expiration of Public Resources Code Chapter 7.8 (commencing with Section 25680), the Controller shall continue to maintain within the General Fund the Energy Technologies Research, Development, and Demonstration Account established under Public Resources Code Section 25683.*

(b) Loans made pursuant to this section shall be for the purchase of equipment and services for agriculture energy efficiency and development demonstration projects, including, but not limited to, production of methane or ethanol, use of wind, photovoltaics, and other sources of energy for irrigation pumping, application of load management conservation techniques, improvements in water pumping and pressurization techniques, and conservation tillage techniques.

(c) The loans shall contain terms that provide for a repayment period of not more than

seven years and for interest at a rate that is not less than 2 percent below the rate earned by moneys in the Pooled Money Investment Account.

4. California Climate Action Registry

Action. Held open.

5. Energy Resources Programs Account

Action. Approved transfer of \$12 million ERPA to the General Fund to help address the state's budget problem.

Vote. 2-0 (Sher)

3860 Department of Water Resources (California Energy Resources Scheduling Division)

1. April Finance Letter—Energy Related

Action. Approved Finance letter for all CERS-related items.

Vote. 2-0 (Sher)

2. CERS Administration Support

Action. Approved a reduction in the CERS contingency reserve of \$1.25 million (half) and approved the following budget bill language.

Vote. 2-0 (Sher)

3860-001-3100

Provision X. The department shall notify the chairs of the Joint Legislative Budget Committee prior to expending the \$1,250,000 contingency reserve included in this item.

3. Status of Contract Renegotiations—Informational Item

Action. No action.

8660 California Public Utilities Commission

1. April Finance Letter

Action. Approved April finance letter.

Vote. 2-0 (Sher)

2. California Teleconnect Fund Program

Action.

- (1) No Action.
- (2) No Action.
- (3) Approved supplemental report language directing CPUC to report to the Legislature by February 1, 2005 with (a) an estimate of the program savings resulting from the adoption of the need-based sliding scale for schools and from applying the E-Rate discount prior to any CTF discount, (b) recommendations for alternative uses for CTF funds to most effectively address the Digital Divide, and (c) an estimate of the surcharge level needed to meet the needs of the CTF program. (To be drafted.)

Vote. 2-0 (Sher)

3. Telephonic Reader

Action. Approve Governor's proposal, including trailer bill language.

Government Code

68926.3. Notwithstanding any other provision of law, sixty-five dollars (\$65) of each fee collected in a civil case by the clerk of each court of appeal pursuant to Section 68926 shall be paid into the State Treasury for deposit in a special account in the General Fund to be known as the California State Law Library Special Account, which account is hereby established. Moneys deposited in the California State Law Library Special Account during the 1992-93 fiscal year are hereby appropriated for that fiscal year to the California State Law Library for its support. In fiscal years subsequent to the 1992-93 fiscal year, these moneys shall be available for the support of the California State Law Library upon appropriation thereto by the Legislature in the annual Budget Act. This section shall remain in effect only until January 1, ~~2005~~ 2010, and as of that date, is repealed, unless a later statute which is enacted before that date extends or repeals that date.

Public Utilities Code Sections

270. (a) The following funds are hereby created in the State Treasury:

- (1) The California High-Cost Fund-A Administrative Committee Fund.*
- (2) The California High-Cost Fund-B Administrative Committee Fund.*
- (3) The Universal Lifeline Telephone Service Trust Administrative Committee Fund.*
- (4) The Deaf and Disabled Telecommunications Program Administrative Committee Fund.*
- (5) The Payphone Service Providers Committee Fund.*
- (6) The California Teleconnect Fund Administrative Committee Fund.*

(b) Moneys in the funds may only be expended pursuant to this chapter and upon appropriation in the annual Budget Act. Any appropriation from the California High-Cost Administrative Committee Fund-B for the purposes of the grant program established in Section 276.5 of the Public Utilities Code regarding rural telecommunications infrastructure, may not be made until all of the following events have occurred:

- (1) The United States Supreme Court has decided Iowa Utilities Board v. Federal Communications Commission (219 F.3d 744 (8th Cir.); certiorari granted January 22, 2001).*
- (2) The commission recalculates the statewide average cost to serve a residential line stated in Decision 96-10-066, as it determines to be appropriate.*
- (3) The commission is current on all claims made by carriers for service provided in high-cost areas, except for those claims that the commission is in the process of investigating, contesting, or disallowing.*

(c) Moneys in each fund may not be appropriated, or in any other manner transferred or otherwise diverted, to any other fund or entity, except as provided for in Sections 276 and 276.5 of the Public Utilities Code and Sections 19325 and 19325.1 of the Education Code.

(d) This section shall remain in effect only until January 1, 2006, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2006, deletes or extends that date.

270. (a) The following funds are hereby created in the State Treasury:

(1) The California High-Cost Fund-A Administrative Committee Fund.

(2) The California High-Cost Fund-B Administrative Committee Fund.

(3) The Universal Lifeline Telephone Service Trust Administrative Committee Fund.

(4) The Deaf and Disabled Telecommunications Program Administrative Committee Fund.

(5) The Payphone Service Providers Committee Fund.

(6) The California Teleconnect Fund Administrative Committee Fund.

(b) Moneys in the funds may only be expended pursuant to this chapter and upon appropriation in the annual Budget Act.

(c) Moneys in each fund may not be appropriated, or in any other manner transferred or otherwise diverted, to any other fund or entity, except as provided for in Sections 19325 and 19325.1 of the Education Code.

(d) This section shall become operative on January 1, 2006.

Education Code Section

19325.1. (a) The State Librarian may operate a telephonic reading system, fund the operation of telephonic reading systems operated by qualifying entities, or both.

(b) The telephonic reading system is to be funded from the Deaf and Disabled Telecommunications Program Administrative Committee Fund, pursuant to an appropriation in the annual Budget Act and in accordance with Public Utilities Code 270.

~~(b)~~ (c) As used in this section, the following terms have the following meanings, unless otherwise indicated:

(1) "Telephonic reading system" means a system operated by the State Librarian or a qualifying entity, whereby a caller can hear the reading of material such as newspapers, magazines, newsletters, broadcast media schedules, transit route and schedule information, and other reference or time-sensitive materials, as determined by the operator of the system.

(2) "Qualifying entity" means any agency, instrumentality, or political subdivision of the state or any nonprofit organization whose primary mission is to provide services to people who are blind or visually impaired.

~~(c)~~ (d) Qualifying entities that were eligible, as of January 1, 2001, to receive funds from the State Librarian relating to the operation of a telephonic reading system may continue to receive funding from the State Librarian.

~~(d)~~ (e) The State Librarian, in cooperation with qualifying entities, may expand the type and scope of materials available on telephonic reading systems in order to meet the local, regional, or foreign language needs of print-disabled residents of this state. The State Librarian may also expand the scope of services and availability of telephonic reading services by current methods and technologies or by methods and technologies that may be developed. The State Librarian may inform current and potential patrons of the availability of telephonic reading service through appropriate means, including, but not limited to, direct mailings, direct telephonic contact, and public service announcements.

~~(e)~~ (f) The State Librarian may enter into contracts or other agreements that he or she determines to be appropriate to provide telephonic reading services pursuant to this section.

Vote. 2-0 (Sher)

8665 California Consumer Power and Conservation Financing Authority

1. Future of CPA

Action. No Action.

8770 Electricity Oversight Board

1. Future of Board

Action.

- (1) No Action.
- (2) Adopt the following supplemental report language:

Item 8770-001-0462—Electricity Oversight Board (or its successor)

The board staff shall by January 10, 2005, submit to the chairs and vice chairs of the budget committees and policy committees of both houses of the Legislature reports on the following subjects.

- (a) the reasonableness of costs to California consumers of ISO operations and*
- (b) the susceptibility of California's wholesale electricity market to future failures and recommendations to protect the public from wholesale market failures.*

Vote.

- (1)
- (2) 2-0 (Sher)

Part II—Open Issues

Consent Agenda

3560 State Lands Commission

1. April Finance Letter

Action. Approved April Finance letter.

Vote. 2-0 (Sher)

2. May Revision

Action. Approved May Revision proposal.

Vote. 2-0 (Sher)

3680 Department of Boating and Waterways

1. April Finance Letter

Action. Approved April Finance letter.

Vote. 2-0 (Sher)

3820 San Francisco Bay Conservation and Development Commission

1. May Revision

Action. Approved May Revision proposal.

Vote. 2-0 (Sher)

3900 Air Resources Board

1. May Revision

Action. Approved May Revision proposal.

Vote. 2-0 (Sher)

3910 Integrated Waste Management Board

1. May Revision

Action. Approved May Revision proposal.

Vote. 2-0 (Sher)

0555 Secretary for Environmental Protection

1. Consolidation of Administrative Functions

Action. Approved in concept trailer bill language that accomplishes a consolidation of selected administrative functions at all Cal-EPA boards, departments, and offices. Language to be drafted by staff, the LAO, and the administration.

Vote. 2-0 (Sher)

3480 Department of Conservation

1. April Finance Letter

Action. Approve Finance letter, but increased expenditure authority from the Abandoned Mine Reclamation and Mineral Fund to \$400,000.

Vote. 2-0 (Sher)

2. May Revision

Action. Approved May Revision proposal.

Vote. 2-0 (Sher)

3720 California Coastal Commission

1. Alternative Funding Source for Coastal Commission's Permitting Functions

Action. No Action.

2. April Finance Letter

Action. Approved April Finance letter and adopted following trailer bill language to clarify current law.

Vehicle Code Section 5067

(c) (1) One-half in the California Beach and Coastal Enhancement Account, which is hereby created in the California Environmental License Plate Fund. (a) Upon appropriation by the Legislature, the money in the account shall be allocated by the Controller *first* to the California Coastal Commission for expenditure for the Adopt-A-Beach program, the Beach Cleanup Day program, coastal public education programs, and grants to local governments and nonprofit organizations for the costs of operating and maintaining public beaches related to these programs, **and then, from remaining available funds**, ~~Any funds remaining in the California Beach and Coastal Enhancement Account at the end of a fiscal year shall be allocated by the Controller, after appropriation by the Legislature,~~ to the State Coastal Conservancy for coastal natural resource restoration and enhancement projects and for other projects consistent with the provisions of Division 21 (commencing with Section 31000) of the Public Resources Code.

(2) One-half in the California Environmental License Plate Fund.

Vote. 2-0 (Sher)

End of Hearing.

Did not have time to hear the following departments:

3790 Department of Parks and Recreation

8570 California Department of Food and Agriculture

SUBCOMMITTEE NO. 2

Agenda

Byron Sher, Chair
Sheila Kuehl
Bruce McPherson



Monday, May 19, 2004
10:00 a.m.
Room 4203

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Resources—Environmental Protection—Public Safety—Energy

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Vote Only Agenda

The items on the “vote only” agenda were discussed at the May 17 meeting of the Subcommittee, but no votes were taken.

3360 Energy Resources Conservation Development Commission

1. California Climate Action Registry

Background. The California Climate Action Registry help companies and organizations with operations in the state to establish GHG emissions baselines against which any future GHG emission reduction requirements may be applied. The registry is also responsible for adopting standards for verifying emissions reductions, establishing emissions reduction goals, designing and implementing efficiency improvement plans, and maintaining a record of emissions reductions as measured against the baseline established by the registry. The 2003-04 Governor’s Budget provided \$200,000 to support the registry in the current year from the Public Interest Energy Research (PIER) Development and Demonstration Account.

Staff Recommendation. The subcommittee may wish to adopt the following budget bill language to provide \$200,000 from the PIER fund to support the registry.

3360-001-0381—Of the amount appropriated in this item, \$200,000 shall be made available for grants to support the California Climate Action Registry program activities.

8660 California Public Utilities Commission

1. California Teleconnect Fund Program

Background. The CPUC administers six universal service telephone programs that seek to expand access to telecommunications services. It does so by subsidizing the cost of telephone services for certain people through surcharges applied to telephone customers' monthly bills for in-state services. One of these programs is the California Teleconnect Fund (CTF) program. This program provides discounts on telephone service, and other advanced telecommunication services that provide access to the Internet (such as digital subscriber line [commonly referred to as DSL] services) to schools, libraries, and qualifying hospitals and community-based organizations. Currently, the CTF program provides a 50 percent discount regardless of the particular qualifying service or recipient. Chapter 820, Statutes of 2003 (AB 855, Firebaugh), established the CTF program in statute, although CPUC has been managing a similar program that it established administratively in 1996.

The federal government has a similar program called the E-Rate program. This program provides discounts on the same services as the CTF, but also provides discounts on the purchase and installation of telecommunications hardware. The level of discount received through the E-Rate program is based on the schools participation in the free lunch program. California receives approximately \$330 million annually from the federal E-Rate program.

Budget Year Funding. The Analyst finds that the Governor's budget does not provide expenditure authority sufficient to cover all of the projected CTF program expenditures in the budget year. The commission has informed staff that it will need approximately \$18 million in the budget year to cover all program expenditures in 2004-05. In the 2003-04 Budget Act \$150 million was loaned from the CTF to the General Fund. The budget does not propose to repay this loan even though Chapter 820 requires that this loan be repaid when the CTF program needs the funds to meet program requirements. The Analyst finds that the Legislature has the following choices for providing additional funding to the commission to support the CTF program:

- Direct CPUC to raise the CTF surcharge (currently suspended). A 0.1 percent surcharge applied to intrastate telephone calls would yield approximately \$20 million.
- Repay a portion of the General Fund loan, which would increase General Fund expenditures by about \$12.7 million.

LAO Recommendation. The Analyst finds that the CTF program could be improved and makes the following recommendations relative to the CTF program:

- **CTF Program Does Not Maximize Federal Funds.** The CPUC does not require schools and libraries to participate in the federal E-Rate program as a condition of eligibility for the CTF program. This results in increased costs to the state's program and a loss of available federal funds. The Analyst recommends legislation that requires that eligible schools and libraries participate in the federal E-Rate program as a condition for participating in the CTF program.
- **CTF Program More Effective if Discounts Targeted.** Recent legislation has expressed legislative intent that a priority for the state's telecommunications policy is to assist in bridging the "digital divide." However, the current CTF program does not target its discounts and instead provides a 50 percent discount to all qualified participants. The federal E-Rate program provides discounts on a sliding scale based on participation in the free lunch program. Since the CTF discount is applied after the E-Rate discount the need-based targeting of the federal program is reduced, since more CTF funds are provided to schools with fewer students from low-income families. The Analyst recommends legislation that would require CPUC to adopt criteria for targeting discounts from the CTF program to low-income and rural individuals that are typically the most affected by digital divide issues.
- **Program Funding Parameters Would Improve Legislative Oversight.** There are no limits on the number of participants or level of subsidies awarded in the CTF program. Instead, CPUC is given broad authority to administer the CTF program, including the authority to raise the surcharge that supports this program to cover increased program costs. The Legislature does exercise spending control over the program through the annual budget appropriation. However, there is no legislative control over the surcharge rate or program revenues. The Analyst recommends legislation that sets a statutory cap on annual CTF program expenditures to improve legislative oversight of the program.

Staff Recommendation. Staff recommends the following:

- (1) Increase expenditure authority from CTF by \$12.7 million to cover all CTF program costs in 2004-05 using revenues from an increase in the CTF surcharge on telephone users.
- (2) Adopt trailer bill language that limits the CTF subsidy only to the remaining portion of telecommunications bill after application of the federal E-Rate subsidy for eligible schools and libraries (regardless of whether they participate in E-Rate). Apply the federal need-based sliding scale to the Teleconnect discount for schools. Make these provisions effective July 1, 2005 to allow time for schools to apply to the E-Rate program and plan for potential reductions in CTF discounts.

The subcommittee adopted the following language at the May 17 meeting of the Subcommittee:

- (3) Adopt supplemental report language directing CPUC to report to the Legislature by February 1, 2005 with (a) an estimate of the program savings resulting from the adoption of the need-based sliding scale for schools and from applying the E-Rate discount prior to any CTF discount, (b) recommendations for alternative uses for CTF funds to most effectively address the Digital Divide, and (c) an estimate of the surcharge level needed to meet the needs of the CTF program.

8665 California Consumer Power and Conservation Financing Authority

Background. The CPA was established during the height of the energy crisis that started in 2000 with the broad charge of assuring a reliable supply of power to Californians at just and reasonable rates, including planning for a prudent energy reserve. In order to meet these goals, CPA was authorized to purchase, lease, or build new power plants using its revenue bonding authority to supplement private and public sector power supplies, and was granted eminent domain powers. These significant powers reach beyond those of other state energy agencies. It was intended that CPA would be able to exercise these powers in the event that the market did not produce enough electricity to serve all of the state's needs.

In addition to these core powers, CPA was also charged with encouraging energy conservation and the use of renewable energy sources. It was also given the authority to finance natural gas transportation and storage projects recommended by the California Public Utilities Commission (CPUC), as well as to provide financing to retrofit old and inefficient power plants. Finally, CPA was also required to develop an energy resource investment plan for California.

LAO Recommendation. The Analyst finds that the elimination of some of CPA's functions may be premature and provides the following options for retaining these functions:

- (1) **Option One: Retain CPA, But Only as a Self-Supporting Entity.** This option would allow the state to continue to retain the authority to augment energy supplies if needed, until adequate incentives are in place to assure a sufficient energy supply to meet future demand. However, the Analyst thinks the role of CPA should be evaluated as policy changes continue to be made in the future.

- (2) ***Option Two: Transfer Certain Functions to Other Existing Agencies.*** This options would transfer the bonding authority so that the state could retain its ability to finance power plants if needed. The CPA's bonding authority could be transferred to an existing financing authority, which has a consistent mission with CPA's bond financing authority (for example, the California Infrastructure Bank). Furthermore, The Analyst would also recommend transferring CPA's Demand Reserve Partnership Program to another entity so that it may continue to provide energy savings over the next several years (CPA's program currently has a contract to deliver energy savings that does not expire until 2007). This program could be transferred to another existing state agency involved in promoting energy conservation, such as CEC.

Staff Comments. Staff recognizes that CPA has not been able to carry out its mission due to market influences. However, since CPUC is still in the relatively early stages of implementing Chapter 835, Statutes of 2000 (AB 57, Wright) there is still uncertainty regarding whether this law will provide sufficient incentives to build new generation to meet the state's future electricity demands. Given this, staff agrees with the LAO that it is premature to eliminate CPA's functions.

The administration has indicated to staff that it is developing a more comprehensive proposal to reorganize the state's energy agencies. Staff thinks it would be more appropriate to evaluate the future of CPA and its functions in the context of this comprehensive plan.

Staff Recommendation. Staff recommends the Subcommittee ***adopt the Analyst's Option One to retain the CPA as a self-supporting agency.*** This action would:

- (1) Reject the administration's proposed trailer bill to eliminate CPA.
- (2) Increase CPA's budget by \$800,000 to cover reduced operations funded solely from CPA generated revenues.

8770 Electricity Oversight Board

Background. The Electricity Oversight Board (EOB) was created by Chapter 854, Statutes of 1996 (AB 1890, Brulte), which deregulated California's wholesale electricity industry. The board was created to oversee the California Independent System Operator (ISO), which manages the transmission grid serving most of California, and the Power Exchange (PX), which for a time was the marketplace in which all electricity in the state was bought and sold. The EOB was also given very broad authority over ensuring reliability of the state's supply of electricity.

Background. Central to the original role of the EOB was overseeing the activities of the ISO and the PX and determining the composition of the governing boards of these two organizations. However, among the many developments associated with the 2001 energy crisis was the bankruptcy of the PX in January, and the replacement of the EOB-appointed ISO stakeholder board with a board of gubernatorial appointees. Thus, the EOB's original duties have drastically changed.

The EOB has reported to staff that it is presently involved in the following activities:

- **Market Monitoring.** This includes market investigation, market rate complaints, and market redesign proceedings.
- **Monitoring ISO Operations.** This includes evaluating the operations of ISO administered markets, operations of the transmission system, transmission planning, and the reasonableness of the costs of ISO services.
- **FERC Representation.** This includes representing California policy and consumer interests regarding wholesale markets and transmission system operations at the Federal Energy Regulatory Commission.
- **Power Exchange Oversight.** The EOB continues to represent California's public interests related to the wind-up of the California PX. (More than \$1 billion in outstanding claims remain.)

Staff Comments. There has been concern regarding the number of separate boards and commissions that currently implement the state's energy policy. The administration has indicated to staff that it is developing a comprehensive proposal to reorganize the state's energy agencies. Staff believes that the EOB's core activities are important to continue, but does not believe a separate board structure is needed to carry out these functions effectively. Furthermore, staff believes that litigation related to the energy crisis could be consolidated at the AG's office. This would give EOB staff more time to focus on issues at FERC and the ISO that affect the current and future wholesale electricity market in California.

Staff Recommendation. Staff recommends the Subcommittee take the following actions:

- (1) **Eliminate the board structure** and transfer EOB litigation related to the energy crisis to the AG, except for those cases when the AG has a direct conflict. Transfer EOB staff to the Governor's Office of Planning and Research until a more comprehensive evaluation of all the state's energy related agencies has been performed.

The Subcommittee adopted the following language at the May 17 meeting of the Subcommittee:

- (2) **Adopt supplemental report language** to require EOB staff to report to the Legislature on:
(a) the reasonableness of costs to California consumers of ISO operations and (b) the susceptibility of California's wholesale electricity market to future failures and recommendations to protect the public from wholesale market failures.

3720 California Coastal Commission

1. Alternative Funding Source for Coastal Commission's Permitting Functions

Subcommittee's Previous Direction. At the April 1 meeting of this subcommittee staff were directed to develop trailer bill language that would direct the Coastal Commission to increase its fees. The subcommittee also directed that the trailer bill language amend current law that requires all permit revenues to be transferred to the State Coastal Conservancy, thereby allowing

a portion of these revenues to be deposited in the General Fund to support the commission's permitting functions.

Staff Recommendation. Staff recommends the Subcommittee adopt trailer bill language as drafted in **Appendix A**. The language does the following:

- (1) Directs the commission to increase their permitting fees so that the fees would cover roughly 50 percent of the program costs related to permitting. The fees will be adjusted annually for inflation by the consumer price index.
- (2) Amends current law to limit the transfer of fee revenues to the State Coastal Conservancy to \$500,000 and adjust this transfer annually by the consumer price index. This will allow the remaining fee revenues to be deposited in the General Fund for support of the commission's permitting activities.

3790 Department of Parks and Recreation

1. April Finance Letter—Excluding Resources Bond Funds

Summary. The following is a summary of the budget amendments requested by the administration in the 2004-05 April finance letter for the Department of Parks and Recreation (DPR). The following listing excludes resources bond-funded amendments since these amendments were approved at the Subcommittee's April 29 meeting.

Department of Parks and Recreation

April Finance Letter - Excluding Bond Funds, 2004-05

(Dollars in Thousands)

Description	Reim- bursements	Total	Positions
<i>Joint Communication Services.</i> Proposes to transfer 7 permanent positions on a two-year limited term basis to Department of Parks and Recreation from Department of Fish and Game (DFG) and increased reimbursements to provide statewide dispatch services for DFG as part of a cooperative joint venture to allow DFG to gain 24-hour communications to help ensure warden safety and timely responses to oil spills.	\$417	\$417	7.0
Total	\$417	\$417	7.0

The administration has also submitted amendments to its April finance letters. The following reappropriations for capital outlay projects at DPR were included as amendments to the April finance letter.

Department of Parks and Recreation**April Finance Letter Amendment - Capital Outlay Reappropriations, 2004-05***(Dollars in Thousands)*

Description	Prop 12	Prop 40	Special Funds	Total
<i>East Bay Regional Park District.</i> Proposes to reappropriate bond funds to complete public park improvements in the East Bay Shoreline. The project required a comprehensive environmental review resulting in delay.	\$1,201	-	-	\$1,201
<i>Statewide Opportunity Acquisitions.</i> Proposes to reappropriate bond funds to make opportunity land purchases.	3,000	-	-	3,000
<i>Statewide Redwood Acquisitions.</i> Proposes to reappropriate bond funds to make opportunity Redwood-related acquisitions.	679	-	-	679
<i>Statewide Habitat Acquisitions.</i> Proposes to reappropriate bond funds to make habitat acquisitions.	4500	-	-	4,500
<i>Topanga State Park.</i> Proposes to reappropriate bond funds for Topanga Canyon acquisitions that have been delayed because of tenant appeals and legal challenges.	1,191	-	-	1,191
<i>Pfeiffer Big Sur State Park.</i> Proposes to reappropriate bond funds for constructing a park entrance and day use redevelopment project that was delayed by the process of acquiring a local coastal permit.	3,222	-	-	3,222
<i>Pigeon Point Light Station State Historic Park.</i> Proposes to reappropriate bond funds for acquiring land at Bolsa Point/Whaler's Cove.	3,999	-	-	3,999
<i>Habitat Conservation Acquisitions.</i> Proposes to reappropriate funds for habitat-related land acquisitions.	-	-	508	508
<i>Oceano Dunes State Vehicle Recreation Area.</i> Proposes to reappropriate funds for acquisition of the La Grande Tract.	-	-	2,899	2,899
<i>Statewide Off-Highway Vehicle Opportunity Acquisitions.</i> Proposes to reappropriate funds to make opportunity acquisitions for the off-highway vehicle program.	-	-	328	328
<i>Leland Stanford Mansion State Historic Park.</i> Proposes to reappropriate bond funds for construction related to rehabilitating the mansion grounds.	-	2,121	-	2,121
Total	\$17,792	\$2,121	\$3,735	\$23,648

Staff Recommendation. No issues have been raised with the administration's April finance letter for DPR or the proposed amendments. ***Staff recommends approving the finance letter and the amendments.***

2. Governor's Park Fee Proposal

Subcommittee's Previous Direction. At the April 1 meeting of the Subcommittee, staff was directed to develop supplemental report language with the LAO and the administration to require the department to report on the impacts of the administration's new fee policy and to include the broad policy directives recommended by the LAO. The Analyst has drafted the following language. Staff has been informed that both the department and DOF are fine with the language.

Item 3790-001-0001—Department of Parks and Recreation

1. The Department of Parks and Recreation shall, on or before January 10, 2005, submit to the budget and fiscal committees of both houses and the Legislative Analyst's Office a report on its progress in implementing a new fee structure for the Department of Parks and Recreation. The report shall include:

- Fee schedule for all units of the state park system.
- Actual monthly revenue collections for day use, camping, and other fees through October 2004.
- An analysis, based on actual revenues received to date, on whether the department will reach its total revenue projections as enacted in the 2004-05 Budget Act.
- Monthly visitor attendance for 2003-04 and 2004-05 (to date).

2. It is the intent of the Legislature that the setting and collecting of park fees should be guided by the following policy parameters:

- **The Role of Fees in State Park Funding.** Funding for state parks should include a reasonable sharing of costs between the users of state parks and the general public.
- **Fee Structure Should Include Differential Pricing.** The fee structure should reflect the different levels of service and facilities that are offered by state parks.
- **Fees Should be Comparable With the Fees of Similarly Situated Recreational Providers.** Fees for the use of state parks should be comparable with the fees for the use of similar privately and publicly owned facilities in the vicinity of the state park.
- **Fee Collection Should Be User-Friendly and Convenient to Park Users.** Visitors should be offered convenient methods of payment (such as automated fee machines and payment) in order to facilitate fee collection.
- **Fees Should Be Used to Support Deferred Maintenance When Feasible.** The department should maintain a portion of the fee revenues when feasible at the site where they are collected in order to address deferred maintenance needs.

Staff Recommendation. Staff recommends the Subcommittee *adopt the supplemental report language.*

2. California Main Street Program

Background. The California Main Street Program (CMSP) was developed to save historic commercial architecture, but has also provided economic development opportunities and opportunities to enhance the social, cultural, and environmental well being of traditional commercial districts in California. The California program is part of the National Main Street program, which is part of the National Trust for Historic Preservation. The California program does not provide funding to local communities for revitalization projects, but does provide a network of information and technical assistance to assist local communities in successful main street redevelopment projects that focus on historic preservation.

Recent Budget Reductions. Funding to support CMSP was eliminated in 2002-03. Subsequently, the agency that managed the program, the Technology, Trade, and Commerce Agency, was also eliminated. The program as administered by TTCA had a General Fund cost of \$350,000.

Recent Legislation. In 2003, AB 1123 (Parra) sought to move CMSP from TTCA to the Department of Parks and Recreation's (DPR's) Office of Historic Preservation (OHP). The OHP is responsible for statewide administration of the historic preservation program in California, including local outreach activities. The office's local outreach activities include certification of local preservation programs and technical assistance to communities. These activities are similar to activities performed by CMSP.

Staff Recommendation. (1) The Subcommittee may wish to adopt trailer bill language that would establish the California Main Street Program within the Office of Historic Preservation at the Department of Parks and Recreation. (2) To support this program, the Subcommittee may wish to increase the department's expenditure authority by \$175,000 from a new California Main Street Program Fund established by the trailer bill language to support 2 positions. Revenues to this fund are not on deposit, but could include funds received from any of the following sources in the budget year: (1) private contributions, (2) federal funds, and/or (3) fees for services provided by the department for services related to the California Main Street Program. Given the state's General Fund shortfall staff does not recommend dedicating additional General Fund resources to this program at this time.

3. Various Requests

Summary. Staff has been notified that action on the following items has been requested:

- (1) City of Santa Monica—Reappropriation of \$350,000 for EIRs and planning related to the 415 PCH Project at Santa Monica Beach.
- (2) Pigeon Point State Historic Park—Reappropriation of \$5 million for acquisition of the Pigeon Point Light Station State Historic Park: Bolsa Point/Whaler's Cove.
- (3) Adopt trailer bill language to amend the scope of Mono Lake Tufa State Reserve.

Staff Recommendation. The Subcommittee may wish to adopt the following language to facilitate the actions listed above.

3790-492—Reappropriation, Department of Parks and Recreation.

Notwithstanding any other provision of law, the period to liquidate encumbrances of the following citation is extended to June 30, 2005:

0005—Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Fund

- (1) *Item 3790-302-0005, Budget Act of 2001 (Ch. 106, Stats. 2001)
(15) 90.FH.100—Santa Monica SB:415 PCH Project – EIRs and Planning*
- (2) *Item 3790-302-0005, Budget Act of 2001 (Ch. 106, Stats. 2001)
(13) 90.7T.400—Pigeon Point Light Station SHP: Bolsa Point/Whaler's Cove—Acquisition*
- (3) *Item 3790-201-0005, Budget Act of 2001 (Ch. 106, Status. 2001)
(29) 90.RS.416—Statewide: 2000 Bond Habitat Acquisition Program—Acquisition.*

Amend PRC:

5045. (a) The tufa and associated sand structures at Mono Lake are a valuable geologic and scientific natural resource and are unique in North America for their beauty, abundance, diversity, and public accessibility. Their extreme fragility requires special measures for their protection and preservation for the enjoyment and education of the public. (b) The Mono Lake Tufa State Reserve is hereby established as a unit of the state park system and shall consist of the state-owned portions of the Mono Lake bed lying at or below the elevation of 6,417 feet above sea level. As soon as practicable after January 1, 1982, the State Lands Commission shall issue a permit for occupancy to the department pursuant to Section 6221. (c) *The Mono Lake Tufa State Reserve shall include and shall manage all resources found on its lands, including the waters of the Mono lake.*

8570 California Department of Food and Agriculture

1. Position Management

Previous Subcommittee Direction. At the March 18 meeting of the Subcommittee, the Subcommittee directed staff, LAO, and the California Department of Food and Agriculture (CDFA) develop trailer bill language that requires the department to comply with standard administrative procedures related to establishing new positions. This direction was in response to findings by the Analyst that the department currently has over 500 permanent positions in its position blanket. (The position blanket at the State Controller's Office (SCO) is typically utilized to establish short-term positions for addressing emergencies or peak-workloads.) The Analyst made findings that CDFA's current position management practices limit legislative oversight and recommends CDFA follow normal administrative practices for establishing permanent positions.

Department's Concerns. The CDFA continues to maintain that they need to be able to establish permanent positions outside of normal state administrative procedures. They cite the need to hire highly qualified scientists and other experts quickly on a permanent basis to address food and other human-health emergencies as one of the reasons they need increased flexibility. However, the department has not been able to make sufficient determinations as to why its operations differ significantly from other departments that also address emergencies in the state such as the Department of Health Services and the Office of Emergency Services.

Staff Recommendation. Staff recommends the Subcommittee adopt trailer bill language as drafted in **Appendix A**. The language does the following:

- (1) Requires the department to establish all permanent positions with the State Controller's Office (SCO), pursuant to standard state administrative policies. This applies to positions currently in the blanket and any permanent positions established in the future.
- (2) Requires the department to report to the Legislature January 10, 2005 on the permanent positions currently in the department's blanket that are established with SCO.
- (3) Exempts positions funded by the Agriculture Fund from the administrative rule that eliminates vacant positions if they have been vacant for 6 months. This action seems appropriate given the cyclical nature of the agriculture industry that is served by these programs and positions.

2. April Finance Letter

Summary. The following is a summary of the budget amendments requested by the administration in the 2004-05 April finance letter for CDFA.

California Department of Food and Agriculture
April Finance Letter, 2004-05
(Dollars in Thousands)

Description	General Fund	Personnel Years
<i>Mediterranean Fruit Fly Preventative Release Program.</i> Proposes a one-time appropriation to continue this program in the budget year.	\$8,021	132.0
Total	\$8,021	132.0

Background. The Mediterranean Fruit Fly Preventative Release Program (Medfly program) involves raising sterile medflies and releasing them throughout the Los Angeles Basin. Program costs have historically been shared equally between the state and the federal government.

LAO Recommendation. The Analyst recommended in 2003 the enactment of legislation authorizing CDFA to assess fees for the nonfederal cost of the Medfly program. The Analyst finds that benefits from the Medfly program are directly accrued by fruit growing industries in southern California.

CDFA's Supplemental Report Response. In 2003, supplemental report language was adopted by the Legislature to require the department to report on alternative funding mechanisms for supporting this program in order to reduce General Fund expenditures. The department concluded that any industry assessment would need to be applied to California growers as well as imported food items and would require federal authorization. Furthermore, the department concluded that additional federal funding would also be difficult to secure without a sufficient state match.

Staff Recommendation. Staff recommends approving this proposal. (See Item 3 – General Fund Budget for related recommendations.)

3. General Fund Budget

Previous Subcommittee Direction. At the March 18 meeting of the Subcommittee, the Subcommittee directed the department and DOF to develop options for reducing CDFA's General Fund budget an additional 5 percent and 10 percent. Staff has not received options from the department for additional General Fund savings. However, the department did provide the following detail on its General Fund expenditures.

California Department of Food and Agriculture**General Fund Budget Detail, 2004-05***(Dollars in Thousands)*

Description	General Fund
Animal Health and Food Safety Services	\$22,742
Animal Health and Food Safety Services.	7,880
California Animal Health and Food Safety Laboratory System.	10,620
Meat and Poultry Inspection.	2,682
Milk and Dairy Foods Control.	1,560
Agricultural Plant Health and Pest Prevention	\$50,366
Exclusion of Plant, Pests, and Disease.	11,310
Integrated Pest Management.	2,589
Pierce's Disease.	4,408
Pest Detection and Emergency Projects.	17,107
Plant Diagnostics Lab.	5,403
Mediterranean Fruit Fly Preventative Release Program.	8,021
Sterile Fruit Fly Production Facility.	1,528
Measurement Standards	\$1,922
General Agricultural Activities	\$85
Agricultural Export Program	85
Local Assistance	\$5,911
Agricultural Plant Health and Pest Prevention.	5,528
General Support.	383
Total	\$81,026

Governor's Budget. The Governor's budget proposes to redirect \$4.5 million from the County Agricultural Commissioners' (CACs') pest exclusion activities in order to restore funding for the state border inspection stations.

County Agricultural Commissioner's Pest Exclusion Activities Reduced. The \$4.5 million reduction in the CACs' pest exclusion activities has resulted in an 80 percent reduction to the CACs' high-risk pest exclusion activities. This has reduced the effectiveness of the border inspection station program since CACs are responsible for more detailed inspections of agricultural product shipments after they cross the border.

Staff Recommendation. The Subcommittee may wish to take the following two actions:

- (1) Reduce \$2.5 million General Fund from the department's state operations for agricultural plant health and pest prevention and augment local assistance to the County Agricultural Commissioners by a similar amount to fund county high-risk pest exclusion activities. This should help to make the investments in state's border inspection stations more effective since local CACs will have more resources available for detailed inspections of agricultural product shipments from out of state. An unallocated reduction will enable the department to prioritize its current expenditures in this area to address the state's greatest needs.

- (2) Increase the department's state operations budget for agricultural plant health and pest prevention by \$2.5 million from the department's Agriculture Fund. This will allow the department to expend any contributions made by the agricultural industry in the budget year to fund programs reduced due to the shift of General Fund to the CACs. This is consistent with the LAO's recommendation to require industry contributions for support of the Medfly program.
- (3) Given the state's current General Fund condition, the subcommittee should also eliminate General Fund support for the Pierce's disease program, thereby saving the state \$4.4 million General Fund.

4. Capital Outlay

Previous Subcommittee Direction. At the March 18 meeting of the Subcommittee, the Analyst raised concerns with the department's proposal to spend \$416,000 from the Agriculture Fund for preliminary plans, working drawings, and construction to repair an existing Medfly rearing facility in Waimanalo, Hawaii. The Analyst was concerned that the proposal was to fund repairs to an existing facility, which would have been more appropriately funded by the department's operating expenses. The department has since revised its proposal and the Analyst no longer has its concerns. The following is a summary of all of the department's capital outlay proposals for the budget year.

California Department of Food and Agriculture
Capital Outlay Budget Change Proposals and April Finance Letter, 2004-05
(Dollars in Thousands)

Description	Lease Revenue Bonds	State Highway Account	Total
Truckee Agricultural Inspection Station. Proposes to relocate the current inspection station. The new station will be built east of the town of Truckee on property near the California Highway Patrol's existing weigh station. Proposal funds working drawings and construction of the project.	\$12,824	\$6,412	\$19,236
Hawaii Medfly Rearing Facility Upgrades. Proposes to make refinements to the heating, cooling, humidification, and ventilation systems of this facility. Proposal funds preliminary plans, working drawings, and construction costs.	416	-	416
Yermo Agriculture Inspection Station. Proposes to reappropriate funding to complete working drawings and construction to relocate this station. Project was delayed due to environmental mitigation issues.	0	-	0
Hawaii Medfly Rearing Facility. Proposes to reappropriate \$583,000 for working drawings and \$10.4 million for construction of this facility due to delays in lease negotiations with the state of Hawaii.	0	-	0
Total	\$13,240	\$6,412	\$19,652

Staff Recommendation. Staff recommends approving the department's capital outlay April finance letter.

0540 Secretary for Resources

1. May Revision—Restructuring of Office of the Secretary for Resources

Previous Subcommittee Direction. At the April 29 meeting of the Subcommittee, the Subcommittee requested additional information on the administration's proposal to restructure the Office of the Secretary for Resources. The Subcommittee requested the administration provide a description of activities and positions funded as part of the Secretary's support budget as part of the restructuring proposal.

Governor's May Revision Proposal. As part of the May Revision the administration has proposed its plans to restructure the Office of the Secretary for Resources. The administration's proposal essentially leaves the funding level for the Secretary for Resources the same as was proposed in the Governor's January budget. This includes \$2.6 million from the Environmental License Plate Fund for support of the Secretary's core functions and \$4.2 million for administration associated with various bond programs. The following is a summary of the budget amendments requested by the administration in the 2004-05 May Revision for the Secretary for Resources.

Secretary for Resources

May Revision, 2004-05

(Dollars in Thousands)

Description	General Fund	Positions
Reorganization Plan. Proposes to redirect permanently \$2.6 million Environmental License Plate Funds (ELPF) from the California Legacy Project to fund its core mission of program development, interdepartmental coordination, and oversight functions. Proposes to terminate the California Legacy Project, including 2 positions that supported this project.	\$0	-2.0
Total	\$0	-2.0

Details of Restructuring Proposal. The administration has provided a description of the activities and positions funded under the Office of the Secretary for Resources. These details are summarized below.

Secretary for Resources
Detail on Funding Source and Positions by Agency Function, 2004-05
(Dollars in Thousands)

Description	Fund Source	Positions
Core Functions. This will include policy coordination and oversight of the constituent departments in areas such as fiscal, legal, and legislative affairs, among others.	ELPF	21.3
California Environmental Resources Evaluation System (CERES). This will include continued maintenance of an information system developed to facilitate access to a variety of electronic data related to natural resources.	ELPF	4.0
Bond Oversight and Project Management. This will include oversight of Propositions 12 and 50, website development and management, as well as, program delivery for statutory programs funded from Propositions 12, 13, 40, and 50.	Bonds	11.3
Total	\$6,802	36.6

Staff Recommendation. No issues have been raised with the administration's May Revision for the Secretary for Resources. **Staff recommends approving the May Revision for the Secretary for Resources.**

2. April Finance Letter—Bond Proposal

Previous Subcommittee Direction. At the April 29 meeting of the Subcommittee the bond proposal for the Secretary for Resources was left open pending additional details on the administration's plans to restructure the Office of the Secretary. The May Revision provided details on that proposal as noted above. The following is a summary of the budget amendments requested in the 2004-05 April finance letter for the Secretary for Resources, that the Subcommittee left open.

