



## Senate Budget and Fiscal Review

# Subcommittee No. 2 2009 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

The browser's status bar at the bottom shows the page number "2 of 272" and the system clock "10:50 AM".

# California State Senate

MEMBERS:  
BOB HUFF  
ALAN LOWENTHAL

CONSULTANTS:  
BRIAN ANNIS  
SEIJA VIRTANEN

COMMITTEE  
ON  
BUDGET AND FISCAL REVIEW  
SUBCOMMITTEE NO. 2 ON  
RESOURCES, ENVIRONMENTAL PROTECTION,  
ENERGY, AND TRANSPORTATION

(916) 651-4103



ROOM 5019, STATE CAPITOL  
SACRAMENTO, CA 95814

**SENATOR  
JOE SIMITIAN  
CHAIR**

## AGENDA

March 18, 2009  
2:30 p.m.  
Room 2040

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### 2009-10 Third Extraordinary Session

#### Informational Hearing on Federal Stimulus Funds:

- SBx3 27 – Safe Drinking Water
- ABx3 20 – Transportation

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**SENATE COMMITTEE ON BUDGET AND FISCAL REVIEW**  
**Subcommittee #2 on Resources, Environmental Protection, Energy,**  
**and Transportation**  
*Senator Joe Simitian, Chair*

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<b>Bill No:</b>	<b>Senate Bill 27 (Third Extraordinary Session)</b>
<b>Author:</b>	<b>Negrete-McLeod</b>
<b>As Amended:</b>	<b>March 11, 2009</b>
<b>Consultant:</b>	<b>Seija Virtanen</b>
<b>Fiscal:</b>	<b>Yes</b>
<b>Hearing Date:</b>	<b>March 18, 2009</b>

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**Subject:** Clean drinking water and wastewater: changes to statute.

**Summary:** Federal stimulus funds for clean drinking water and wastewater.

**Proposed Law:** This bill revises statute to ensure that federal stimulus funds for clean drinking water and wastewater can be allocated within federal deadlines and specifies expenditure of the funds. Specifically, this bill would do the following:

1. Allow the Department of Public Health to expend federal funds received from the American Recovery and Reinvestment Act of 2009 (ARRA) according to the guidelines of that act.
2. Limit Department of Public Health grants from the ARRA funds to \$10 million per project.
3. Exempt ARRA funded projects for urban water suppliers from certain planning requirements specified in current state law.
4. Include grants in the definition of financial assistance for the State Water Pollution Control Revolving Fund, as well as allow for loan forgiveness to the extent authorized by federal law.
5. Declare an emergency to take effect immediately.

**Background – Existing State Law:** Existing state law establishes the Safe Drinking Water State Revolving Fund to be administered by the Department of Public Health. The fund is continuously appropriated. The current maximum grant is \$1 million per project.

Existing state law creates a grant and loan program for urban water suppliers, with specified planning requirements. These urban water management plans are submitted to the Department of Water Resources and apply to programs or projects for surface water and groundwater storage, recycling, desalinization, water conservation, water supply reliability, and water supply augmentation.

Existing state law establishes a continuously appropriated State Water Pollution Control Revolving Fund to provide financial assistance to municipalities for federal Clean Water Act implementation. The fund is administered by the State Water Resources Control Board.

**Comments:** The federal stimulus act has a short timeframe for distribution of the funds, or the dollars revert back to the federal government. The federal law establishes a goal of using at least 50 percent of the funds for activities that can be initiated by no later than June 17, 2009. All of the funds for water projects must be encumbered by February 17, 2010, and all projects must be started no later than February 2010.

California has about 8,000 public water systems. The Department of Public Health Safe Drinking Water Program provides loans and grants to these systems for infrastructure--mainly construction of water treatment plants and systems, as well as water distribution. The Department of Public Health has a "Project Priority Listing" that is used to determine the order in which projects are funded. The Department of Public Health has already submitted a placeholder application to the federal government.

The federal stimulus requires California to issue 50 percent of the funds via grants ("principal forgiveness"). State law limits "grant" funding (versus "loan" funding) to public systems that serve disadvantaged communities where median income is less than 80 percent of statewide median income. State law does not allow for a forgiveness of loans nor does it provide for a negative interest rate for other water systems. Presently, the "grant" amount in state law is \$1 million.