Secretary for Resources**April Finance Letter (Excluding River Parkways and Sierra Nevada Cascade Programs), 2004-05***(Dollars in Thousands)*

Description	Prop 40	Prop 50	Total	Positions
Urban Streams Reappropriation. Proposes to reappropriate \$4.6 million Proposition 40 for the urban streams program that provides technical and financial assistance to local agencies to address local flooding and erosion problems. The program was delayed by one year because of legal issues relating to prevailing wage regulations. The Department of Water Resources administers the program.	\$0	-	\$0	0.0
Proposition 50 Website Development. Proposes to shift funds to the Department of Parks and Recreation for the development of a website that would allow the public to identify the geographic location of Proposition 50 funded projects.	-	-68	-68	-0.5
Administration. State operations support for the River Parkways and Sierra Nevada Cascade Programs.	-	633	633	4.0
Total	\$0	\$565	\$565	3.5

Staff Recommendation. No issues have been raised with the administration's April finance amendments listed above. **Staff recommends approving the April finance amendments listed above.**

3. River Parkways and Sierra Nevada Cascade Program

Previous Subcommittee Direction. At the April 29 meeting of the Subcommittee, staff was directed to develop trailer bill language to provide program criteria that would guide the implementation of both the River Parkways and Sierra Nevada Cascade programs. Staff was also directed to include the appropriation in the trailer bill. The Governor propose to expend \$38.4 million (\$7.9 million Proposition 40 and \$30.5 million Proposition 50) for the River Parkways program and \$9.2 million Proposition 50 for Sierra-Nevada Cascade Program.

Staff Recommendation. Staff recommend the Subcommittee adopt the trailer bill language as outlined in Appendix A. The language accomplishes the following:

- Adopt trailer bill language to develop a framework for the award of grants under the River Parkways program.
- Appropriate, in the trailer bill, the \$38.35 million from Propositions 40 and 50 for the River Parkways Program.
- Require a report by the Agency on the geographic distribution and types of projects, as well as other details.
- Adopt trailer bill language creating the Sierra Nevada-Cascades Program, to provide a framework for the award of grants under this program.
- Appropriate, in the trailer bill, the \$9.15 million from Proposition 50 for the Sierra Nevada-Cascades Program.

4. Various Requests

Summary. Staff has been notified that action on the following items is requested:

- (1) Coastal Resources Grants—Extend liquidation period for 40 grants provided to counties to mitigate impacts of offshore oil/gas development and improve coastal resources.

Staff Recommendation. The Subcommittee may wish to adopt the following budget bill language to facilitate the action listed above.

0540-361-- Extension of liquidation period, Resources Agency. Notwithstanding any other provision of law, funds appropriated in the following citations shall be available for liquidation until June 30, 2005:

0540-Coastal Resources Grant Program:

- (1) Item 0540-101-0001, Budget Act of 1999 (Ch. 50 Stats. 1999).*
- (2) Item 0540-101-0001, Budget Act of 2000 (Ch. 52 Stats. 2000).*
- (1) Item 0540-101-0001, Budget Act of 2001 (Ch. 106 Stats. 2001).*

5. Reform State Property Management Functions

Governor's May Revision. As part of the Governor's May revision the administration has proposed reform to the state's property management functions. Specifically, the administration proposes trailer bill language to do the following:

- Establish a policy and process to consolidate the management of the State's real property assets, with primary authority vested in a single entity.
- On an interim basis, direct departments to obtain approval from the State Public Works Board for any new acquisition, disposal, lease, or major capital alteration of property owned by the State.
- Direct the State and Consumer Services Agency to implement these reforms.

In addition, the May Revision proposal includes an increase in General Fund revenue of \$50 million in 2004-05 and \$200 million in 2005-06 associated with the sale of surplus property. In order to achieve this revenue and expedite the process of disposing surplus property the administration is also proposing additional trailer bill language to do the following:

- Authorize the Department of General Services to declare property surplus and provide notice to the Legislature of this determination prior to disposing of the property.
- Eliminate existing requirements to offer surplus property to local governments prior to public sale.
- Eliminate existing requirements that the state sell surplus property to local government entities for less than market value under certain circumstances.
- Provide state agencies with a limited-term opportunity to earn fiscal incentives for the identification of surplus property that is ultimately sold.

Staff Comments. Since the release of the May Revision, staff has not been able to gather sufficient information to fully understand the impacts of the Governor's proposal to reform

current state property management functions. Staff believes that any reforms could have significant policy implications on the state's resources-related objectives in land acquisition.

Questions the Subcommittee may wish to ask the administration.

- What are the specific impacts of this proposal on land acquisition practices of each of the departments under the Resources Agency?
- Is it possible that parkland or other land acquired for habitat conservation purposes could be identified as surplus property? If so, under what circumstances?

Staff Recommendation. Staff recommends the Subcommittee request Senate Budget Subcommittee 4 (the Subcommittee with jurisdiction over this issue) to refer this trailer bill to policy committee so that all the implications for resources-related acquisitions can be discussed.

3340 California Conservation Corps

1. Funding Corps Activities

Previous Subcommittee Direction. At the April 1 meeting of the Subcommittee staff was directed to develop a proposal that utilized Workforce Investment Act (WIA) funds to help mitigate the negative impacts of the General Fund reductions proposed to the California Conservation Corps (Corps). Subsequently, at the April 29 meeting of the Subcommittee action was taken to require the California Department of Forestry and Fire Protection (CDF) to utilize the Corps for 50 percent of its proposed fuel reduction activities and to utilize a portion of WIA funds for training corpsmembers for fuel reduction activities.

New Proposal. Since the aforementioned action was taken, CDF has indicated to staff that this proposal would be difficult to implement since CDF plans to distribute these funds primarily to local governments and private landowners. In response to CDF's concerns staff and the Analyst developed a smaller proposal that would utilize a small portion of the funds proposed for allocation to CDF for fire suppression activities, as well as WIA funds. This proposal would cost \$1.5 million from all funding sources and provide the following:

- 75 new corpsmembers.
- Corpsmembers will get training in fire fighting and prescribed fire methods. The training will be similar to the two-week fire training CDF provides to inmates.
- 4 additional trained fire crews to assist on wildland fires.
- Corps will perform about 3000 hours (about 1 week for each corpsmember) of prescribed fire work under the supervision of CDF. This work will be considered "on the job" fire training and funded as part of the WIA training program.
- Corps will perform an additional 4000 hours of prescribed fire work on a reimbursable basis from CDF at about \$12 hour.
- Corps will contract for about 50,000 hours of work from grantees under the Prefire Management Program (PMP). Applicants to the PMP program who meet the criteria established by CDF and propose projects that use the Corps will receive priority consideration. \$600,000 from this program will be dedicated to fund the Corps work in the PMP.
- Corps will track the performance of the 75 participating corpsmembers.
- Corpsmembers in this proposal will spend at least 30 percent of their time on reimbursable projects beyond this proposal.

Staff Recommendation. Staff recommends the Subcommittee adopt the proposal (to be referred to as the Corps/CDF fuels management partnership) outlined above. The Subcommittee should take the following actions:

- (1) Adopt budget bill language that requires CDF to dedicate 1) \$600,000 for contracts awarded under the Prefire Management Program and; 2) \$25,000 for prescribed fire activities to the Corps.
- (2) Increase the Corps reimbursements from work performed by the corpsmembers by \$545,000.
- (3) Adopt budget bill language that authorizes up to \$310,000 in WIA funds from sub-schedule 8, "Removing Barriers for Special Needs Populations" for fire and fuel reduction training for the Corps.
- (4) Adopt budget bill language allocating \$25,000 of the Corps bond funding for prescribed fire efforts in partnership in with CDF.

2. April Finance Letter—Bond Proposal

Summary. The following is a summary of the bond fund related budget amendments requested by the administration in the 2004-05 April finance letter for Corps.

California Conservation Corps

April Finance Letter - Bond Funds Only, 2004-05

(Dollars in Thousands)

Description	Proposition		Total	Positions
	12	40		
Resource Conservation Projects-- Support. Proposes to fund various resource conservation projects, including fuel hazard reduction, park maintenance, timber stand improvement, and wildlife habitat restoration.	\$633	\$1,224	1,857	0.0
Resource Conservation Projects-- Local Assistance. Proposes to provide grants to local conservation corps for various resource conservation projects, including fuel hazard reduction, park maintenance, timber stand improvement, and wildlife habitat restoration.	2,550	4,003	6,553	0.0
Total	\$3,183	\$5,227	\$8,410	0.0

Staff Recommendation. Staff recommends approving the administration's bond proposal. This action conforms to the prior action that redirected \$25,000 of the state Corps Proposition 12 funding to the Corps/CDF fuel management partnership.

3. April Finance Letter—Capital Outlay

Summary. The following is a summary of the budget amendments requested by the administration in the 2004-05 capital outlay April finance letter for the Corps.

California Conservation Corps

April Finance Letter - Excluding Bond Funds, 2004-05

(Dollars in Thousands)

Description	General Fund	Total	Positions
Capital Outlay. Proposes to defer the preliminary plans phase of the Sierra Placer Municipal Sewer Connection project.	-29	-29	0.0
Total	-\$29	-\$29	0.0

Staff Recommendation. No issues have been raised with the administration's capital outlay April finance letter for the Corps. *Staff recommends approving the April finance letter proposals listed above.*

4. May Revision

Summary. The following is a summary of the budget amendments requested by the administration in the 2004-05 May Revision for the Corps.

California Conservation Corps

May Revision, 2004-05

(Dollars in Thousands)

Description	General Fund	Positions
Reduce Administrative Staff. Proposes to reduce administrative operations at the Corps.	-\$678	-7.0
Los Padres Facility. Proposes to continue operations at the Los Padres residential facility in San Luis Obispo. Facility was proposed to be closed in the January 10 budget due to the Corps General Fund reduction. Proposes to fund operations of the facility out of existing budget, but positions need restored.	0	14.0
Total	-\$678	7.0

Staff Recommendation. Staff recommends the subcommittee approve the administration's May Revision proposal and augment the Corps budget by \$1.6 million General Fund to reopen the Ukiah residential center proposed for elimination in the Governor's budget.

3540 California Department of Forest and Fire Protection

1. Timber Harvest Plan Fees

Previous Subcommittee Direction. At the April 1 meeting of the Subcommittee, staff was directed to develop two sets of trailer bill language. One would implement the Governor's budget proposal to impose timber harvest plan (THP) fees to support the state's timber harvest review program and the second was to implement a retail timber tax as proposed in SB 557 (Kuehl). The Governor's proposal would raise \$10 million in THP fees to support CDF's THP review program.

Governor's May Revision Proposal. The Governor's May Revision indicates that it will be proposing trailer bill language to reform and streamline the timber harvest plan review process. Staff has not received this language.

LAO Recommendation. The Analyst recommends the enactment of legislation to establish THP fees to cover THP-related activities at all of the state agencies involved in reviewing and enforcing THPs. The Analyst cites a direct link between THP review and enforcement and the timber owners who directly benefit from the state regulatory activities. Adoption of the LAO recommendation would require THP fees to be raised to cover about \$19 million (\$10 million as proposed by the Governor and an additional \$9 million in additional General Fund THP review expenditures).

Staff Recommendation. Staff recommends adopting trailer bill language that does the following:

- (1) Adopts trailer bill language to adopt the LAO proposal, which increases THP fees to cover THP-related activities at all the state agencies involved in THP review. This will increase fees an additional \$10 million. The first \$9 million would backfill activities currently funded by the General Fund and provide an additional \$1 million to augment THP review at SWRCB and DFG.
- (2) Adopts trailer bill language to implement the Retail timber tax.

2. Shortfall in Fire Suppression Budget

Previous Subcommittee Discussion. At the April 1 meeting of the Subcommittee, the Subcommittee requested that the administration submit the trailer bill language it plans to sponsor to clean up current law related to fire fees. Staff has not received any language and understands the administration is not currently pursuing clean-up legislation.

Projected Shortfall in Fire Suppression Budget. Since the Subcommittee's meeting CDF has indicated that it projects a \$40 million shortfall in CDF's fire suppression budget over the current and budget years. This shortfall is projected as a result of a miscalculation in how the fire fee was statutorily assessed.

Questions the Subcommittee may wish to ask.

- How does the department plan to address the shortfall in the fire suppression budget?
- Does the administration plan to sponsor legislation to re-work the SRA fee law?

3. Fuel Reduction Proposal—April Finance Letter

Previous Subcommittee Direction. At the April 29 meeting of the Subcommittee, the Subcommittee took action to eliminate all funding for the department's development of a programmatic timber environmental impact report (PTEIR). Since that date, the Subcommittee has been notified that fuel reduction efforts in the Sierra-Nevada would be severely hindered if the department was not allowed to pursue the development of a PTEIR. Nevertheless, the Subcommittee is concerned about a state funded PTEIR that would authorize commercial logging without the regular environmental reviews required by law.

The Subcommittee also took action to direct CDF to utilize the California Conservation Corps (Corps) for 50 percent of the grant funds provided for fuel reduction. The department has indicated to staff that this proposal would be difficult to implement since CDF plans to distribute these funds primarily to local governments and private landowners. In response to CDF's concerns staff and the Analyst developed a smaller proposal that would utilize a small portion of CDF's fire suppression funds to help augment work opportunities for the Corps and train additional fire crews for the state. (See recommendation under the Corps).

Governor's Fuel Reduction Proposal. The CDF is requesting \$39 million Proposition 40 over five years (\$7.5 million in 2004-05) for fuel reduction activities aimed at reducing the risk of wildland fires in the Sierra Nevada region. The CDF proposes that the majority of the funding (about 86 percent) will be used for contracts under the California Forest Improvement Program (CFIP) and the Prefire Management Program (PMP) for mechanical treatments for fuel reduction. In addition, five percent of the program costs will be for prescribed burning.

Staff Recommendation. The subcommittee may wish to adopt the following language as trailer bill language and include the appropriation (\$7.5 million Proposition 40) for this proposal in the trailer bill.

1. PTEIRs funded under this item shall be limited to projects for hazardous fuel reduction. Hazardous fuel reduction means the application of practices to wildlands of which the primary impact to the vegetation is the reduction of surface and ladder fuels. These practices include but are not limited to prescribed fire, machine or hand piling for burning, pruning and thinning. Tree removal shall be by the method known as "thinning from below," and shall be limited to trees that are 16 inches or less dbh. Treatments that reduce crown densities on timberlands shall be included only for the purpose of affecting fire behavior, and where it is reasonably demonstrated that the likelihood of crown fire is reduced. A registered professional forester with the department or on behalf of a private landowner shall (1) certify that the fuel reduction objectives were achieved for removal of surface fuels, brush, and ladder fuels and were accomplished by means that are consistent with this section and (2) certify that for each PTEIR or sub-area within a PTEIR that eighty percent or more of the treated landscape will have a post-treatment fuel load that will result in a flamelength of 4 feet or less and a minimum of 8 feet separation from the ground to the crown of live trees.

This action conforms to the action to provide \$625,000 from CDF's funds to fund the Corps/CDF fuels management partnership (see recommendation in the California Conservation Corps budget).

5. April Finance Letter—Bond Funds

Summary. The following is a summary of the remainder of the bond fund related budget amendments requested by the administration in the 2004-05 April finance letter for the CDF.

Department of Forestry and Fire Protection

April Finance Letter - Selected Bond Fund Proposals, 2004-05

(Dollars in Thousands)

Description	Prop 12	Prop 40	Prop 50	Total	Positions
Urban Forestry. Proposes funding for the urban forestry grant program to increase tree planting and follow-up care in urban areas and encourage improved tree management practices.	\$1,175	-	-	\$1,175	0.0
CALFED Watershed Program. Proposes funding to support the CALFED Watershed Program, which includes providing data on vegetation types and monitoring their change over time to improve the design of fuel reduction projects that protect CALFED watersheds.	-	-	240	\$240	0.0
Total	\$1,175	\$0	\$240	\$1,415	0.0

Staff Recommendation. Staff recommends approving the selected bond fund amendments from the April finance letter listed above.

6. Backfill of FRIF Funded Activities

Previous Subcommittee Discussion. At the April 1 meeting of this Subcommittee, the Subcommittee discussed the Governor's January 10 proposal to eliminate all program activities that were traditionally funded by the Forest Resource Improvement Fund (FRIF). The FRIF fund is supported from revenue derived from the sale of forest products from the state forest system. However, due to ongoing litigation, timber harvesting on the Jackson State Demonstration Forest has been severely curtailed. This has resulted in relatively limited amount of FRIF revenues projected in the budget year.

April Finance Letter. The administration's April finance letter proposed to backfill the reductions in FRIF funded activities at a reduced level in the budget year. The figure below summarizes the Governor's proposal to backfill FRIF funded activities in the budget year. The administration proposes funding these activities on a one-time basis using a reserve balance in the Renewable Resources Investment Fund (RRIF). The RRIF is revenues received from the federal government for geothermal leases. These funds are required to be expended on resources programs, which includes forest resource programs. The administration proposes to fund FRIF

activities with \$3.5 million from RRIF and \$850,000 from FRIF revenues. The funding level proposed for these programs results in a 40 percent reduction in program activities from the current year.

Department of Forestry and Fire Protection

FRIF Funded Activities

(Dollars in Thousands)

Description	2002-03	2003-04	Proposed for 2004-05	
			Amount	Percent Change
Demonstration State Forests. The system of demonstration forests was established to investigate and demonstrate improved forest management practices. The CDF manages 71,300 acres of forested lands in 8 demonstration forests.	\$2,300	\$2,800	\$2,300	-18%
State Forest Research. Provides research on all aspects of sustainable forestry.	200	200	200	0%
State Forest Stewardship. Provides funding to address backlog of investments in road maintenance, timber stand improvement, timber inventory, and land surveys on the demonstration forests.	1,000	600	200	-67%
Nurseries. Provides a diverse inventory of tree seedlings and seed from forest lands throughout the state.	1,100	500	900	80%
California Forest Improvement Program. Provides technical assistance and enters into cost share contracts with non-industrial forest landowners for forest improvement work.	0	900	100	-89%
Forest Pest Management. Provides cooperative pest suppression, including pest surveys and technical assistance to land owners.	300	800	400	-50%
Urban Forestry. Provides information to promote improvement management of trees in urban settings.	0	100	0	-100%
Watershed Assessment. Supports the Fire and Resource Assessment Program that provides watershed assessment data for the preparation of timber harvest plans and other fire protection planning needs.	1,600	1,000	300	-70%
Total	\$6,500	\$6,900	\$4,400	-36%

Staff Recommendation. Staff recommends the Subcommittee *approve the April finance letter to backfill, on a one-time basis, FRIF activities utilizing the Renewable Resources Investment Fund.*

7. April Finance Letter—Capital Outlay

Summary. The following is a summary of the capital outlay budget amendments requested by the administration in the 2004-05 April finance letter for CDF. The administration also proposed

amendments to the April finance letter. These amendments are also reflected in the following table. The Subcommittee took action on the proposal to shift General Fund expenditures to lease revenue bonds at the April 1 meeting of the Subcommittee.

Department of Forestry and Fire Protection**April Finance Letter (Including Amendments) - Capital Outlay, 2004-05***(Dollars in Thousands)*

Description	General Fund	Lease Revenue Bonds	Reimbursements	Budget Total	Reappropriations
Stevens Creek Forest Fire Station. Replace facility. Proposal to fund acquisition of project site or up-front payoff of a long-term lease.	-175	\$175	-	\$0	-
Pacheco Forest Fire Station. Replace facility. Proposal to fund up-front payoff of 50 year lease of project site.	-175	175	-	0	-
Warner Springs Forest Fire Station. Replace facility. Proposal to fund up-front payoff of long-term lease.	-175	175	-	0	-
Nipomo Forest Fire Station. Replace facility. Proposal to fund acquisition of project site or up-front payoff of a long-term lease.	-175	175	-	0	-
Dew Drop Forest Fire Station. Replace facility. Project delayed due to real estate issues.	-50	50	-	0	1,988
Ukiah Forest Fire Station. Replace facility. Proposal to fund working drawings and construction.	-	551	-	551	2,896
Hemet-Ryan Air Attack Base. Relocate facility. Proposal to fund land acquisition and construction.	-	834	-	834	-
South Operations Area Headquarters. Relocate facility. Proposal to fund land acquisition, working drawings, and construction costs. This is a joint project with the U.S. Forest Service and reimbursements are expected from the federal government to fund this project.	-	3,062	1,709	4,771	-
Bautista Conservation Camp. Replace modular buildings. Proposal to fund preliminary plans, working drawings, and construction costs of project.	-	779	-	779	186
Cuyamaca Forest Fire Station. Relocate facility. Department proposes \$3.3 million in January 10 budget for preliminary plans, working drawings, and construction of facility.	-	208	-	208	-
Fenner Canyon Conservation Camp. Proposes to reappropriate construction funding to construct a vehicle apparatus building at the camp.	-	-	-	-	2,452
Batterson Forest Fire Station. Proposes to reappropriate funding for working drawings and construction to remodel facility.	-	-	-	-	97
Baseline Conservation Camp. Proposes to reappropriate funding for working drawings and construction to remodel facility.	-	-	-	-	70
Elk Camp Forest Fire Station. Proposes to reappropriate funding for construction and relocation of facility.	-	-	-	-	1,977
Usona Forest Fire Station. Proposes to reappropriate funding for construction to replace facility.	-	-	-	-	1,688
Altaville Forest Fire Station. Proposes to reappropriate funding for working drawings and construction to replace facility. Delayed due to groundwater contamination.	-	-	-	-	167
Total	-\$750	\$6,184	\$1,709	\$7,143	\$11,521

Staff Recommendation. Staff recommends the Subcommittee *adopt the capital outlay April finance letter (including amendments).*

8. May Revision

Summary. The following is a summary of the budget amendments requested by the administration in the 2004-05 April finance letter for CDF.

Department of Forestry and Fire Protection

May Revision, 2004-05

(Dollars in Thousands)

Description	General Fund	Other Funds	Total	Personnel Years
Eliminate Funding for King Air. Proposes to eliminate funding for the department's King Air aircraft.	-\$400	-	-\$400	0.0
State Fire Marshall Inspections. Proposes trailer bill language to allow the State Fire Marshall to charge for the inspections it performs on state owned and occupied buildings. Approximately \$3.4 million General Fund to support this activity was proposed for reduction in the January 10 budget.	0	-	0	0.0
Capital Outlay. Proposes additional funding to complete construction of the Sonora Forest Fire Station project. Increased building material costs contributed to this upward revision in construction costs.	-	626	626	0.0
Total	-\$400	\$626	\$226	0.0

Previous Subcommittee Direction. At the April 1 meeting of the Subcommittee, the Subcommittee discussed adopting the LAO option to sell the King Air airplane. The May Revision includes a proposal to eliminate funding for this airplane.

Staff Recommendation. No issues have been raised with the administration's May Revision proposal. *Staff recommends approving the May Revision proposal for CDF.*

3600 Department of Fish and Game

1. April Finance Letter

Summary. The following is a summary of the budget amendments requested by the administration in the 2004-05 April finance letter for Department of Fish and Game (DFG). The following listing excludes bond-funded amendments since these amendments were approved at the Subcommittee's April 29 meeting.

Department of Fish and Game

April Finance Letter - Excluding Bond Funds, 2004-05

(Dollars in Thousands)

Description	General Fund	Total	Positions
Joint Communication Services. Proposes to transfer 7 permanent positions on a two-year limited term basis from DFG to the Department of Parks and Recreation (DPR) and \$417,000 to DPR to provide statewide dispatch services for DFG as part of a cooperative joint venture to allow DFG to gain 24-hour communications to help ensure warden safety and timely responses to oil spills.	0	0	-7.0
Total	\$0	\$0	-7.0

Staff Recommendation. No issues have been raised with the administration's April finance letter for DFG. **Staff recommends approving the finance letter.**

2. May Revision

Summary. The following is a summary of the budget amendments requested by the administration in the 2004-05 May Revision for DFG.

Department of Fish and Game

May Revision, 2004-05

(Dollars in Thousands)

Description	General Fund	Special Funds	Prop 12	Total	Positions
Office of Oil Spill and Prevention.	-\$811	\$811	-	0	0.0
Proposes to shift support for administrative support for the office from the General Fund to the Oil Spill Prevention and Administration Fund.					
Land Enhancement and Preservation.	-	-	1,072	1,072	2.0
Proposes funding to develop, enhance, and preserve wildlife areas, ecological reserves, and donated lands. Also proposes to support the California Waterfowl Habitat Program, which obtains wetlands enhancement easements from landowners.					
Total	-\$811	\$811	\$1,072	\$1,072	2.0

Staff Recommendation. No issues have been raised with the administration’s May Revision for DFG. **Staff recommends approving the May Revision for DFG.**

3. OSPR Grants from the Environmental Enhancement Fund (EEF)

Background. The Governor’s Budget includes a \$307,000 appropriation from the Environmental Enhancement Fund (EEF) for various environmental projects carried out by the Office of Spill Prevention and Response (OSPR). Under existing law, the EEF receives revenues from oil spill penalty fine collected by OSPR that would otherwise be deposited into the General Fund. However, the department has not been able to identify how it plans to spend either the \$1 million appropriation available in the current fiscal year or the \$307,000 proposed in the budget. The OSPR staff indicates that EEF moneys have been previously used to purchase and restore wetland areas. The Governor’s Budget shows an unappropriated balance in the EEF of approximately \$600,000 that would be available for expenditure for other purposes or transfer to the General Fund.

Staff Recommendation. The Subcommittee may wish to utilize a portion of the EEF funds to:
 (1) Fund the development of regulations by OSPR to address and prevent accidents in California harbors involving tanker ships carrying hazardous material such as pesticides, fertilizer, acids, explosives or poisonous gases. To accomplish this the Subcommittee should adopt the following budget bill language:

3600-001-0322—For support of Department of Fish and
 Game, for payment to Item 3600-001-0001, payable
 from the Environmental Enhancement Fund..... \$307,000
Provisions:

1. Notwithstanding Section 8670.70 of the Government Code, of the funds appropriated in this item, up to \$125,000 shall be available to the Administrator for Oil Spill Response to adopt and implement regulations authorized by subdivision (b) of Section 8670.17.2 of the Government Code.

- (2) Furthermore, due to the General Fund shortfall, the Subcommittee may wish to transfer the projected fund balance of the EEM fund to the General Fund. This would provide \$600,000 in General Fund revenues in the budget year.

4. Marine Life Protection Act

Background. The DFG is required under the Marine Life Protection Act (MLPA) to develop a plan for establishing networks of marine protected areas in California waters to protect habitats and preserve ecosystem integrity, among other things. The purpose of the MLPA is to improve the array of Marine Protected Areas existing in California waters through the adoption of a Marine Life Protection Program and a comprehensive master plan.

Recent Budget Actions. Approximately \$800,000 in Environmental License Plate Fund revenues was provided to support this program in the current year. However, due to the vacancy reduction, hiring freeze, and other administrative actions in the current year the department was not able to staff this program. Subsequently, the ELPF funds allocated to this program were reverted and redistributed to fund other priorities and address the projected shortfall of revenues in the ELPF. This resulted in a suspension of the program until sufficient funding and staff resources were available to fund the program.

Staff Comments. Staff understands that private matching funds have been pledged to MLPA implementation and federal funds are also available for studies related to developing a plan under MLPA. In addition, the Governor's May Revision indicates that the state will be receiving approximately \$69 million in additional revenues from tidelands oil due to high oil prices. These funds are statutorily dedicated to resources programs, but the administration proposes to transfer these funds to the General Fund to help with the General Fund solution.

Staff Recommendation. In order to maximize funding from private and federal sources the subcommittee may wish to allocate \$500,000 to support 5 new positions from the additional tidelands oil revenues received by the state to implement the MLPA in the budget year. The 5 new positions should be explicitly exempted from the hiring freeze given the importance of getting this effort back on track and to maximize matching funds. The following budget bill language should be adopted to implement this proposal.

Department of Fish and Game.

3600-001-0647 -- For support of the Department of Fish and Game, for payment to Item 3600-001-0001, payable from the Marine Life and Marine Reserve Management Account . \$500,000

Provisions: 1. The funds appropriated in this item shall be available to match private funds

for expenditure for activities in support of protection and management of marine resources including: (a) facilitated regional workshops to identify potential sites for marine reserves, parks, and other candidate protected areas, (b) ecological and socioeconomic studies and data compilation pursuant to the Marine Life Protection Act, and (c) research, monitoring, and planning efforts necessary to meet the goals of the Marine Life Protection Program.

4. Landing Fees

Summary. The department currently assesses landing fees on fish processors, wholesalers, and any other entities that receive fish from commercial fisherman. These fees were last set in 1986. The total revenue received in 2003 from these fees was about \$950,000. This is far less than the department's budget for commercial fisheries management, which is in the range of \$8.3 million. The DFG's marine fisheries management programs benefit the commercial fishing industry by providing some assurances that the resources will be available in the future. Therefore, given the benefits accrued directly to the fishing industry it would be appropriate for industry fees to pay for a larger portion of the department's commercial fisheries management program. Both Oregon and Washington assess fees on commercial fish landings at higher rates than California.

Staff Recommendation. The subcommittee may wish to adopt trailer bill language to raise the landing fees currently assessed on the commercial fishing industry. The trailer bill in **Appendix A** does the following:

- Ties the total amount of landing fees assessed in any year to the revenue levels set forth in the Budget Act for the DFG's activities related to commercial fishing. The fees should be limited to funding a program to manage and regulate the commercial fishing industry.
- Allows DFG to determine fees on commercial fee landings based on the value of the fish landed, which is similar to practices in Oregon and Washington.
- Creates a contingency reserve for the deposit of revenues in excess of department's budgetary needs that can be utilized to fund DFG's programs when revenues are low. This would help mitigate the need to raise fees when fish landings are low.

3640 Wildlife Conservation Board

1. Tidelands Oil Revenues

Background. The Governor's budget includes language in the Wildlife Conservation Board's (WCB's) budget to suspend statutory law that requires specific amounts of tidelands oil revenues collected by the State Lands Commission to be allocated to a series of natural resource and environmental programs. These programs (or "buckets") are specified in Section 6217 of the Public Resources Code (PRC) and were established by SB 217 (Thompson, 1997). Because of the state's fiscal situation, in recent years the Legislature has agreed to suspend Section 6217 and transfer all such revenues to the General Fund.

In January, the Governor's Budget estimated that \$61.3 million in tidelands oil revenues would be collected and transferred to the General Fund in the current year and \$120 million in the budget year.

Revenues Have Increased Significantly. Because of the steady rise in world oil prices over the past 12 months, there has been a dramatic increase in tidelands oil revenues that the state expects to receive during the current fiscal year and in fiscal 2004-05. The May Revision revised its estimates of tidelands oil revenues that will be transferred to the General Fund to \$84.5 million in the current year and \$156.4 million in the budget year. However, staff is advised that the May Revision assumptions are based on royalty rates tied to \$25 per barrel of oil, and not the \$33.20 per-barrel price for oil currently being sold by the State Lands Commission. Consequently, the state may actually receive an additional 32.8% or \$51.3 million more than what the May Revision assumes for the budget year. Staff would also note that oil on the world market is currently selling for more than \$40 per barrel, so the actual amount of tidelands oil revenue may be even higher.

Staff Recommendation. Because the amount of tidelands oil revenue collected by the state in fiscal 2004-05 could exceed the \$156.4 million assumed in the May Revision, staff recommends the following:

- (1) Adopt the following budget bill language that would cap the transfer of additional tidelands oil revenues to the General Fund and allow revenues collected in excess of \$156.4 million to be deposited into the Resources Trust Fund and available for appropriation for the various purposes authorized in PRC Sec. 6217.

3640-401--Notwithstanding any other provision of law, 1) the first \$500,000 shall be transferred into the Marine Life and Marine Reserve Management Account for activities of the Department of Fish and Game relating to the Marine Life Protection Act, and 2) the next \$155,914 shall be deposited into the General Fund for the 2004-05 fiscal year.

3810 Santa Monica Mountains Conservancy

1. SMMC Operations

Previous Subcommittee Direction. At the April 29 meeting of the Subcommittee approved an augmentation to Santa Monica Mountains Conservancy (SMMC) of \$22.1 million in bond funds. These funds were not proposed in the Governor's April finance letter with the bond funds for the rest of the conservancies pending resolution of outstanding issues related to the past management of bond funds. The Department of Finance (DOF) has raised these concerns with the Conservancy and staff understands their concerns have not been addressed to date.

Staff Recommendation. The Subcommittee may wish to take the following actions:

(1) Adopt the following budget bill language that would provide DOF and the Legislature with more oversight over SMMC's management of bond funds.

(1) It is the intent of the Legislature that the Santa Monica Mountains Conservancy continue to work with local government agencies and to use the mutual exchange of services and cooperation between the conservancy and local joint powers authorities to extent allowed by state law to assist the conservancy in carrying out its responsibilities more effectively and efficiently while reducing the need for additional state employees.

(2) To ensure appropriate segregation of fiscal responsibilities while achieving the maximum efficiencies in administration and operations of the conservancy and joint powers authorities, of which it is a member, the conservancy shall do all of the following:

(a) The Conservancy shall provide services of the conservancy's executive director and of other conservancy staff to the Mountains Recreation and Conservation Authority only to the extent such sharing of services is permitted by law, as determined by the Office of the Attorney General.

(b) Develop and implement procedures in response to the Final Management Letter from the Department of Finance, dated May 4, 2004, that assure separation of functions with respect to fiscal operations of joint powers authorities. This shall include procedures whereby all financial transactions of the joint powers authority are supervised by officers and employees who are separate from the conservancy and do not report to any officers or employees of the conservancy in any capacity. The conservancy shall provide a report on those procedures and their implementation to the chairs of the fiscal committees and appropriate subcommittees of each house of the Legislature by April 1, 2005.

3. The conservancy shall make grants to the Mountains Recreation and Conservation Authority from bond funds only in accordance with advice it has received from the Office of the Attorney General respecting the permissible use of bond funds available to the conservancy. The conservancy shall report annually to the chairs of the fiscal committees and appropriate subcommittees of the each house of the Legislature.

4. It is the intent of the Legislature that the Department of Personnel Administration and the Department of Finance shall approve the reclassification of one or more of the conservancy's authorized positions to improve fiscal and contracts management.

- (1) Amend appropriations made at the April 29 so that the budget reflects the following appropriations for the budget year:

Santa Monica Mountains Conservancy**2004-05 Senate Proposed Appropriations***(Dollars in Thousands)*

Description	State Operations	Capital Outlay	Total
<i>Proposition 50</i>	\$211	\$9,500	\$9,711
<i>Proposition 40</i>	218	12,400	12,618
<i>Proposition 12.</i>	-	2,705	2,705
Total	\$429	\$24,605	\$25,034

3860 Department of Water Resources

1. Funding Flood Management

Previous Subcommittee Action. At the April 29 meeting of the Subcommittee, DWR's flood management budget was held open pending receipt of a white paper that addresses the potential liability of the state created by the Paterno decision. The Paterno decision requires the state to pay from \$500 million to \$1 billion in damages caused by a failed levee. The Subcommittee also discussed the Analysts recommendation to reduce the state's share of federally authorized flood control projects from 50 percent to 30 percent, including putting a greater emphasis on floodplain management strategies.

Department Response. The department has indicated that completion of the white paper is anticipated by the end of May. The white paper is a collaborative effort involving DWR's Executive Division, the Division of Flood Management, the Reclamation Board, the Office of the Chief Counsel, and the Division of Fiscal Services. The department indicates that completion of the white paper is a high priority for the Department.

Staff Comments. The Paterno case further elevates the importance of prioritizing the limited state resources currently dedicated to flood management. Since the General Fund has been the primary source of funding for flood management activities, funding levels have been unstable and do not coincide with infrastructure needs. A long-term strategy for funding flood management activities needs to be developed to address funding needs. The Analyst's recommendation is one option for freeing up state funds so that they can be prioritized to fund critical needs, including baseline investments in floodplain management. However, the state also needs to deal with the more immediate potential financial liability that the Paterno case presents, given the hundreds of miles of inferior levees under the state's jurisdiction.

Staff Recommendation. Staff recommends the Subcommittee *adopt the following supplemental report language:*

Item 3860-001-0001—Department of Water Resources

No later than January 10, 2005, the Department of Water Resources (DWR) shall submit a report to the Legislature on the following:

- *Findings and recommendations on prioritizing short and long term flood management expenditures for the entire state in light of the Paterno decision, including potential amendments to current law.*
- *Options for funding these recommendations given the reduced availability of General Fund resources to fund flood management activities.*

2. April Finance Letter—Excluding Bond Funds

Previous Subcommittee Action. At the April 29 meeting of the Subcommittee, portions of DWR's April finance letter amendments that excluded bond funds were approved. Those

amendments approved included the proposals related to state maintenance areas and the watermaster service program. The Subcommittee did not take action on the following issues:

Department of Water Resources

Portion of April Finance Letter - Excluding Bond Funds, 2004-05

(Dollars in Thousands)

Description	General Fund	Special Funds	Reimbursements	Total
Capital Outlay Reappropriations. Proposes to reappropriate \$17.1 million General Fund and \$8 million in reimbursements for various capital outlay projects, including the Folsom Dam Modifications (\$15.4 million GF, \$7.4 million Reimb.), Sacramento Riverbank Protection Project (\$900,000 GF), Tehama Section 205 Flood Control (\$750,000 GF, \$682,000 Reimb.), Lower Sacramento Area Levee Reconstruction (\$50,000 GF), and Merced County Streams (\$30,000 GF).	\$0	-	\$0	\$0
Dam Safety Program. Proposes to increase fee authority to backfill recent General Fund reductions to the dam safety program.	-	431		431
Salton Sea Restoration Studies. Proposes to increase reimbursement authority to fund a habitat restoration study and other planning activities related to the restoration and protection of the Salton Sea. Funds are available from a Proposition 50 appropriation to the Wildlife Conservation Board.	-	-	7,200	7,200

Staff Recommendation. No issues have been raised with this proposal. Staff recommends the Subcommittee *approve the components of the April finance letter listed above.*

3. Bond Fund Program Support

Previous Subcommittee Action. At the April 29 meeting of the Subcommittee, DWR was directed to report to the Subcommittee on proposed staffing levels for each bond funded program, along with information on the bond-funded positions eliminated as part of Control Section 4.10 reductions. The Subcommittee also discussed the Analyst's finding that staffing reductions have substantially delayed the implementation of some new bond-funded programs.

Department's Response. The department provided the following information on the Proposition 50 bond-funded positions that were eliminated under Control Section 4.10:

- CALFED Levees Program – 5 positions
- Environmental Water Account – 5 positions
- Integrated Regional Water Management – 5 positions
- Drinking Water Pilot Projects Program – 1 position

Staff Comments. The department has not staff with information that indicates that workload needs associated with the programs listed above have changed since last year when the budget requests were made for positions to implement the bond-funded programs. Furthermore, the

CALFED Levee Program is one of the CALFED program elements that have lagged behind due to lack of funding and federal authorization of the CALFED program. Given this it will be important to expedite allocation of Proposition 50 funds allocated to the levee program. The Integrated Regional Water Management program represents a radical departure from the way the state has traditionally funded water-related projects. This program is designed to award grants to projects that propose regional integrated solutions to solving water problems as opposed to traditional single-purpose projects. Since this program represents a new approach to funding water projects, staff is concerned that the department has adequate staff to make the effort successful. Finally, DWR has indicated that it has made very little headway in getting the drinking water pilot project program up and running. However, it is not clear that additional staff are needed for the Environmental Water Account, as this program is being reevaluated this summer and fall and staffing needs should be evaluated after the CALFED program makes a decision on the future of the program.

Staff Recommendation. Staff recommends that the Subcommittee provide the department with 11 additional positions and funding from Proposition 50 for the budget year to implement the CALFED Levees program, the Integrated Regional Water Management program, and the Drinking Water Pilot Project program. This would restore the staffing levels of these programs to their original levels.

4. April Finance Letter—Bond Funds

Summary. A summary of the resource bond-related budget amendments that were requested by the administration in the 2004-05 April finance letter for DWR is included in **Appendix B**. The amendments include proposals to expend approximately \$263 million from all bond sources. The administration also requests reappropriation of about \$220 million bond funds that were appropriated in prior years. These funds were not expended for a variety of reasons, including delays due to the need to develop criteria to implement new programs and delays caused by the hiring freeze. Finally, the administration also requests an extension of the liquidation period for approximately \$124 million in bond funds to assure funds are available to complete various projects and contracts.

Environmental Water Account. The department has indicated that the CALFED program is currently evaluating the future of the Environmental Water Account (EWA) and whether the program should continue in its current form. The CALFED program is planning on making a final decision on this program by September 30, 2004. Central to the reevaluation of the program is how to fund a long-term EWA. The department has indicated that \$72 million in Proposition 50 bond funds proposed for reappropriation in the budget year have been set aside as a possible funding source for the long-term EWA. However, concerns have been raised about funding the EWA solely from state bond funds if EWA water purchases provide water reliability benefits to the water contractors. Consistent with the beneficiary pays principle adopted by the Subcommittee at its April 29 hearing, staff think bond funds should be utilized to fund only the ecosystem benefits of EWA purchases. If EWA water purchases provide water reliability benefits the costs of those benefits should be paid for by those that benefit.

Staff Recommendation. Staff recommend the Subcommittee do the following:

- (1) Adopt the department's bond proposal as outlined in Appendix B (including reappropriations and extension of liquidation periods).
- (2) Adopt the following trailer bill language that prohibits state funds from being used to provide water to the EWA for the purposes of water supply reliability. This action is consistent with the Subcommittee's April 29 action to adopt the beneficiary-pays principle in funding the CALFED program.

Section _____. (a) No state funds may be used to provide water or other assets to the environmental water account for the purposes of water supply reliability.

(b) The Department may develop and levy a fee on exports of water from the Sacramento-San Joaquin Delta to fund the acquisition of water or other assets to the environmental water account the purposes of water supply reliability.

5. Integrated Regional Water Management Program

Previous Subcommittee Discussion. At the April 29 meeting of the Subcommittee the department provided draft guidelines for its Integrated Regional Water Management program. This program is designed to award grants to projects that propose regional integrated solutions to solving water problems. This differs from traditional single purpose projects, such as water use efficiency projects or water recycling projects. The Subcommittee was provided with the department's draft guidelines.

Staff Comments. Since the April 29 meeting of the Subcommittee, staff has reviewed the department's draft guidelines for the program and has found that the department has made significant progress in developing a program that reflects the intent of the bond and subsequent implementing language. However, in some instances water supply objectives are perceived to take precedence over water quality or other objectives. The intent of the bond and subsequent legislation is to fund plans and projects that address regional water-related conflicts. While water supply may be the lead objective in some regions, flood management, or water quality may be more pressing problems in other regions of the state.

Department's Concerns. At the April 29 meeting of the Subcommittee the department expressed concern regarding its ability to continue the grant process in a timely manner if subsequent legislative guidance was enacted.

Staff Recommendation. Staff recommends adopting the following clarifying trailer bill language to implement the Integrated Regional Water Management program. Staff does not think there are any changes in this law that should significantly impact the department's grant schedule for the program.

Add a new water code section as follows:

79562.3. It is the intent of the Legislature that for the purposes of implementing section 79560 the department shall provide a funding cycle for planning grants to develop or adapt integrated regional water management plans to meet the requirements of this chapter. The department may expend up to \$10 million for planning grants pursuant to this section.

79562.4 It is the intent of the Legislature that for the purposes of implementing section 79560 the department and the board shall do all of the following:

(a) Give preference for both planning grants and project grants based on the extent to which the applicant's plan or proposal for a plan or project demonstrates an integrated solution to water needs or conflicts. Proposals should be evaluated on the extent to which the plan, project or proposal for a plan indicates an effective mix of water management strategies that achieve either added benefits or reduced costs compared to single purpose or single project approaches.

(b) Encourage projects that have as their primary benefit or objective any one or more of the elements identified in Section 79561 so long as the project also provides either water quality benefits or improvement in water supply reliability. Both construction projects and non-construction projects that include the one or more of the mandatory elements in Section 79561 shall be eligible for funding.

(c) In evaluating grant proposals, consider the extent to which proposed plans or projects endeavor to address statewide priorities including elements of the CALFED Record of Decision, TMDLs, SWRCB basin plan objectives, recommendations of the floodplain management task force, desalination task, recycling task force or other pertinent statewide needs.

6. May Revision

Summary. The following is a summary of the budget amendments requested by the administration in the 2004-05 May Revision for DWR.

Department of Water Resources

May Revision, 2004-05

(Dollars in Thousands)

Description	General Fund	Prop 13	Total
CALFED Drinking Water Quality. Proposes to fund final environmental documentation, design, and implementation of a CALFED ROD directed action to reduce and relocate agriculture drainage to improve drinking water quality in the vicinity of Rock Slough and Old River. Also proposes to isolate agriculture drainage from drinking water intakes near Rock Slough.	-	\$10,138	\$10,138
Dam Safety Program. Proposes to eliminate General Fund support for the dam safety program. This program is now fully funded by dam safety fees.	-135	-	-135
Total	-\$135	\$10,138	\$10,003

Staff Recommendation. No issues have been raised with this proposal. Staff recommends the Subcommittee *approve the May Revision for DWR.*

7. Various Requests

Summary. Staff has been notified that action on the following items is requested.

1. City of Malibu—Reappropriation of Proposition 13 funds for the Las Flores Creek Restoration grant awarded as an Urban Streams grant in the 2001-02 budget.

Staff Recommendation. The Subcommittee may wish to adopt language to facilitate the action listed above.

3870 California Bay-Delta Authority

1. Budget Change Proposal—Informational Display

Summary. In the April 29 agenda for this Subcommittee staff listed that no budget change proposals had been submitted for the California Bay-Delta Authority (BDA). It was brought to staff's attention that this was incorrect. The following is a summary of the budget change proposal submitted with the Governor's January 10 budget.

California Bay-Delta Authority

Budget Change Proposals, 2004-05

(Dollars in Thousands)

Description	General Fund	Personnel Years
Communication Reductions. Proposes to reduce contracts that support BDA's annual report, tribal involvement, stakeholder coordination, and environmental justice.	-\$720	-
Program Implementation Reductions. Proposes to reduce contracts that support regional coordination, development of the finance plan, and program integration.	-830	-
Administration Reductions. Proposes to reduce contracts that support legal services and the administrative efficiencies pilot program.	-850	-
Total	-\$2,400	0.0

2. CALFED Science Program Language

Previous Subcommittee Direction. At the April 29 meeting of the Subcommittee, staff was directed to develop supplemental report language that requires BDA to provide information on how the CALFED Science program is addressing the issue of how much water is needed to restore fisheries.

Staff Recommendation. Staff recommends the Subcommittee adopt the following supplemental report language on this issue:

3870-001-0001—California Bay-Delta Authority

- (a) The science program shall, by January 10, 2005, report to the Legislature with a plan to develop and implement a research agenda designed to answer the following questions:
- (1) How much additional water, above that provided under the current regulatory regimen, is necessary for the full recovery of all delta dependent fish species designated on either the state or federal endangered species lists as either endangered or threatened?
 - (2) What time of year is the additional water identified in (1) needed?
 - (3) Are there other characteristics of the additional water identified in (1), such as temperature, that are critical to recovery of these species, and if so what are those characteristics?

(b) As part of the research agenda described in (a), the science program may address any other questions related to the water needs of threatened or endangered fish that the science program deems appropriate.

3. May Revision

Summary. The following is a summary of the budget amendments requested by the administration in the 2004-05 May Revision for BDA.

California Bay-Delta Authority

May Revision, 2004-05

(Dollars in Thousands)

Description	General Fund	Personnel Years
General Fund Reductions. Proposes to reduce administrative support for the CALFED program.	-\$255	-1.9
Total	-\$255	-1.9

Staff Recommendation. No issues have been raised with this proposal. Staff recommends the Subcommittee *approve the May Revision proposal for BDA.*

3940 State Water Resources Control Board

1. Timber Harvest Plan Review in Sierra Nevada

Previous Subcommittee Direction. At the April 15 meeting of the Subcommittee, the Subcommittee requested that the Governor's proposal to shift positions from the north coast to the Sierra-Nevada to support timber harvest plan review activities. The Governor's proposed to shift 5.3 positions and \$470,000 General Fund from the north coast to the Sierra-Nevada to address increased THP review workload in this area.

Staff Recommendation. Staff recommends that the Subcommittee reject the Governor's proposal to transfer positions from the north coast to the Sierra-Nevada and instead augment the board's timber harvest review program by 5.3 positions and \$470,000. This augmentation is supported by a previous action in the California Department of Forestry and Fire Protection budget to augment THP fees to cover the THP review costs of all of the departments involved in THP review.

2. April Finance Letter—Bond Funds

Previous Subcommittee Direction. At the April 29 meeting of the Subcommittee, the Subcommittee requested that the department provide additional information on its efforts to streamline its process of awarding grants. Concerns had been raised regarding the length of time it takes the board to award grants and contracts.

Department's Response. The board has indicated that it has taken the following steps to streamline and shorten the time it takes it to review and award grants under its various grant programs:

- Formation of a special contracts task force charged by the Executive Director to significantly reduce processing time;
- Transfer of staff from other program areas to grants to help with workload;
- Major reorganization of staff and duties, both at the State and Regional Boards, to provide a focus on contract and grant activities;
- Development of time-saving templates and checklists;
- Elimination of internally redundant reviews;
- Development of new tracking and problem identification systems;
- Revamping of our process to require "contract ready" products much sooner; and
- Changing the award mechanism from contracts to more streamlined grants.

Specifically, the board has indicated that its average grant processing time has been shortened from a peak of 32 months during its implementation of Proposition 13 Phase I grants in 2001 to 3 to 4 months for consolidated grants in the current year.

Summary. The following is a summary of the bond-related budget amendments requested by the administration in the 2004-05 April finance letter for SWRCB.

State Water Resources Control Board**April Finance Letter - Bond Proposal, 2004-05***(Dollars in Thousands)*

Description	Prop 13	Prop 50	Positions
State Operations. Proposes funding and positions to administer grant and local assistance programs. Of the positions requested, 9 are extensions of positions established in the current year on a one-time basis and 6.2 are new positions. The 1.5 positions supporting the Ag Water Quality Program are proposed on a one-year limited term basis.	-	\$1,399	15.2
Groundwater Monitoring. Proposes local assistance funding for the Groundwater Monitoring Program, which is mandated by Chapter 522, Statutes of 2001 (AB 599, Liu). Funding is proposed from Chapter 8 of the bond.	-	10,000	0.0
Agricultural Water Quality Program. Proposes reappropriation of local assistance funds appropriated in the current year for the Agricultural Water Quality Program. These funds were not distributed in the current year due to requirements to adopt project guidelines, ensure public participation, and provide outreach to disadvantaged communities that extended the timeframe for awarding grants. Funding is proposed from Chapter 5 of the bond.	-	9,500	0.0
State Operations. Proposes funding and positions to accelerate implementation of watershed protection and non-point source pollution control grants. The new positions are proposed as three-year limited term positions. In addition, four existing Proposition 204 positions are proposed to be redirected to support the accelerated implementation of Proposition 13 grants.	\$574	-	6.0
Water Recycling. Proposes additional local assistance funds for the Water Recycling Program that provides construction grants and loans to local agencies to design and construct water recycling facilities.	21,689	-	0.0
Watershed Protection. Proposes local assistance funds for the Watershed Protection Program that provides grant funding to local agencies and nonprofit organizations for projects that assist in implementing watershed plans.	1,423	-	0.0
Non-Point Source (NPS) Pollution. Proposes local assistance funds for the NPS Pollution Control Program to provide grant funds to local agencies and nonprofit organizations for projects that control NPS pollution.	1,047	-	0.0
Coastal NPS Pollution. Proposes local assistance funds for the Coastal NPS Pollution Control Program to provide grant funds to local agencies, educational institutions, and nonprofit organizations to fund projects that protect water quality of coastal waters.	2,941	-	0.0
Total	\$27,674	\$20,899	21.2

Water Recycling Grant Program. Staff has been informed that the board is not considering funding some water recycling projects that have already started to construction. These projects were on the board's category 1A list, which put them first in line for Proposition 50 funding. However, due to delays in the grant process, some of these projects went to construction without a grant award from the board. In these specific cases, the local agencies could not wait for Proposition 50 awards from the board due to the need to start construction to satisfy

commitments made to other funding partners. Staff understands that this applies to a small number of projects.

Staff Recommendation.

- (1) Staff recommends the Subcommittee approve the bond-related budget amendments requested by the administration in the 2004-05 April finance letter for SWRCB.
- (2) Furthermore, the Subcommittee may wish to adopt the following budget bill language that directs the board to fund eligible water recycling projects that began construction before grant awards were made by the board. This following language limits this practice to eligible grantees in the budget year only.

Item 3940-101-6031

Provisions:

X. Grants made pursuant the Water Recycling Grant Program, funded in this Item, and Item 3940-101-6031 of the Budget Act of 2003 (Ch. 157, Stats. Of 2003), shall, upon award of a grant by the State Water Resources Control Board, be available for reimbursement of eligible costs incurred after January 1, 2004.

3. Water Rights Diversion Information

Previous Subcommittee Direction. At the April 15 meeting of the Subcommittee, the Subcommittee requested that the board provide the following:

- Information regarding whether the board would be able to adopt as guiding principles the 2002 Joint Guidelines adopted jointly by the Department of Fish and Game (DFG) and the National Oceanic and Atmospheric Administration (NOAA).
- Information on the board's water right penalty revenues, including information on where they are deposited, the level of revenues received annually, and an explanation of what activities the penalty revenues support.
- Information on the board's ability to provide a simple and easy to read matrix of water rights activity at the board. At a minimum the subcommittee is interested in a matrix that includes information on pending applications, status of each application, actions taken each year, and that the information be available on the board's website.

Department's Response. The department provided the following information in response to the Subcommittee's request:

- The board adopted informally the 2002 Joint guidelines, which is the same action taken by DFG and NOAA, as guiding policy. The board's primary concern with formally adopting the Draft Guidelines as regulations is that it will limit the flexibility of the SWRCB, DFG, and NOAA to address each individual project that may not specifically fit the use of the Draft Guidelines.
- Up until December 31, 2003, water rights penalty revenues were deposited into the General Fund, and were not used to directly support the water rights program. An average of approximately \$8,000 was collected each year since 1998. As of January 1, 2004, all penalty revenues are deposited into the Water Rights Fund, however, no penalty revenue has been collected since January 1, 2004. When penalty revenues are collected they will be deposited into the Water Rights Fund, which is appropriated each year by the Legislature to support the water rights program.

- The board's Division of Water Rights has a monthly report with that shows the total number of pending applications and the number of applications received each month. The board also indicates that they are currently in the process of compiling historical information for the water rights actions taken each year and it will take some time to provide a simple and easy to read matrix that would be available on the board's website. However, the board does not object to this request.

Staff Recommendation. Staff recommends that the Subcommittee adopt trailer bill language to require the board to provide basic information on water rights activity at the board, including pending applications, status of each application, and actions taken each year. Information should be available by water body and easily available on the board's website.

4. May Revision Reductions

May Revision. The following is a summary of the budget amendments required by the administration in the 2004-05 May Revision for SWRCB.

State Water Resources Control Board

May Revision, 2004-05

(Dollars in Thousands)

Description	General Fund	Total	Positions
<i>Septic Tank Standards.</i> Proposes reductions to the Septic Tank Standards program that are no longer necessary to complete the rulemaking process.	-\$202	-\$202	-1.0
Total	-\$202	-\$202	-1.0

Staff Recommendation. No issues have been raised with the administration's May Revision proposal for SWRCB. *Staff recommends the subcommittee approve the May Revision amendments for SWRCB.*

5. Agriculture Water Quality Grant Program

Background. In July of 2003, the Central Valley Regional Water Quality Control Board adopted conditional waivers for discharges from irrigated lands, requiring thousands of Central Valley producers to develop first-ever monitoring plans and implement pollution control practices. The Central Coast Regional Water Quality Control Board is currently evaluating a similar program. In an effort to support these new regulatory programs, the Legislature last year allocated \$9.5 from Proposition 50 for projects mitigating agricultural discharges; \$11.4 was similarly allocated from Proposition 40. The State Water Resources Control Board has pooled these funds, (adding \$6 million from a Federal 319h grants) to create an Agricultural Water Quality Grants Program (AWQGP) which will be considered for approval at the July 2004 SWRCB meeting.

This grant program can play a critical role in supporting the new agriculture waiver programs and warrants continued funding. Projects that enable growers to identify, evaluate, and demonstrate model practices, and provide an opportunity for educating others in their industry, are essential if these early regulatory efforts are to succeed.

Similarly, new water quality requirements are being imposed on dairies throughout the state. The funds proposed in the budget are to fund mostly projects related to irrigated agriculture. Therefore, no funds are available to dedicated to dairy water quality grants.

Staff Recommendation. Staff recommends the Subcommittee take the following actions:

- (1) Adopt budget bill language (that follows) to implement the Agriculture Water Quality Grant program. The same language was adopted in the current year as well.
- (2) Increase Proposition 50 funds for the Agriculture Water Quality Grant program by \$20 million (This is in addition to the \$9.5 million proposed by the Governor and recommended for adoption in a previous Subcommittee action.)
- (3) In addition, adopt trailer bill language (that follows) to implement a new Dairy Water Quality Improvement program.
- (4) Provide \$5 million Proposition 50 to fund the Dairy Water Quality Improvement program.
- (5) Supplemental report language that would provide recommendations for maximizing funds available to assist in addressing the environmental impacts of agriculture (language that follows).

All addition Proposition 50 funds should be allocated from Section 79540 (a) of the Proposition 50 bond.

Budget Bill Language:

3940-101-6031

Provision X - "Notwithstanding any other provision of law, \$29,500,000 of the amount appropriated in this item shall be available for expenditure during the 2004-05 through 2005-06 fiscal years to provide grants for projects to reduce or eliminate the discharge of agricultural pollutants pursuant to subdivision (d) of Section 30935 and Section 30940 of the Public Resources Code. These funds shall be available for grants to reduce agricultural discharges to surface or groundwater. Grants shall be given to projects with the greatest potential to reduce pollutants and protect water quality and that use qualified impartial experts to document and verify results through water quality monitoring or other means.

Budget bill and trailer bill language that accomplishes the following:

- (1) Allocates \$5 million for dairy water quality grants in the budget year subject to the following provisions:
 - SWRCB shall consult with CDFA and coordinate with CA Dairy Quality Assurance Program administered by CDFA.
 - SWRCB guidelines should give preference to parties in DQAP but give flexibility to SWRCB to waive preference where local conditions warrant.
 - Make the appropriation a two-year appropriation; any unspent funds would revert thereafter.
 - Funds must be expended to address dairy-related threat or impairment to water quality.

- Eligible projects include, but are not limited to: manure management projects that protect groundwater and surface water resources. (i.e. digesters and regional and on-farm composting.); water conservation and reuse programs; alternative forms for wastewater management that protect groundwater and surface waters, (i.e. on-site waste water management and field nutrient management control;) research on wastewater management; and sustainable agriculture projects, (i.e. tail-water discharge return projects, soil conservation.)

Supplemental Report Language:

3940-001-0001—State Water Resources Control Board

On or before December 31, 2004, the Legislative Analyst shall prepare and submit to the appropriate policy and fiscal committees of the Legislature a report setting forth its recommendations for any legislation and budgetary actions that would identify and maximize state and federal funding opportunities to assist in addressing the adverse environmental impacts of agricultural activities and operations. In preparing the report, the Analyst shall consult with the appropriate entities within the California Environmental Protection Agency and the Department of Food and Agriculture. The report shall include recommendations on how the State of California may access federal funds available for dairy environmental enhancement purposes pursuant to the conservation programs of the Farm Security and Rural Investment Act of 2002, and any other federal funds.

3900 Air Resources Board

1. Funding Clean Air Programs

Background. In past years, this subcommittee and the Legislature have taken the lead in adopting funding and trailer bill language to establish and ensure the ongoing funding for three cost-effective air quality incentive programs that have produced significant emissions reductions. These programs—the Carl Moyer Program, the Accelerated Vehicle Retirement (or vehicle scrappage) program, and the Lower-Emissions School Bus Program—are critical to help California comply with its state and federal air quality obligations, to protect public health, the environment, and the state’s economy. In recent years, all three of these programs have exhausted nearly all of their funding allocations.

Given the General Fund shortfall, alternative proposals to fund these programs have been being developed. One proposal is to levy a mitigation fees on gasoline and diesel fuels, including imports, for the purposes of providing a permanent and dedicated funding stream to these air quality programs. This fee would be imposed and collected at the wholesale terminal rack (fuel storage and distribution facility) where an established collection process is already administered by the state’s Board of Equalization. Another proposal suggested for funding these air quality programs is to increase the motor vehicle registration fee to provide a dedicated source of revenues for these programs.

In addition to this request, the committee has received several communications from members of the Senate who represent the Central Valley requesting that a new element to state air quality incentive programs be added to assist agriculture in complying with new air quality laws and regulations applicable to them.

Staff Recommendation. Staff recommends that the subcommittee adopt trailer bill language that imposes the so-called “rack fee” on motor vehicle fuels and the increase in the motor vehicle registration fee to fund clean air programs as described above.

Appendix A—Trailer Bill Language

1. California Coastal Commission—Fee language
2. California Department of Food and Agriculture—Positions language
3. Secretary for Resources—River Parkways Program language
4. Secretary for Resources—Sierra Nevada Cascade Program language
5. Department of Fish and Game—Landing Fees language

3720 California Coastal Commission—Trailer Bill Language

Language accomplishes the following:

- Directs the commission to increase their permitting fees so that the fees would cover roughly 50 percent of the program costs related to permitting. The fees will be adjusted annually for inflation by the consumer price index.
- Amends current law to limit the transfer of fee revenues to the State Coastal Conservancy to \$500,000 and adjust this transfer annually by the consumer price index. This will allow the remaining fee revenues to be deposited in the General Fund for support of the commission's permitting activities.

Draft Date: 5/17/04

Public Resources Code

Section 1:

- (a) ***It is the intent of the Legislature that the California Coastal Commission revise its permit fee schedule to recover at least fifty percent of the costs incurred in processing and enforcing coastal development permits. Notwithstanding any other provision of law to the contrary, the Commission may collect fees from public agencies for processing a request for action by the Commission that is necessary for new development proposed by the public agency.***
- (b) ***The adoption of permit fee increases pursuant to this subdivision shall be exempt from the review of the Office of Administrative Law and from the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.***
- (c) ***It is the intent of the Legislature that the Governor's annual budget document display the Coastal Commission's permit fee revenues for past, current, and future budget years.***

Section 2.

30620. (a) By January 30, 1977, the commission shall, consistent with this chapter, prepare interim procedures for the submission, review, and appeal of coastal development permit applications and of claims of exemption. These procedures shall include, but are not limited to, the following:

- (1) Application and appeal forms.
- (2) Reasonable provisions for notification to the commission and other interested persons of any action taken by a local government pursuant to this chapter, in sufficient detail to ensure that a preliminary review of that action for conformity with this chapter can be made.
- (3) Interpretive guidelines designed to assist local governments, the commission, and persons subject to this chapter in determining how the policies of this division shall be applied in the coastal zone prior to the

certification of local coastal programs. However, the guidelines shall not supersede, enlarge, or diminish the powers or authority of the commission or any other public agency.

(b) Not later than May 1, 1977, the commission shall, after public hearing, adopt permanent procedures that include the components specified in subdivision (a) and shall transmit a copy of those procedures to each local government within the coastal zone and make them readily available to the public. The commission may thereafter, from time to time, and, except in cases of emergency, after public hearing, modify or adopt additional procedures or guidelines that the commission determines to be necessary to better carry out this division.

(c) (1) The commission may require a reasonable filing fee, ***to be adjusted annually by the increase in the consumer price index***, and the reimbursement of expenses for the processing by the commission of any application for a coastal development permit under this division and, except for local coastal program submittals, for any other filing, including, but not limited to, a request for revocation, categorical exclusion, or boundary adjustment, submitted for review by the commission.

(2) Any coastal development permit fees collected by the commission under paragraph (1) shall be deposited ***directly into the General Fund with the first \$500,000 transferred to the Coastal Access Account***, which is hereby created in the State Coastal Conservancy Fund. The money in the account shall be available, upon appropriation by the Legislature in the annual Budget Act, to the State Coastal Conservancy for grants to public agencies and private nonprofit entities or organizations for the development, maintenance, and operation of new or existing facilities that provide public access to the shoreline of the sea, as defined in Section 30115. Any grant funds that are not expended for those purposes shall revert to the account. Nothing in this paragraph authorizes an increase in fees or creates any new authority on the part of the commission.

(d) With respect to any appeal of an action taken by a local government pursuant to Section 30602 or 30603, the executive director shall, within five working days of receipt of an appeal from any person other than members of the commission or any public agency, determine whether the appeal is patently frivolous. If the executive director determines that an appeal is patently frivolous, the appeal shall not be filed unless a filing fee in the amount of three hundred dollars (\$300) is deposited with the commission within five working days of the receipt of the executive director's determination. If the commission subsequently finds that the appeal raises a substantial issue, the filing fee shall be refunded.

Section 3.

This act is an urgency statute and shall take effect immediately.

8570 California Department of Food and Agriculture—Trailer Bill Language

Language accomplishes the following:

- (1) Requires the department to establish all permanent positions with the State Controller's Office (SCO), pursuant to standard state administrative policies. This applies to positions currently in the blanket and any permanent positions established in the future.
- (2) Requires the department to report to the Legislature January 10, 2005 on the permanent positions currently in the department's blanket that are established with SCO.
- (3) Exempts positions funded by the Agriculture Fund from the administrative rule that eliminates vacant positions if they have been vacant for 6 months. This action seems appropriate given the cyclical nature of the agriculture industry that is served by these programs and positions.

Draft Date: 5/17/04

Food and Agriculture Code

221. The "Department of Food and Agriculture Fund," which is a special fund, is continued in existence. Any money that is directed by law to be paid into the fund shall be paid into it and, unless otherwise specifically provided, shall be expended solely for the enforcement of the law under which the money was derived. The expenditure from the fund for the enforcement of any law shall not, unless otherwise specifically provided, exceed the amount of money that is credited to the fund pursuant to the law.

221.1 Notwithstanding Section 13340 of the Government Code, all money deposited in the fund under the provisions enumerated below is hereby continuously appropriated to the department without regard to fiscal years for expenditure in carrying out the purposes for which the money was deposited and for making the refunds authorized by Section 302.

221.2 All money deposited in the fund under the provisions enumerated below is hereby exempted from Sections 13320 to 13324, inclusive, of the Government Code:

- (a) Article 7 (commencing with Section 5821) and Article 7.5 (commencing with Section 5850) of Chapter 8 of Part 1 of Division 4, Chapter 1 (commencing with Section 6701) of Part 3 of Division 4, and Chapter 5 (commencing with Section 53301) of Division 18.
- (b) Article 5 (commencing with Section 6001) of Chapter 9 of Part 1 of Division 4.
- (c) Article 8.5 (commencing with Section 6047.1) of Chapter 9 of Part 1 of Division 4.
- (d) Article 4.5 (commencing with Section 6971) and Article 5 (commencing with Section 6981) of Chapter 2 of Part 3 of Division 4.
- (e) Chapter 4 (commencing with Section 14200), Chapter 5 (commencing with Section 14501), and Chapter 6 (commencing with Section 14901) of Division 7.
- (f) Part 1 (commencing with Section 16301) and Part 2 (commencing with Section 17401) of Division 9.
- (g) Sections 19225, 19227, 19312, and 19315.
- (h) Division 10 (commencing with Section 20001).
- (i) Division 11 (commencing with Section 23001).
- (j) Part 4 (commencing with Section 27501) of Division 12.
- (k) Division 16 (commencing with Section 40501).
- (l) Chapter 9 (commencing with Section 44971) of Division 17.
- (m) Chapter 1 (commencing with Section 52001) of Division 18.

- (n) Chapter 2 (commencing with Section 52251) of Division 18.
- (o) Chapter 3 (commencing with Section 52651) of Division 18.
- (p) Chapter 4 (commencing with Section 52851) of Division 18.
- (q) Chapter 6 (commencing with Section 55401), Chapter 7 (commencing with Section 56101), and Chapter 7.5 (commencing with Section 56701) of Division 20.
- (r) Section 58582.
- (s) Chapter 1 (commencing with Section 61301), Chapter 2 (commencing with Section 61801), and Chapter 3 (commencing with Section 62700) of Part 3 of Division 21.
- (t) Chapter 5.5 (commencing with Section 12531) of Division 5 of the Business and Professions Code.
- (u) Chapter 7 (commencing with Section 12700) of Division 5 of the Business and Professions Code.
- (v) Chapter 14 (commencing with Section 13400) and Chapter 15 (commencing with Section 13700) of Division 5 of the Business and Professions Code.

221.3 Notwithstanding Section 221, 221.1, and 221.2, (a) the Department of Food and Agriculture shall establish all permanent positions with the State Controller's Office, pursuant to standard state administrative practices.

(b) The department shall report to the Chairs of the fiscal committees of the Legislature and the Legislative Analyst's Office, not later than January 10, 2005, on the positions established pursuant to subdivision (a) that have been funded from the department's blanket authority. The report shall include a description of the positions by program, classification, and fund source, as well as a complete description of the workload for the positions.

Government Code Section

12439. (c) The Controller shall reestablish any position for which the director of the department in which that position existed prior to abolishment certifies by August 15 that one or more of the following conditions existed during part or all of the six consecutive pay periods.

- (1) The position is necessary for directly providing 24-hour care in an institution operated by the state.
- (2) The position is necessary for the state to satisfy any licensing requirements adopted by a local, state, or federal licensing or other regulatory agency.
- (3) The position is directly involved in services for public health, public safety, or homeland security.
- (4) The position is being held vacant because the previous incumbent is eligible to exercise a mandatory right of return from a leave of absence as may be required by any provision of law including, but not limited to, leaves for industrial disability, nonindustrial disability, military service, pregnancy, childbirth, or care of a newborn infant.
- (5) The position is being held vacant because the department has granted the previous incumbent a permissive leave of absence as may be authorized by any provision of law including, but not limited to, leaves for adoption of a child, education, civilian military work, or to assume a temporary assignment in another agency.
- (6) Elimination of the position will directly reduce state revenues or other income by more than would be saved by elimination of the position.
- (7) ***The position is (i) funded entirely from monies appropriated pursuant to Section 221.1 of the Food and Agriculture Code, (ii) was established with the State Controller pursuant to Section 221.3 of the Food and Agriculture Code, and (iii) directly responds to unforeseen agricultural circumstances requiring the relative expertise that the position provides.***

- (d) Each department shall maintain for future independent audit all records on which the department relied in determining that any position or positions satisfied one or more of the criteria specified in paragraphs (1) to (6), inclusive, of subdivision (c).
- (e) The only other exceptions to the abolishment required by subdivision (a) are those positions exempt from civil service or those instructional and instruction-related positions authorized for the California State University. No money appropriated by the subsequent Budget Act shall be used to pay the salary of any otherwise authorized state position that is abolished pursuant to this section.
- (f) The Controller, no later than September 10 of each fiscal year, shall furnish the Department of Finance in writing a preliminary report of any authorized state positions that were abolished effective on the preceding July 1 pursuant to this section.
- (g) The Controller, no later than October 15 of each fiscal year, shall furnish the Joint Legislative Budget Committee and the Department of Finance a final report on all positions that were abolished effective on the preceding July 1.
- (h) Departments shall not execute any personnel transactions for the purpose of circumventing the provisions of this section.
- (i) Each department shall include a section discussing its compliance with this section when it prepares its report pursuant to Section 13405.
- (j) As used in this section, department refers to any department, agency, board, commission, or other organizational unit of state government that is empowered to appoint persons to civil service positions.
- (k) This section shall become operative July 1, 2002.

0540 Secretary for Resources—River Parkways Program

Language accomplishes the following:

- Adopt trailer bill language to develop a framework for the award of grants under the River Parkways program.
- Appropriate, in the trailer bill, the \$38.35 million from Propositions 40 and 50 for the River Parkways Program.
- Require a report by the Agency on the geographic distribution and types of projects, as well as other details.

Draft Date: 5/18/04

CHAPTER 3.8. CALIFORNIA RIVER PARKWAYS ACT OF 2004

5750. This chapter shall be known, and may be cited, as the California River Parkways Act of 2004.

5751. The Legislature finds and declares all of the following:

(a) River parkways directly improve the quality of life in California by providing important recreational, open-space, wildlife, flood management, water quality, and urban waterfront revitalization benefits to communities in the state.

(b) River parkways provide communities with safe places for recreation including family picnics; bicycling and hiking; areas for river access for swimming, canoeing, and fishing; and many other activities.

(c) River parkways help revitalize deteriorated urban neighborhoods and provide an anchor for economic development by providing important recreational and scenic amenities.

(d) River parkways provide accessible open space that helps remedy the severe shortage of park and open-space areas that plague many urban and suburban communities, small towns, and rural areas.

(e) River parkways provide flood protection benefits for communities by providing wider corridors along our waterways that help store, and provide safe corridors for the passage of storm and flood waters.

(f) River parkways protect and restore riparian and riverine habitat.

(g) River parkways improve or protect the water quality in our rivers and streams.

(h) River parkways provide the recreational and ecosystem components of integrated regional water management and watershed plans.

(i) California can improve the quality of life in this state by assisting public agencies and nonprofit organizations in establishing, developing and restoring river parkways.

5752. For purposes of this chapter, the following terms have the following meanings:

(a) "Acquisition" means obtaining fee title or a lesser interest in real property, including easements, development rights, or water rights.

(b) "Development" includes, but is not limited to, improvement, rehabilitation, restoration, enhancement, preservation, protection and interpretation.

(c) "Interpretation" includes, but is not limited to, activities that explain natural, historical, and cultural resources in such a way that increases access to, understanding of, and enjoyment of such resources.

(d) "Nonprofit organization" means a private, nonprofit organization that qualifies for exempt status under Section 501 (c) (3) of the United States Internal Revenue Code.

(e) "Parkways Program" means the California River Parkways Program established pursuant to subdivision (a) of Section 5753.

(d) "Secretary" means the Secretary of the Resources Agency.

5753. (a) The California River Parkways Program is hereby established in the office of the Secretary of the Resources Agency, to be administered by the secretary.

(b) The secretary shall make grants available to public agencies and nonprofit organizations for river parkway projects from moneys appropriated to the secretary. Those funds may also be used for costs directly related to the delivery of the river parkways program.

(c) Grants may be awarded for the acquisition of land for river parkways or for the restoration, protection, and development of river parkways in accordance the provisions of this chapter. Not more than 10% of funds appropriated to the secretary by this chapter may be used for Urban Stream Restoration projects pursuant to Section 7048 of the Water Code.

(d) All projects shall comply with the California Environmental Quality Act (Division 13 (commencing with Section 21000)).

(e) All acquisitions shall be from willing sellers.

(f) To be eligible for a grant, a project shall, at a minimum, meet two of the following conditions:

(1) Improve public access or provide compatible recreational opportunities such as trails for strolling, hiking, bicycling, and equestrian uses along rivers and streams.

(2) Protect, improve, or restore riverine or riparian habitat.

(3) Maintaining or restoring the open-space character of lands along rivers and streams to be compatible with periodic flooding as part of a flood management plan or project.

(4) Improve or restore the water quality of a river or stream by reducing pollutants, sediments or other causes of water quality degradation.

(5) Convert existing urban waterfront land uses into uses consistent with river parkways, as identified in this chapter.

(6) Provide facilities to support or interpret river or stream restoration or other conservation activities.

(g) Preference shall be given to eligible projects that are consistent with adopted River Parkway Plans, watershed plans, integrated regional water management plans, or other comprehensive planning efforts designed to provide long term guidance and strategy for the protection of river and watershed resources, and the resolution of water related conflicts within a specific geographical and hydrological area.

5754. The secretary shall develop regulations, criteria, or procedural guidelines for the implementation of this chapter that shall be consistent with, but not limited to, Section 5753. These regulations, criteria, or procedural guidelines are exempt from Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code.

5754.4 To extent funds are available, the secretary shall develop guidelines for the preparation and consideration of river parkway plans for the purpose of subdivision (i) of section 5753 and may award grants to assist in development of such plans. Watershed plans, integrated regional water management plans or other similar plans that integrate recreational, public access and habitat benefits with water quality or other water related objectives may be considered as river parkway plans.

5754.5. The secretary shall report annually to the legislature regarding the geographic distribution, types and benefits of projects funded pursuant to this chapter.

5755. All regulations, criteria, or procedural guides adopted by the secretary to implement this chapter are exempt from Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code.

SEC.2. Of the funds available for the purposes of 5096.650(c)(1) of the Public Resources Code, the sum of seven million eight hundred-fifty thousand dollars (\$7,850,000) is hereby appropriated from the California Clean Water, Clean Air, Safe Neighborhood Parks and Coastal Protection Fund established by 5096.610 of the Public Resources Code.

Of the funds available for the purposes of Section 79541 of the Water Code, the sum of thirty million five hundred thousand dollars (\$30,500,000) is hereby appropriated from the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002 established by Section 79510 of the Water Code.

540 Secretary for Resources—Sierra Nevada Cascade Program

Language accomplishes the following:

- Adopt trailer bill language creating the Sierra Nevada-Cascades Program, to provide a framework for the award of grants under this program.
- Appropriate, in the trailer bill, the \$9.15 million from Proposition 50 for the Sierra Nevada-Cascades Program.

Draft Date: 5/18/04

Add new chapter to PRC Division 5 as follows:

Chapter 3.9 Sierra Nevada-Cascade Conservation Grant Program

5760. The Sierra Nevada-Cascade Conservation Grant Program is hereby established in the Resources Agency, to be administered by the Secretary.

5761. For purposes of this chapter, the following definitions shall apply:

(a) "Acquisition" means obtaining fee title or a lesser interest in real property, including easements, development rights, or water rights.

(b) "Development" includes, but is not limited to, improvement, rehabilitation, restoration, enhancement, preservation, protection and interpretation.

(c) "Interpretation" includes, but is not limited to, activities that explain natural, historical, and cultural resources in such a way that increases access to, understanding of, and enjoyment of such resources.

(d) "Nonprofit organization" means a private, nonprofit organization that qualifies for exempt status under Section 501 (c) (3) of the United States Internal Revenue Code.

(e) "Program" means the Sierra Nevada-Cascade Conservation Grant Program established pursuant to Section 5760.

(f) "Secretary" means the Secretary of the Resources Agency.

5762. In administering the program, the secretary, working in collaboration and cooperation with local governments and interested parties, shall seek to:

(a) Provide increased opportunities for tourism and recreation.

(b) Protect water quality from degradation.

(c) Reduce the risk of natural disasters, such as fire.

(d) Protect, conserve, and restore the region's physical, cultural, archeological, and historical resources.

(e) Assist the local economy, including providing increased economic opportunities.

(f) Identify the highest priority projects and initiatives for which funding is needed.

(g) Undertake efforts to enhance public use and enjoyment of lands owned by the public.

(h) Support efforts that advance environmental preservation and the economic well being of Sierra residents in a complimentary manner.

(i) Aid the preservation of working landscapes.

(j) Support local government efforts to develop and implement open space and habitat protection plans including natural community conservation plans.

5763. The secretary may carry out projects and activities to further the purposes identified in section 5762 including providing grants and loans to public agencies and nonprofit organizations for acquisition, restoration, development and such other activities and projects as are necessary to meet the goals of this chapter, provided that all such expenditures must be consistent with any restrictions related to the source of funds. In implementing this chapter, the secretary shall consult with the city or county where a grant is proposed or an interest in land is proposed to be acquired.

5763.5(a) For the purposes of implementing Water Code Section 79544 the secretary may provide grants to local public agencies, local water districts, or nonprofit organizations for acquisitions consistent with this chapter for any of the following purposes:

(1) Acquisition of agricultural, forest or grazing lands, or other working landscapes to prevent conversion to uses that could decrease water quality and degrade habitat values or to establish management practices that improve water quality and habitat. Conservation easements that maintain lands in private ownership and management shall be used when possible to accomplish these purposes.

(2) Acquisition of lands adjacent to rivers, streams, lakes, or wetlands that, if not protected, could lead to a decrease in water quality.

(3) Purchase of water rights that will protect water quality and in-stream flows for resource protection.

(4) Acquisition of lands on which current management practices contribute to water quality degradation for the purpose of halting or reversing the adverse affects on water quality.

(b) Preference shall be given to projects that accomplish one or more of the following goals:

(1) Contribute to the implementation of a locally developed open space, agricultural preservation or habitat protection plan.

(2) Assist in the implementation of a locally developed and approved watershed protection plan.

5764. The secretary shall require a prospective grantee for land or water resource acquisitions to include in the grant application a proposal for the long-term management of the resource proposed to be acquired. The grant applicant shall identify the entity that will hold title to the resource, including any state or federal agency to which title may be transferred after acquisition, and the entity that will be responsible for managing and protecting water quality values of the resource.

5764.5 All acquisitions pursuant to this chapter shall be from willing sellers.

5765. The secretary may appoint an advisory committee that includes a membership that is representative of the diverse interests of the Sierra Nevada region including, but not limited to, local government, conservation, business, agriculture, and tourism.

5766. All regulations, criteria, or procedural guides adopted by the Secretary to implement this chapter are exempt from Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code.

SEC. 2. Of the funds available for the purposes of Section 79544 of the Water Code, the sum of nine million one hundred fifty thousand dollars (\$9,150,000) is hereby appropriated from the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002,

established by Section 79510 of the Water Code, to the Secretary of the Resources Agency, for the purposes of awarding grants and program delivery pursuant to Section 79544 of the Water Code, in accordance with Chapter 3.9 of Division 5 of the Public Resources Code (commencing with Section 5760).