California has 459 urban water suppliers who provide water to 3,000 or more customers, or that provide over 3,000 acre-feet of water annually. Current statute requires that urban water suppliers submit a plan to the Department of Water Resources showing how they will: (1) implement Best Management Practices/ Demand Management Measures (BMPs/DMMs); (2) impact groundwater; (3) create a Water Shortage Contingency Plan; (4) create a Recycled Water Plan; (5) impact water quality and water supply reliability; (6) and ensure water service reliability. These plans were due in 2005 and the update is due in 2010.

Of the 459 urban water suppliers in California 408 have completed their urban water management plans. The Department of Water Resources has reviewed 345 of these plans and found that 187 of them are complete. There is no penalty for not submitting an urban water management plan.

**Fiscal Effect:** California will receive a total of \$443 million in federal funds. These federal funds will not replace general fund.

\$160 million will be received for drinking water projects that can begin construction before February 17, 2010.

\$283 million will be received for wastewater treatment projects.

**Support:** None on file.

**Opposed:** None on file.

## SENATE COMMITTEE ON BUDGET AND FISCAL REVIEW

### Subcommittee #2 on Resources, Environmental Protection, Energy and Transportation *Senator Joe Simitian, Chair*

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<b>Bill No:</b>	<b>AB 20xxx</b>
<b>Author:</b>	<b>Bass</b>
<b>As Amended:</b>	<b>March 17, 2009, draft amendments - RN 09 10163</b>
<b>Consultant:</b>	<b>Brian Annis</b>
<b>Fiscal:</b>	<b>Yes</b>
<b>Hearing Date:</b>	<b>March 18, 2009</b>

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#### **SUBJECT**

Federal Stimulus for Transportation: This bill revises statute to ensure that federal stimulus funds for transportation can be allocated within federal deadlines and specifies expenditure of the funds.

AB 20XXX, as amended January 7, 2009, is a budget spot bill by Assembly Member Evans. Proposed draft amendments relate to transportation and would rewrite the bill to implement the federal American Recovery and Reinvestment Act (ARRA). Speaker Bass would be the author.

#### **BACKGROUND—EXISTING STATE LAW**

Existing state law establishes the state's priorities for the State Highway Account funds with an additional goal of maximizing federal funds. Federal funds are also generally appropriated with this same prioritization in mind. The sequence of priorities (per State and Highways Code Section 167) is as follows:

1. Operation, maintenance, and rehabilitation of the state highway system.
2. Safety improvements where physical changes, other than adding additional lanes, would reduce fatalities and the number and severity of injuries.
3. Transportation capital improvements that expand capacity or reduce congestion, or do both.
4. Environmental enhancement and mitigation programs.

Consistent with the above existing law, the State's share of federal funding would be allocated first to the State Highway Operation and Protection Program (SHOPP) – priorities #1 and #2 above, and second (to the extent funds remain) to the State Transportation Improvement Program (STIP) – issue #3 above. The federal funds designate \$77 million for transportation enhancement – issue #4 above. If no change is made to current law, the allocation between SHOPP and STIP would be determined by the California Transportation Commission (CTC). The STIP program is adopted by the CTC and 75 percent of STIP funds are programmed in the regional program (projects selected by regions) and 25 percent of STIP are programmed in the interregional

program (projects selected by Caltrans). While statute defines general priorities, this bill would provide a specific allocation of the new federal stimulus funds.

## **BACKGROUND-- FEDERAL STIMULUS REQUIREMENTS**

The American Recovery and Reinvestment Act (ARRA) includes \$27.5 billion in formulaic funds for highways and roads, of which, California's share is \$2.6 billion. The federal act directs about \$1.7 billion (or 67 percent) to the state government, and about \$770 million (or 30 percent) to regional transportation agencies. The money distributed to the regions is allocated using the Surface Transportation Program (STP) formula. Under the federal act, states have flexibility to direct a higher portion of ARRA funds to regional agencies. The federal act requires that 3 percent of the funds be used for "Transportation Enhancement," which are projects such as bicycle and pedestrian paths. The ARRA funds must be expended for projects consistent with Title 23 of the United States Code. Projects are submitted to the Federal Highway Administration (FHWA) for approval.