3600 Department of Fish and Game—Landing Fees

Language accomplishes the following:

- Ties the total amount of landing fees assessed in any year to the revenue levels set forth in the Budget Act for the DFG's activities related to commercial fishing. The fees should be limited to funding a program to manage and regulate the commercial fishing industry.
- Allows DFG to determine fees on commercial fee landings based on the value of the fish landed, which is similar to practices in Oregon and Washington.
- Creates a contingency reserve for the deposit of revenues in excess of department's budgetary needs that can be utilized to fund DFG's programs when revenues are low. This would help mitigate the need to raise fees when fish landings are low.

Draft Date: 5/18/04

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. *The Legislature finds and declares all of the following:*

- (a) The current system of collecting funds from the commercial fishing industry for the purpose of supporting department programs related to the conservation and management of and research related to commercial fishing do not reflect the value of the fish they are based on, and in most years do not cover department costs associated with commercial fishing activities.*
- (b) The States of Oregon and Washington, among others, determine fees on commercial fish landings based on an ad valorem basis that more equitably and accurately reflect the true value of the fish landed. California's adoption of a similar process for establishing commercial fish landing fees would help to establish consistency among the Pacific coastal states, which would help to establish a level playing field for persons in the fishing industry along the Pacific coast.*
- (c) A contingency fund is needed by the department from its receipts of monies from the commercial fishery based on surpluses of funds from years when landings are high to assure there are adequate funds for department commercial fishing programs in years when commercial landings are down and receipts are low. Further, such a contingency fund will benefit commercial fishing by allowing the department to utilize contingency reserves instead of necessarily placing higher fees on the industry during periods of low landings or reduced ex-vessel fish prices.*

SECTION 2. Section 8040 of the Fish and Game Code is amended to read:

8040. The following definitions govern the construction of this article.

(a) "Commercial fisherman" means a person who has a valid, unrevoked commercial fishing license issued pursuant to Section 7850.

(b) "Landing ~~fee tax~~" means a ~~fee privilege tax~~ imposed pursuant to this article *to recover the costs described in Section 8042.*

SECTION 3. Section 8041 of the Fish and Game Code is amended to read:

8041. (a) The following persons shall ~~submit pay~~ *an annual the landing fee to the department according to the fee schedule tax established by the department determined* pursuant to Section 8042:

(1) Any person who is required to be licensed as a fish receiver, and any person who is licensed before January 1, 1987, as a wholesaler or a processor pursuant to former Section 8040 and who receives fish from commercial fishermen.

(2) Any commercial fisherman who sells fish to any person who is not a licensed fish receiver.

(b) Notwithstanding subdivision (a), a person licensed pursuant to Section 8460 who only takes, transports, or sells live freshwater fish for bait or a commercial fisherman who sells live freshwater fish for bait to such a licensed person, and a person licensed pursuant to Section 8033.1 who takes, transports, or sells live aquaria fish as described in Section 8597 or a commercial fisherman who sells live aquaria fish, are exempt from the landing ~~tax fee~~ imposed under this article. It is the intent of the Legislature that the license fee for live aquaria fish described in Section 8033.1 shall be in lieu of a landing ~~tax fee~~.

(c) Notwithstanding subdivision (a), a person who purchases, sells, takes, or receives live marine fish for use as live bait as described in subdivision (g) of Section 8030 is exempt from the landing ~~tax fee~~ imposed under this article.

SECTION 4. Section 8042 of the Fish and Game Code is amended to read:

8042. ~~(a)(1) The amount of the landing tax under this article shall be determined by multiplying the tax rate for the type of fish delivered by a commercial fisherman in this state in accordance with the schedule in Section 8051 by the number of pounds, or fraction thereof, delivered. If the tax is imposed based upon weight in the round, and the fish is cleaned, gutted, beheaded, or otherwise not in the round at the time of delivery, the taxes shall be adjusted by a conversion factor as determined by the department by regulation. The Commission shall adopt annually, by emergency regulations, a schedule of landing fees authorized under Section 8041.~~

(2) The landing fees shall be set as a percentage of between two to five percent of the total value of the fish as landed in the prior fiscal year. The landing fee for each species of fish or complex of fish shall be an ad valorem amount of the average ex-vessel price set forth for that species, based on the landing tickets from the previous year, and the same percentage shall be applied for all species of fish landed and sold. The department shall recommend to the Commission a percentage that is selected such that the total revenue collected each year equals the revenue levels set forth in the Budget Act for the activities described in subdivision (c), plus a reasonable reserve for contingencies.

(3) The Commission shall automatically adjust the landing fees schedule each fiscal year to conform with the revenue levels set forth in the Budget Act for these activities. If the Commission determines that the revenue collected during the preceding year was greater than, or less than, the revenue levels set forth in the Budget Act, the Commission may further adjust the annual fees to compensate for the over and under collection of revenue.

(4) The emergency regulations adopted pursuant to this subdivision, any amendment thereto, or subsequent adjustments to the annual landing fees, shall be adopted by the Commission in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, any emergency regulations adopted by the Commission, or adjustments to the annual fees made by the Commission pursuant to this section, shall not be subject to review by the Office of Administrative Law and shall remain in effect until revised by the Commission.

(b) The Commission shall establish, by regulation, a timetable for the payment of the annual landing fees.

(c) The total amount of annual fees collected pursuant to this section shall equal that amount necessary to recover costs incurred in connection with the issuance, administration, review, monitoring, inspection and enforcement of facilities (including packing plants), activities and programs related to commercial fishing, including research on fish and their habitats associated with the management and promotion of sustainable fish populations; administrative costs incurred in connection with carrying out these actions; and a reasonable reserve for contingencies. These activities include, but are not limited to:

(i) activities undertaken by the department pursuant to authority granted in Part 3 of Division 6 of the California Fish and Game Code;

(ii) activities undertaken by the department related to commercial fisheries pursuant to authority granted in Part 1.7 of Division 6 of the California Fish and Game Code; and

(iii) activities undertaken by the department related to commercial fisheries within marine managed areas.

(d) In establishing the schedule of the total amount of annual fees pursuant to this section, the Commission shall consider:

(i) the total costs, as described in subdivision (c), associated with each fishery category;

(ii) the fee for, and revenue generated by, any commercial fishery permits; and

(iii) any existing special funds associated with that fishery category, including but not limited to the Fish and Game Preservation Fund, the Oil Spill Prevention and Administration Fund, the Federal Trust Fund, the California License Plate Fund, and any reimbursements.

(e) In establishing the schedule of the total amount of annual fees pursuant to this section, the Commission shall ensure that the fees reflect the following budget requirements for management of sound fisheries:

- (i) *not less than the average annual amount expended in fiscal years 1994-2004 for research and management activities related to maintained and enhanced herring resources, and*
- (ii) *not less than the average annual amount expended in fiscal years 1994-2004 for ensuring sustainable salmon populations pursuant to former Section 8055.*

(f) The definitions of “fish” in Section 45 of this Code and of “fishery” in Section 94 of this Code shall govern the determination of what constitutes a fishery under subdivisions (c) and (d).

(g) Notwithstanding any other provision of law, any landing fees collected pursuant to this section shall be deposited in the Commercial Fishing Conservation, Management and Research Fund, which is hereby created. The money in the fund is available for expenditure by the department, upon appropriation by the Legislature, solely for the purposes of carrying out the activities described in subdivision 8042(c).

(h) Not later than one year following the first establishment of landing fees pursuant to this subdivision, the department shall recommend to the Commission, and the Commission shall act on, modifications of the commercial fishing permit fees for each fishery category listed pursuant to Chapter 2, Part 3 of Division 6 as necessary to recover costs associated with the issuance and administration of those permits. Permit fees shall be reviewed and modified annually thereafter to ensure the department continues to recover the costs associated with the issuance and administration of permits for each fishery category.

SECTION 4. Section 8047(b) of the Fish and Game Code is amended to read:

(b) Every commercial fisherman who sells fish taken from the waters of this state or brought into this state in fresh condition to persons not licensed to receive fish for commercial purposes pursuant to Article 7 (commencing with Section 8030) shall make a legible record in the form of the landing receipt required by Sections 8043 and 8043.1. Persons subject to Section 8043 shall remit the landing ~~tax~~ fee imposed by Section 8041. The person taking, purchasing, or receiving the fish, whether or not licensed under Article 7 (commencing with Section 8030), shall sign the landing receipt. The original signed copy of the landing receipt shall be delivered by the commercial fisherman to the department on or before the first and 16th day of each month. A copy of the landing receipt shall be retained by the commercial fisherman for a period of four years and shall be available for inspection at any time within that period by the department. A copy of the landing receipt shall be retained by the person taking, purchasing, or receiving the fish until they are prepared for consumption or otherwise disposed of. A copy of the landing receipt shall be delivered to an agent authorized in writing by the majority of the persons who participated in the taking of the fish, excluding the commercial fisherman receiving the original copy.

SECTION 5. Section 8051 of the Fish and Game Code is deleted.

~~8051. (a) The landing tax imposed pursuant to Section 8041 shall be determined pursuant to Section 8042 by using the tax rates in the following schedule:~~

~~_____ Rate per
_____ pound~~

~~(1) All fish, except as otherwise specified~~

— in this section	\$0.0013
(2) Mollusks and crustaceans, excluding squid — and crab .....	.0125
(3) Crab .....	.0019
(4) Squid .....	.0019
(5) Salmon, based only on the weight — in the round .....	.0500
(6) Lobster .....	.0125
(7) Abalone .....	.0125
(8) Anchovies .....	.0013
(9) Sardines .....	.0063
(10) Mackerel .....	.0013
(11) Halibut .....	.0125
(12) Angel shark, based only on the weight — in the round .....	.0113
(13) Swordfish, based only on the weight — in the round .....	.0125
(14) Thresher shark, based only on the weight — in the round .....	.0113
(15) Bonito shark, based only on the weight — in the round .....	.0113
(16) Herring .....	.0125
(17) Sea urchin .....	.0013
(18) The following fish: .....	.0125
— Barracuda	
— Flying fish	
— Frogs	
— Giant sea bass	
— Saltwater worms	
— White sea bass	
— Yellowtail	

—(b) This section shall become operative on January 1, 1994.

SECTION x. Sections 8051.3 and 8051.4 of the Fish and Game Code are amended to read:

8051.3. (a) Any person who is required to pay a landing ~~tax fee~~ for abalone pursuant to Sections 8041 and 8042 shall pay, in addition to the landing ~~taxes-fees~~ determined pursuant to Section 8042 ~~54~~, an additional ~~tax fee~~ of nineteen and one-half cents (\$0.195) for each pound, or fraction thereof, of abalone, determined as provided in Section 8042.

(b) This section shall remain in effect only until January 1, 2007, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2007, deletes or extends that date.

8051.4. (a) The landing ~~tax fee~~ collected pursuant to Section 8051.3 shall be deposited in the Fish and Game Preservation Fund and shall be used only for the Abalone Resources Restoration and Enhancement Program. The department shall maintain internal accounts

necessary to ensure that the funds are disbursed for the purposes in this subdivision. No more of the landing ~~tax~~ fee collected pursuant to Section 8051.3 than an amount equal to the regularly approved department indirect overhead rate may be used for administration by the department. Any interest on the revenues from the landing ~~tax~~ fee collected pursuant to Section 8051.3 shall be deposited in the fund and used for the purposes in this subdivision.

(b) A Commercial Abalone Advisory Committee shall be appointed by the director, consisting of six members who shall serve without compensation or reimbursement of expenses. One of the members shall be a person who was required to pay landing ~~taxes~~ fees pursuant to Section 8051.3 during the 1996-97 permit year. Each of the five remaining members shall have held a commercial abalone diving permit during the 1996-97 permit year, and represent the following groups and organizations:

(1) One member shall be selected from divers with a place of residence north of Point Sur.

(2) One member shall be selected from divers with a place of residence south of Point Dume.

(3) One member shall be selected from divers with a place of residence south of Point Sur and north of Point Dume.

(4) Two members shall be selected from the membership of the California Abalone Association without regard to place of residence. This subdivision does not prohibit persons selected pursuant to paragraph (1), (2), or (3) from also being members of the California Abalone Association.

(c) The advisory committee shall make recommendations to the director and the director shall use his or her best efforts to implement those recommendations for activities to be conducted with funds collected pursuant to Section 8051.3, and those funds collected from any previous calendar year shall be available for use for those activities.

(d) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2008, deletes or extends that date.

SECTION 6. Section 8052 of the Fish and Game Code is deleted.

~~8052. Landing taxes shall be used only for the administration of laws relating to the commercial fishing industry, except as follows:~~

~~—(a) Not less than 90 percent of the landing tax on herring taken for roe shall be expended for research and management activities to maintain and enhance the herring resources within the waters of this state.~~

~~—(b) Not less than 90 percent of the landing tax on thresher shark or bonito (mako) shark shall be expended for the study required by, and for the costs of administering, Article 16 (commencing with Section 8560) of Chapter 2.~~

SECTION 7. Section 8053 of the Fish and Game Code is amended to read:

8053. Landing ~~fees~~ taxes imposed by this article shall be paid quarterly to the department within 30 days after the close of each quarter *following notification of the assessment of the fee*. If any landing ~~fee~~ tax is not paid within 30 days after the close of the *quarter* for

which it is due, the department shall collect amounts owing under the procedures prescribed for sales and use taxes provided in Chapter 5 (commencing with Section 6451) and Chapter 6 (commencing with Section 6701) of Part 1 of Division 2 of the Revenue and Taxation Code, insofar as they may be applicable, and for those purposes, "board" means the department and "the date on which the tax became due and payable" means that date 30 days after the close of the quarter for which it is due. *[question for Leg Counsel - instead of this system, which is a "tax" system, do we need to create a new Part 22.7 of the Rev and Tax Code, Sections 44500 et seq., call it the Commercial Fishing Management Fund, and insert collection language modeled on surrounding programs and fee collection structure in Rev and Tax Code §§ 55001 et seq.?)*

SECTION 8. Sections 8055 and 8056 of the Fish and Game Code are deleted.

~~8055. All moneys received as a privilege tax from persons who receive salmon from fishermen under the provisions of this article shall be used only for the purpose of propagating salmon. 8056. Except as otherwise provided in this article, all moneys collected pursuant to this article shall be paid to the department, and shall be expended for the patrol of packing plants, inspection and regulation of the fishing industry, and conservation work for the benefit of the commercial fishing industries.~~

SECTION 9. *[amending various sections to change "tax" to "fee"]*

8057. If the department determines that any *landing fee tax* or penalty has been paid more than once or has been erroneously or illegally collected or computed, the department shall set forth that fact in the records of the department. The excess amount collected or paid shall be credited on any amounts then due and payable from the person under this part, and the balance shall be refunded to the person, or his successors, administrators, or executors.

8058. In the event of overpayment of any of the ~~fees taxes~~ imposed by this article, the ~~feetax~~ payer may file a claim for refund or a claim for credit with the department. Norefund or credit shall be approved by the department unless the claim therefor is filed with the department within six months after the close of the calendar year in which the overpayment was made.

8059. Every claim for refund or credit for overpayment of a landing ~~feetax~~ shall be in writing and shall state the specific grounds upon which the claim is founded.

8060. Failure to file a claim for refund or credit within the time prescribed in this article constitutes a waiver of any demand against the state on account of overpayment of a landing ~~feetax~~ or ~~feestaxes~~.

8061. Within 30 days after disallowing any claim for refund or credit for overpayment of a landing ~~feetax~~ in whole or in part, the department shall serve notice of its action on the claimant, either personally or by mail. If served by mail, service shall be made pursuant to Section 1013 of the Code of Civil Procedure and shall be addressed to the licensee at his address as it appears in the records of the department, but the service shall be deemed complete at the time of the deposit of the notice in the mail without extension of time for any reason.

8062. Interest shall be paid upon any overpayment of a landing ~~fee~~^{tax} at the rate of one-half of 1 percent per month from the date of overpayment. The interest shall be paid to the date the claim for refund or credit is approved by the department.

8063. If the department determines that any overpayment of a landing ~~fee~~^{tax} has been made intentionally or by reason of carelessness, it shall not allow any interest thereon.

8064. No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action, or proceeding in any court against this state or against any officer of the state to prevent or enjoin the collection under this article of any landing ~~fee~~^{tax}.

8065. No suit or proceeding shall be maintained in any court for the recovery of any amount of landing ~~fee~~^{tax} alleged to have been erroneously paid or erroneously or illegally determined or collected unless a claim for refund or credit has been duly filed pursuant to Sections 8058 and 8059.

8067. If the department fails to mail notice of action on a claim for refund or credit for overpayment of a landing ~~fee~~^{tax} within six months after the claim is filed, the claimant may, prior to the mailing of notice by the department of its action on the claim, consider the claim disallowed and bring an action against the department on the grounds set forth in the claim for the recovery of the whole or any part of the amount claimed as an overpayment.

8068. If judgment is rendered for the plaintiff, the amount of the judgment shall first be credited on any landing ~~fee~~^{tax} due and payable from the plaintiff to the state under this article. The balance of the judgment shall be refunded to the plaintiff.

Appendix B—DWR Bond Proposal

Department of Water Resources

April Finance Letter - Bond Funds, 2004-05

(Dollars in Thousands)

Description	Prop 13	Prop 50	Prop 204	Other Bonds	Total	Personnel Years
Arroyo Pasajero Flood Control. Proposes funding for improvements to existing flood control facilities at the San Luis Canal/California Aqueduct juncture with the Arroyo Pasajero stream.	\$4,750	-	-	-	4,750	0.0
Flood Control Subventions. Proposes funding for local flood control subventions to fund federally authorized flood control projects.	3,742	-	-	-	3,742	0.0
Yuba Feather Flood Protection Program. Proposes funding for grants to address flooding along the Yuba/Feather River and the Colusa Basin Drain. Baseline support for this program was included in the January 10 budget proposal (\$978,000 Prop 13).	16,855	-	-	-	16,855	0.0
Groundwater Storage Grant Program. Proposes to provide funding for this program. These funds were originally appropriated several years ago, but reverted at the end of 2002-03 because the department did not expend these funds.	77,336	-	-	-	77,336	0.0
Proposition 13 Administration. Proposes funding for the fiscal administration, coordination, and oversight of Proposition 13 funding.	248	-	-	-	248	2.0
Local Water Projects. Proposes to fund eligible construction projects or feasibility studies for various water reliability projects. These funds were originally appropriated several years ago, but were reverted at the end of 2002-03 because the department did not expend these funds.	-	-	3,289	-	3,289	0.0
CALFED Watershed Program. Proposes funding for competitive grants to carry out the CALFED Watershed Program. Proposal requests \$250,000 and 2 positions for administration of this program. Also proposes budget bill language to enable funding to be encumbered through 2006-07.	-	19,250	-	-	19,250	2.0
CALFED Watershed Program. Proposes additional support for this program. Baseline support for this program was also included in the January 10 budget (\$813,000 Prop 50).	-	872	-	-	872	0.0

<p>CALFED Conveyance Program - Delta Cross Channel. Proposes funding to complete the technical feasibility of reoperating the Delta Cross Channel, constructing a through-Delta facility, and restoring Franks Tract. These projects are part of stage 1 actions in the CALFED ROD.</p>	8,800	-	-	-	8,800	0.0
<p>CALFED Conveyance Program - Clifton Court Fish Screens. Proposes to collect information to determine the adequacy of fish screens to be installed at a new State Water Project intake at the north end of Clifton Court Forebay.</p>	1,101	-	-	-	1,101	0.0
<p>CALFED Conveyance Program. Proposes additional funding for this program. Baseline support for this program was included in the January 10 budget proposal (\$858,000 Prop 13). No new Prop 50 funds were allocated to the conveyance program.</p>	1,336	-	-	-	1,336	0.0
<p>CALFED Ecosystem Restoration Program. Proposes funding to support DWR's Aquatic Restoration Planning and Implementation section and 4 positions for planning and implementing habitat restoration actions in the Yolo Bypass. This proposal continues a program previously supported by Proposition 204 and supports implementation of the CALFED ROD, including the Ecosystem Restoration Program Plan and Multi-Species Conservation Strategy.</p>	-	1,000	-	-	1,000	0.0
<p>CALFED Ecosystem Restoration Program. Proposes additional support for this program. Baseline support for this program was included in the January 10 budget proposal (\$553,000 Prop 50).</p>	10,016	579	-	-	10,595	0.0
<p>CALFED Environmental Water Account. Proposes additional funding for this program. Baseline support for this program was included in the January 10 budget proposal (\$570,000 Prop 50).</p>	-	31,768	-	-	31,768	0.0
<p>CALFED Levee Program. Proposes \$3.1 million additional support for this program. Baseline support for this program was also included in the January 10 budget (\$1.5 million Prop 50). Also proposes \$16.8 million for program implementation.</p>	-	19,873	-	-	19,873	0.0

CALFED Storage Program. Proposes additional support for the storage program. Baseline support for this program was included in the January 10 budget proposal (\$5.4 million Prop. 50).	-	13,639	-	-	13,639	0.0
CALFED Science Program. Proposes support for this program.	2,030	-	-	-	2,030	0.0
CALFED Drinking Water Quality. Proposes additional support for this program. Baseline support for this program was included in the January 10 budget proposal (\$146,000 Prop 50).	2,022	15	-	-	2,037	0.0
CALFED Water Supply Reliability. Proposes additional support for this program. Baseline support for this program was included in the January 10 budget (\$1.8 million Prop 50).	-	30	-	-	30	0.0
CALFED Water Use Efficiency. No new Prop 50 funds were provided for this program. Baseline support for this program was included in the January 10 budget proposal (\$845,000 Prop 50).	-	0	-	-	0	0.0
Drought Panel Recommendations. Proposes funding for grants to implement the drought panel recommendations consistent with the level of funding approved in the 2003-04 Budget Act .	-	6,400	-	-	6,400	0.0
Desalination. Proposes additional support for this program. Baseline support for this program was included in the January 10 budget (\$112,000 Prop 50).	-	137	-	-	137	0.0
Integrated Regional Water Management. Proposes additional support for this program. Baseline support for this program was included in the January 10 budget (\$395,000 Prop 50).	-	5	-	-	5	0.0
Colorado River. Proposes local assistance funding for the Colorado River program.	-	300	-	-	300	0.0
Drinking Water Pilot Projects. No new Prop 50 funds were provided for this program.	-	0	-	-	0	0.0
Water Conservation Projects. Proposes to restore funding for various water conservation projects consistent with the schedule approved in the 2003-04 Budget Act. Proposes \$18 million Prop 13 for infrastructure rehabilitation grants and \$8.3 million Prop 13 for agricultural water conservation loans and grants.	26,282	-	-	10,574	36,856	0.0

<i>Flood Protection Corridor Program.</i>	222	-	-	-	222	0.0
Proposes to restore support budget to its original funding level. Also proposes to revert \$1.1 million in local assistance funding that was over allocated to this program in the 2003-04 Budget Act .						
Total	\$154,740	\$93,868	\$3,289	\$10,574	\$262,471	4.0

SUBCOMMITTEE NO. 4

Agenda

**Joseph Dunn, Chair
Denise Moreno Ducheny
Ross Johnson**



PART I

**Wednesday, May 19, 2004
1:30
Room 3191**

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ISSUE #	ORG/ DEPT	ISSUE	DESCRIPTION	DOLLARS (in thousands)	STAFF REC.	BBL/ TBL	VOTE
1	0250 Judiciary	April Finance Letter: Acquisition and Preliminary Plans for 2 New Court Facilities.	<p>1. Placer-Nevada Shared Use Facility: Truckee. The Judicial Council requests \$544,000 from the Courthouse Construction Fund to consolidate court operations in the Placer and Nevada counties. This request would fund the site acquisition and preliminary plans for a 25,500 square foot facility in Truckee that would combine functions of the Superior Courts in these counties.</p> <p>2. Portola-Loyalton New Branch Court: Counties of Plumas and Sierra. The Judicial Council requests \$75,000 from the Courthouse Construction Fund to consolidate court operations in the Plumas and Sierra counties. This request would fund the site acquisition and preliminary plans for a 5,400 square foot facility that would combine functions of the Superior Courts in these counties.</p> <p>These projects may reduce future capital and operational costs through innovative use of shared facility and technology. The Finance Letter also proposes provisional language to identify these as demonstration projects and require the Judicial Council to report its findings on future cost savings to the Legislature and Department of Finance:</p>	\$619 in Courthouse Construction Funds	Adopt Finance Letter	BBL	
2	0250 Judiciary	April Finance Letter: Reappropriation for the Fourth Appellate District Court of Appeal	This Finance Letter proposes to reappropriate funds for working drawings and construction for the Fourth District Court of Appeals courthouse in Orange County. The reappropriation is necessary due to the transfer of project management from DGS to the AOC when the project was reappropriated in the 2003 budget and the Judicial Council's need to create and adopt interim contracting rules and procedures.		Adopt Finance Letter	BBL	

ISSUE #	ORG/ DEPT	ISSUE	DESCRIPTION	DOLLARS (in thousands)	STAFF REC.	BBL/ TBL	VOTE
3	0250 Judiciary	May Revise: Revised Budget Proposal and Unallocated Reduction	<p>The Governor's Budget included an ongoing \$9.8 million reduction. The May Revise proposal provides additional funding for increases in judges salaries and benefits, employee salaries, and increases in the costs of contract security services provided by the CHP. It will also decrease the unallocated reduction to \$8.5 million, \$3 million of which is on-going.</p> <p>The January budget originally proposed total appropriations of \$373.8 million for support of these judicial functions in 2003-04. This had been a decrease of \$8.3 million, or 2.2 percent below estimated current-year expenditures.</p>	\$4,329 from the General Fund	Adopt Finance Letter		
4	0250 Judiciary	May Revise: Trial Court Facilities Act of 2002.	<p>Per the Trial Court Facilities Act of 2002 (Ch. 1082, St. 2002), the Judicial Council proposes \$23.3 million from the Court Facilities Construction Fund and \$1,000 from the Court Facilities Trust Fund, and 102 positions. This proposal would provide program support staffing to begin the transition of facilities from county to the state.</p> <p>The proposal is consistent with the estimate of positions and resources from the fiscal estimate provided during consideration of the Act. This is the second year of the 5-year planned organizational development process.</p> <p>The process for transferring the properties from the county to the state will formally begin in the budget year. The AOC anticipates that in the budget year between 100 and 140 facilities will be transferred to the state.</p> <p>The proposal includes language requiring the Council to provide a workplan prior to filling positions. The proposal also creates the Court Facilities Trust Fund and appropriates \$1,000 with language that allows DOF to increase funds to the item once money is in the fund.</p>	\$23,291 from the State Court Facilities Construction Fund and \$1 from the Court Facilities Trust Fund	Adopt Finance Letter	BBL	

ISSUE #	ORG/ DEPT	ISSUE	DESCRIPTION	DOLLARS (in thousands)	STAFF REC.	BBL/ TBL	VOTE
5	0450 – Trial Court Funding	May Revise: Revised Budget Proposal and Unallocated Reduction	<p>The May Revision provides an increase of \$99 million to the state’s trial courts. The proposal includes increases for existing costs that courts are experiencing but does not provide funds for new, additional, or improved services.</p> <p>Court Staff Retirement: \$23.1 million. Court Security: \$28.8 million. Judges Retirement System (JRS) Funding: \$27. 6 million. Non-Salary Driven Benefit Increases: \$11.5 million. Salary and Benefit Contract Costs: \$9.6 million. Judges Salary and Benefits: \$8.1 million. County Charges: \$1.5 million.</p> <p>Unallocated Reduction: -\$11 million. Increases the \$59 million unallocated reduction included in the January budget proposal to \$70 million.</p> <p>For 2003-04, this budget item took a one-time \$85 million unallocated reduction. However, the actual reduction to the trial courts’ operating budgets amounted to \$59.8 million as a result of other reductions, including \$10 million from judicial salary savings, \$10 million from the Trial Court Improvement Fund, \$4.3 million from the Judicial Administration Efficiency and Modernization Fund, and \$900,000 from the Assigned Judges program.</p> <p>In the January proposal the entire unallocated reduction was proposed as an ongoing reduction. This proposal makes \$20 million ongoing and \$50 million one-time. Previous unallocated reductions to the trial courts have been one-time. The courts have stressed that maintaining one-time reductions rather than ongoing reductions is important because it will mean that the impact of these reductions, such as reduced hours and services, will not become institutionalized.</p>	99,100	Adopt Finance Letter request		

ISSUE #	ORG/ DEPT	ISSUE	DESCRIPTION	DOLLARS (in thousands)	STAFF REC.	BBL/ TBL	VOTE
6	0450 Trial Court Funding	May Revise: Electronic Reporting	<p>The proposal reduces the budgets of the trial courts by \$6.4 million and proposes to increase the use of electronic reporting. The estimates assume increased use of electronic reporting through attrition of court reporters.</p> <p>The proposal includes trailer bill language (TBL) requiring the Judicial Council to provide by rule of court the means for taking down, storing, transcribing, and certifying the verbatim record. The language allows for electronic recording in all cases except death penalty cases. (For TBL see Attachment A)</p> <p>Staff Comments: The estimates do not include costs of transcribing the electronic record, or the staff costs of running the equipment.</p> <p>The Subcommittee may wish to adopt the following intent language: It is the intent of the Legislature to address the use of electronic recording equipment in the trial courts.</p>	\$6,381 General Fund savings	Reject Finance Letter request & Adopt intent language	TBL	
7	0450 Trial Court Funding	May Revise: Eliminate Governmental Exemption from Civil Court Filing Fees	<p>Under current law all governmental agencies are exempt from paying court filing fees. This proposed TBL would eliminate the exemption for all government agencies except for state agencies, child welfare or probation agencies in proceedings pursuant to Welfare and Institutions code section 300 et seq., and local child support or D.A.s in actions regarding establishment or enforcement of child support.</p> <p>Staff Comments: The AOC indicates that savings estimates were based on very limited information. Counties have objected to this proposal as a cost shift of court costs from the state to counties and therefore a revocation of the central principle of trial court funding reform.</p> <p>Staff notes that the state fiscal impacts are relatively minor, yet the policy change may be considered significant. For TBL see Attachment B</p>	\$312 in General Fund savings	Reject Finance Letter request	TBL	

ISSUE #	ORG/ DEPT	ISSUE	DESCRIPTION	DOLLARS (in thousands)	STAFF REC.	BBL/ TBL	VOTE
8	0450 Trial Court Funding	May Revise: Reduce Peremptory Challenges in All Cases	<p>Proposes to reduce peremptory challenges from 20 peremptory challenges per side to 10 in death penalty or life cases, from 10 challenges per side in other felonies to 6, from 6 per side for misdemeanors and 2-party civil cases to 3, and from 8 per side for multi-party civil cases to 6. This proposal requires trailer bill language (Attachment C).</p> <p>Staff Comments: Savings amount for this proposal may be overstated. The reduction in peremptory challenges may lead to greater use of challenges for cause, which take up more court time and resources. In addition, the estimate assumes that all peremptory challenges are currently used.</p> <p>Staff notes that the state fiscal impacts are relatively minor, yet the policy change may be considered significant.</p>	\$372 in General Fund Savings	Reject Finance Letter request	TBL	
9	0450 Trial Court Funding	May Revise: Implement Smaller Jury Panel Sizes Statewide	<p>May Revise proposal would reduce jury panel size to 35 jurors. According to AOC, there is an average of 68 jurors on felony panels, 53 on misdemeanor panels, and 57 on civil panels. The proposal includes trailer bill language.</p> <p>Staff Comments: This proposal is based on changes that LA County made. Staff notes that there are a number of other factors that affect the need for jury panel sizes. Staff understands that LA County allows fewer excuses from jury service than any other counties. Should this proposal be adopted, other counties would need to change policies to allow significantly fewer excuses from jury service.</p> <p>Staff notes that the state fiscal impacts are relatively minor, yet the policy change may be considered significant.</p> <p>(See TBL Attachment D)</p>	\$241 in General Fund savings	Reject Finance Letter request	TBL	

ISSUE #	ORG/ DEPT	ISSUE	DESCRIPTION	DOLLARS (in thousands)	STAFF REC.	BBL/ TBL	VOTE
10	0450 Trial Court Funding	May Revise: Decrease Jury Size in Limited Civil Cases	<p>Limited civil cases are those in which the amount in controversy does not exceed \$25,000. Current law allows 12 jurors, this proposal would allow 8 jurors.</p> <p>Requires trailer bill language. (See Attachment E)</p> <p>Staff notes that the state fiscal impacts are relatively minor, yet the policy change may be considered significant.</p>	\$173 in General Fund savings	Reject Finance Letter request	TBL	
11	0450 Trial Court Funding	May Revise: Eliminate Juror Pay for Governmental Employees	<p>Current juror fees are \$15 per day and mileage at the rate of \$0.34 per mile. This proposal would exempt government employees from receiving juror pay (but would still allow for mileage reimbursement).</p> <p>Requires TBL (Attachment F)</p> <p>Staff Comments. To the extent that employees of state agencies ask for the juror fees to be waived, give the juror fee back to the state, or have salary offset by the fee, the savings may be overestimated.</p>	2,300 in General Fund savings	Reject Finance Letter request	TBL	
12	0450 Trial Court Funding	May Revise: Trial Court Collective Bargaining	<p>Currently each local court negotiates with local employee unions to determine court employee salaries and benefits. The administration is proposing trailer bill language requiring the Judicial Council to establish a working group to review trial court collective bargaining issues and make recommendations to the Governor and the Legislature.</p> <p>This proposal has no fiscal effect on the budget. Given the significant policy issues, this proposal may be more appropriately handled through the regular policy process rather than as trailer bill language proposed at the time of the May Revise. (For TBL see Attachment G)</p> <p>The Subcommittee may wish to adopt the following intent language: It is the intent of the Legislature to address the collective bargaining process in the trial courts.</p>		Reject Finance Letter request & Adopt intent language	TBL	

ISSUE #	ORG/ DEPT	ISSUE	DESCRIPTION	DOLLARS (in thousands)	STAFF REC.	BBL/ TBL	VOTE
13	0450 Trial Court Funding	Loan from the State Court Facilities Construction Fund to the General Fund	A loan of \$30 million from the State Court Facilities Construction Fund (SCFCF) to the General Fund. The Administration has indicated that the SCFCF will have sufficient resources to begin transferring court facilities from the counties to the state in the budget year pursuant to Chapter 1082, Statutes of 2002.	\$30,000 Loan to the General Fund	Approve proposal	BBL	
14	0450 Trial Court Funding	Fresno Court of Appeal Courthouse	<p>George N. Zenovich was elected to the State Assembly from Fresno in 1962. He served as Majority Leader and Democratic Caucus Chairman. In 1970 he was elected to the State Senate where he served until he was appointed to the Fifth District Court of Appeals in 1979.</p> <p>During his tenure in the Legislature, Zenovich was responsible for the Zenovich/Moscone/Chacon Housing and Home Finance Act which authorized bonds for low and moderate income housing and established the California Housing Finance Agency. He was instrumental in the passage of the Dixon/Zenovich/Maddy California Art Act of 1975 and the landmark Alatorre/Zenovich/Dunlap/Berman Agricultural Labor Relations Act: the first law in the nation recognizing the right of farm workers to bargain collectively.</p> <p>George Zenovich's greatest passion was championing the cause of physically, mentally, and neurologically handicapped children. He sponsored funding for autistic children and established the Diagnostic School for neurologically handicapped children in Fresno in 1973.</p> <p>The Subcommittee may wish to adopt trailer bill language stating that the state office building in the City of Fresno for the California Court of Appeal, Fifth Appellate District, shall be named and known as the "George N. Zenovich Court of Appeal Building."</p>		Approve TBL	TBL	

ISSUE #	ORG/ DEPT	ISSUE	DESCRIPTION	DOLLARS (in thousands)	STAFF REC.	BBL/ TBL	VOTE
15	0450 Trial Court Funding	May Revise: Costs for Homicide Trials	<p>Requests an increase of \$254,000 to provide funding for the costs of extraordinary homicide trials incurred by the courts. A corresponding reduction of \$254,000 is proposed in the Payments to Counties for the costs of Homicide Trials budget item.</p> <p>The request includes budget bill language requiring Judicial Council to develop a methodology for distributing such funding, and TBL is proposed to prohibit courts from receiving funds from the Payments to Counties for the Costs of Homicide Trials budget item. (Attachment H)</p>		Adopt Finance Letter proposal	BBL TBL	
16	0450 Trial Court Funding	Trial Court Baseline Funding	<p>Senator Ackerman has proposed some provisional language regarding baseline funding for the trial courts. The language directs the Judicial Council (1) to work with DOF and LAO to develop a trial court workload staffing and resource model, including performance measures for trial courts, (2) to work with DOF and LAO to develop a methodology for making baseline adjustments to trial court funding for mandatory cost items, and (3) to submit a report to the Legislature identifying mandatory costs facing the courts. The language is attached as Attachment I.</p> <p>The Subcommittee may wish to adopt the following intent language: It is the intent of the Legislature to direct the Judicial Council to work in conjunction with the DOF and the LAO to develop an improved court budgeting process.</p>		Adopt intent language	BBL	
17		May Revise: The California State Law Library Special Account	<p>Subcommittee #1 has referred this issue to Subcommittee #4. The May Revise proposes to extend the sunset for the portion of the appellate court filing fee that funds the State Law Library.</p> <p>Under current law, \$65 from appellate court filing fees are deposited into the California State Law Library Account for support of the State Law Library. The fee sunsets January 1, 2005. The proposed TBL would extend the sunset to January 1, 2010. Subcommittee #1 recommends approval of the TBL. (See Attachment J)</p>		Adopt Finance Letter	TBL	

ISSUE #	ORG/ DEPT	ISSUE	DESCRIPTION	DOLLARS (in thousands)	STAFF REC.	BBL/ TBL	VOTE
18	0450 Trial Court Funding	Court Technology	<p>The AOC, under the direction of the Judicial Council, has embarked on two major IT projects. These are the Court Accounting and Reporting System (CARS) and the California Case Management System (CCMS). The AOC has begun both projects and expects to fully implement both projects by 2009.</p> <p>Staff Comments: The AOC and LAO have agreed to reporting language for these two technology projects. (Attachment K)</p>		Adopt trailer bill language	TBL	
19	0450 Trial Court Funding	Potential Filing Fee Shortfall in the Budget Year	<p>New and increased fees approved in the 2003-04 budget are not generating the estimated revenues, thereby leaving the trial courts with a deficiency of \$24.3 million in the current year. The AOC estimates that the shortfall could be \$17.7 million in the budget year. In order to examine fee-related issues, a Court Fees Working Group was convened.</p> <p>The Subcommittee may wish to adopt the following intent language: It is the intent of the Legislature to review the impacts of the new and increased filing fees approved in the 2003-04 Budget Act and to consider recommendations for a statewide uniform fee structure.</p>		Adopt Intent language	TBL	
20	0390 Judges Retirement System	Funding for JRS I	<p>For 2004-05, the budget estimates total General Fund expenditures of \$116.2 million will be needed for the program. Similar to the current year, this amount would leave a one-month reserve for the fund.</p> <p>In the January Proposal, of the \$116.2 million, the Administration proposes maintaining the current year level of General Fund at \$88.6 and transferring \$27.6 million from the General Fund appropriation to the TCTF to make up the balance.</p> <p>As was indicated above in the Trial Court Funding budget item, the transfer from the TCTF is no longer part of this proposal.</p>		Approve amended proposal		

ISSUE #	ORG/ DEPT	ISSUE	DESCRIPTION	DOLLARS (in thousands)	STAFF REC.	BBL/ TBL	VOTE
21	8940 Military Department	Santa Ana Armory	<p>The armory in Santa Ana was built in 1957. It currently houses a rifle company with approximately 100 national guardsmen. It is used as a training site one weekend per month. The remainder of the month it is used primarily for vehicle and equipment storage.</p> <p>The armory is on a 3.5-acre site. If the armory were moved, the armory would need to be larger and upgraded to current standards. The funding is split between the federal government and the state government. The City of Santa Ana is currently searching for a site for the new armory.</p>				
22	8940 Military Department	Los Alamitos Firefighters	<p>The firefighters of the Los Alamitos Joint Forces Training Base (LAJFTB) are employees of the Military Department. The employees are considered on state active duty. The Military Department pays these firefighters from federal funds. The employees have similar protections to civil servants, although they do not have collective bargaining rights.</p> <p>The Los Alamitos firefighters have attempted to convert their personnel status over the last twenty years. Legislation was enacted in 1993 that allowed these firefighters to convert to state civil service provided that federal dollars were made available to cover related conversion costs. Federal funding has not been appropriated for this purpose.</p> <p>In April 2004, the Military Department sent a status on the issue indicating that federal regulations prohibit them from contracting out for the firefighter positions at Los Alamitos.</p>				

ISSUE #	ORG/ DEPT	ISSUE	DESCRIPTION	DOLLARS (in thousands)	STAFF REC.	BBL/ TBL	VOTE
23	8940 Military Department	Finance Letter: Oakland Military Institute	<p>This Finance Letter requests to restore \$875,000 in funding and 11 positions that were proposed to be eliminated as part of a previously approved General Fund reduction BCP.</p> <p>In the current year the Military Department anticipates expenditures of \$2.2 million and 24.3 positions for the OMI. The January reduction would leave \$1.3 million and 13 positions for this activity. This funding provides for assistant teachers in the classrooms to teach military customs and military history, and for extra curricular activities such as physical education, drill and ceremonies, leadership, and team development.</p> <p>This funding is on top of funding that the OMI receives similar to any other charter school in the state under Proposition 98. In its third year of operation, the Military Department indicates that OMI had 321 students enrolled in grades 7-9, primarily from Oakland and the East Bay area.</p>		Reject Finance Letter		
24	8940 Military Department	May Revise: General Fund Reduction.	<p>This May Revise proposal requests a decrease of \$214,000 to reflect a reduction to the Military Retirement program due to a declining population served by the program and a reduction to the California National Guard Youth Programs, which will eliminate one State Active Duty-Tour position and related operating expenses from the Challenge Youth Program administrative support staff.</p>		Adopt Finance Letter		

Attachment A

SEC. 1. *Section 272 is added to the Code of Civil Procedure to read as follows:*

(a) Notwithstanding any other provision of law, the Judicial Council shall provide by rule for the means of taking down the verbatim record, the means of storing and maintaining the notes of the verbatim record, the means of producing the transcript of the verbatim record, and the certification of the verbatim record. The rule shall include a process to utilize technology to enable the courts to capture the verbatim record only by transitioning to this process through the attrition of court reporters employed by the superior court as of June 30, 2004, to ensure that no court reporter employed as of June 30, 2004 is displaced by this technology.

(b) The verbatim record includes, but is not limited to, all testimony, objections made, rulings of court, exceptions taken, arraignments, pleas, sentences, arguments of the attorneys to the jury, and statements and remarks made and oral instructions given by the judge or judicial officer. A verbatim record is required in the following cases:

- (1) In a civil case, on the order of the court or at the request of a party.*
- (2) In a felony case, on the order of the court or at the request of the prosecution, the defendant, or the attorney for the defendant.*
- (3) In a misdemeanor or infraction case, on the order of the court.*
- (4) In a juvenile proceeding that is not before a referee or commissioner.*
- (5) In proceedings in which the death penalty may be imposed.*

(c) The transcript of a verbatim record may be in the form of paper or any other means authorized by the Judicial Council. If a transcript is ordered by the court or requested by a party, or if a nonparty requests a transcript that the nonparty is entitled to receive, regardless of whether the nonparty was permitted to attend the proceeding to be transcribed, the court shall, within a reasonable time after the trial of the case that the court designates, have the transcript produced, or the specific portions thereof as may be requested.

(d) The transcript of the verbatim record, when produced by a means certified by the Judicial Council pursuant to this section, is prima facie evidence of that testimony and proceedings.

(e) A rough draft transcript, if prepared, shall not be certified and cannot be used, cited, or transcribed as the official certified transcript of the proceedings. A rough draft transcript shall not be cited or used in any way or at any time to rebut or contradict the official certified transcript of the proceedings. The production of a rough draft transcript shall not be required.

(f) The transcript of the verbatim record shall be part of the official record of the court. The court has the right to charge for the transcript at a rate that the Judicial Council shall establish by rule. The rate shall be based on the actual cost of producing the transcript.

(g) Notwithstanding subdivision (a), in any case in which a death sentence may be imposed, the verbatim record shall be both taken down and transcribed by a court reporter using computer-aided transcription equipment.

(h) Except as expressly provided in subdivision (g), any statutory reference to an official reporter, stenographic reporter, phonographic reporter, certified shorthand reporter, or court reporter shall be construed to allow any other means of taking down the verbatim record or producing the transcript as is authorized by this statute.

(i) If a defendant is convicted of a felony, after a trial on the merits, the record on appeal shall be prepared immediately after the verdict or finding of guilt is announced unless the court determines that it is likely that no appeal from the decision will be made. The court's determination of a likelihood of appeal shall be based upon standards and rules adopted by the Judicial Council.

It is the intent of the Legislature, in enacting this section, to provide that the means of taking down the verbatim record and producing the transcript of the verbatim record be determined by the Judicial Council in its sole discretion, except as expressly provided in subdivision (g) and under the requirements in subdivision (a).

SEC. 2. Section 269 of the Code of Civil Procedure is repealed.

SEC 3. Section 273 of the Code of Civil Procedure is repealed.

SEC 4. Section 274a of the Code of Civil Procedure is amended to read:

Any judge of the superior court may have any opinion given or rendered by the judge in the trial of a felony case or an unlimited civil case, pending in that court, or any necessary order, petition, citation, commitment or judgment in any probate proceeding, proceeding concerning new or additional bonds of county officials or juvenile court proceeding, or the testimony or judgment relating to the custody or support of minor children in any proceeding in which the custody or support of minor children is involved, taken down ~~in shorthand and transcribed together with such copies as the court may deem necessary by the official reporter or an official reporter pro tempore of the court.~~ *by a method authorized by the Judicial Council and transcribed together with such copies as the court may deem necessary.*

Attachment B

Issue: *Eliminate local government exemption from payment of civil court filing and service fees*

SECTION 1. Section 6103 of the Government Code is amended to read:

6103. Neither the state ~~nor any county, city, district, or other political subdivision,~~ nor any public officer or body, acting in his official capacity on behalf of the state, ~~or any county, city, district, or other political subdivision,~~ *nor any county child welfare or probation agency in any action or proceeding brought pursuant to Welfare and Institutions code section 300 et seq., nor any local child support agency or district attorney in any action or proceeding for the establishment of a child support obligation or the enforcement of a child or spousal support obligation,* shall be required to pay or deposit any fee for the filing of any document or paper, for the performance of any official service, or for the filing of any stipulation or agreement which may constitute an appearance in any court by any other party to the stipulation or agreement. This section does not apply to the State Compensation Insurance Fund or where a public officer is acting with reference to private assets or obligations which have come under his jurisdiction by virtue of his office, or where it is specifically provided otherwise. No fee shall be charged for the filing of a confession of judgment in favor of the state.

No fee shall be charged the state to defray the costs of reporting services by court reporters. Such fees shall be recoverable as costs as provided in Section 6103.5.

SEC. 2. Section 26857 of the Government Code is amended to read:

26857. (a) No fee shall be charged by the clerk:

(1) For service rendered to a defendant in any criminal action;

(2) To the petitioner in any adoption proceeding except as provided in Section 103730 of the Health and Safety Code;

~~For any service to the state;~~

(3) For any proceeding brought pursuant to Section 7841 of the Family Code to declare a minor free from parental custody or control;

(4) *To any county child welfare or probation agency in any action or proceeding brought pursuant to Welfare and Institutions code section 300 et seq.;*

(5) *To any local child support agency or district attorney in any action or proceeding for the establishment of a child support obligation or the enforcement of a child or spousal support obligation; nor*

(6) ~~No fee shall be charged by the clerk for service rendered to any municipality or county in the state, or to the state or national government, nor for any service relating thereto.~~

Attachment C

Issue: *Reduce peremptories in all case types*

SECTION 1. Section 231 of the Code of Civil Procedure is amended to read:

231. (a) In criminal cases, if the offense charged is punishable with death, or with imprisonment in the state prison for life, the defendant is entitled to ~~20~~ 12 and the people to ~~20~~ 12 peremptory challenges. Except as provided in subdivision (b), in a trial for any other *felony* offense, the defendant is entitled to ~~10~~ 6 and the *state people* to ~~10~~ 6 peremptory challenges. When two or more defendants are jointly tried, their challenges shall be exercised jointly, but each defendant shall also be entitled to ~~five~~ 3 additional challenges which may be exercised separately, and the people shall also be entitled to additional challenges equal to the number of all the additional separate challenges allowed the defendants.

(b) If the offense charged is punishable with a maximum term of imprisonment of 90 days or less as a *misdemeanor*, the defendant is entitled to ~~six~~ 3 and the *state people* to ~~six~~ 3 peremptory challenges. When two or more defendants are jointly tried, their challenges shall be exercised jointly, but each defendant shall also be entitled to ~~four~~ 2 additional challenges which may be exercised separately, and the *state people* shall also be entitled to additional challenges equal to the number of all the additional separate challenges allowed the defendants.

(c) In civil cases, each party shall be entitled to ~~six~~ 3 peremptory challenges. If there are more than two parties, the court shall, for the purpose of allotting peremptory challenges, divide the parties into two or more sides according to their respective interests in the issues. Each side shall be entitled to ~~eight~~ 6 peremptory challenges. If there are several parties on a side, the court shall divide the challenges among them as nearly equally as possible. If there are more than two sides, the court shall grant such additional peremptory challenges to a side as the interests of justice may require; provided that the peremptory challenges of one side shall not exceed the aggregate number of peremptory challenges of all other sides. If any party on a side does not use his or her full share of peremptory challenges, the unused challenges may be used by the other party or parties on the same side.

Attachment D

Issue: *Implement smaller jury panel sizes statewide*

The people of the State of California do enact as follows:

SECTION 1. Section 68517 is added to the Government Code to read:
68517. In order to promote the efficient use of court resources, to conserve jurors, and to return workdays of non-summoned jurors to the economy, the Judicial Council shall adopt a Rule of Court prescribing panel size guidelines for all jury trials. These uniform guidelines shall be followed unless the Presiding Judge, or his or her designee, allows a deviation.

Attachment E

Issue: *Decrease jury size in limited civil cases*

SECTION 1. Section 220 of the Code of Civil Procedure is amended to read:

220. A trial jury shall consist of 12 persons, except that

(a) in civil actions *in which the amount in controversy is more than \$25,000* and in ~~cases of~~ misdemeanor cases, it may consist of 12 or any number less than 12, upon which the parties may agree; *and*

(b) *in civil actions in which the amount in controversy does not exceed \$25,000, it shall consist of 8 persons or any number less than 8, upon which the parties may agree.*

Attachment F

Issue: *Eliminate juror pay for government employees*

SECTION 1. Section 215 of the Code of Civil Procedure is amended to read:

215. (a) *Except as provided in subsection (b), ~~B~~beginning July 1, 2000, the fee for jurors in the superior court, in civil and criminal cases, is fifteen dollars (\$15) a day for each day's attendance as a juror after the first day.*

(b) *A juror who is employed by a federal, state, or local government entity, or by any other public entity as defined in section 481.200, and who receives regular compensation and benefits while performing jury service, shall not be paid the fee described in subsection(a).*

(c) *All ~~J~~jurors in the superior court, in civil and criminal cases, shall be reimbursed for mileage at the rate of thirty-four cents (\$0.34) per mile for each mile actually traveled in attending court as a juror after the first day, in going only.*

Attachment G

Collective Bargaining TBL

Section 1. The Legislature finds and declares the following:

The fiscal responsibility for support of the trial courts became the responsibility of the State pursuant to the Lockyer-Isenberg Trial Court Funding Act of 1997;

The State costs to support the trial courts have increased seventy-two percent since fiscal year 1998-99 driven by increased costs for security salaries and benefits, county maintenance of effort relief, interpreter costs, county costs, jury reform, and significant increases in employee compensation related costs for which the State has no control over;

Funding for court labor increases negotiated by local courts and court employee unions becomes the responsibility of the State, even though the Administration has no role for approval of funding driven by the negotiation process;

The Administration proposes that the current collective bargaining process be reformed to provide a linkage between the appropriation process and the negotiations for wages, hours, and other terms and conditions of employment adjustments which require additional expenditure of State funds.

Section 2. The Judicial Council shall establish a working group to review trial court collective bargaining issues and make recommendations to the Governor, and the Legislature by November 1, 2004 regarding procedures to increase accountability to the funding source of the trial courts and to ensure the fair treatment of trial court employees and adequate funding for salary and benefits of trial court employees.

Attachment H*Homicide Trails BBL and TBL*

Proposed Budget Bill Language:

Of the amount appropriated in this item, up to \$254,000, shall only be used for the payment of court costs of extraordinary homicide trials. The Judicial Council shall adopt a rule of court to establish a process for courts to seek reimbursement for the extraordinary costs of homicide trials. In developing the process for reimbursement, the Judicial Council shall consider the following: (1) the uniform administration of justice throughout the state is a matter of statewide interest; (2) the prosecution and conduct of trials of persons accused of homicide should not be hampered or delayed by any lack of funds available to the courts for such purposes; (3) a court should not be required to bear the entire costs of a trial involving a homicide if such costs will seriously impair the finances of the court; and (4) the methodology for reimbursement established in Government Code 15202.

Proposed TBL

Government Code

15201. As used in this chapter, "costs incurred by the county" mean all cost, except normal salaries and expenses, incurred by the county in bringing to trial or trials, including the trial or trials of, a person or persons for the offense of homicide, including costs, except normal salaries and expenses, incurred by the district attorney in investigation and prosecution, by the sheriff in investigation, by the public defender or court-appointed attorney or attorneys in investigation and defense, and all other costs, except normal salaries and expenses, incurred by the county in connection with bringing the person or persons to trial including the trial itself including extraordinary expenses for such services as witness fees and expenses, court-appointed expert witnesses, reporter fees, and costs in preparing transcripts. Trial cost shall also include all pretrials, hearings, and postconviction proceedings, if any. Costs incurred by the county shall not include any costs paid for by the superior court or for which the superior court is responsible.

ATTACHMENT IPROPOSED PROVISIONAL BUDGET LANGUAGE – *Trial Court Baseline Funding*

0450-101-0932—For local assistance, State Trial Court Funding.....

Provisions:

(x) In order to ensure that trial court baseline funding is provided at a level sufficient to support annual court operations the Judicial Council shall undertake the following:

- a) In collaboration with the Department of Finance and the Legislative Analyst's Office, the Judicial Council shall develop a workload staffing and resource model to be used on an annual basis in the development of the trial court budget. This model shall incorporate, to the extent feasible, court operational efficiencies and best practices, and desired court system outcomes and qualitative goals. The Judicial Council shall submit a report on the status of this effort by December 1, 2004, to the Governor, the Chairperson of the Joint Legislative Budget Committee, and the chairperson of the committee in each house which considers appropriations. This report shall include a schedule for completion of the model, which may occur in phases.
- b) The Judicial Council, in consultation with the Department of Finance and the Legislative Analyst's Office, shall propose a methodology for making baseline adjustments to trial court funding for mandatory cost items. These items include costs which are typically adjusted in the current fiscal year for executive branch agencies, including salaries, retirement, and other benefit costs, as well as court costs related to compliance with federal and state constitutional and statutory requirements. The Judicial Council shall submit a report on the methodology to the Governor, the Chairperson of the Joint Legislative Budget Committee, and the chairperson of the committee in each house which considers appropriations by December 1, 2004.
- c) The Judicial Council shall submit a report of mandatory trial court costs to the Chairperson of the Joint Legislative Budget Committee, the chairperson of the committee in each house which considers appropriations, and the Governor by December 1, 2004. This report shall identify actual expenditures for these costs in the prior fiscal year, estimated expenditures associated with these costs in the current fiscal year, and projected costs for the next fiscal year. This report shall also identify the level of resources, if any, needed to address any net increase in costs. Updated cost information shall be reported to the Chairperson of the Joint Legislative Budget Committee, the chairperson of the committee in each house which considers appropriations, and the Governor by March 15, 2005.

ATTACHMENT J

California State Law Library Special Account

Government Code

68926.3. Notwithstanding any other provision of law, sixty-five dollars (\$65) of each fee collected in a civil case by the clerk of each court of appeal pursuant to Section 68926 shall be paid into the State Treasury for deposit in a special account in the General Fund to be known as the California State Law Library Special Account, which account is hereby established.

Moneys deposited in the California State Law Library Special Account during the 1992-93 fiscal year are hereby appropriated for that fiscal year to the California State Law Library for its support.

In fiscal years subsequent to the 1992-93 fiscal year, these moneys shall be available for the support of the California State Law Library upon appropriation thereto by the Legislature in the annual Budget Act.

This section shall remain in effect only until January 1, ~~2005~~ 2010, and as of that date, is repealed, unless a later statute which is enacted before that date extends or repeals that date.

Attachment K

State Trial Court Funding Information Technology Projects Proposed Trailer Bill Language

Adopt the following trailer bill language:

On December 1st of every year and until project completion, the Judicial Council shall provide annual status reports to the chairpersons of the budget committees in each house of the Legislature and the Chairperson of the Joint Legislative Budget Committee for the California Case Management System and Court Accounting and Reporting System. The reports shall include, but are not limited to, (1) project accomplishments to date, (2) project activities underway, (3) proposed activities, and (4) annual revenues and expenditures to date in support of these projects, that shall include all costs for AOC and incremental court personnel, contracts, and hardware and software.

On December 1st of every year and until project completion, the Administrative Office of the Courts (AOC) shall provide, on an annual basis to the chairpersons of the budget committees in each house of the Legislature and the Chairperson of the Joint Legislative Budget Committee copies of any independent project oversight reports for the California Case Management System. The independent project oversight reports shall include, but are not limited to, a review and an assessment of project activities, identification of deficiencies, and recommendations to AOC on how to address those deficiencies. The AOC shall include in the annual submission descriptions on actions taken to address identified deficiencies.

Within 18 months of fully implementing the California Case Management System and the Court Accounting and Reporting System projects, the Administrative Office of the Courts (AOC) shall provide to the chairpersons of the budget committees in each house of the Legislature and the Chairperson of the Joint Legislative Budget Committee post implementation evaluation reports for each project. The reports shall include, but are not limited to, summary of the project background, project results and an assessment of the attainment of project objectives.

SUBCOMMITTEE NO. 4

Agenda

**Joseph Dunn, Chair
Denise Moreno Ducheny
Ross Johnson**



PART I

SUMMARY OF ACTIONS

**Wednesday, May 19, 2004
1:30
Room 3191**

<u>Item</u>	<u>Department</u>	<u>Page</u>
0250	Judiciary	1
0450	Trial Court Funding	3
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0390	Judges' Retirement System	9
8940	Military Department.....	10

#	ORG/ DEPT	ISSUE	DESCRIPTION	DOLLARS (in thousands)	STAFF REC.	BBL/ TBL	VOTE
1	0250 Judiciary	April Finance Letter: Acquisition and Preliminary Plans for 2 New Court Facilities.	<p>1. Placer-Nevada Shared Use Facility: Truckee. The Judicial Council requests \$544,000 from the Courthouse Construction Fund to consolidate court operations in the Placer and Nevada counties. This request would fund the site acquisition and preliminary plans for a 25,500 square foot facility in Truckee that would combine functions of the Superior Courts in these counties.</p> <p>2. Portola-Loyalton New Branch Court: Counties of Plumas and Sierra. The Judicial Council requests \$75,000 from the Courthouse Construction Fund to consolidate court operations in the Plumas and Sierra counties. This request would fund the site acquisition and preliminary plans for a 5,400 square foot facility that would combine functions of the Superior Courts in these counties.</p> <p>These projects may reduce future capital and operational costs through innovative use of shared facility and technology. The Finance Letter also proposes provisional language to identify these as demonstration projects and require the Judicial Council to report its findings on future cost savings to the Legislature and Department of Finance:</p>	\$619 in Courthouse Constructio n Funds	Adopt Finance Letter	BBL	Adopted Finance Letter (2-0) Senator Johnson not present.
2	0250 Judiciary	April Finance Letter: Reappropriation for the Fourth Appellate District Court of Appeal	This Finance Letter proposes to reappropriate funds for working drawings and construction for the Fourth District Court of Appeals courthouse in Orange County. The reappropriation is necessary due to the transfer of project management from DGS to the AOC when the project was reappropriated in the 2003 budget and the Judicial Council's need to create and adopt interim contracting rules and procedures.		Adopt Finance Letter	BBL	Adopted Finance Letter (2-0) Senator Johnson not present.

#	ORG/ DEPT	ISSUE	DESCRIPTION	DOLLARS (in thousands)	STAFF REC.	BBL/ TBL	VOTE
3	0250 Judiciary	May Revise: Revised Budget Proposal and Unallocated Reduction	<p>The Governor’s Budget included an ongoing \$9.8 million reduction. The May Revise proposal provides additional funding for increases in judges salaries and benefits, employee salaries, and increases in the costs of contract security services provided by the CHP. It will also decrease the unallocated reduction to \$8.5 million, \$3 million of which is on-going.</p> <p>The January budget originally proposed total appropriations of \$373.8 million for support of these judicial functions in 2003-04. This had been a decrease of \$8.3 million, or 2.2 percent below estimated current-year expenditures.</p>	\$4,329 from the General Fund	Adopt Finance Letter		Adopted Finance Letter (2-0) Senator Johnson not present.
4	0250 Judiciary	May Revise: Trial Court Facilities Act of 2002.	<p>Per the Trial Court Facilities Act of 2002 (Ch. 1082, St. 2002), the Judicial Council proposes \$23.3 million from the Court Facilities Construction Fund and \$1,000 from the Court Facilities Trust Fund, and 102 positions. This proposal would provide program support staffing to begin the transition of facilities from county to the state.</p> <p>The proposal is consistent with the estimate of positions and resources from the fiscal estimate provided during consideration of the Act. This is the second year of the 5-year planned organizational development process.</p> <p>The process for transferring the properties from the county to the state will formally begin in the budget year. The AOC anticipates that in the budget year between 100 and 140 facilities will be transferred to the state.</p> <p>The proposal includes language requiring the Council to provide a workplan prior to filling positions. The proposal also creates the Court Facilities Trust Fund and appropriates \$1,000 with language that allows DOF to increase funds to the item once money is in the fund.</p>	\$23,291 from the State Court Facilities Constructio n Fund and \$1 from the Court Facilities Trust Fund	Adopt Finance Letter	BBL	Adopted Finance Letter (2-0) Senator Johnson not present.

#	ORG/ DEPT	ISSUE	DESCRIPTION	DOLLARS (in thousands)	STAFF REC.	BBL/ TBL	VOTE
5	0450 – Trial Court Funding	May Revise: Revised Budget Proposal and Unallocated Reduction	<p>The May Revision provides an increase of \$99 million to the state’s trial courts. The proposal includes increases for existing costs that courts are experiencing but does not provide funds for new, additional, or improved services.</p> <p>Court Staff Retirement: \$23.1 million. Court Security: \$28.8 million. Judges Retirement System (JRS) Funding: \$27. 6 million. Non-Salary Driven Benefit Increases: \$11.5 million. Salary and Benefit Contract Costs: \$9.6 million. Judges Salary and Benefits: \$8.1 million. County Charges: \$1.5 million.</p> <p>Unallocated Reduction: -\$11 million. Increases the \$59 million unallocated reduction included in the January budget proposal to \$70 million.</p> <p>For 2003-04, this budget item took a one-time \$85 million unallocated reduction. However, the actual reduction to the trial courts’ operating budgets amounted to \$59.8 million as a result of other reductions, including \$10 million from judicial salary savings, \$10 million from the Trial Court Improvement Fund, \$4.3 million from the Judicial Administration Efficiency and Modernization Fund, and \$900,000 from the Assigned Judges program.</p> <p>In the January proposal the entire unallocated reduction was proposed as an ongoing reduction. This proposal makes \$20 million ongoing and \$50 million one-time. Previous unallocated reductions to the trial courts have been one-time. The courts have stressed that maintaining one-time reductions rather than ongoing reductions is important because it will mean that the impact of these reductions, such as reduced hours and services, will not become institutionalized.</p>	99,100	Adopt Finance Letter request		<p>Adopted Finance Letter</p> <p>(2-0) Senator Johnson not present.</p>

#	ORG/ DEPT	ISSUE	DESCRIPTION	DOLLARS (in thousands)	STAFF REC.	BBL/ TBL	VOTE
6	0450 Trial Court Funding	May Revise: Electronic Reporting	<p>The proposal reduces the budgets of the trial courts by \$6.4 million and proposes to increase the use of electronic reporting. The estimates assume increased use of electronic reporting through attrition of court reporters.</p> <p>The proposal includes trailer bill language (TBL) requiring the Judicial Council to provide by rule of court the means for taking down, storing, transcribing, and certifying the verbatim record. The language allows for electronic recording in all cases except death penalty cases. (For TBL see Attachment A)</p> <p>Staff Comments: The estimates do not include costs of transcribing the electronic record, or the staff costs of running the equipment.</p> <p>The Subcommittee may wish to adopt the following intent language: It is the intent of the Legislature to address the use of electronic recording equipment in the trial courts.</p>	\$6,381 General Fund savings	Reject Finance Letter request & Adopt intent language	TBL	<p>Rejected Finance Letter and adopted intent language.</p> <p>(2-0) Senator Johnson not present</p>
7	0450 Trial Court Funding	May Revise: Eliminate Governmental Exemption from Civil Court Filing Fees	<p>Under current law all governmental agencies are exempt from paying court filing fees. This proposed TBL would eliminate the exemption for all government agencies except for state agencies, child welfare or probation agencies in proceedings pursuant to Welfare and Institutions code section 300 et seq., and local child support or D.A.s in actions regarding establishment or enforcement of child support.</p> <p>Staff Comments: The AOC indicates that savings estimates were based on very limited information. Counties have objected to this proposal as a cost shift of court costs from the state to counties and therefore a revocation of the central principle of trial court funding reform.</p> <p>Staff notes that the state fiscal impacts are relatively minor, yet the policy change may be considered significant. For TBL see Attachment B</p>	\$312 in General Fund savings	Reject Finance Letter request	TBL	No Action Taken

#	ORG/ DEPT	ISSUE	DESCRIPTION	DOLLARS (in thousands)	STAFF REC.	BBL/ TBL	VOTE
8	0450 Trial Court Funding	May Revise: Reduce Peremptory Challenges in All Cases	<p>Proposes to reduce peremptory challenges from 20 peremptory challenges per side to 10 in death penalty or life cases, from 10 challenges per side in other felonies to 6, from 6 per side for misdemeanors and 2-party civil cases to 3, and from 8 per side for multi-party civil cases to 6. This proposal requires trailer bill language (Attachment C).</p> <p>Staff Comments: Savings amount for this proposal may be overstated. The reduction in peremptory challenges may lead to greater use of challenges for cause, which take up more court time and resources. In addition, the estimate assumes that all peremptory challenges are currently used.</p> <p>Staff notes that the state fiscal impacts are relatively minor, yet the policy change may be considered significant.</p>	\$372 in General Fund Savings	Reject Finance Letter request	TBL	No Action Taken
9	0450 Trial Court Funding	May Revise: Implement Smaller Jury Panel Sizes Statewide	<p>May Revise proposal would reduce jury panel size to 35 jurors. According to AOC, there is an average of 68 jurors on felony panels, 53 on misdemeanor panels, and 57 on civil panels. The proposal includes trailer bill language.</p> <p>Staff Comments: This proposal is based on changes that LA County made. Staff notes that there are a number of other factors that affect the need for jury panel sizes. Staff understands that LA County allows fewer excuses from jury service than any other counties. Should this proposal be adopted, other counties would need to change policies to allow significantly fewer excuses from jury service.</p> <p>Staff notes that the state fiscal impacts are relatively minor, yet the policy change may be considered significant.</p> <p>(See TBL Attachment D)</p>	\$241 in General Fund savings	Reject Finance Letter request	TBL	No Action Taken

#	ORG/ DEPT	ISSUE	DESCRIPTION	DOLLARS (in thousands)	STAFF REC.	BBL/ TBL	VOTE
10	0450 Trial Court Funding	May Revise: Decrease Jury Size in Limited Civil Cases	Limited civil cases are those in which the amount in controversy does not exceed \$25,000. Current law allows 12 jurors, this proposal would allow 8 jurors. Requires trailer bill language. (See Attachment E) Staff notes that the state fiscal impacts are relatively minor, yet the policy change may be considered significant.	\$173 in General Fund savings	Reject Finance Letter request	TBL	No Action Taken
11	0450 Trial Court Funding	May Revise: Eliminate Juror Pay for Governmental Employees	Current juror fees are \$15 per day and mileage at the rate of \$0.34 per mile. This proposal would exempt government employees from receiving juror pay (but would still allow for mileage reimbursement). Requires TBL (Attachment F) Staff Comments. To the extent that employees of state agencies ask for the juror fees to be waived, give the juror fee back to the state, or have salary offset by the fee, the savings may be overestimated.	2,300 in General Fund savings	Reject Finance Letter request	TBL	No Action Taken
12	0450 Trial Court Funding	May Revise: Trial Court Collective Bargaining	Currently each local court negotiates with local employee unions to determine court employee salaries and benefits. The administration is proposing trailer bill language requiring the Judicial Council to establish a working group to review trial court collective bargaining issues and make recommendations to the Governor and the Legislature. This proposal has no fiscal effect on the budget. Given the significant policy issues, this proposal may be more appropriately handled through the regular policy process rather than as trailer bill language proposed at the time of the May Revise. (For TBL see Attachment G) The Subcommittee may wish to adopt the following intent language: It is the intent of the Legislature to address the collective bargaining process in the trial courts.		Reject Finance Letter request & Adopt intent language	TBL	No Action Taken on the Finance Letter Adopted intent language (2-0) Johnson not present

#	ORG/ DEPT	ISSUE	DESCRIPTION	DOLLARS (in thousands)	STAFF REC.	BBL/ TBL	VOTE
13	0450 Trial Court Funding	Loan from the State Court Facilities Construction Fund to the General Fund	A loan of \$30 million from the State Court Facilities Construction Fund (SCFCF) to the General Fund. The Administration has indicated that the SCFCF will have sufficient resources to begin transferring court facilities from the counties to the state in the budget year pursuant to Chapter 1082, Statutes of 2002.	\$30,000 Loan to the General Fund	Approve proposal	BBL	AAB (2-0) Senator Johnson not present
14	0450 Trial Court Funding	Fresno Court of Appeal Courthouse	<p>George N. Zenovich was elected to the State Assembly from Fresno in 1962. He served as Majority Leader and Democratic Caucus Chairman. In 1970 he was elected to the State Senate where he served until he was appointed to the Fifth District Court of Appeals in 1979.</p> <p>During his tenure in the Legislature, Zenovich was responsible for the Zenovich/Moscone/Chacon Housing and Home Finance Act which authorized bonds for low and moderate income housing and established the California Housing Finance Agency. He was instrumental in the passage of the Dixon/Zenovich/Maddy California Art Act of 1975 and the landmark Alatorre/Zenovich/Dunlap/Berman Agricultural Labor Relations Act: the first law in the nation recognizing the right of farm workers to bargain collectively.</p> <p>George Zenovich's greatest passion was championing the cause of physically, mentally, and neurologically handicapped children. He sponsored funding for autistic children and established the Diagnostic School for neurologically handicapped children in Fresno in 1973.</p> <p>The Subcommittee may wish to adopt trailer bill language stating that the state office building in the City of Fresno for the California Court of Appeal, Fifth Appellate District, shall be named and known as the "George N. Zenovich Court of Appeal Building."</p>		Approve TBL	TBL	Approved Trailer Bill Language (2-0) Senator Johnson not present

#	ORG/ DEPT	ISSUE	DESCRIPTION	DOLLARS (in thousands)	STAFF REC.	BBL/ TBL	VOTE
15	0450 Trial Court Funding	May Revise: Costs for Homicide Trials	<p>Requests an increase of \$254,000 to provide funding for the costs of extraordinary homicide trials incurred by the courts. A corresponding reduction of \$254,000 is proposed in the Payments to Counties for the costs of Homicide Trials budget item.</p> <p>The request includes budget bill language requiring Judicial Council to develop a methodology for distributing such funding, and TBL is proposed to prohibit courts from receiving funds from the Payments to Counties for the Costs of Homicide Trials budget item. (Attachment H)</p>		Adopt Finance Letter proposal	BBL TBL	<p>Adopted Finance Letter</p> <p>(2-0) Senator Johnson not present</p>
16	0450 Trial Court Funding	Trial Court Baseline Funding	<p>Senator Ackerman has proposed some provisional language regarding baseline funding for the trial courts. The language directs the Judicial Council (1) to work with DOF and LAO to develop a trial court workload staffing and resource model, including performance measures for trial courts, (2) to work with DOF and LAO to develop a methodology for making baseline adjustments to trial court funding for mandatory cost items, and (3) to submit a report to the Legislature identifying mandatory costs facing the courts. The language is attached as Attachment I.</p> <p>The Subcommittee may wish to adopt the following intent language: It is the intent of the Legislature to direct the Judicial Council to work in conjunction with the DOF and the LAO to develop an improved court budgeting process.</p>		Adopt intent language	BBL	<p>Adopted intent language</p> <p>(2-0) Senator Johnson not present</p>
17		May Revise: The California State Law Library Special Account	<p>Subcommittee #1 has referred this issue to Subcommittee #4. The May Revise proposes to extend the sunset for the portion of the appellate court filing fee that funds the State Law Library.</p> <p>Under current law, \$65 from appellate court filing fees are deposited into the California State Law Library Account for support of the State Law Library. The fee sunsets January 1, 2005. The proposed TBL would extend the sunset to January 1, 2010. Subcommittee #1 recommends approval of the TBL. (See Attachment J)</p>		Adopt Finance Letter	TBL	<p>Adopted Finance Letter</p> <p>(2-0) Senator Johnson not present</p>

#	ORG/ DEPT	ISSUE	DESCRIPTION	DOLLARS (in thousands)	STAFF REC.	BBL/ TBL	VOTE
18	0450 Trial Court Funding	Court Technology	<p>The AOC, under the direction of the Judicial Council, has embarked on two major IT projects. These are the Court Accounting and Reporting System (CARS) and the California Case Management System (CCMS). The AOC has begun both projects and expects to fully implement both projects by 2009.</p> <p>Staff Comments: The AOC and LAO have agreed to reporting language for these two technology projects. (Attachment K)</p>		Adopt trailer bill language	TBL	<p>Adopted Trailer Bill Language</p> <p>(2-0) Senator Johnson not present</p>
19	0450 Trial Court Funding	Potential Filing Fee Shortfall in the Budget Year	<p>New and increased fees approved in the 2003-04 budget are not generating the estimated revenues, thereby leaving the trial courts with a deficiency of \$24.3 million in the current year. The AOC estimates that the shortfall could be \$17.7 million in the budget year. In order to examine fee-related issues, a Court Fees Working Group was convened.</p> <p>The Subcommittee may wish to adopt the following intent language: It is the intent of the Legislature to review the impacts of the new and increased filing fees approved in the 2003-04 Budget Act and to consider recommendations for a statewide uniform fee structure.</p>		Adopt Intent language	TBL	<p>Adopted intent language</p> <p>(2-0) Senator Johnson not present</p>
20	0390 Judges Retirement System	Funding for JRS I	<p>For 2004-05, the budget estimates total General Fund expenditures of \$116.2 million will be needed for the program. Similar to the current year, this amount would leave a one-month reserve for the fund.</p> <p>In the January Proposal, of the \$116.2 million, the Administration proposes maintaining the current year level of General Fund at \$88.6 and transferring \$27.6 million from the General Fund appropriation to the TCTF to make up the balance.</p> <p>As was indicated above in the Trial Court Funding budget item, the transfer from the TCTF is no longer part of this proposal.</p>		Approve amended proposal		<p>Approved amended proposal</p> <p>(2-0) Senator Johnson not present</p>

#	ORG/ DEPT	ISSUE	DESCRIPTION	DOLLARS (in thousands)	STAFF REC.	BBL/ TBL	VOTE
21	8940 Military Department	Santa Ana Armory	<p>The armory in Santa Ana was built in 1957. It currently houses a rifle company with approximately 100 national guardsmen. It is used as a training site one weekend per month. The remainder of the month it is used primarily for vehicle and equipment storage.</p> <p>The armory is on a 3.5-acre site. If the armory were moved, the armory would need to be larger and upgraded to current standards. The funding is split between the federal government and the state government. The City of Santa Ana is currently searching for a site for the new armory.</p>				No Action
22	8940 Military Department	Los Alamitos Firefighters	<p>The firefighters of the Los Alamitos Joint Forces Training Base (LAJFTB) are employees of the Military Department. The employees are considered on state active duty. The Military Department pays these firefighters from federal funds. The employees have similar protections to civil servants, although they do not have collective bargaining rights.</p> <p>The Los Alamitos firefighters have attempted to convert their personnel status over the last twenty years. Legislation was enacted in 1993 that allowed these firefighters to convert to state civil service provided that federal dollars were made available to cover related conversion costs. Federal funding has not been appropriated for this purpose.</p> <p>In April 2004, the Military Department sent a status on the issue indicating that federal regulations prohibit them from contracting out for the firefighter positions at Los Alamitos.</p>				No Action

#	ORG/ DEPT	ISSUE	DESCRIPTION	DOLLARS (in thousands)	STAFF REC.	BBL/ TBL	VOTE
23	8940 Military Departm ent	Finance Letter: Oakland Military Institute	<p>This Finance Letter requests to restore \$875,000 in funding and 11 positions that were proposed to be eliminated as part of a previously approved General Fund reduction BCP.</p> <p>In the current year the Military Department anticipates expenditures of \$2.2 million and 24.3 positions for the OMI. The January reduction would leave \$1.3 million and 13 positions for this activity. This funding provides for assistant teachers in the classrooms to teach military customs and military history, and for extra curricular activities such as physical education, drill and ceremonies, leadership, and team development.</p> <p>This funding is on top of funding that the OMI receives similar to any other charter school in the state under Proposition 98. In its third year of operation, the Military Department indicates that OMI had 321 students enrolled in grades 7-9, primarily from Oakland and the East Bay area.</p>		Reject Finance Letter		<p>Adopted Finance Letter</p> <p>(2-0) Senator Johnson not present</p>
24	8940 Military Departm ent	May Revise: General Fund Reduction.	<p>This May Revise proposal requests a decrease of \$214,000 to reflect a reduction to the Military Retirement program due to a declining population served by the program and a reduction to the California National Guard Youth Programs, which will eliminate one State Active Duty-Tour position and related operating expenses from the Challenge Youth Program administrative support staff.</p>		Adopt Finance Letter		<p>Adopted Finance Letter</p> <p>(2-0) Senator Johnson not present</p>

SUBCOMMITTEE NO. 2

Agenda

Byron Sher, Chair
Sheila Kuehl
Bruce McPherson



Monday, May 20, 2004
Upon adjournment of session
Room 112

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Resources—Environmental Protection—Public Safety—Energy

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Part II—Resources/Environmental Protection Agenda

0555 Secretary for Environmental Protection

1. Climate Change Activities

Background. In the past two decades, the California Legislature has enacted several key laws requiring inventories, assessments, and regulation of greenhouse gas emissions. Most of these bills were the first of their kind in the nation. Key legislation includes:

- **Chapter 1051, Statutes of 1988 (AB 4420, Sher)**—Required the California Energy Commission (CEC) to conduct, and periodically update, an inventory of greenhouse gas emissions from all sources in the state, and to establish and coordinate climate change impact analyses among state government agencies.
- **Chapter 1018 Statutes of 2000 (SB 1771, Sher)**—Established the Climate Action Registry as a non-profit corporation, directed it to undertake various activities to provide certification for voluntary greenhouse gas emission reductions undertaken by industry.
- **Chapter 200 Statutes of 2002 (AB 1493, Pavley)**—Required the state Air Resources Board (ARB) to establish greenhouse gas emission reduction standards for vehicular sources and to grant credits for those emission reductions under the Climate Action Registry.

As these laws and programs have been enacted, the lines of jurisdiction, and budgeting, for climate change programs has grown increasingly complex. Moreover, the ability of the Legislature to oversee these politically sensitive programs has become increasingly difficult given the multiplicity of agencies involved in climate change activities.

Staff Recommendation. Staff recommends that the committee staff, the LAO, and other parties be directed to develop trailer bill language to clarify and streamline authority over climate change activities in state government, and to ensure direct legislative involvement in these important and sensitive programs. The trailer bill should include the following items:

- Specify that CAL-EPA (which houses agencies with regulatory jurisdiction over vehicular and stationary sources of air pollution and which has lead responsibility for implementation of the Pavley measure) should be the lead agency for such activities.
- Specify that the climate change task force include relevant Cal-EPA agencies.
- Specify that the Climate Action Registry has one appointment each from the Speaker of the Assembly and the Senate Committee on Rules.

3540 Department of Forestry and Fire Protection

1. Capital Outlay

Previous Subcommittee Action. At the May 19 meeting of the Subcommittee action was taken to approve the Department of Forestry and Fire Protection's (CDF's) capital outlay budget.

LAO Issues. The LAO raised concerns about the state covering more than its fair share of costs with regards to the capital projected listed below. This facility is a jointly used facility with the federal government. Originally the federal government was going to contribute property as their monetary contribution to this project. However, CDF indicates that the federal government was not able to secure property for this project. At this time the federal government has not provided any additional contribution for their share of the project.

Department of Forestry and Fire Protection

Capital Outlay, 2004-05

(Dollars in Thousands)

Description	General Fund	Lease Revenue Bonds	Reimbursements	Budget Total	Reappropriations
South Operations Area Headquarters. Relocate facility. Proposal to fund land acquisition, working drawings, and construction costs. This is a joint project with the U.S. Forest Service and reimbursements are expected from the federal government to fund this project.	-	3,062	1,709	4,771	-

Staff Recommendation. Staff recommends approving the budget bill language that follows that addresses LAO's concerns.