## **DESCRIPTION OF BILL**

This bill revises statute to ensure that federal stimulus funds for transportation can be allocated within federal deadlines and specifies expenditure of the funds. Specifically, this bill would do the following:

- 1. Appropriate federal stimulus transportation funds.** This bill would appropriate the \$2.6 billion in ARRA funds that are available to California for highways and roads through formulaic distribution. The ARRA also includes about \$1.1 billion for California in the area of transit capital funding; however, those funds are directly allocated to locals by the federal government and no state legislation is required. The California Department of Transportation (Caltrans) will also apply for ARRA competitive grants at a later date when the federal guidelines are available – existing budget authority should be sufficient for any future ARRA funds that the state receives from competitive programs.
- 2. Short federal timeline for funding obligation.** The ARRA requires that \$900 million of the funds be obligated within 120 days, or by July 2009. All of the remaining funds must be obligated within one year, or by March 2010. Obligation occurs when the state has a ready-to-go project that is programmed and approved by the Federal Highway Administration. The federal program is use-it-or-lose-it, so California could lose any funds not obligated. The allocation of funds in this bill is intended to minimize the chance that California would lose any ARRA funds, by allocating money to programs where projects are ready to go and where the project approval process is relatively rapid.
- 3. ARRA funds for regional transportation agencies.** This bill would revise current law to direct \$1.6 billion in federal funds to regional transportation agencies (of the \$2.6 billion total). The federal act, itself, directs about \$770 million to regional transportation agencies to be allocated based on the Surface Transportation Program (STP) formula. This bill would increase the amount of funds regions receive from ARRA by shifting about \$800 million in funds otherwise available for the

SHOPP and STIP programs. The regional share would grow from 30 percent of ARRA funds to 62.5 percent and all funds would be allocated using the STP formula. As noted above, the regions program 75 percent of funds in the STIP, so the shift to regional project selection is not as pronounced as the ARRA shift might suggest. The Administration and a coalition of local governments believe this shift will aid the state in meeting the federal deadlines, because the STP process is quicker and more flexible than the STIP process.

4. **ARRA funds for cities and counties.** This bill includes legislative intent language that at least 40 percent (which would be about \$640 million) of the funds apportioned to regional agencies be sub-allocated to cities and counties. This sub-allocation will also speed obligation and expenditure as cities and counties indicate they also have federally-eligible projects ready to go.
5. **ARRA funds the SHOPP program / State Proposition 1B loans.** This bill would allocate \$935 million for State Highway Operation and Protection Program (SHOPP) projects. However, up to \$310 million of this \$935 million would initially be available as a cashflow loan to keep federally-eligible Proposition 1B projects moving. The national and state fiscal situation has made it difficult for the Treasurer to sell general obligation bonds, resulting in a stoppage of some Prop 1B projects. Technically, up to \$310 million in federal funds would be applied to Prop 1B projects through transfer of that funding to Prop 1B accounts and payment to contractors. When Prop 1B bonds can be sold, the bond proceeds would repay this loan through transfer to the State Highway Account for use in the SHOPP program.
6. **ARRA funds for local Proposition 1B loans.** ARRA funds allocated to regions would also be available for federally-eligible Prop 1B projects with the locals “repaid” with the future Prop 1B dollars directed to other projects in the same region.
7. **ARRA funds for Transportation Enhancement.** The ARRA designates \$77 million of the \$2.6 billion total for California for transportation enhancement projects such as bicycle and pedestrian paths and landscaping. This bill would split the ARRA funds with 62.5 percent for regions and 37.5 percent for the State. Priority for programming and allocation would be given to projects that commit to employ members of a conservation corps program. The next (and lower) priority would be for those projects that provide facilities for pedestrians and bicyclists. Any funds remaining could be allocated to other projects that meet federal criteria.
8. **Use-it-or-lose-it provisions.** This bill contains use-it-or-lose-it provisions on funds allocated to regional transportation agencies as well as cities and counties, such that if a local cannot meet the federal deadlines, the funding will be allocated to another local entity. This would help ensure no funds are lost by California to be re-allocated by the federal government to other states.
9. **Reporting requirements for ARRA funds.** This bill provides some flexibility to the Administration on the specific budget scheduling of ARRA funds, and directs the Director of Finance to report to the Legislature on the initial scheduling of funding. Any further changes would require 30-day advance notification to the Legislature.