3540-301-0890

Provision X. Notwithstanding Government Code section 13332.11, the State Public Works Board shall not augment the amount provided for the South Operations Area Headquarters: Relocate Facility project, as set forth in Schedule (X) of this Item, in order to replace federal funds that are identified in Item 3540-301-0890, Budget Act of 2004. If an authorized federal entity determines that the funds identified in Item 3540-301-0890, Budget Act of 2004, are only available as payments over time, the State Public Works Board may authorize an increase in Item 3540-301-0660, Schedule (X), Budget Act of 2004, by the amount necessary to cover the federal governments' share of the project only after the appropriate federal entity enters into a signed agreement to completely reimburse the State of California for the increased lease payments attributed to the federal share of the project over a specified period of time. The term of the federal payments shall not exceed the term of the bonds and the agreement shall be subject to State Public Works Board approval.

3600 Department of Fish and Game

1. Incidental Take Permit Fees

Summary. The Department of Fish and Game (DFG) issues incidental take permits to entities with projects that may impact endangered species. Some of the entities that must receive these permits include developers, power companies, and oil companies. These entities derive a benefit from receiving these permits since they allow projects to progress in a way that seeks to minimize the impacts on endangered species. However, at present the state General Fund supports the activities related to developing and enforcing incidental take permits.

At several of the meetings of the Subcommittee, the DFG's General Fund budget reductions were discussed. The budget reductions have required the department to slow and in some cases eliminate some work that is required to carry out current law. In order to assure that current law is carried out additional funding is needed to support DFG. One option for funding this program is to require the department to assess fees on entities wishing to obtain an incidental permit fee. This would provide a more consistent source of revenue for these activities and would provide more certainty to entities seeking the permits that staff would be available to process their permits.

Staff Recommendation. The Subcommittee may wish to adopt trailer bill language to allow the department to assess fees on incidental take permits.

3640 Wildlife Conservation Board

1. Tidelands Oil Revenues

Previous Subcommittee Action. During yesterday's budget hearing, the subcommittee approved a "cap" to the amount of tidelands oil revenues that would be transferred to the General Fund through suspension of Section 6217 of the Public Resources Code (PRC) in the budget year. The intent of the Subcommittee was to cap the amount that could be transferred to the General Fund at the amount assumed in the May Revision less \$500,000. The staff recommendation was to cap the transfer to \$156.4 million, but the Department of Finance disputed this figure and advised the committee that the correct amount should be \$174.2 million.

Revised Estimate. Subsequently, the State Lands Commission has advised staff that the correct amount of tidelands oil revenues assumed for transfer to the General Fund in the Governor's Budget is \$165.5 million.

Additional Tidelands Oil Revenues Expected. Staff understand that the May Revision estimate of tidelands oil revenues is based on a relatively conservative estimate of oil prices over the past year. Therefore, staff estimates that additional tidelands oil revenues (up to \$50 million) will be

available beyond what is assumed in the Governor's budget in 2004-05. Capping the General Fund transfer would allow tidelands oil revenues exceeding this amount to be deposited into the Resources Trust Fund and available for appropriation for the various purposes specified in PRC Sec. 6217 and SB 270 (Thompson, 1997).

Staff Recommendation. Staff recommends the Subcommittee:

- (1) Adopt the following budget bill language that clarifies the action taken yesterday to allocate the first \$500,000 to implement the Marine Life Protection Act and to cap the transfer of tidelands oil revenues to the General Fund at \$165 million.

3640-401--Notwithstanding any other provision of law, 1) the first \$500,000 shall be transferred into the Marine Life and Marine Reserve Management Account for activities of the Department of Fish and Game relating to the Marine Life Protection Act, and the next \$165,000,000 shall be deposited into the General Fund for the 2004-05 fiscal year.

- (2) Adopt additional budget bill language that directs the expenditure of additional tidelands oil revenues that may be received in the budget year. The language will provide for the following allocations:

- \$8 million – For salmon and steelhead trout restoration projects authorized by Section 6217.1 of the Public Resources Code, including, but not limited to, projects that implement the Coho Salmon Recovery Plan recently adopted by the Fish and Game Commission.
- \$4 million – To continue operation of the 4 state fish hatcheries located in various regions of the state that have been proposed for closure due to a lack of DFG funding.
- \$10 million for transfer to the California Ocean Protection Trust Fund for expenditure by the Ocean Protection Council for various projects authorized pursuant the proposed California Ocean Protection Act (PRC Section 35650).

3810 Santa Monica Mountains Conservancy

Previous Subcommittee Action. At yesterday's meeting the Subcommittee adopted budget bill language to attempt to address DOF's concerns regarding the SMMC's management of bond funds. However, the budget bill language did not require an audit of SMMC's operations.

Staff Recommendation. The Subcommittee may wish to adopt additional budget bill language that would ensure an audit is conducted of SMMC operations and that a subsequent report be made to the Legislature on findings and actions to address issues raised.

3870 California Bay-Delta Authority

Summary. Staff has been informed that some departments that are part of the CALFED program have not consulted with the Bay-Delta Authority (BDA) on criteria for awarding grants that may be part of the CALFED solution. The original intent that some bond funds allocated in Proposition 50 outside of Chapter 7 (the chapter dedicated exclusively to CALFED) would contribute to the CALFED solution. Without coordination with BDA progress in meeting many CALFED goals is delayed.

Staff Recommendation. The Subcommittee may wish to adopt the following trailer bill language to clarify the process for including BDA in the development of grants for projects that will contribute to CALFED objectives.

WC 79509.5 (a) Pursuant to section 79509, the California Bay Delta Authority shall determine whether or not projects are consistent with the CALFED Programmatic Record of Decision.

(b) Agencies responsible for financing projects that meet the conditions of

(c) shall present the following to the California Bay Delta Authority for evaluation and approval.

(1) Draft evaluation criteria.

(2) Proposed project awards.

(c) Projects subject to this section are those that meet either of the following criteria:

(1) The project is located within the CALFED solution area as defined in the CALFED Final Programmatic Environmental Impact Statement/Environmental Impact Report dated July 2000.

(2) The project wholly or partially assists in the fulfillment of one or more of the goals of the CALFED Bay-Delta Program.

SUBCOMMITTEE NO. 2

Agenda

Byron Sher, Chair
Sheila Kuehl
Bruce McPherson



Thursday, May 20, 2004
Upon Adjournment of Session
Room 112

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Resources--Environmental Protection—Public Safety—Energy

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Proposed Consent Items

Action Items. Staff Recommendation: Staff recommends the Subcommittee approve the following issues and finance letters. No issues or objections have been raised with these proposals.

0550 Youth & Adult Correctional Agency

1. May Revise: Restructuring YACA

Finance Letter Request. The Finance Letter requests that Item 0550-001-0001 be increased by \$1,715,000 and Reimbursements be decreased by \$258,000 and 12 positions be added to provide increased oversight and policy direction to departments under the supervision of the Youth and Adult Correctional Agency. Funding for this proposal is provided through corresponding reductions to the California Department of Corrections (\$1,515,000) and the Department of the Youth Authority (\$200,000). YACA indicates that it has been borrowing positions from agencies under its supervision to perform the necessary oversight tasks.

0690 Office of Emergency Services

2. May Revise: 2004 Homeland Security Grant and 2004 Urban Areas Security Initiative Grant Programs.

Finance Letter Request. This Finance Letter requests that Item 0690-101-0890 be increased by \$156,078,000 to provide the following grants to local and state agencies: 2004 State Homeland Security Grant Program, 2004 Law Enforcement Terrorism Prevention Program, 2004 Citizen Corps Program, and the 2004 Urban Area Security Initiative.

3. May Revise: General Fund Reduction

Finance Letter Request. This Finance Letter requests a General Fund reduction of \$256,000 by re-directing positions to available non-General Fund support in the Disaster Assistance Division and by replacing General Fund with reimbursements for the California Specialized Training Institute.

4. May Revise: California Wildfires Estimates

Finance Letter Request. This Finance Letter requests a General Fund reduction of \$4.1 million to reflect the most recent estimates related to the Southern California Wildfires. These new estimates are based on a more detailed inspection of damage and a new assessment of program eligibility at the federal level.

5. May Revise: Federal Administration Funds

Finance Letter Request. This Finance Letter requests an increase of \$519,000 in federal funds. This change will provide the Office of Emergency Services (OES) the ability to charge the State Homeland Security Grant Program, the Law Enforcement Terrorism Prevention Program, and the Citizen Corps Program for the administrative costs associated with administering these federal grants. Up to 3 percent of these funds are allowed to be used for administering the grants.

0820 Department of Justice**6. May Revise: Allocation of Previous Unallocated Reductions**

Finance Letter Request. The Governor's Budget included a reduction of \$2.5 million General Fund to the Criminal Law Division and an unallocated General Fund reduction of \$3,003,000. These reductions are to be scheduled as follows:

- \$3,571,000 General Fund from the Division of Law Enforcement. This reduction will result in the elimination of 34 positions, and the transfer of workload from the Bureau of Narcotics and California Bureau of Investigation Office located in Orange County to the Los Angeles Regional office.
- \$1,849,000 General Fund from the California Justice Information Services Division. This action will result in a reduction of various operating and equipment expenses.
- \$83,000 General Fund from the Firearms Division. This would result in a reduction of general operating expenses for the division.
- A reduction of 7.8 temporary help positions from the Administrative Services Division.

The Department indicates these reductions are least detrimental to the ability of the department to fulfill its constitutional duty.

7. May Revise: Armed Prohibited Persons System Reappropriation

Finance Letter Request. This Finance Letter requests that Item 0820-491 be added to the Budget Bill to provide a reappropriation for funding authorized in the 2003 Budget Act. This item would reappropriate \$2.663 million General Fund to allow the DOJ to continue development of the Armed Prohibited Persons System database.

5240 Department of Corrections**8. May Revise: Reduction Due to YACA Restructuring**

Finance Letter Request. This Finance Letter requests a decrease of \$1,515,000 General Fund to reflect redirection of resources to the Youth and Adult Correctional Agency to provide increased correctional oversight and policy direction to subordinate departments.

5430 Board of Corrections**9. May Revise: Reappropriation of Violent Offender/Truth if Sentencing Grant Program**

Finance Letter Request. This Finance Letter requests the addition of Item 5430-490 to reflect the reappropriation of \$6,269,000 federal funds for the Violent Offender Incarceration/Truth in Sentencing Grant program. These funds will be available for expenditure through December 31, 2005.

10. May Revise: Juvenile Justice Grant Realignment

Finance Letter Request. This Finance Letter requests that the Board be decreased by 9.8 positions and that Item 5430-004-0001 be amended to reflect the redirection of 6 existing staff from expiring programs to support the Juvenile Justice Grant Program acquired when the Office of Criminal Justice Planning was eliminated.

5460 Youth Authority**11. May Revise: Reduction to Fund the Restructure of YACA**

Finance Letter Request. This Finance Letter requests a reduction of \$200,000 General Fund and 2.5 positions is proposed in Item 5460-001-0001 to fund a portion of the cost to restructure the Youth and Adult Correctional Agency.

12. May Revise: Appropriate Funds from the Proposition 98 Reversion Account

Finance Letter Request. This Finance Letter requests that \$440,000 be reappropriated from the Proposition 98 Reversion Account.

8120 POST**13. May Revise: Transfer to State Operations from Local Assistance for Peace Officer Training**

Finance Letter Request. This Finance Letter requests that state operations from the Peace Officer Training Fund be increased by \$118,000 and local assistance be decreased by \$118,000 to provide administrative support for Peace Officer Training. This funding, when restored in the 2003 Budget Act, was included as local assistance. Of the \$25,500,000 restored, \$118,000 should have been restored as state operations.

8180 Payments to Counties for the Costs of Homicide Trials**14. Finance Letter -- Transfer Expenditure Authority.**

Finance Letter Request. This Finance Letter requests a decrease of \$254,000 in this item to reflect a transfer to Item 0450-101-0001 (State Trial Court Funding). This is a conforming issue with Item 0450 101 0001 which would increase State Trial Court Funding by \$254,000.

8840 Commission on Uniform State Laws**15. May Revise: Support Reduction**

Finance Letter Request. This Finance Letter requests that the budget for the CUSL be reduced by \$24,000. Pursuant to Control Section 4.10, the Commission was to take a \$24,000 reduction, however, DOF indicates that the adjustment was erroneously omitted from the Governor's budget.

8700 California Victim Compensation and Government Claims Board**16. Criminal Restitution Compacts (CRCs).**

The board supports county staff through 25 CRCs with local law enforcement agencies. The main responsibility of these state-funded county positions is to encourage judges to impose restitution orders on offenders whose victims have filed claims with the board.

At the hearings on March 11 and May 6, the Subcommittee held this issue open pending receipt and review of additional information from the board related to how this program works and potential other benefits of the program. The Board has indicated that it will continue examining this program to ensure its cost effectiveness. Under new direction, the Board is examining its policies and practices in order to reduce its administrative costs.

Action.

May Revise Augmentations Proposed for Vote-Only

Action Items. *Staff Recommendation.* Staff recommends approval of the following May Revise Finance Letters that contain augmentations.

0552 Office of the Inspector General

1. May Revise: Creation of an Office of Independent Review and Increased Support for the OIG.

Finance Letter Request. This Finance Letter requests an increase of \$4.9 million and 25 positions to provide additional staff and resources to enhance and strengthen the Office's operations, and to establish the Office of Independent Review, to meet federal court demands for additional oversight of the internal affairs operations of the California Department of Corrections (*Madrid v. Woodford*), and the Department of the Youth Authority. Fifteen of the requested positions are requested to establish the Office of Independent Review (OIR) in three regional locations. Based on a model currently used in the Los Angeles County Sheriff's Department, the OIR is intended to provide real-time oversight of CDC's Office of Investigative Services and CYA's Office of Internal Affairs.

Workload Methodology. The request indicates that during 2004-05 the OIG will develop a methodology to adjust its budget based on a change in workload. This methodology will take into account the number and types of investigations, length of the investigations, and staffing required by type of investigation, and will be used to adjust the Office's budget beginning in 2005-06.

Action.

0820 Department of Justice

2. May Revise: Flood Litigation Workload

Finance Letter Request. This Finance Letter requests an increase of \$1.5 million General Fund and 9.4 positions (3.3 positions on a two-year limited-term basis and 6.1 positions on a one-year limited-term basis) to address litigation resulting from the California floods of 1986 and 1997. (Funding would be reduced to \$513,000 in 2005-06). Budget Bill language to revert any funding not expended for this litigation to the General Fund, and to allow the Department to submit a Section 27.00 request if the costs of this litigation exceed the amount appropriated, is also proposed.

Provisions:

Of the amount included in Schedule (6) of this item, \$1,500,000 is available for costs related to litigation for the 1986 and 1997 California floods. Any funds not expended for this specific purpose shall revert to the General Fund.

Notwithstanding Section 27.00 of the 2004 Budget Act, the Department of Finance may submit a deficiency request if flood litigation expenses exceed the amount appropriated for this purpose.

Action.

3. May Revise – Capitol Outlay: Santa Barbara Replacement Laboratory

Finance Letter Request. This Finance Letter requests a new appropriation of \$8,098,000 in lease revenue bonds to continue the construction phase of the Santa Barbara Laboratory replacement project. Bids

exceeded the previous appropriation by more than 35 percent , a new appropriation will be necessary to continue this forensics laboratory. Part of this request is the addition of a new reversion item to revert the existing construction appropriation of \$5.5 million.

Action.

5240 Department of Corrections

4. May Revise Population Estimates.

Finance Letter Request. The administration requests \$115.0 million in current year and \$177.5 million in budget year to fund the costs of increased inmate and parole populations. Most of this increased funding reflects unachieved reductions in the inmate population that were expected to be achieved through Legislative reforms enacted in the *2003-04 Budget Act*. The population reductions were not achieved primarily because of on-going delays implementing the reforms, as well as unanticipated increases in new admissions to prison from counties. The department assumes a prison average daily population (ADP) of 161,876 in the current year and 157,259 in the budget year. Of note, the budget year projection is 8,387 ADP higher than estimated in the January budget proposal.

Action.

5. May Revise: Statewide Parole Revocation Capital Facility Improvements for Valdivia

Finance Letter Request. This Finance Letter requests an augmentation of \$5.4 million for Statewide Parole Revocation Capital Facility Improvements for Valdivia. This project is intended to help CDC meet the mandated hearing time frames for parolees. The project will consist of renovating or construction hearing rooms, attorney rooms, holding cells, restroom facilities, office space, etc., depending on the facility and the projected number of earings. This facility request conforms to the Valdivia support Finance Letter.

Action.

6. May Revise: Investigative and Employee Discipline Remedial Plan

Finance Letter Request. This Finance Letter requests an increase of \$1.9 million General Fund to provide the necessary staff to represent the Department at State Personnel Board hearings, and provide sufficient investigative standards to comply with the Employee Discipline Remedial Plan, submitted to the court as part of *Madrid v. Woodford*.

Action.

7. May Revise: Valdivia Remedial Plan.

Finance Letter Request. The administration proposes 264 positions and \$22.2 million for CDC to implement the *Valdivia* Remedial Plan in compliance with a federal judge's court order to reform the state's parole revocation process. The court found that the current revocation system unfairly denied parole violators their rights to a probable cause hearing and a speedy trial, a process that can take over a month and often as long as three months.

The remedial plan makes several significant changes to the revocation process including the implementation of a probable cause hearing for all revoked parolees within ten business days, the provision of attorneys, the holding of revocation hearings within 35 days, and the centralization of parole hearings at reception centers. Of the 264 positions requested, 105.8 correctional officer positions are to facilitate the movement and guarding of revoked parolees at reception centers, and 102.0 parole agent positions are to facilitate the expedited hearing process.

Action.

5440 Board of Prison Terms

8. May Revise: Workload Projections

Finance Letter Request. This Finance Letter requests that Item 5440-001-0001 be increased by \$117,000 to address revised hearing workload projections. This proposed adjustment reflects an increase in the projected level of inmate parole consideration hearing workload. Also, the proposed adjustment reflects a revision to the number of minutes required for staff to conduct hearings and reviews.

Action.

5460 Youth Authority

9. May Revise: Ward Population Adjustment.

This Finance Letter requests a net increase of \$6,348,000 for the budget year to reflect revisions to the projected changes in ward and parole populations. This increase includes a General Fund increase of \$4,385,000, an increase of \$309,000 in Reimbursements and an increase of \$1,654,000 in Proposition 98.

The revised institutional population for the budget year is projected to be 3,895 which is 318 more than anticipated in the Governor's Budget. The Youth Authority projects a year-end parole population of 3,755, a decrease of 55 from the level assumed in the Governor's Budget.

Action.

8830 Law Revision Commission

The primary objective of the California Law Revision Commission (CLRC) is to make recommendations to the Governor and the Legislature for revision of the law. The CLRC assists the Governor and the Legislature in keeping the law up to date by studying complex subjects, identifying major policy questions for legislative attention, gathering the views of interested persons and organizations, and drafting recommended legislation for consideration. The CLRC may study only topics that the Legislature authorizes by concurrent resolution.

Budget Request: The budget proposes expenditures of \$527,000 (\$512,000 General Fund and \$15,000 in reimbursement authority) and 4.2 positions. This amount is \$1,000 greater than estimated expenditures in the current year. Pursuant to Control Section 4.10 CLRC was reduced by \$67,000 and 0.8 positions.

Finance Letter Request. The May Revise proposes to eliminate the CLRC, effective January 1, 2005. The Administration indicates that the workload currently performed by the CLRC could be transferred to the Legislature.

Comments. The Commission's purpose is to keep the state's legal infrastructure in good repair, to the direct benefit of business, government, and the people of the state.

- CLRC has served the state for 50 years, assisting Governor and Legislature in accomplishing major reforms of the law that require more careful and in depth study than the ordinary legislative process permits
- CLRC has submitted approximately 350 recommendations, of which more than 320, or 95%, have been enacted in whole or substantial part
- More than 1,500 appellate decisions have cited to CLRC reports for interpretation of the law
- Legislation enacted on CLRC recommendation affects more than 20,000 sections of the California codes, e.g.:

The cost of this function to the state is modest, currently about \$500,000 annually. Third parties contribute to the Commission's projects to a greater extent than the state — a minimum of \$750,000 annually. That amount would be entirely lost to the state if the Commission were eliminated. The state would also lose the substantial savings to the Legislature and to state and local government (including the courts) that result from the Commission's work. Those savings are real and substantial, and dwarf the contributions of third parties.

Staff Recommendation. Staff recommends rejection of the Finance Letter. Action.

0855 California Gambling Control Commission

1. Special Distribution Fund

Expenditure of SDF monies in the current year. The Legislature appropriated \$94 million from the Special Distribution Fund in 2003-04 as follows:

- About \$15 million was spent on gambling regulatory activities.
- Chapter 210, Statutes of 2003 (AB 673, Horton), transferred \$51 million on a one-time basis from the Special Distribution Fund to the Revenue Sharing Trust Fund to ensure that eligible Indian tribes received the maximum payments allowed (\$1.1 million).
- Chapter 210 also established the Office of Problem and Pathological Gambling in the Department of Alcohol and Drug Programs (DADP) to develop a problem gambling prevention program. The DADP was provided \$3 million for the program. The administration proposes trailer bill language to repeal Chapter 210 and eliminate a scheduled \$3 million appropriation for the same purpose in the budget year.
- Chapter 858, Statutes of 2003 (SB 621, Battin), appropriated \$25 million from the Special Distribution Fund to local government agencies affected by tribal gaming.

Chapter 858 specifies that priority for funding from SDF is in the following descending order:

- a) An appropriation for any shortfalls that may occur in the Revenue Sharing Trust Fund
- b) An appropriation for problem gambling prevention programs in the Office of Problem and Pathological Gambling within the State Department of Alcohol and Drug Programs;
- c) The amount appropriated in the annual Budget Act for allocation between the Division of Gambling Control and the California Gambling Control Commission (CGCC) for regulatory functions that are directly related to Indian gaming; and,
- d) An appropriation for the support of local government agencies impacted by tribal gaming.

Chapter 210 requires the CGCC to report to the Legislature the amount of funding from the SDF necessary to make up the difference between the \$1.1 million maximum and the actual amount paid to each eligible tribe from the Revenue Share Trust Fund. Chapter 858 requires the Department of Finance, in consultation with the CGCC, to calculate the total revenue in the SDF that will be available for local government agencies impacted by tribal gaming.

Appropriating SDF Monies Through the Budget Act. The current budget does not propose to expend the funds from the SDF. In order to appropriate funding from the SDF pursuant to the priorities specified in Chapter 858, staff is proposing trailer bill language that requires the CGCC to report the deficiency in the Revenue Sharing Trust Fund to the Legislature at the time of the May Revise rather than after the end of the fiscal year, and specifies the maximum amount eligible per eligible tribe, and specifying that any funds transferred from the SPD to the Revenue Sharing Trust Fund that are surplus revert back to the SDF.

In addition, budget bill language would be required that (1) created a budget item to transfer funds from the SDF to the Revenue Sharing Trust Fund, and (2) appropriates funds from the SDF for the support of local government agencies impacted by tribal gaming.

Staff Recommendation. Staff recommends adopting trailer bill language and budget bill language to allow for regular appropriations of the SDF, for purposes prioritized in Chapter 858, to be done through the regular budget process. DOF and CGCC have not raised objections to the language. The budget bill language is on the following page.

Action.

[New Item (Amount to be determined by CGCC). Transfer item to provide backfill for IGRSTF]

0855-111-0367—For transfer by the Controller, upon order of the Director of Finance, from the Indian Gaming Special Distribution Fund, to the Indian Gaming Revenue Sharing Trust Fund. (XXXXXXXXXX)

[New Item (Amount to be determined – funding for local gov mitigation).]

0855-101-0367—For local assistance, California Gambling Control Commission, payable from the Indian Gaming Special Distribution Trust Fund..... XXXXXXXXXXXX
Provisions:

- 1. Funds appropriated in this item shall be used to provide grants to local government agencies pursuant to Section 12715 of the Government Code. This funding is available without regard to fiscal year.
- 2. Notwithstanding any other provision of law, the Department of Finance may augment the amount available for expenditure in this item, if sufficient funds are available in the Indian Gaming Special Distribution Fund after fulfillment of the provisions of Government Code Section 12012.85 (g).

[Change to 0855-101-0366 (changes in italics)]

0855-101-0366—For local assistance, California Gambling Control Commission, payable from the Indian Gaming Revenue Sharing Trust Fund..... 46,000,000
46,000,000 plus the transfer item amount

- 1. The funds appropriated in this item are for distribution to noncompact tribes pursuant to Section 12012.9 of the Government Code.

[Provisions 2 and 3 would remain unchanged]

0690 Office of Emergency Services

1. May Revise: Funding for the Office of Homeland Security

In February 2003, executive order D-67-03 established the Office of Homeland Security(OHS). The order established the Director of the OHS as the individual primarily responsible for coordinating state security efforts of all departments and agencies.

Finance Letter Request. This Finance Letter requests \$2 million in federal funds and 13 positions (12 CEAs and one Executive Assistant) to establish funding for the OHS in the budget. The OHS is currently borrowing six positions from other agencies.

Analyst's Recommendation regarding establishing OHS. With regards to establishing OHS, the LAO indicates that it is unclear why the office would need 12 CEA positions (all with salaries over \$100,000) to perform the identified tasks. Other than administering and coordinating the federal homeland security grants, OES does not identify specific workload associated with OHS. For these reasons, the LAO recommends the proposal be reduced by \$959,000 and four positions. The LAO notes that this revised organization would still represent almost a doubling of existing staff. In addition the LAO notes that the savings could be used for grants to state and local agencies.

Staff Recommendation. Staff recommends approval of the Finance Letter as requested.

Action

2. California Anti-Terrorism Information Center

Finance Letter Request. This Finance Letter proposes provisional language requiring OHS to report on the effectiveness of the California Anti-Terrorism Information Center by October 1, 2004.

Analyst's Recommendation. The LAO supports the need to formally establish OHS and review CATIC. With regards to reviewing CATIC, the LAO recommends the proposed budget bill language be amended to require the CATIC review report, due on October 1, 2004, should also be provided to the Legislature.

1. The Director of Homeland Security *jointly with the Department of Justice* shall prepare a report for the Director of the Department of Finance, *the chairperson of the fiscal committees in each house of the Legislature, and the Chairperson of the Joint Legislative Budget Committee* by October 1, 2004 on the effectiveness of the California Anti-Terrorism Information Center (CATIC). This report should include; how the CATIC funds are being spent by the Department of Justice, whether or not CATIC is meeting the requirements of the Memorandum of Understanding between the Governor's Office and the Department of Justice, what should CATIC ~~be focusing on~~ *do to make them* become more effective, and a recommendation related to the future of CATIC. The recommendations of the report shall be used in the preparation of the 2005-06 Governor's Budget regarding the use and appropriate placement of CATIC funds.
2. CATIC shall enter into a new Memorandum of Understanding with the Governor's Office that identifies the current mission of CATIC and the operation of a joint State terrorism threat assessment center.

Staff Recommendation. Staff recommends approval of the language with the italicized and strikethrough changes above.

Action.

3. Domestic Violence Grants

Background. In FY 2001/02, OCJP released a competitive Request for Proposal (RFP), which resulted in ten shelters previously funded under DVAP not being reselected for funding. Shortly thereafter, AB 664 was passed to appropriate \$2 million per year for three years to fund the ten shelters previously funded by OCJP. The OES notes that the former Interim Executive Director of OCJP indicated in a Senate Oversight Hearing on Domestic Violence, that the ten shelters would be merged into the DVAP after AB 664 expired.

Staff Comments. The OES has indicated that if the 10 AB 664 shelters had been reduced in the last three years at the same proportion as the 75 shelters, the \$2 million would be reduced by \$156,000. The OES indicates that have not found any money to backfill the loss of funding through AB 664. The OES indicates that should the 10 AB 664 shelters be folded in with the 75 that all the shelters would take a 13 percent decrease in funding.

Staff Recommendation. Staff recommends an augmentation of \$2 million for this program.

Action.

0820 Department of Justice Issue

1. May Revise: Legal Divisions Structural Budget Solutions

Finance Letter Request. An augmentation of \$7.3 million General Fund to support increased litigation workload within the Criminal Law, Civil Law, and Public Rights Divisions of the department is proposed.

A structural deficit of \$11.3 million has been created in the DOJ budget of the DOJ's Legal Divisions -- \$4.6 million in the Civil Law Division, \$3.7 million in Criminal Law, and \$3 million in Public Rights. The DOJ indicates that the deficit is directly attributable to (1) an increase in General Fund workload without funding, (2) lack of special fund reimbursement due to an incorrect billing rate methodology, and (3) not being able to meet salary savings requirements as a result of maintaining the same legal services within existing, yet already reduced staffing.

Adjustment to the Hourly Rate. In assessing the structural deficit, the DOJ has recognized that approximately \$4.0 million in administrative costs (i.e. supervisory time, training, etc.) for special funded litigation activities have been paid for through their General Fund appropriation. The Department intends to adjust this error by increasing its hourly attorney rates to appropriately address these costs. The DOJ is raising its hourly rate from \$132 to \$139.

The correction in attorney rates will provide the DOJ with \$4.0 million in reimbursements. An augmentation of \$7.3 million General Fund is proposed to provide the remaining funding necessary to address the increased litigation costs and to eliminate the structural funding problem.

Oversight of Litigation Deposit Fund. Additionally, to provide oversight over LDF spending in the future, trailer bill language to require Department of Finance approval prior to any expenditure from the LDF for litigation costs incurred by the Department is also proposed

Proposed Amendments to Government Code Section 16427:

16427. The fund is under the control of the Department of Justice, hereafter referred to as "the department." The department shall maintain accounting records pertaining to the fund, including subsidiary records of individual litigation deposits and the disbursements thereof, *and shall prepare and submit to the Department of Finance quarterly reports concerning the activity of the fund which details the number of deposits received, disbursements to claimants, the receipt of interest income, and what amount, if any, was used for the litigation costs of the department.* The department shall file a claim with the State Controller to pay out money in the fund to whomever and at such time as the department may direct; provided that if a sum of money in the fund was deposited pursuant to order or direction of the court, that sum shall be paid to whomever and at such time as the court may direct. *Any funds from settlement orders that are directed to the department as cost recoveries for its litigation efforts may be expended by the department only upon approval from the Director of Finance.* Any residue remaining in a deposit account after satisfaction of all court-directed claims *or payment of departmental expenditures approved by the Department of Finance* for that account shall be transferred *no later than July 1 of each fiscal year* to the General Fund.

Staff Recommendation. Staff recommends approval of the Finance Letter regarding the augmentation, the rate increase and the proposed budget bill language.

Action.

2. Public Rights Law Enforcement Special Fund

Budget Request. The budget proposes a reduction of \$500,000 for the Public Rights Division from the General Fund and would appropriate \$500,000 from the proposed Public Rights Law Enforcement Fund.

Trailer Bill Language. Last year, the Legislature approved a proposal to allow the DOJ to recover all reasonable attorneys fees and costs, and that whenever the DOJ prevails in a civil action to enforce specified public rights, the court shall award to the DOJ all costs of investigating and prosecuting the action, including expert fees, reasonable attorney fees and costs.

Issue. In 2003, section 1021.8 of the Code of Civil Procedure was enacted in a budget trailer bill, AB 1759. The measure's purpose was to allow recovery of DOJ costs in specified types of cases in exchange for reduced general fund appropriation. Experience implementing the law reveals some significant omissions -- case types that consume extensive staff time and litigation costs beyond the DOJ budget. In fiscal year 2003/2004, to date DOJ has recovered only \$227,304 pursuant to CCP § 1021.8.

The proposed additions are provisions used by the Public Rights Division with sufficient frequency that their inclusion is likely to improve the Division's ability to recover some of its costs. The recoveries will fluctuate dramatically from year to year, but the DOJ anticipates the proposed amendments could result in a handful of \$100,000 recoveries each year. Some of the statutes are enforced at the behest of general fund clients who refer cases DOJ is not budgeted to handle.

Proposed Amendments

Section 1021.8 of the Code of Civil Procedure is amended to read:

1021.8. (a) Whenever the Attorney General prevails in a civil action to enforce Section 17537.3, 22445, 22446.5, 22958, ~~22962, 22963~~ of the Business and Professions Code, Section 52, 52.1, ~~55, 55.1~~, or 3494 of the Civil Code, the Corporate Securities Law of 1968 (commencing at Corporations Code section 25000), the California Commodity Law of 1990 (commencing at Corporations Code section 29500), Section ~~1603.1~~ 1615, 2014, or 5650.1 of the Fish and Game Code, Section 4458, 12606, 12607, 12598, 12989.3, 16147, 66640, 66641, or 66641.7 of the Government Code, Section 13009, 13009.1, 19958.5, 25299, 39674, 41513, 42402, 42402.1, 42402.2, 42402.3, 42402.4, 43016, 43017, 43154, 104557, or 118950 of the Health and Safety Code, Section 30101.7 of the Revenue and Tax Code, Section 308.1 or 308.3 of the Penal Code, Section 2774.1, 4601.1, 4603, 4605, 30820, 30821.6, ~~30822, 42847, or 48023~~ of the Public Resources Code, or Section 275, 1052, 1845, 13261, 13262, 13264, 13265, 13268, 13304, 13331, 13350, or 13385 of the Water Code, the court shall award to the Attorney General all costs of investigating and prosecuting the action, including expert fees, reasonable attorney's fees, and costs. Awards under this section shall be paid to the Public Rights Law Enforcement Special Fund established by Section 12530 of the Government Code.

(b) This section applies to any action pending on the effective date of this section and to any actions filed thereafter.

Staff Recommendation. Staff recommends approval of the proposed amendments.
Action.

5440 BOARD OF PRISON TERMS

1. Valdivia Remedial Plan

Finance Letter Request. The administration proposes 134.4 positions and \$35.4 million for BPT to implement the *Valdivia* Remedial Plan in compliance with a federal judge's court order to reform the state's parole revocation process. The court found that the current revocation system unfairly denied parole violators their rights to a probable cause hearing and a speedy trial, a process that can take over a month and often as long as three months.

The remedial plan makes several significant changes to the revocation process including the implementation of a probable cause hearing for all revoked parolees within ten business days, the provision of attorneys, the holding of revocation hearings within 35 days, and the centralization of most parole hearings at reception centers and contracted facilities. The additional positions requested in BPT include 15.6 deputy commissioners to conduct the additional hearings, 17.0 correctional counselors to provide security and administrative support at hearings located in local jails, and 80.1 positions to provide administrative support of the expedited revocation process. In addition to this request, the administration is also requesting \$27.6 million in CDC for additional security, parole workload, and capital improvements associated with implementing the remedial plan.

Analyst's Recommendation. The LAO recommends approval of the administration's proposal and notes that the caseload and workload assumptions in the request seem reasonable given past practices and the details of the remedial plan. However, the LAO notes that a technical adjustment needs to be made to reduce the number of requested Deputy Commissioner PYs from 15.6 to 11.9 to accurately reflect the department's workload assumptions.

Staff Recommendation. Staff recommends approval of the LAO recommendation.
Action.

5430 BOARD OF CORRECTIONS

1. May Revise: Federal Funds to Offset Administrative Costs

This Finance Letter requests a decreased of \$601,000 to reflect the use of federal funds rather than charging fees to locals to fully support the administrative costs of the Board, as proposed in the Governor's Budget. It is requested that Item 5430-001-0890 be added to reflect the use of \$301,000 federal funds to support administrative costs of the Board and Item 5430-001-0001 to be amended to reflect this change. The balance of the reduction to the Board of Corrections Administration Fund (\$300,000) will be supported through the redirection of existing federal funds.

Staff Comments. At the hearing on May 6, the Subcommittee rejected the fee for service proposal and restored \$1.8 million in General Fund to the Board. Staff notes that these federal funds could offset some of the General Fund that was restored at the May 6 hearing.

Staff Recommendation. Consistent with the previous action by the Subcommittee, staff recommends reducing the General Fund augmentation from the May 6 hearing by \$601,000 to reflect the use of federal funds rather than General Fund to support the administrative costs of the Board.
Action.

2. May Revise: Juvenile Justice/CYA Reforms

This Finance Letter requests an increase of \$500,000 to provide planning for Juvenile Justice/California Youth Authority Reforms.

The request proposes to use the Board of Corrections to facilitate any implementation of a realignment of CYA Parole should the Juvenile Justice Working Group (JJWG), and the Administration, reach a final consensus on the issue. Should that occur, the Board intends to administer this effort in ways that promote economy, quality, efficiency, and the highest degree of safety for the public, for the correctional staff involved, and for the wards. The Board is fully committed to a collaborative approach which incorporates both state and local interests.

Analyst's Recommendation. The LAO notes that the proposal provided no details about how the BOC planned to use the requested amount. Nonetheless, the LAO believes that juvenile justice reform may be consistent with legislative priorities. The LAO recommends approving \$250,000 with budget bill language making the appropriation contingent upon submittal of a detailed plan describing how the BOC plans to use the funds. The following budget bill language is consistent with this recommendation:

5430-001-0001. Of the funds appropriated in this item, \$250,000 shall be used for the Board of Corrections (BOC) to facilitate a study and plan for juvenile justice and California Youth Authority reform. Prior to the expenditure of these funds, BOC shall submit to the Legislature a detailed plan describing how they will use the funds.

Staff Recommendation. Staff recommends approval of the LAO recommendation.
Action

3. Reduction in TANF Funding for Probation Services

Governor's Budget Proposal. The administration has proposed to allow the block grant funding to sunset in October 2004, resulting in a reduction of \$134 million in 2004-05 for juvenile probation programs. The budget includes \$67 million for these services from July through October 2004.

Impact on Public Safety and State Costs. The LAO notes that the local system of juvenile probation is the first line of defense against future criminality for these youthful offenders and that research has shown that early intervention programs can be effective in preventing future crime by youthful offenders. To the extent that these programs are no longer available, it could result in a reduced level of public safety.

Additionally, the proposed reduction would also result in more juveniles being sent to the state Youth Authority, thereby increasing General Fund costs. In addition to the many problems recently highlighted in CYA, the cost for housing a juvenile in the CYA is significantly greater than the cost in a local ranch or camp program.

Staff Recommendation. Staff recommends providing \$134 million in General Fund to provide funding for County Probation using the existing allocation formula. Staff further recommends that the funding be distributed as local assistance by the Board of Corrections.

Action

5460 DEPARTMENT OF THE YOUTH AUTHORITY

1. Closure of Mount Bullion Camp.

Budget Request. The budget proposes savings of \$2.4 million in 2004-05 from the closure of the Mount Bullion Camp in Mariposa County. This camp is located on CDF property and assists CDF fire crews during fire season. This is one of four camp programs operated by the CYA. According to departmental regulations CYA staff is responsible for the custody and supervision and treatment of assigned offenders while the CDF staff plans and supervises the work projects performed by the wards.

Department Rationale. The CYA indicates that it is proposing the closure of this camp because there are not enough qualified wards to fill the camp facilities. CDF has minimum criteria for accepting wards into the program. Current criteria includes: physical fitness, no history of arson, no escapes, no sex offenses, only low level offenders, no suicidal behavior for two years, free from psychotropic medication for at least 4 months, and the ward must be discipline free for six months. CYA indicates that Mt. Bullion was proposed for closure because it had the lowest population of the camps at the time – 38 wards. The design capacity is 80 wards.

The closure of the camp is expected to save \$2.4 million or approximately \$30,000 per-year-per-ward at capacity. The average cost if filled to the 100 level would approach \$24,000 per-year-per-ward. This is significantly lower than the average cost for the department of nearly \$74,000 per-year-per-ward.

The CYA indicates that it does not have the population to fill the camp beds that it is currently operating.

Staff Recommendation. Staff recommends rejecting the proposal to close Mount Bullion camp for the purpose of sending the issue to conference and to give CYA time to reassess program criteria and design. Action.

2. May Revise: Post Relief Factor

Finance Letter Request. This Finance Letter requests an increase of \$3.5 million General Fund to increase the existing budgeted relief coverage for posted positions. Of this funding \$964,000 is for vacation relief coverage. Also, Program 21—Bargaining Unit 6 Provision 8.05 Section H, is added and reflects funding for training relief coverage of \$2,510,000, and the following language added:

- (X) The funds contained in Schedule (1.5) of this Item are to provide post coverage for employees when they are attending the Off-Post Training Sessions, as specified in Provision 8.05, Section H of the Memorandum of Understanding with the California Correctional Peace Officers' Association that is valid from July 1, 2001 through July 2, 2006.

Staff Recommendation. Staff recommends adoption of the Finance Letter. Action.

5240 DEPARTMENT OF CORRECTIONS

1. Visiting Day Reduction

As part of the CDC's current year reductions pursuant to Control Section 4.10, all prisons reduced their visiting days to Saturdays, Sundays and designated holidays. Previously, most prisons offered as many as four visiting days. This proposal was estimated to save \$5.6 million in 2003-04 and \$11.1 million in 2004-05. The reduction in visiting days has imposed significant hardships on inmate families, particularly for those who have work schedules that make weekend visiting impossible. In one case, CDC recently imposed a \$10,000 fee on the Los Angeles Archdiocese for this year's "Get on the Bus" day, a special Mother's day effort that helps families visit inmates in state prisons for women. CDC indicated that this fee for a Friday visit was needed to pay staff and overtime costs.

Staff Recommendation. Restore \$6.7 million to provide at least three visiting days a week for each prison.

Action.

2. May Revise: Medical Guarding and Transportation

Finance Letter Request. The department requests 114.9 positions and \$18.2 million in budget year to provide permanent positions and overtime funding to transport prisoners to and guard prisoners at local hospitals. The proposal uses past years' medical transportation and guarding costs to determine the amount of funding requested.

Analyst's Recommendation. The LAO recommends two-year limited term funding of the department's proposal.

The LAO notes that while the department's proposal has merit, the department is also proposing a number of significant changes to how it will provide inmate health care services that could impact the department's reliance on local hospitals. One such proposal would have Hepatitis C biopsies performed in prisons medical units rather than local hospitals which should result in less need to transport and guard inmates at hospitals for that procedure. In addition, the LAO believes there may be further opportunities for the department to reduce their expenditures on medical guarding and transportation. Such opportunities might include (1) identifying additional common procedures that could be done in prisons rather than in hospitals, (2) finding alternative and more efficient ways to staff medical guarding and transportation, and (3) establishing contracts with hospitals located closer to individual prisons to reduce the cost of medical transportation.

Staff Recommendation. The CDC indicates that the medical guarding positions will be adjusted in January and at the May Revise every year. Staff recommends approving the request.

Action.

3. May Revise: Administrative Segregation Overflow

Finance Letter Request. The administration proposes 195.6 positions and \$16.8 million in budget year to augment the department's budget for administrative segregation housing units (ASU). The ASUs are

designed to be temporary housing units to house inmates that need to be separated from the general inmate population for a variety of reasons. This proposal assumes institutions will require a number of ASU beds equal to their minimum usage in 2003. Based on this usage level, the request proposes to convert living units at some institutions to permanent ASUs with increased staffing levels. Additional overtime and temporary help funding is also proposed to address bed needs above what would be available in the ASUs established under this proposal. The overtime and temporary help funds would be allocated to the institutions during the fiscal year on an as-needed basis to be determined by department headquarters.

Analyst's Recommendation. The LAO recommends that the Subcommittee send the administration's request for additional ASU funding to conference committee to allow further review regarding departmental policies related to administrative segregation. The LAO believes that the structure of this proposal has merit as it would more accurately fund ASU usage, thereby reducing the department's overtime and temporary help deficiencies. In addition, the department's request to control ASU funding at headquarters level could result in prison administrators having to manage their ASU populations more effectively because they will not be assured of receiving additional funds. This provision, therefore, could result in a reduction in total ASU expenditures from past years.

The LAO notes that this proposal leaves several questions unanswered. First, what will be the department's policies regarding which inmates are placed in and removed from ASUs? Anecdotal evidence suggests that current department policies are broad and usage varies significantly between institutions. If placement and removal policies are not amended to reflect what types of inmates should be priority placements and removals from ASUs, then prison administrators may have difficulty managing their ASU populations as efficiently as intended under this proposal. Second, what will be the criteria under which it will be determined whether institutions receive additional ASU funding from headquarters? Third, what will happen if the overtime and temporary help dollars controlled at headquarters are not spent by the end of the fiscal year? Based on this final concern, the LAO recommends that the Legislature consider adopting the following Budget Bill Language:

Provision x. It is the intent of the Legislature that any funds allocated to the California Department of Corrections for the purpose of staffing administrative segregation units that remain unspent at the end of the fiscal year revert to the General Fund.

Staff Recommendation. Staff recommends approving the Finance Letter request, but reducing the amount by \$1,000 to send the issue to conference. Staff also recommends adoption of the LAO proposed budget bill language.

Action.

4. Business Information System (BIS) Project.

Finance Letter Request. The purpose of the BIS Project is to automate CDC's financial, personnel, and procurement practices. The total project costs are currently estimated to be \$155 million General Fund over the next 10 years. The May Revision proposes \$4.6 million General Fund and 10 positions to develop the procurement documents and begin the procurement process. The CDC proposes to conduct a single procurement, which will result in a single contract for commercial-off-the-shelf (COTS) software and programming services. In addition, in order to reduce future year General Fund costs, CDC proposes to finance the hardware and software purchases.

Analyst's Issue. The LAO has several concerns regarding this proposal. First, the LAO believes that departments should pursue procurement strategies that encourage maximum competition between the qualified vendors. Second, LAO believes that it is important that CDC's BIS system integrate with current and future statewide financial and personnel systems. The LAO's final concern is in regards to the proposed use of financing for both hardware and software purchases.

Analyst's Recommendation. The LAO recommends that the Legislature adopt the following trailer bill language that (1) directs CDC to use a multi-procurement strategy, (2) requires CDC to integrate the BIS system with other statewide financial and personnel systems, and (3) limits the use of financing to only hardware.

The Department of Corrections shall conduct two or more procurements for the software purchase and development of the Business Information System Project. The BIS system shall be developed to allow integration with other relevant statewide financial and personnel systems. The Department of Corrections may consider the use of financing for only hardware purchases and shall not use financing for software purchases.

Staff Recommendation. Staff recommends approval of the LAO recommendation.
Action

5. Scheduling Adjustment

Finance Letter Request. \$47,626,000 is proposed to be moved from the Institution Program and placed in a newly established Program 23 – Bargaining Unit 6 Provision 8.05, Section H. There is no net funding impact to the Department from this adjustment. Budget Bill language is proposed that specifies that all funds in the new Program be for post coverage behind employees while they attend Off-Post Training Sessions, pursuant to the Memorandum of Understanding with Bargaining Unit 6.

5240-001-0001, Support, Department of Corrections

Provisions:

11. The Department of Finance shall analyze the impact of any renegotiation of the Memorandum of Understanding with Bargaining Unit 6, and shall update the estimated savings. Furthermore, as part of the annual review of the Department of Corrections' Post Relief Factors, the Department of Finance shall make adjustments commensurate with actual usage of leave.
12. The funds contained in Schedule 2.5 of this Item are to provide post coverage for employees when they are attending the Off-Post Training Sessions, as specified in Provision 8.05, Section H of the Memorandum of Understanding with the California Correctional Peace Officers' Association that is valid from July 1, 2001 through July 2, 2006.

Staff Recommendation. Staff recommends approval of the scheduling change.
Action

6. May Revise: Administration Reductions and Efficiencies

The May Revise proposes \$476.7 million in reductions (\$400 million was included in the January budget). Of this amount, \$300 million is anticipated from MOU contract renegotiations, \$169.9 million is from savings, and \$6.8 million is from lease revenue savings.

The \$300 million does not include a reduction to the CDC appropriation. Of the total, \$254.4 million would be part of the Statewide Employee Compensation Budget Item (to be discussed in Subcommittee No. 4), and \$45.6 million is set aside in the CDC budget as potential operational savings from renegotiations.

The \$169.9 million in savings proposals fall into three categories: Operational Efficiencies, Medical Improvements, and Parole Accountability.

A. Operational Efficiencies.

The May revise proposes \$36.6 million in the administrative efficiencies detailed below.

Action Item. Staff Recommendation. Staff recommends approval of Operational Efficiencies bulleted below for savings of \$35 million.

Action.

- **Consolidated Purchasing**—\$1.3 million savings associated with the establishment of a central unit to handle all purchasing of Law Books, Correctional Equipment, Parole Outpatient Prescriptions, and other items.
- **Reduce Training at the Basic Correctional Officer Academy**—A reduction of \$18.1 million resulting from the need to only train one class of 640 cadets in 2004-05, and the use of Community Colleges courses for part of the training beginning in 2005-06.
- **Reduce Energy Expenditures**—\$1.4 million savings to result from energy auditors visiting institutions to identify ways to decrease energy usage.
- **Headquarters Reductions**—A reduction of \$11.3 million from Headquarters to result from the elimination of some vacant positions and various reductions of Operating Expenses & Equipment, based on streamlining processes and prioritizing workload.
- **Classification Services Unit Reductions**—\$3.2 million savings associated with the elimination of positions, due to streamlining review processes and elimination of the review of some files.

Discussion Item.

1) Two Hot Meals on Weekends and Holidays.

The CDC indicates that the savings of \$1.3 million would be achieved by conducting a pilot at 11 institutions to serve a hot meal in mid-morning instead of a traditional breakfast and sack lunch on holidays and weekends. The CDC estimates savings based on 2002-03 cost and assumed savings of 3 percent from yearly food costs at 11 institutions.

Staff Recommendation. Staff recommends rejection of this proposal.
Action.

B. Medical Improvements.

The May Revise proposes a total of \$48 million in medical savings for the budget year.

Action Item. Staff Recommendation. Staff recommends approval of Medical Savings Finance Letters regarding items bulleted below for savings of \$32.1 million.
Action.

- **Hepatitis C Clinical Management**—\$1,175,000 savings as a result of using CDC physicians to perform liver biopsies in CDC medical facilities instead of contracting for this service.
- **Pharmacy and Medication Management**—A reduction of \$4,825,000 to result from the modification of the Department's prescription practices for four high-cost drug categories, without compromising therapeutic benefit or quality care standards.
- **Response to Bureau of State Audits Report on Contract Medical Services**—A reduction of \$26.1 million to reflect implementation of the recommendations of the April 2004 Bureau of State Audits report regarding CDC's contract medical practices, as well as other program enhancements intended to reduce costs while maintaining appropriate levels of inmate health care.

Discussion Items**1) Reclassify Psychiatrists to Nurse Practitioners.**

This Finance Letter proposes \$1.4 million in savings associated with the reclassification of 23.5 Staff Psychiatrist positions to Nurse Practitioners to perform certain mental health functions. The proposal notes that currently the Department of Mental Health (DMH) utilizes Nurse Practitioners in lieu of Staff Psychiatrist positions and notes that DMH has developed a set of standardized procedures and a comprehensive training program to ensure a successful transition for staff.

CDC indicates that these vacant psychiatrist positions are now filled using registry staff psychiatrists. The current vacancy rate for staff psychiatrists is 30 percent. Filling these positions with Nurse Practitioners could allow greater continuity of care for fewer resources by hiring civil service employees rather than more costly registry contracts.

Staff Recommendation. Staff recommends not approving the proposed reclassification.
Action.

2) Medi-Cal Rates for Hospital, Hospital Emergency Services, and Ambulance Emergency Services.

The administration proposes \$14.5 million in budget year savings from trailer bill language enabling CDC to obtain medical services at the same rates Medi-Cal rates as established by the California Medical Assistance Commission (CMAC). The savings estimates in the budget year assume 3 months implementation.

- **Ambulance Emergency Medical Services (EMS) at Medi-Cal Rates.** This proposes a reduction of \$250,000 savings to result from the enactment of legislation requiring “911” ambulance providers to be reimbursed at Medi-Cal rates.
- **Hospital EMS at Medi-Cal Rates.** \$1,725,000 savings to result from the enactment of legislation that would require emergency hospital providers to be reimbursed at Medi-Cal rates.
- **All Hospital Services Reimbursed at Medi-Cal Rates—**\$12.5 million savings to result from the enactment of legislation requiring that all hospitals be reimbursed for provision of medical services to CDC inmates at Medi-Cal rates.

Staff Recommendation. Staff recommends approval of the funding reduction and adoption of placeholder trailer bill language to ensure that inmate access to healthcare is maintained at lower costs.
Action.

C. Parole Accountability Proposals

The May Revise proposes \$85.4 million in savings from a variety of parole accountability proposals.

Discussion Items

1) Provide More Opportunities to Succeed for Graduated Sanctions

This proposal notes that statistics show that as an example, treatment for substance abuse – which is a primary contributing factor to parolee recidivism, is a gradual process and that it is not uncommon for substance abusers to relapse. The State’s current policy to utilize sanctions only one time may have a negative impact on the ability to achieve reintegration goals. The proposal would give parole agents the option to consider individual case dynamics and when appropriate, apply sanctions more than once. This proposal estimates savings of \$18.3 million in 2004-05 and \$17.9 million in 2005-06.

Staff Recommendation. Staff recommends approval of the proposal.
Action.

2) Allow Technical and Minor Violators of Parole Access to Graduated Sanctions

Under this proposal, through the supervision of parole agents and a risk assessment approach, eligibility for sanctions will be based on the violation, not the underlying offense of the parolee. The graduated sanctions would be applied to an expanded criterion of approximately 20,000 additional parolees who commit minor violations of parole or law at a savings of \$14.4 million in 2004-05 and \$14.1 million in 2005-06.

Staff Recommendation. Staff recommends approval of the proposal.
Action.

3) Discharge From Parole Consistent with Current Law

The proposal indicates that Board of Prison Term regulations would be reviewed and amended, as necessary, to ensure that parolees are discharged at the time specified in statute. The proposal indicates that a significant savings would be achieved if parolees with 12 consecutive months of “clean time” are discharged. This practice would save a total of \$59.5 million.

Staff Recommendation. Staff recommends approval of the proposal.
Action.

4) Expansion of the Restitution Work Furlough Program.

Inmates in the Restitution Program are court commitments that must have a sentence of three years or less. Restitution Centers provide a means for those sentence to prison to pay court ordered victim restitution fines. The restitution inmate wages are distributed as follows—1/3 to restitution, 1/3 to the state, and 1/3 to the inmates’ savings account. This proposal would expand the Restitution Program from 110 current beds to 500 statewide.

Fiscal. The May Revise includes an increase of \$4.9 million in the budget year and assumes savings of \$3.3 million for a net cost of \$1.6 million. The full year costs are estimated at \$9.6 million with projected savings of \$6.6 for a net cost of \$3 million.

Staff Recommendation. Staff recommends reducing the number of new beds in the first year to 200 for estimated costs of \$2.5 million. Staff further recommends adoption of savings of \$2.5 million and the following provisional language:

The department shall develop policies that ensure that the new Restitution Program beds are cost neutral in 2004-05 and 2005-06.

Action.

5) Expansion of the Substance Abuse Treatment and Recovery (STAR) program.

This proposal seeks to expand the STAR program, which is an instructional-based treatment program designed to teach parolees how to address and prevent substance abuse. This proposal would expand the STAR program to an additional 25 sites for a total of 53 sites statewide. The proposal includes additional costs of \$1.4 million for the program (\$2.8 million ongoing) and estimates savings of \$6.1 million in the budget year (\$12.2 million ongoing) for net savings of \$4.7 million in the budget year and \$9.4 million ongoing.

Staff Recommendation. Staff recommends approval of the proposal.
Action.

6) Expansion of the PACT Program

Parole and Corrections Teams (PACTs) consist of police, community service providers and correctional staff who work in teams to facilitate parolee orientation. This program would increase expand the number of sites statewide from 35 to 50. The cost in the budget year for the expansion is \$1 million.

Staff Recommendation. Staff recommends approval of the proposal.
Action.

7) LEADS Database.

The ParoleLEADS application provides parolee data to over 400 law enforcement agencies throughout California. The current program was created in 1997 and needs updating to its software and hardware. The cost to augment the hardware and software would be \$2.7 million in the budget year, \$5.5 million in 2005-06, and \$450,000 ongoing.

Analyst's Recommendation. The LAO recommends taking an action to send this to conference committee. The LAO notes that this program expansions do not generate savings and that sending the issue to conference will allow further evaluation of the merits.

Staff Recommendation. Staff recommends reducing the funding for this program by \$1 million. Given the state's fiscal situation this would allow the costs to be spread out over a longer period of time, save general Fund in the budget year, and the issue to conference.
Action

8) CAL/GANG Database

The CAL/GANG database is an internet linked software package available to law enforcement agencies that compiles data on criminal gangs. This proposal would provide ongoing funds in the budget for CDC of \$750,000 for the database. This would help provide maintenance for the system housed at the DOJ.

Staff Recommendation. At this time, staff does not have detail regarding the proposal. Staff recommends not approving this proposal.
Action.

9) Electronic Monitoring

This proposal would expand the number of electronic monitoring units, effective January 2005, by an additional 2,000 to provide monitoring to 16,000 parolees for a total of 24,000 parolees per year at a cost of \$1.2 million in 2004-05 and \$2.4 million in 2005-06.

Staff Recommendation. Staff recommends approval of the proposal.
Action.

10) GPS Monitors

This proposal would pilot a Global Positioning Satellite (GPS) surveillance program for sex offenders in coordination with law enforcement agencies, and would explore the possibility of using GPS as a graduated sanction. The cost to pilot 500 GPS monitors would be \$1.8 million in the budget year, with full year costs of \$3.5 million.

Staff Recommendation. Staff notes that as proposed, this request would not provide any savings and would establish a new program. Given the state's fiscal situation, staff recommends delaying the proposal to the next fiscal year.
Action.

11) Program Evaluation

The administration has indicated that the goals of the parole proposal are to improve parole success and public safety, as well as achieve significant savings in General Fund. The proposal includes \$1.3 million annually to allow CDC to contract with appropriate entities and to hire the necessary staff to implement performance measures, begin evaluating in-prison programs, and provide necessary program and process audits.

Staff Recommendation. Staff notes that the program evaluation component seems high. Staff recommends reducing this item to \$300,000 pending additional details on the scope of the evaluation being proposed.
Action.

Additional Proposals for CDC Savings

	Savings (\$ in millions)	
	2004-05	2005-06
<p>1.) Contract with Felony Drug Court to Treat Parole Violators with New Terms (PV-WNT's). In 2003, almost 12,000 parole violators returned to prison with a new term related to drugs or property offenses. Some might be appropriate for drug courts, but under the current system these offenders are often bypassed because of the need to coordinate supervision with parole and probation.</p> <p><i>Proposal: Authorize Parole to contract with local drug court systems to supervise PV-WNT's who are determined by the local court (including D.A.) as appropriate.</i></p>	1.9	7.7
<p>2.) Eliminate "Z" Case Diagnosis Program. Penal Code Section 1203.3 provides that the court may refer a defendant to CDC for diagnosis and treatment for a period not to exceed 90 days, prior to final disposition of the case. The defendant must have committed an offense punishable by a term in state prison. Between January 2001 and December 2003, CDC processed 4,511 "Z" case defendants. Of these only about 1/3rd were ultimately sentenced to prison. Fresno county accounted for 39% of all "Z" cases, followed by Los Angeles and San Diego at 19% and 7% respectively.</p> <p><i>Proposal: Adopt placeholder trailer bill language to repeal law authorizing this program.</i></p>	4.7	6
<p>3.) Drug Treatment Credit Incentive. This proposal provides that inmates who complete the prison Substance Abuse Treatment program would be eligible to receive 2-for-1 credits. This assumes a 70% graduation rate. It excludes lifers, strikers, sex registrants and offenders with violent and serious offenses or priors. "2 for 1" credits are now provided for inmates participating in fire camps. Additional aftercare beds would also be necessary to improve the program's success in reducing recidivism.</p> <p><i>Proposal: Adopt placeholder trailer bill language authorizing 2 for 1 credits for inmates who graduate from the Substance Abuse Treatment Program, and stating legislative intent to provide residential aftercare for at least 75% treatment graduates by 2008 Provide funding for 500 additional aftercare beds for women using the Treatment Furlough model (April 1, 2005 implementation).</i></p>	2.5	7.1
<p>4.) Enhanced Jail Credits Pilot. Current law allows jail inmates to receive up to 1 day of credit for every 3 days in custody (1/3rd credits). These credits may also apply to pre trial inmates (who may be sentenced to state prison) and parole violators pending revocation hearing.</p> <p><i>Proposal: Adopt placeholder trailer bill language to allow Los Angeles County to pilot a program that provides the Sheriff with authority to provide day for day credits for inmates who participate in education, drug treatment, vocational training, community service, or other programs determined by the sheriff that reduce recidivism and enhance public safety. Other counties wishing to participate in this program must receive approval from Board of Corrections. .</i></p>	0.8	5.3

<p>5.) Drug Treatment Furlough for Civil Addicts. Civil addicts who participate in CDC's substance abuse treatment program are not currently being placed into the drug treatment furlough program. The Civil Addict Program is administered by the Narcotic Addict Evaluation Authority (NAEA), which sets release dates for these offenders.</p> <p><i>Proposal: Adopt Budget Bill Language directing the NAEA to establish procedures for placing civil addicts into treatment furlough beds 120 days prior to release.</i></p>	3.2	4.2
<p>6.) Mentally Ill Custody & Treatment Units (MICTU). Between December 2002 and December 2003 there were over 12,000 mentally ill, non violent/non serious parole violators who were returned to custody. The cost of housing and providing treatment to these parole violators was approximately \$64 million. Although enhancements in the existing mentally ill parolee program have reduced recidivism, the return-to-custody rate remains between 45% to 50% in the twelve months following release from prison. At the same time, counties that received Mentally Ill Offender Crime Reduction (MIOCR) grants have developed expertise in successfully managing these offenders.</p> <p><i>Proposal: Authorize Parole to develop a new sanction for non violent/non serious mentally ill parole violators – similar to SATCU's for substance abusers. Parole would contract for participating jails for a 30-60 day in-custody program followed by an intensive aftercare program.</i></p>	1	2
<p>7.) Medical Parole. Incapacitated and infirm prisoners who require medical intervention on a full-time, permanent basis are being housed and cared for at full cost to the state. These prisoners, many of whom are incapacitated or in a vegetative state, can require around-the-clock care, in addition to prison supervision. This can result in costs that can easily run into the hundreds of thousands of dollars per patient, per year.</p> <p><i>Proposal: Adopt placeholder trailer bill language to authorize the CDC Director to parole severely ill or incapacitated inmates to a health care facility.</i></p>	3	3
<p>8.) Delay Activation of Delano II by 3 months. The new prison is scheduled for activation in April 2005.</p> <p><i>Proposal: Delay activation to achieve a one-time savings.</i></p>	10	0
<p>Total</p>	27.1	35.3

Other Options:

The Administration proposed reductions assume \$300 million in savings related to collective bargaining negotiations. As these negotiations proceed, the Subcommittee may wish to consider additional alternatives to preserve options that would result in General Fund savings in CDC's budget.

	2004-05	2005-06
A) No Parole Supervision for Non Violent/Non Serious Offenders. This would eliminate parole supervision upon release from prison for non violent/non serious offenders without prior violent or serious offenses. <i>Note: the estimate is the net savings above the Administration's proposal to discharge after 12 months of "clean time, which saves \$59.5 million). Assumes 7/1/04 implementation. Requires TBL.</i>	93.9	128.8
B) No Prison for Petty Theft with a Prior. This offense would become a misdemeanor. <i>This would eliminate state prison as a sentencing option for those persons convicted of PC Section 666 (Petty Theft with a Prior) with no other felony and would make the offense a misdemeanor rather than a wobbler (felony/misdemeanor).</i>	7.3	14.6

SUBCOMMITTEE NO. 2

Agenda

Byron Sher, Chair
Sheila Kuehl
Bruce McPherson



Summary of Actions

Thursday, May 20, 2004
Upon Adjournment of Session
Room 112

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Resources--Environmental Protection—Public Safety—Energy

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Proposed Consent Items

Action Items. Staff Recommendation: Staff recommends the Subcommittee approve the following issues and finance letters. No issues or objections have been raised with these proposals.

0550 Youth & Adult Correctional Agency

1. May Revise: Restructuring YACA

Finance Letter Request. The Finance Letter requests that Item 0550-001-0001 be increased by \$1,715,000 and Reimbursements be decreased by \$258,000 and 12 positions be added to provide increased oversight and policy direction to departments under the supervision of the Youth and Adult Correctional Agency. Funding for this proposal is provided through corresponding reductions to the California Department of Corrections (\$1,515,000) and the Department of the Youth Authority (\$200,000). YACA indicates that it has been borrowing positions from agencies under its supervision to perform the necessary oversight tasks.

0690 Office of Emergency Services

2. May Revise: 2004 Homeland Security Grant and 2004 Urban Areas Security Initiative Grant Programs.

Finance Letter Request. This Finance Letter requests that Item 0690-101-0890 be increased by \$156,078,000 to provide the following grants to local and state agencies: 2004 State Homeland Security Grant Program, 2004 Law Enforcement Terrorism Prevention Program, 2004 Citizen Corps Program, and the 2004 Urban Area Security Initiative.

3. May Revise: General Fund Reduction

Finance Letter Request. This Finance Letter requests a General Fund reduction of \$256,000 by re-directing positions to available non-General Fund support in the Disaster Assistance Division and by replacing General Fund with reimbursements for the California Specialized Training Institute.

4. May Revise: California Wildfires Estimates

Finance Letter Request. This Finance Letter requests a General Fund reduction of \$4.1 million to reflect the most recent estimates related to the Southern California Wildfires. These new estimates are based on a more detailed inspection of damage and a new assessment of program eligibility at the federal level.

5. May Revise: Federal Administration Funds

Finance Letter Request. This Finance Letter requests an increase of \$519,000 in federal funds. This change will provide the Office of Emergency Services (OES) the ability to charge the State Homeland Security Grant Program, the Law Enforcement Terrorism Prevention Program, and the Citizen Corps Program for the administrative costs associated with administering these federal grants. Up to 3 percent of these funds are allowed to be used for administering the grants.

0820 Department of Justice**6. May Revise: Allocation of Previous Unallocated Reductions**

Finance Letter Request. The Governor's Budget included a reduction of \$2.5 million General Fund to the Criminal Law Division and an unallocated General Fund reduction of \$3,003,000. These reductions are to be scheduled as follows:

- \$3,571,000 General Fund from the Division of Law Enforcement. This reduction will result in the elimination of 34 positions, and the transfer of workload from the Bureau of Narcotics and California Bureau of Investigation Office located in Orange County to the Los Angeles Regional office.
- \$1,849,000 General Fund from the California Justice Information Services Division. This action will result in a reduction of various operating and equipment expenses.
- \$83,000 General Fund from the Firearms Division. This would result in a reduction of general operating expenses for the division.
- A reduction of 7.8 temporary help positions from the Administrative Services Division.

The Department indicates these reductions are least detrimental to the ability of the department to fulfill its constitutional duty.

7. May Revise: Armed Prohibited Persons System Reappropriation

Finance Letter Request. This Finance Letter requests that Item 0820-491 be added to the Budget Bill to provide a reappropriation for funding authorized in the 2003 Budget Act. This item would reappropriate \$2.663 million General Fund to allow the DOJ to continue development of the Armed Prohibited Persons System database.

5240 Department of Corrections**8. May Revise: Reduction Due to YACA Restructuring**

Finance Letter Request. This Finance Letter requests a decrease of \$1,515,000 General Fund to reflect redirection of resources to the Youth and Adult Correctional Agency to provide increased correctional oversight and policy direction to subordinate departments.

5430 Board of Corrections**9. May Revise: Reappropriation of Violent Offender/Truth if Sentencing Grant Program**

Finance Letter Request. This Finance Letter requests the addition of Item 5430-490 to reflect the reappropriation of \$6,269,000 federal funds for the Violent Offender Incarceration/Truth in Sentencing Grant program. These funds will be available for expenditure through December 31, 2005.

10. May Revise: Juvenile Justice Grant Realignment

Finance Letter Request. This Finance Letter requests that the Board be decreased by 9.8 positions and that Item 5430-004-0001 be amended to reflect the redirection of 6 existing staff from expiring programs to support the Juvenile Justice Grant Program acquired when the Office of Criminal Justice Planning was eliminated.

5460 Youth Authority**11. May Revise: Reduction to Fund the Restructure of YACA**

Finance Letter Request. This Finance Letter requests a reduction of \$200,000 General Fund and 2.5 positions is proposed in Item 5460-001-0001 to fund a portion of the cost to restructure the Youth and Adult Correctional Agency.

12. May Revise: Appropriate Funds from the Proposition 98 Reversion Account

Finance Letter Request. This Finance Letter requests that \$440,000 be reappropriated from the Proposition 98 Reversion Account.

8120 POST**13. May Revise: Transfer to State Operations from Local Assistance for Peace Officer Training**

Finance Letter Request. This Finance Letter requests that state operations from the Peace Officer Training Fund be increased by \$118,000 and local assistance be decreased by \$118,000 to provide administrative support for Peace Officer Training. This funding, when restored in the 2003 Budget Act, was included as local assistance. Of the \$25,500,000 restored, \$118,000 should have been restored as state operations.

8180 Payments to Counties for the Costs of Homicide Trials**14. Finance Letter -- Transfer Expenditure Authority.**

Finance Letter Request. This Finance Letter requests a decrease of \$254,000 in this item to reflect a transfer to Item 0450-101-0001 (State Trial Court Funding). This is a conforming issue with Item 0450 101 0001 which would increase State Trial Court Funding by \$254,000.

8840 Commission on Uniform State Laws**15. May Revise: Support Reduction**

Finance Letter Request. This Finance Letter requests that the budget for the CUSL be reduced by \$24,000. Pursuant to Control Section 4.10, the Commission was to take a \$24,000 reduction, however, DOF indicates that the adjustment was erroneously omitted from the Governor's budget.

8700 California Victim Compensation and Government Claims Board**16. Criminal Restitution Compacts (CRCs).**

The board supports county staff through 25 CRCs with local law enforcement agencies. The main responsibility of these state-funded county positions is to encourage judges to impose restitution orders on offenders whose victims have filed claims with the board.

At the hearings on March 11 and May 6, the Subcommittee held this issue open pending receipt and review of additional information from the board related to how this program works and potential other benefits of the program. The Board has indicated that it will continue examining this program to ensure its cost effectiveness. Under new direction, the Board is examining its policies and practices in order to reduce its administrative costs.

Action.

Consent Calendar approved (3-0)

May Revise Augmentations Proposed for Vote-Only

Action Items. Staff Recommendation. Staff recommends approval of the following May Revise Finance Letters that contain augmentations.

Action.

Vote-Only May Revise Finance Letter augmentations adopted (3-0)

0552 Office of the Inspector General

1. May Revise: Creation of an Office of Independent Review and Increased Support for the OIG.

Finance Letter Request. This Finance Letter requests an increase of \$4.9 million and 25 positions to provide additional staff and resources to enhance and strengthen the Office's operations, and to establish the Office of Independent Review, to meet federal court demands for additional oversight of the internal affairs operations of the California Department of Corrections (*Madrid v. Woodford*), and the Department of the Youth Authority. Fifteen of the requested positions are requested to establish the Office of Independent Review (OIR) in three regional locations. Based on a model currently used in the Los Angeles County Sheriff's Department, the OIR is intended to provide real-time oversight of CDC's Office of Investigative Services and CYA's Office of Internal Affairs.

Workload Methodology. The request indicates that during 2004-05 the OIG will develop a methodology to adjust its budget based on a change in workload. This methodology will take into account the number and types of investigations, length of the investigations, and staffing required by type of investigation, and will be used to adjust the Office's budget beginning in 2005-06.

Action.

0820 Department of Justice

2. May Revise: Flood Litigation Workload

Finance Letter Request. This Finance Letter requests an increase of \$1.5 million General Fund and 9.4 positions (3.3 positions on a two-year limited-term basis and 6.1 positions on a one-year limited-term basis) to address litigation resulting from the California floods of 1986 and 1997. (Funding would be reduced to \$513,000 in 2005-06). Budget Bill language to revert any funding not expended for this litigation to the General Fund, and to allow the Department to submit a Section 27.00 request if the costs of this litigation exceed the amount appropriated, is also proposed.

Provisions:

Of the amount included in Schedule (6) of this item, \$1,500,000 is available for costs related to litigation for the 1986 and 1997 California floods. Any funds not expended for this specific purpose shall revert to the General Fund.

Notwithstanding Section 27.00 of the 2004 Budget Act, the Department of Finance may submit a deficiency request if flood litigation expenses exceed the amount appropriated for this purpose.

Action.

3. May Revise – Capitol Outlay: Santa Barbara Replacement Laboratory

Finance Letter Request. This Finance Letter requests a new appropriation of \$8,098,000 in lease revenue bonds to continue the construction phase of the Santa Barbara Laboratory replacement project. Bids

exceeded the previous appropriation by more than 35 percent , a new appropriation will be necessary to continue this forensics laboratory. Part of this request is the addition of a new reversion item to revert the existing construction appropriation of \$5.5 million.

Action.

5240 Department of Corrections

4. May Revise Population Estimates.

Finance Letter Request. The administration requests \$115.0 million in current year and \$177.5 million in budget year to fund the costs of increased inmate and parole populations. Most of this increased funding reflects unachieved reductions in the inmate population that were expected to be achieved through Legislative reforms enacted in the *2003-04 Budget Act*. The population reductions were not achieved primarily because of on-going delays implementing the reforms, as well as unanticipated increases in new admissions to prison from counties. The department assumes a prison average daily population (ADP) of 161,876 in the current year and 157,259 in the budget year. Of note, the budget year projection is 8,387 ADP higher than estimated in the January budget proposal.

Action.

5. May Revise: Statewide Parole Revocation Capital Facility Improvements for Valdivia

Finance Letter Request. This Finance Letter requests an augmentation of \$5.4 million for Statewide Parole Revocation Capital Facility Improvements for Valdivia. This project is intended to help CDC meet the mandated hearing time frames for parolees. The project will consist of renovating or construction hearing rooms, attorney rooms, holding cells, restroom facilities, office space, etc., depending on the facility and the projected number of earings. This facility request conforms to the Valdivia support Finance Letter.

Action.

6. May Revise: Investigative and Employee Discipline Remedial Plan

Finance Letter Request. This Finance Letter requests an increase of \$1.9 million General Fund to provide the necessary staff to represent the Department at State Personnel Board hearings, and provide sufficient investigative standards to comply with the Employee Discipline Remedial Plan, submitted to the court as part of *Madrid v. Woodford*.

Action.

7. May Revise: Valdivia Remedial Plan.

Finance Letter Request. The administration proposes 264 positions and \$22.2 million for CDC to implement the *Valdivia* Remedial Plan in compliance with a federal judge's court order to reform the state's parole revocation process. The court found that the current revocation system unfairly denied parole violators their rights to a probable cause hearing and a speedy trial, a process that can take over a month and often as long as three months.

The remedial plan makes several significant changes to the revocation process including the implementation of a probable cause hearing for all revoked parolees within ten business days, the provision of attorneys, the holding of revocation hearings within 35 days, and the centralization of parole hearings at reception centers. Of the 264 positions requested, 105.8 correctional officer positions are to facilitate the movement and guarding of revoked parolees at reception centers, and 102.0 parole agent positions are to facilitate the expedited hearing process.

Action.

5440 Board of Prison Terms

8. May Revise: Workload Projections

Finance Letter Request. This Finance Letter requests that Item 5440-001-0001 be increased by \$117,000 to address revised hearing workload projections. This proposed adjustment reflects an increase in the projected level of inmate parole consideration hearing workload. Also, the proposed adjustment reflects a revision to the number of minutes required for staff to conduct hearings and reviews.

Action.

5460 Youth Authority

9. May Revise: Ward Population Adjustment.

This Finance Letter requests a net increase of \$6,348,000 for the budget year to reflect revisions to the projected changes in ward and parole populations. This increase includes a General Fund increase of \$4,385,000, an increase of \$309,000 in Reimbursements and an increase of \$1,654,000 in Proposition 98.

The revised institutional population for the budget year is projected to be 3,895 which is 318 more than anticipated in the Governor's Budget. The Youth Authority projects a year-end parole population of 3,755, a decrease of 55 from the level assumed in the Governor's Budget.

Action.

8830 Law Revision Commission

The primary objective of the California Law Revision Commission (CLRC) is to make recommendations to the Governor and the Legislature for revision of the law. The CLRC assists the Governor and the Legislature in keeping the law up to date by studying complex subjects, identifying major policy questions for legislative attention, gathering the views of interested persons and organizations, and drafting recommended legislation for consideration. The CLRC may study only topics that the Legislature authorizes by concurrent resolution.

Budget Request: The budget proposes expenditures of \$527,000 (\$512,000 General Fund and \$15,000 in reimbursement authority) and 4.2 positions. This amount is \$1,000 greater than estimated expenditures in the current year. Pursuant to Control Section 4.10 CLRC was reduced by \$67,000 and 0.8 positions.

Finance Letter Request. The May Revise proposes to eliminate the CLRC, effective January 1, 2005. The Administration indicates that the workload currently performed by the CLRC could be transferred to the Legislature.

Comments. The Commission's purpose is to keep the state's legal infrastructure in good repair, to the direct benefit of business, government, and the people of the state.

- CLRC has served the state for 50 years, assisting Governor and Legislature in accomplishing major reforms of the law that require more careful and in depth study than the ordinary legislative process permits
- CLRC has submitted approximately 350 recommendations, of which more than 320, or 95%, have been enacted in whole or substantial part
- More than 1,500 appellate decisions have cited to CLRC reports for interpretation of the law
- Legislation enacted on CLRC recommendation affects more than 20,000 sections of the California codes, e.g.:

The cost of this function to the state is modest, currently about \$500,000 annually. Third parties contribute to the Commission's projects to a greater extent than the state — a minimum of \$750,000 annually. That amount would be entirely lost to the state if the Commission were eliminated. The state would also lose the substantial savings to the Legislature and to state and local government (including the courts) that result from the Commission's work. Those savings are real and substantial, and dwarf the contributions of third parties.

Staff Recommendation. Staff recommends rejection of the Finance Letter.
Action.

Rejected Finance Letter (3-0)

0855 California Gambling Control Commission

1. Special Distribution Fund

Expenditure of SDF monies in the current year. The Legislature appropriated \$94 million from the Special Distribution Fund in 2003-04 as follows:

- About \$15 million was spent on gambling regulatory activities.
- Chapter 210, Statutes of 2003 (AB 673, Horton), transferred \$51 million on a one-time basis from the Special Distribution Fund to the Revenue Sharing Trust Fund to ensure that eligible Indian tribes received the maximum payments allowed (\$1.1 million).
- Chapter 210 also established the Office of Problem and Pathological Gambling in the Department of Alcohol and Drug Programs (DADP) to develop a problem gambling prevention program. The DADP was provided \$3 million for the program. The administration proposes trailer bill language to repeal Chapter 210 and eliminate a scheduled \$3 million appropriation for the same purpose in the budget year.
- Chapter 858, Statutes of 2003 (SB 621, Battin), appropriated \$25 million from the Special Distribution Fund to local government agencies affected by tribal gaming.

Chapter 858 specifies that priority for funding from SDF is in the following descending order:

- a) An appropriation for any shortfalls that may occur in the Revenue Sharing Trust Fund
- b) An appropriation for problem gambling prevention programs in the Office of Problem and Pathological Gambling within the State Department of Alcohol and Drug Programs;
- c) The amount appropriated in the annual Budget Act for allocation between the Division of Gambling Control and the California Gambling Control Commission (CGCC) for regulatory functions that are directly related to Indian gaming; and,
- d) An appropriation for the support of local government agencies impacted by tribal gaming.

Chapter 210 requires the CGCC to report to the Legislature the amount of funding from the SDF necessary to make up the difference between the \$1.1 million maximum and the actual amount paid to each eligible tribe from the Revenue Share Trust Fund. Chapter 858 requires the Department of Finance, in consultation with the CGCC, to calculate the total revenue in the SDF that will be available for local government agencies impacted by tribal gaming.

Appropriating SDF Monies Through the Budget Act. The current budget does not propose to expend the funds from the SDF. In order to appropriate funding from the SDF pursuant to the priorities specified in Chapter 858, staff is proposing trailer bill language that requires the CGCC to report the deficiency in the Revenue Sharing Trust Fund to the Legislature at the time of the May Revise rather than after the end of the fiscal year, and specifies the maximum amount eligible per eligible tribe, and specifying that any funds transferred from the SPD to the Revenue Sharing Trust Fund that are surplus revert back to the SDF.

In addition, budget bill language would be required that (1) created a budget item to transfer funds from the SDF to the Revenue Sharing Trust Fund, and (2) appropriates funds from the SDF for the support of local government agencies impacted by tribal gaming.

Staff Recommendation. Staff recommends adopting trailer bill language and budget bill language to allow for regular appropriations of the SDF, for purposes prioritized in Chapter 858, to be done through the regular budget process. DOF and CGCC have not raised objections to the language. The budget bill language is on the following page.

Action.

Without objection, approved TBL and BBL with technical corrections and dollars to be added.

[New Item (Amount to be determined by CGCC). Transfer item to provide backfill for IGRSTF]

0855-111-0367—For transfer by the Controller, upon order of the Director of Finance, from the Indian Gaming Special Distribution Fund, to the Indian Gaming Revenue Sharing Trust Fund. (XXXXXXXXXX)

[New Item (Amount to be determined – funding for local gov mitigation).]

0855-101-0367—For local assistance, California Gambling Control Commission, payable from the Indian Gaming Special Distribution Trust Fund..... XXXXXXXXXXXX

Provisions:

- 1. Funds appropriated in this item shall be used to provide grants to local government agencies pursuant to Section 12715 of the Government Code. This funding is available without regard to fiscal year.
2. Notwithstanding any other provision of law, the Department of Finance may augment the amount available for expenditure in this item, if sufficient funds are available in the Indian Gaming Special Distribution Fund after fulfillment of the provisions of Government Code Section 12012.85 (g).

[Change to 0855-101-0366 (changes in italics)]

0855-101-0366—For local assistance, California Gambling Control Commission, payable from the Indian Gaming Revenue Sharing Trust Fund..... 46,000,000
46,000,000 plus the transfer item amount

- 1. The funds appropriated in this item are for distribution to noncompact tribes pursuant to Section 12012.9 of the Government Code.

[Provisions 2 and 3 would remain unchanged]

0690 Office of Emergency Services

1. May Revise: Funding for the Office of Homeland Security

In February 2003, executive order D-67-03 established the Office of Homeland Security(OHS). The order established the Director of the OHS as the individual primarily responsible for coordinating state security efforts of all departments and agencies.

Finance Letter Request. This Finance Letter requests \$2 million in federal funds and 13 positions (12 CEAs and one Executive Assistant) to establish funding for the OHS in the budget. The OHS is currently borrowing six positions from other agencies.

Analyst's Recommendation regarding establishing OHS. With regards to establishing OHS, the LAO indicates that it is unclear why the office would need 12 CEA positions (all with salaries over \$100,000) to perform the identified tasks. Other than administering and coordinating the federal homeland security grants, OES does not identify specific workload associated with OHS. For these reasons, the LAO recommends the proposal be reduced by \$959,000 and four positions. The LAO notes that this revised organization would still represent almost a doubling of existing staff. In addition the LAO notes that the savings could be used for grants to state and local agencies.

Staff Recommendation. Staff recommends approval of the Finance Letter as requested.

Action

Adopted Finance Letter (2-1) -- Kuehl voting no.

2. California Anti-Terrorism Information Center

Finance Letter Request. This Finance Letter proposes provisional language requiring OHS to report on the effectiveness of the California Anti-Terrorism Information Center by October 1, 2004.

Analyst's Recommendation. The LAO supports the need to formally establish OHS and review CATIC. With regards to reviewing CATIC, the LAO recommends the proposed budget bill language be amended to require the CATIC review report, due on October 1, 2004, should also be provided to the Legislature.

1. The Director of Homeland Security *jointly with the Department of Justice* shall prepare a report for the Director of the Department of Finance, *the chairperson of the fiscal committees in each house of the Legislature, and the Chairperson of the Joint Legislative Budget Committee* by October 1, 2004 on the effectiveness of the California Anti-Terrorism Information Center (CATIC). This report should include; how the CATIC funds are being spent by the Department of Justice, whether or not CATIC is meeting the requirements of the Memorandum of Understanding between the Governor's Office and the Department of Justice, what should CATIC ~~be focusing on~~ *do to make them* become more effective, and a recommendation related to the future of CATIC. The recommendations of the report shall be used in the preparation of the 2005-06 Governor's Budget regarding the use and appropriate placement of CATIC funds.
2. CATIC shall enter into a new Memorandum of Understanding with the Governor's Office that identifies the current mission of CATIC and the operation of a joint State terrorism threat assessment center.

Staff Recommendation. Staff recommends approval of the language with the italicized and strikethrough changes above.

Action.

Adopted Finance Letter and approved amendments to the BBL. (3-0)

3. Domestic Violence Grants

Background. In FY 2001/02, OCJP released a competitive Request for Proposal (RFP), which resulted in ten shelters previously funded under DVAP not being reselected for funding. Shortly thereafter, AB 664 was passed to appropriate \$2 million per year for three years to fund the ten shelters previously funded by OCJP. The OES notes that the former Interim Executive Director of OCJP indicated in a Senate Oversight Hearing on Domestic Violence, that the ten shelters would be merged into the DVAP after AB 664 expired.

Staff Comments. The OES has indicated that if the 10 AB 664 shelters had been reduced in the last three years at the same proportion as the 75 shelters, the \$2 million would be reduced by \$156,000. The OES indicates that have not found any money to backfill the loss of funding through AB 664. The OES indicates that should the 10 AB 664 shelters be folded in with the 75 that all the shelters would take a 13 percent decrease in funding.

Staff Recommendation. Staff recommends an augmentation of \$2 million for this program.

Action.

Approved augmentation (2-0) McPherson abstaining.

0820 Department of Justice Issue

1. May Revise: Legal Divisions Structural Budget Solutions

Finance Letter Request. An augmentation of \$7.3 million General Fund to support increased litigation workload within the Criminal Law, Civil Law, and Public Rights Divisions of the department is proposed.

A structural deficit of \$11.3 million has been created in the DOJ budget of the DOJ's Legal Divisions -- \$4.6 million in the Civil Law Division, \$3.7 million in Criminal Law, and \$3 million in Public Rights. The DOJ indicates that the deficit is directly attributable to (1) an increase in General Fund workload without funding, (2) lack of special fund reimbursement due to an incorrect billing rate methodology, and (3) not being able to meet salary savings requirements as a result of maintaining the same legal services within existing, yet already reduced staffing.

Adjustment to the Hourly Rate. In assessing the structural deficit, the DOJ has recognized that approximately \$4.0 million in administrative costs (i.e. supervisory time, training, etc.) for special funded litigation activities have been paid for through their General Fund appropriation. The Department intends to adjust this error by increasing its hourly attorney rates to appropriately address these costs. The DOJ is raising its hourly rate from \$132 to \$139.

The correction in attorney rates will provide the DOJ with \$4.0 million in reimbursements. An augmentation of \$7.3 million General Fund is proposed to provide the remaining funding necessary to address the increased litigation costs and to eliminate the structural funding problem.

Oversight of Litigation Deposit Fund. Additionally, to provide oversight over LDF spending in the future, trailer bill language to require Department of Finance approval prior to any expenditure from the LDF for litigation costs incurred by the Department is also proposed

Proposed Amendments to Government Code Section 16427:

16427. The fund is under the control of the Department of Justice, hereafter referred to as "the department." The department shall maintain accounting records pertaining to the fund, including subsidiary records of individual litigation deposits and the disbursements thereof, *and shall prepare and submit to the Department of Finance quarterly reports concerning the activity of the fund which details the number of deposits received, disbursements to claimants, the receipt of interest income, and what amount, if any, was used for the litigation costs of the department.* The department shall file a claim with the State Controller to pay out money in the fund to whomever and at such time as the department may direct; provided that if a sum of money in the fund was deposited pursuant to order or direction of the court, that sum shall be paid to whomever and at such time as the court may direct. *Any funds from settlement orders that are directed to the department as cost recoveries for its litigation efforts may be expended by the department only upon approval from the Director of Finance.* Any residue remaining in a deposit account after satisfaction of all court-directed claims *or payment of departmental expenditures approved by the Department of Finance* for that account shall be transferred *no later than July 1 of each fiscal year* to the General Fund.

Staff Recommendation. Staff recommends approval of the Finance Letter regarding the augmentation, the rate increase and the proposed budget bill language.

Action.

Approved Finance Letter with proposed TBL and proposed Control Section 5.30.

2. Public Rights Law Enforcement Special Fund

Budget Request. The budget proposes a reduction of \$500,000 for the Public Rights Division from the General Fund and would appropriate \$500,000 from the proposed Public Rights Law Enforcement Fund.

Trailer Bill Language. Last year, the Legislature approved a proposal to allow the DOJ to recover all reasonable attorneys fees and costs, and that whenever the DOJ prevails in a civil action to enforce specified public rights, the court shall award to the DOJ all costs of investigating and prosecuting the action, including expert fees, reasonable attorney fees and costs.

Issue. In 2003, section 1021.8 of the Code of Civil Procedure was enacted in a budget trailer bill, AB 1759. The measure's purpose was to allow recovery of DOJ costs in specified types of cases in exchange for reduced general fund appropriation. Experience implementing the law reveals some significant omissions -- case types that consume extensive staff time and litigation costs beyond the DOJ budget. In fiscal year 2003/2004, to date DOJ has recovered only \$227,304 pursuant to CCP § 1021.8.

The proposed additions are provisions used by the Public Rights Division with sufficient frequency that their inclusion is likely to improve the Division's ability to recover some of its costs. The recoveries will fluctuate dramatically from year to year, but the DOJ anticipates the proposed amendments could result in a handful of \$100,000 recoveries each year. Some of the statutes are enforced at the behest of general fund clients who refer cases DOJ is not budgeted to handle.

Proposed Amendments

Section 1021.8 of the Code of Civil Procedure is amended to read:

1021.8. (a) Whenever the Attorney General prevails in a civil action to enforce Section 17537.3, 22445, 22446.5, 22958, ~~22962, 22963~~ of the Business and Professions Code, Section 52, 52.1, ~~55, 55.1~~, or 3494 of the Civil Code, the Corporate Securities Law of 1968 (commencing at Corporations Code section 25000), the California Commodity Law of 1990 (commencing at Corporations Code section 29500), Section ~~1603.1~~ 1615, 2014, or 5650.1 of the Fish and Game Code, Section 4458, 12606, 12607, 12598, 12989.3, 16147, 66640, 66641, or 66641.7 of the Government Code, Section 13009, 13009.1, 19958.5, 25299, 39674, 41513, 42402, 42402.1, 42402.2, 42402.3, 42402.4, 43016, 43017, 43154, 104557, or 118950 of the Health and Safety Code, Section 30101.7 of the Revenue and Tax Code, Section 308.1 or 308.3 of the Penal Code, Section ~~2774.1,~~ 4601.1, 4603, 4605, 30820, 30821.6, ~~30822, 42847, or 48023~~ of the Public Resources Code, or Section 275, 1052, 1845, 13261, 13262, 13264, 13265, 13268, 13304, 13331, 13350, or 13385 of the Water Code, the court shall award to the Attorney General all costs of investigating and prosecuting the action, including expert fees, reasonable attorney's fees, and costs. Awards under this section shall be paid to the Public Rights Law Enforcement Special Fund established by Section 12530 of the Government Code.

(b) This section applies to any action pending on the effective date of this section and to any actions filed thereafter.

Staff Recommendation. Staff recommends approval of the proposed amendments.
Action.

Approved proposed amendments (3-0).

5440 BOARD OF PRISON TERMS

1. Valdivia Remedial Plan

Finance Letter Request. The administration proposes 134.4 positions and \$35.4 million for BPT to implement the *Valdivia* Remedial Plan in compliance with a federal judge's court order to reform the state's parole revocation process. The court found that the current revocation system unfairly denied parole violators their rights to a probable cause hearing and a speedy trial, a process that can take over a month and often as long as three months.

The remedial plan makes several significant changes to the revocation process including the implementation of a probable cause hearing for all revoked parolees within ten business days, the provision of attorneys, the holding of revocation hearings within 35 days, and the centralization of most parole hearings at reception centers and contracted facilities. The additional positions requested in BPT include 15.6 deputy commissioners to conduct the additional hearings, 17.0 correctional counselors to provide security and administrative support at hearings located in local jails, and 80.1 positions to provide administrative support of the expedited revocation process. In addition to this request, the administration is also requesting \$27.6 million in CDC for additional security, parole workload, and capital improvements associated with implementing the remedial plan.

Analyst's Recommendation. The LAO recommends approval of the administration's proposal and notes that the caseload and workload assumptions in the request seem reasonable given past practices and the details of the remedial plan. However, the LAO notes that a technical adjustment needs to be made to reduce the number of requested Deputy Commissioner PYs from 15.6 to 11.9 to accurately reflect the department's workload assumptions.

Staff Recommendation. Staff recommends approval of the LAO recommendation.

Action.

Approved Finance Letter with LAO recommended technical changes (3-0).

5430 BOARD OF CORRECTIONS

1. May Revise: Federal Funds to Offset Administrative Costs

This Finance Letter requests a decreased of \$601,000 to reflect the use of federal funds rather than charging fees to locals to fully support the administrative costs of the Board, as proposed in the Governor's Budget. It is requested that Item 5430-001-0890 be added to reflect the use of \$301,000 federal funds to support administrative costs of the Board and Item 5430-001-0001 to be amended to reflect this change. The balance of the reduction to the Board of Corrections Administration Fund (\$300,000) will be supported through the redirection of existing federal funds.

Staff Comments. At the hearing on May 6, the Subcommittee rejected the fee for service proposal and restored \$1.8 million in General Fund to the Board. Staff notes that these federal funds could offset some of the General Fund that was restored at the May 6 hearing.

Staff Recommendation. Consistent with the previous action by the Subcommittee, staff recommends reducing the General Fund augmentation from the May 6 hearing by \$601,000 to reflect the use of federal funds rather than General Fund to support the administrative costs of the Board.

Action.

Without objection, approved staff recommendation to reduce previous General Fund augmentation by \$601,000 and use federal funds for administrative costs.

2. May Revise: Juvenile Justice/CYA Reforms

This Finance Letter requests an increase of \$500,000 to provide planning for Juvenile Justice/California Youth Authority Reforms.

The request proposes to use the Board of Corrections to facilitate any implementation of a realignment of CYA Parole should the Juvenile Justice Working Group (JJWG), and the Administration, reach a final consensus on the issue. Should that occur, the Board intends to administer this effort in ways that promote economy, quality, efficiency, and the highest degree of safety for the public, for the correctional staff involved, and for the wards. The Board is fully committed to a collaborative approach which incorporates both state and local interests.

Analyst's Recommendation. The LAO notes that the proposal provided no details about how the BOC planned to use the requested amount. Nonetheless, the LAO believes that juvenile justice reform may be consistent with legislative priorities. The LAO recommends approving \$250,000 with budget bill language making the appropriation contingent upon submittal of a detailed plan describing how the BOC plans to use the funds. The following budget bill language is consistent with this recommendation:

5430-001-0001. Of the funds appropriated in this item, \$250,000 shall be used for the Board of Corrections (BOC) to facilitate a study and plan for juvenile justice and California Youth Authority reform. Prior to the expenditure of these funds, BOC shall submit to the Legislature a detailed plan describing how they will use the funds.

Staff Recommendation. Staff recommends approval of the LAO recommendation.

Action

Approved Finance Letter amount (\$500,000) with LAO BBL. (3-0)

3. Reduction in TANF Funding for Probation Services

Governor's Budget Proposal. The administration has proposed to allow the block grant funding to sunset in October 2004, resulting in a reduction of \$134 million in 2004-05 for juvenile probation programs. The budget includes \$67 million for these services from July through October 2004.

Impact on Public Safety and State Costs. The LAO notes that the local system of juvenile probation is the first line of defense against future criminality for these youthful offenders and that research has shown that early intervention programs can be effective in preventing future crime by youthful offenders. To the extent that these programs are no longer available, it could result in a reduced level of public safety.

Additionally, the proposed reduction would also result in more juveniles being sent to the state Youth Authority, thereby increasing General Fund costs. In addition to the many problems recently highlighted in CYA, the cost for housing a juvenile in the CYA is significantly greater than the cost in a local ranch or camp program.

Staff Recommendation. Staff recommends providing \$134 million in General Fund to provide funding for County Probation using the existing allocation formula. Staff further recommends that the funding be distributed as local assistance by the Board of Corrections.

Action

Approved augmentation of \$134 million in General Fund to provide funding for County Probation using the existing allocation formula. Funding be distributed as local assistance by the Board of Corrections. (3-0)

5460 DEPARTMENT OF THE YOUTH AUTHORITY

1. Closure of Mount Bullion Camp.

Budget Request. The budget proposes savings of \$2.4 million in 2004-05 from the closure of the Mount Bullion Camp in Mariposa County. This camp is located on CDF property and assists CDF fire crews during fire season. This is one of four camp programs operated by the CYA. According to departmental regulations CYA staff is responsible for the custody and supervision and treatment of assigned offenders while the CDF staff plans and supervises the work projects performed by the wards.

Department Rationale. The CYA indicates that it is proposing the closure of this camp because there are not enough qualified wards to fill the camp facilities. CDF has minimum criteria for accepting wards into the program. Current criteria includes: physical fitness, no history of arson, no escapes, no sex offenses, only low level offenders, no suicidal behavior for two years, free from psychotropic medication for at least 4 months, and the ward must be discipline free for six months. CYA indicates that Mt. Bullion was proposed for closure because it had the lowest population of the camps at the time – 38 wards. The design capacity is 80 wards.

The closure of the camp is expected to save \$2.4 million or approximately \$30,000 per-year-per-ward at capacity. The average cost if filled to the 100 level would approach \$24,000 per-year-per-ward. This is significantly lower than the average cost for the department of nearly \$74,000 per-year-per-ward.

The CYA indicates that it does not have the population to fill the camp beds that it is currently operating.

Staff Recommendation. Staff recommends rejecting the proposal to close Mount Bullion camp for the purpose of sending the issue to conference and to give CYA time to reassess program criteria and design.
Action.

Rejected proposal to close Mt. Bullion Camp (2-0) McPherson abstaining.

2. May Revise: Post Relief Factor

Finance Letter Request. This Finance Letter requests an increase of \$3.5 million General Fund to increase the existing budgeted relief coverage for posted positions. Of this funding \$964,000 is for vacation relief coverage. Also, Program 21—Bargaining Unit 6 Provision 8.05 Section H, is added and reflects funding for training relief coverage of \$2,510,000, and the following language added:

- (X) The funds contained in Schedule (1.5) of this Item are to provide post coverage for employees when they are attending the Off-Post Training Sessions, as specified in Provision 8.05, Section H of the Memorandum of Understanding with the California Correctional Peace Officers' Association that is valid from July 1, 2001 through July 2, 2006.

Staff Recommendation. Staff recommends adoption of the Finance Letter.
Action.

Approved Finance Letter augmentation with BBL (2-1) -- Kuehl no

5240 DEPARTMENT OF CORRECTIONS

1. Visiting Day Reduction

As part of the CDC's current year reductions pursuant to Control Section 4.10, all prisons reduced their visiting days to Saturdays, Sundays and designated holidays. Previously, most prisons offered as many as four visiting days. This proposal was estimated to save \$5.6 million in 2003-04 and \$11.1 million in 2004-05. The reduction in visiting days has imposed significant hardships on inmate families, particularly for those who have work schedules that make weekend visiting impossible. In one case, CDC recently imposed a \$10,000 fee on the Los Angeles Archdiocese for this year's "Get on the Bus" day, a special Mother's day effort that helps families visit inmates in state prisons for women. CDC indicated that this fee for a Friday visit was needed to pay staff and overtime costs.

Staff Recommendation. Restore \$6.7 million to provide at least three visiting days a week for each prison.

Action.

Approved augmentation of \$6.7 to provide at least three visiting days a week at each institution (2-1) -- McPherson no

2. May Revise: Medical Guarding and Transportation

Finance Letter Request. The department requests 114.9 positions and \$18.2 million in budget year to provide permanent positions and overtime funding to transport prisoners to and guard prisoners at local hospitals. The proposal uses past years' medical transportation and guarding costs to determine the amount of funding requested.

Analyst's Recommendation. The LAO recommends two-year limited term funding of the department's proposal.

The LAO notes that while the department's proposal has merit, the department is also proposing a number of significant changes to how it will provide inmate health care services that could impact the department's reliance on local hospitals. One such proposal would have Hepatitis C biopsies performed in prisons medical units rather than local hospitals which should result in less need to transport and guard inmates at hospitals for that procedure. In addition, the LAO believes there may be further opportunities for the department to reduce their expenditures on medical guarding and transportation. Such opportunities might include (1) identifying additional common procedures that could be done in prisons rather than in hospitals, (2) finding alternative and more efficient ways to staff medical guarding and transportation, and (3) establishing contracts with hospitals located closer to individual prisons to reduce the cost of medical transportation.

Staff Recommendation. The CDC indicates that the medical guarding positions will be adjusted in January and at the May Revise every year. Staff recommends approving the request.

Action.

Approved Finance Letter (3-0)

3. May Revise: Administrative Segregation Overflow

Finance Letter Request. The administration proposes 195.6 positions and \$16.8 million in budget year to augment the department's budget for administrative segregation housing units (ASU). The ASUs are

designed to be temporary housing units to house inmates that need to be separated from the general inmate population for a variety of reasons. This proposal assumes institutions will require a number of ASU beds equal to their minimum usage in 2003. Based on this usage level, the request proposes to convert living units at some institutions to permanent ASUs with increased staffing levels. Additional overtime and temporary help funding is also proposed to address bed needs above what would be available in the ASUs established under this proposal. The overtime and temporary help funds would be allocated to the institutions during the fiscal year on an as-needed basis to be determined by department headquarters.

Analyst's Recommendation. The LAO recommends that the Subcommittee send the administration's request for additional ASU funding to conference committee to allow further review regarding departmental policies related to administrative segregation. The LAO believes that the structure of this proposal has merit as it would more accurately fund ASU usage, thereby reducing the department's overtime and temporary help deficiencies. In addition, the department's request to control ASU funding at headquarters level could result in prison administrators having to manage their ASU populations more effectively because they will not be assured of receiving additional funds. This provision, therefore, could result in a reduction in total ASU expenditures from past years.

The LAO notes that this proposal leaves several questions unanswered. First, what will be the department's policies regarding which inmates are placed in and removed from ASUs? Anecdotal evidence suggests that current department policies are broad and usage varies significantly between institutions. If placement and removal policies are not amended to reflect what types of inmates should be priority placements and removals from ASUs, then prison administrators may have difficulty managing their ASU populations as efficiently as intended under this proposal. Second, what will be the criteria under which it will be determined whether institutions receive additional ASU funding from headquarters? Third, what will happen if the overtime and temporary help dollars controlled at headquarters are not spent by the end of the fiscal year? Based on this final concern, the LAO recommends that the Legislature consider adopting the following Budget Bill Language:

Provision x. It is the intent of the Legislature that any funds allocated to the California Department of Corrections for the purpose of staffing administrative segregation units that remain unspent at the end of the fiscal year revert to the General Fund.

Staff Recommendation. Staff recommends approving the Finance Letter request, but reducing the amount by \$1,000 to send the issue to conference. Staff also recommends adoption of the LAO proposed budget bill language.

Action.

Approved Finance Letter with a \$1,000 reduction to send issue to conference and adopted BBL (3-0)

4. Business Information System (BIS) Project.

Finance Letter Request. The purpose of the BIS Project is to automate CDC's financial, personnel, and procurement practices. The total project costs are currently estimated to be \$155 million General Fund over the next 10 years. The May Revision proposes \$4.6 million General Fund and 10 positions to develop the procurement documents and begin the procurement process. The CDC proposes to conduct a single procurement, which will result in a single contract for commercial-off-the-shelf (COTS) software and programming services. In addition, in order to reduce future year General Fund costs, CDC proposes to finance the hardware and software purchases.

Analyst's Issue. The LAO has several concerns regarding this proposal. First, the LAO believes that departments should pursue procurement strategies that encourage maximum competition between the qualified vendors. Second, LAO believes that it is important that CDC's BIS system integrate with current and future statewide financial and personnel systems. The LAO's final concern is in regards to the proposed use of financing for both hardware and software purchases.

Analyst's Recommendation. The LAO recommends that the Legislature adopt the following trailer bill language that (1) directs CDC to use a multi-procurement strategy, (2) requires CDC to integrate the BIS system with other statewide financial and personnel systems, and (3) limits the use of financing to only hardware.

The Department of Corrections shall conduct, *where feasible*, two or more procurements for the software purchase and development of the Business Information System Project. The BIS system shall be developed to allow integration with other relevant statewide financial and personnel systems. ~~The Department of Corrections may consider the use of financing for only hardware purchases and shall not use financing for software purchases.~~

Staff Recommendation. Staff recommends approval of the LAO recommendation.

Action

Approved TBL with changes shown above (3-0).

5. Scheduling Adjustment

Finance Letter Request. \$47,626,000 is proposed to be moved from the Institution Program and placed in a newly established Program 23 – Bargaining Unit 6 Provision 8.05, Section H. There is no net funding impact to the Department from this adjustment. Budget Bill language is proposed that specifies that all funds in the new Program be for post coverage behind employees while they attend Off-Post Training Sessions, pursuant to the Memorandum of Understanding with Bargaining Unit 6.

5240-001-0001, Support, Department of Corrections

Provisions:

11. The Department of Finance shall analyze the impact of any renegotiation of the Memorandum of Understanding with Bargaining Unit 6, and shall update the estimated savings. Furthermore, as part of the annual review of the Department of Corrections' Post Relief Factors, the Department of Finance shall make adjustments commensurate with actual usage of leave.
12. The funds contained in Schedule 2.5 of this Item are to provide post coverage for employees when they are attending the Off-Post Training Sessions, as specified in Provision 8.05, Section H of the Memorandum of Understanding with the California Correctional Peace Officers' Association that is valid from July 1, 2001 through July 2, 2006.

Staff Recommendation. Staff recommends approval of the scheduling change.

Action

Approved Finance Letter. (3-0)

6. May Revise: Administration Reductions and Efficiencies

The May Revise proposes \$476.7 million in reductions (\$400 million was included in the January budget). Of this amount, \$300 million is anticipated from MOU contract renegotiations, \$169.9 million is from savings, and \$6.8 million is from lease revenue savings.

The \$300 million does not include a reduction to the CDC appropriation. Of the total, \$254.4 million would be part of the Statewide Employee Compensation Budget Item (to be discussed in Subcommittee No. 4), and \$45.6 million is set aside in the CDC budget as potential operational savings from renegotiations.

The \$169.9 million in savings proposals fall into three categories: Operational Efficiencies, Medical Improvements, and Parole Accountability.

A. Operational Efficiencies.

The May revise proposes \$36.6 million in the administrative efficiencies detailed below.

Action Item. Staff Recommendation. Staff recommends approval of Operational Efficiencies bulleted below for savings of \$35 million.

Action.

Approved staff recommendation (3-0).

- **Consolidated Purchasing**—\$1.3 million savings associated with the establishment of a central unit to handle all purchasing of Law Books, Correctional Equipment, Parole Outpatient Prescriptions, and other items.
- **Reduce Training at the Basic Correctional Officer Academy**—A reduction of \$18.1 million resulting from the need to only train one class of 640 cadets in 2004-05, and the use of Community Colleges courses for part of the training beginning in 2005-06.
- **Reduce Energy Expenditures**—\$1.4 million savings to result from energy auditors visiting institutions to identify ways to decrease energy usage.
- **Headquarters Reductions**—A reduction of \$11.3 million from Headquarters to result from the elimination of some vacant positions and various reductions of Operating Expenses & Equipment, based on streamlining processes and prioritizing workload.
- **Classification Services Unit Reductions**—\$3.2 million savings associated with the elimination of positions, due to streamlining review processes and elimination of the review of some files.

Discussion Item.

1) Two Hot Meals on Weekends and Holidays.

The CDC indicates that the savings of \$1.3 million would be achieved by conducting a pilot at 11 institutions to serve a hot meal in mid-morning instead of a traditional breakfast and sack lunch on holidays and weekends. The CDC estimates savings based on 2002-03 cost and assumed savings of 3 percent from yearly food costs at 11 institutions.

Staff Recommendation. Staff recommends rejection of this proposal.

Action.

Rejected proposal (2-1) McPherson no

B. Medical Improvements.

The May Revise proposes a total of \$48 million in medical savings for the budget year.

Action Item. Staff Recommendation. Staff recommends approval of Medical Savings Finance Letters regarding items bulleted below for savings of \$32.1 million.

Action.

Approved staff recommendation

- **Hepatitis C Clinical Management**—\$1,175,000 savings as a result of using CDC physicians to perform liver biopsies in CDC medical facilities instead of contracting for this service.
- **Pharmacy and Medication Management**—A reduction of \$4,825,000 to result from the modification of the Department's prescription practices for four high-cost drug categories, without compromising therapeutic benefit or quality care standards.
- **Response to Bureau of State Audits Report on Contract Medical Services**—A reduction of \$26.1 million to reflect implementation of the recommendations of the April 2004 Bureau of State Audits report regarding CDC's contract medical practices, as well as other program enhancements intended to reduce costs while maintaining appropriate levels of inmate health care.

Discussion Items**1) Reclassify Psychiatrists to Nurse Practitioners.**

This Finance Letter proposes \$1.4 million in savings associated with the reclassification of 23.5 Staff Psychiatrist positions to Nurse Practitioners to perform certain mental health functions. The proposal notes that currently the Department of Mental Health (DMH) utilizes Nurse Practitioners in lieu of Staff Psychiatrist positions and notes that DMH has developed a set of standardized procedures and a comprehensive training program to ensure a successful transition for staff.

CDC indicates that these vacant psychiatrist positions are now filled using registry staff psychiatrists. The current vacancy rate for staff psychiatrists is 30 percent. Filling these positions with Nurse Practitioners could allow greater continuity of care for fewer resources by hiring civil service employees rather than more costly registry contracts.

Staff Recommendation. Staff recommends not approving the proposed reclassification.

Action.

Rejected proposal (2-1) McPherson no

2) Medi-Cal Rates for Hospital, Hospital Emergency Services, and Ambulance Emergency Services.

The administration proposes \$14.5 million in budget year savings from trailer bill language enabling CDC to obtain medical services at the same rates Medi-Cal rates as established by the California Medical Assistance Commission (CMAC). The savings estimates in the budget year assume 3 months implementation.

- **Ambulance Emergency Medical Services (EMS) at Medi-Cal Rates.** This proposes a reduction of \$250,000 savings to result from the enactment of legislation requiring "911" ambulance providers to be reimbursed at Medi-Cal rates.

- **Hospital EMS at Medi-Cal Rates.** \$1,725,000 savings to result from the enactment of legislation that would require emergency hospital providers to be reimbursed at Medi-Cal rates.
- **All Hospital Services Reimbursed at Medi-Cal Rates**—\$12.5 million savings to result from the enactment of legislation requiring that all hospitals be reimbursed for provision of medical services to CDC inmates at Medi-Cal rates.

Staff Recommendation. Staff recommends approval of the funding reduction and adoption of placeholder trailer bill language to ensure that inmate access to healthcare is maintained at lower costs.

Action.

Approved funding reductions and approved placeholder TBL.

C. Parole Accountability Proposals

The May Revise proposes \$85.4 million in savings from a variety of parole accountability proposals.

Discussion Items

1) Provide More Opportunities to Succeed for Graduated Sanctions

This proposal notes that statistics show that as an example, treatment for substance abuse – which is a primary contributing factor to parolee recidivism, is a gradual process and that it is not uncommon for substance abusers to relapse. The State's current policy to utilize sanctions only one time may have a negative impact on the ability to achieve reintegration goals. The proposal would give parole agents the option to consider individual case dynamics and when appropriate, apply sanctions more than once. This proposal estimates savings of \$18.3 million in 2004-05 and \$17.9 million in 2005-06.

Staff Recommendation. Staff recommends approval of the proposal.

Action.

Approved proposal (3-0)

2) Allow Technical and Minor Violators of Parole Access to Graduated Sanctions

Under this proposal, through the supervision of parole agents and a risk assessment approach, eligibility for sanctions will be based on the violation, not the underlying offense of the parolee. The graduated sanctions would be applied to an expanded criterion of approximately 20,000 additional parolees who commit minor violations of parole or law at a savings of \$14.4 million in 2004-05 and \$14.1 million in 2005-06.

Staff Recommendation. Staff recommends approval of the proposal.

Action.

Approved proposal (3-0)

3) Discharge From Parole Consistent with Current Law

The proposal indicates that Board of Prison Term regulations would be reviewed and amended, as necessary, to ensure that parolees are discharged at the time specified in statute. The proposal indicates that a significant savings would be achieved if parolees with 12 consecutive months of “clean time” are discharged. This practice would save a total of \$59.5 million.

Staff Recommendation. Staff recommends approval of the proposal.

Action.

Approved proposal (3-0)

4) Expansion of the Restitution Work Furlough Program.

Inmates in the Restitution Program are court commitments that must have a sentence of three years or less. Restitution Centers provide a means for those sentence to prison to pay court ordered victim restitution fines. The restitution inmate wages are distributed as follows—1/3 to restitution, 1/3 to the state, and 1/3 to the inmates’ savings account. This proposal would expand the Restitution Program from 110 current beds to 500 statewide.

Fiscal. The May Revise includes an increase of \$4.9 million in the budget year and assumes savings of \$3.3 million for a net cost of \$1.6 million. The full year costs are estimated at \$9.6 million with projected savings of \$6.6 for a net cost of \$3 million.

Staff Recommendation. Staff recommends reducing the number of new beds in the first year to 200 for estimated costs of \$2.5 million. Staff further recommends adoption of savings of \$2.5 million and the following provisional language:

The department shall develop policies that ensure that the new Restitution Program beds are cost neutral in 2004-05 and 2005-06.

Action.

Approved Administration’s proposal (3-0)

5) Expansion of the Substance Abuse Treatment and Recovery (STAR) program.

This proposal seeks to expand the STAR program, which is an instructional-based treatment program designed to teach parolees how to address and prevent substance abuse. This proposal would expand the STAR program to an additional 25 sites for a total of 53 sites statewide. The proposal includes additional costs of \$1.4 million for the program (\$2.8 million ongoing) and estimates savings of \$6.1 million in the budget year (\$12.2 million ongoing) for net savings of \$4.7 million in the budget year and \$9.4 million ongoing.

Staff Recommendation. Staff recommends approval of the proposal.

Action.

Approved proposal (3-0)

6) Expansion of the PACT Program

Parole and Corrections Teams (PACTs) consist of police, community service providers and correctional staff who work in teams to facilitate parolee orientation. This program would increase expand the number of sites statewide from 35 to 50. The cost in the budget year for the expansion is \$1 million.

Staff Recommendation. Staff recommends approval of the proposal.

Action.

Approved proposal (3-0)

7) LEADS Database.

The ParoleLEADS application provides parolee data to over 400 law enforcement agencies throughout California. The current program was created in 1997 and needs updating to its software and hardware. The cost to augment the hardware and software would be \$2.7 million in the budget year, \$5.5 million in 2005-06, and \$450,000 ongoing.

Analyst's Recommendation. The LAO recommends taking an action to send this to conference committee. The LAO notes that this program expansions do not generate savings and that sending the issue to conference will allow further evaluation of the merits.

Staff Recommendation. Staff recommends reducing the funding for this program by \$1 million. Given the state's fiscal situation this would allow the costs to be spread out over a longer period of time, save general Fund in the budget year, and the issue to conference.

Action

Approved reduction of \$1 million to spread the costs over a longer period of time, save General Fund in the budget year, and send the issue to conference. (2-1) McPherson no

8) CAL/GANG Database

The CAL/GANG database is an internet linked software package available to law enforcement agencies that compiles data on criminal gangs. This proposal would provide ongoing funds in the budget for CDC of \$750,000 for the database. This would help provide maintenance for the system housed at the DOJ.

Staff Recommendation. At this time, staff does not have detail regarding the proposal. Staff recommends not approving this proposal.

Action.

Rejected proposal (2-1) McPherson no

9) Electronic Monitoring

This proposal would expand the number of electronic monitoring units, effective January 2005, by an additional 2,000 to provide monitoring to 16,000 parolees for a total of 24,000 parolees per year at a cost of \$1.2 million in 2004-05 and \$2.4 million in 2005-06.

Staff Recommendation. Staff recommends approval of the proposal.

Action.

Approved proposal (3-0)

10) GPS Monitors

This proposal would pilot a Global Positioning Satellite (GPS) surveillance program for sex offenders in coordination with law enforcement agencies, and would explore the possibility of using GPS as a graduated sanction. The cost to pilot 500 GPS monitors would be \$1.8 million in the budget year, with full year costs of \$3.5 million.

Staff Recommendation. Staff notes that as proposed, this request would not provide any savings and would establish a new program. Given the state's fiscal situation, staff recommends delaying the proposal to the next fiscal year.

Action.

Delayed proposal to the next fiscal year (2-1) McPherson no

11) Program Evaluation

The administration has indicated that the goals of the parole proposal are to improve parole success and public safety, as well as achieve significant savings in General Fund. The proposal includes \$1.3 million annually to allow CDC to contract with appropriate entities and to hire the necessary staff to implement performance measures, begin evaluating in-prison programs, and provide necessary program and process audits.

Staff Recommendation. Staff notes that the program evaluation component seems high. Staff recommends reducing this item to \$300,000 pending additional details on the scope of the evaluation being proposed.

Action.

Approved \$650,000 for evaluation (3-0)

Additional Proposals for CDC Savings

	Savings (\$ in millions)	
	2004-05	2005-06
<p>1.) Contract with Felony Drug Court to Treat Parole Violators with New Terms (PV-WNT's). In 2003, almost 12,000 parole violators returned to prison with a new term related to drugs or property offenses. Some might be appropriate for drug courts, but under the current system these offenders are often bypassed because of the need to coordinate supervision with parole and probation.</p> <p><i>Proposal: Authorize Parole to contract with local drug court systems to supervise PV-WNT's who are determined by the local court (including D.A.) as appropriate.</i></p>	1.9	7.7
<p>2.) Eliminate "Z" Case Diagnosis Program. Penal Code Section 1203.3 provides that the court may refer a defendant to CDC for diagnosis and treatment for a period not to exceed 90 days, prior to final disposition of the case. The defendant must have committed an offense punishable by a term in state prison. Between January 2001 and December 2003, CDC processed 4,511 "Z" case defendants. Of these only about 1/3rd were ultimately sentenced to prison. Fresno county accounted for 39% of all "Z" cases, followed by Los Angeles and San Diego at 19% and 7% respectively.</p> <p><i>Proposal: Adopt placeholder trailer bill language to repeal law authorizing this program.</i></p>	4.7	6
<p>3.) Drug Treatment Credit Incentive. This proposal provides that inmates who complete the prison Substance Abuse Treatment program would be eligible to receive 2-for-1 credits. This assumes a 70% graduation rate. It excludes lifers, strikers, sex registrants and offenders with violent and serious offenses or priors. "2 for 1" credits are now provided for inmates participating in fire camps. Additional aftercare beds would also be necessary to improve the program's success in reducing recidivism.</p> <p><i>Proposal: Adopt placeholder trailer bill language authorizing 2 for 1 credits for inmates who graduate from the Substance Abuse Treatment Program, and stating legislative intent to provide residential aftercare for at least 75% treatment graduates by 2008 Provide funding for 500 additional aftercare beds for women using the Treatment Furlough model (April 1, 2005 implementation).</i></p>	2.5	7.1
<p>4.) Enhanced Jail Credits Pilot. Current law allows jail inmates to receive up to 1 day of credit for every 3 days in custody (1/3rd credits). These credits may also apply to pre trial inmates (who may be sentenced to state prison) and parole violators pending revocation hearing.</p> <p><i>Proposal: Adopt placeholder trailer bill language to allow Los Angeles County to pilot a program that provides the Sheriff with authority to provide day for day credits for inmates who participate in education, drug treatment, vocational training, community service, or other programs determined by the sheriff that reduce recidivism and enhance public safety. Other counties wishing to participate in this program must receive approval from Board of Corrections. .</i></p>	0.8	5.3

<p>5.) Drug Treatment Furlough for Civil Addicts. Civil addicts who participate in CDC's substance abuse treatment program are not currently being placed into the drug treatment furlough program. The Civil Addict Program is administered by the Narcotic Addict Evaluation Authority (NAEA), which sets release dates for these offenders.</p> <p><i>Proposal: Adopt Budget Bill Language directing the NAEA to establish procedures for placing civil addicts into treatment furlough beds 120 days prior to release.</i></p>	3.2	4.2
<p>6.) Mentally Ill Custody & Treatment Units (MICTU). Between December 2002 and December 2003 there were over 12,000 mentally ill, non violent/non serious parole violators who were returned to custody. The cost of housing and providing treatment to these parole violators was approximately \$64 million. Although enhancements in the existing mentally ill parolee program have reduced recidivism, the return-to-custody rate remains between 45% to 50% in the twelve months following release from prison. At the same time, counties that received Mentally Ill Offender Crime Reduction (MIOCR) grants have developed expertise in successfully managing these offenders.</p> <p><i>Proposal: Authorize Parole to develop a new sanction for non violent/non serious mentally ill parole violators – similar to SATCU's for substance abusers. Parole would contract for participating jails for a 30-60 day in-custody program followed by an intensive aftercare program.</i></p>	1	2
<p>7.) Medical Parole. Incapacitated and infirm prisoners who require medical intervention on a full-time, permanent basis are being housed and cared for at full cost to the state. These prisoners, many of whom are incapacitated or in a vegetative state, can require around-the-clock care, in addition to prison supervision. This can result in costs that can easily run into the hundreds of thousands of dollars per patient, per year.</p> <p><i>Proposal: Adopt placeholder trailer bill language to authorize the CDC Director to parole severely ill or incapacitated inmates to a health care facility.</i></p>	3	3
<p>8.) Delay Activation of Delano II by 3 months. The new prison is scheduled for activation in April 2005.</p> <p><i>Proposal: Delay activation to achieve a one-time savings.</i></p>	10	0
Total	27.1	35.3

ACTION:

Approved savings for above proposals and adopted necessary BBL and placeholder TBL (2-1) McPherson no

Other Options:

The Administration proposed reductions assume \$300 million in savings related to collective bargaining negotiations. As these negotiations proceed, the Subcommittee may wish to consider additional alternatives to preserve options that would result in General Fund savings in CDC's budget.

	2004-05	2005-06
A) No Parole Supervision for Non Violent/Non Serious Offenders. This would eliminate parole supervision upon release from prison for non violent/non serious offenders without prior violent or serious offenses. <i>Note: the estimate is the net savings above the Administration's proposal to discharge after 12 months of "clean time, which saves \$59.5 million). Assumes 7/1/04 implementation. Requires TBL.</i>	93.9	128.8
B) No Prison for Petty Theft with a Prior. This offense would become a misdemeanor. <i>This would eliminate state prison as a sentencing option for those persons convicted of PC Section 666 (Petty Theft with a Prior) with no other felony and would make the offense a misdemeanor rather than a wobbler (felony/misdemeanor).</i>	7.3	14.6

Approved savings and placeholder TBL for the above proposals (2-1) McPherson no.