The Administration is also required to provide periodic reports on the status of the ARRA projects.

### **FISCAL IMPACT**

This bill would appropriate about \$2.6 billion in federal economic stimulus funds for transportation. About \$1.6 billion would be directed to regional transportation agencies and cities and counties. About \$963 million would be directed to the state program with the majority for the SHOPP. These figures include \$49 million in Transportation Enhancement funding for regional entities and \$28 million in Transportation Enhancement funding for State projects.

### **COMMENTS**

This bill seeks to strike a balance among several goals: maximize federal funds through meeting all federal obligation deadlines; provide a significant spending boost to the State Highway and Operation Protection Program (SHOPP); provide a short-term cashflow loan to eligible Proposition 1B projects halted due to delayed bond sales; and geographic balance to ensure jobs and transportation improvements in all regions of the state. Staff understands that the language was developed in consultation with the local representatives, the Administration, and other interested parties in an attempt to achieve a consensus on the allocation of ARRA funds to best address those multiple goals.

### **POSITIONS**

**Support:**

None on file.

**Opposition:**

None on file.



2009-10 THIRD EXTRAORDINARY SESSION  
AMENDMENTS TO ASSEMBLY BILL NO. 20  
AS AMENDED IN ASSEMBLY JANUARY 7, 2009

## Amendment 1

In line 1 of the heading, strike out "Evans" and insert:

Bass

## Amendment 2

Strike out line 1 of the title, and insert:

An act to add Article 12 (commencing with Section 8879.77) to Chapter 12.491 of Division 1 of Title 2 of the Government Code, and to add Chapter 9.5 (commencing with Section 2420) to Division 3 of the Streets and Highways Code, relating to transportation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

## Amendment 3

On page 1, before line 1, insert:

SECTION 1. Article 12 (commencing with Section 8879.77) is added to Chapter 12.491 of Division 1 of Title 2 of the Government Code, to read:

## Article 12. Federal Transportation Economic Stimulus Funds

8879.77. (a) The department may make a loan from the State Highway Account of federal funds made available to it pursuant to subparagraph (B) of paragraph (2) of subdivision (b) of Section 2423 of the Streets and Highways Code for purposes of advancing a project, or a portion of a project, that has been programmed, on or before February 17, 2009, to be funded by Chapter 12.49 (commencing with Section 8879.20) and that is ready to be obligated within 120 days of federal apportionment. The board, as defined in subdivision (a) of Section 8879.22, may request the department to make the loan. The amount of the request shall not exceed the amount of the unsold bonds that the committee, as defined in subdivision (b) of Section 8879.22, has, by resolution, authorized to be sold. Any amount loaned shall be deposited in the fund, as defined by subdivision (c) of Section 8879.22, and shall be transferred to the appropriate account for the project, or portion of a project, being funded. The loan shall be repaid to the State Highway Account from the proceeds of bonds sold pursuant to Chapter 12.49 (commencing with Section 8879.20). The board shall execute any documents as required by the department to obtain and repay the loan.

(b) Funds loaned pursuant to this section shall be allocated in the manner provided in Section 188 to eligible bond-funded projects, except that funds loaned pursuant to this section may be allocated to eligible bond-funded projects described in Section



8879.52 without regard to Section 188. Contracts for projects funded with loan funds shall be awarded within 180 days of federal apportionment. This subdivision shall not cause or require the reprogramming of any projects under Chapter 12.49 (commencing with Section 8879.20).

(c) Upon repayment of a loan made pursuant to subdivision (a), those funds are hereby appropriated to the department for use on projects in the state highway operations and protection program.

8879.78. If funds made available to a metropolitan planning organization, county transportation commission, regional transportation planning agency, or other local agency pursuant to Section 2423 of the Streets and Highways Code or from other sources are used to fund any project to which bond funds were previously committed under this chapter with the effect of displacing the need for those bond funds on the project, the commission shall allocate funds for one or more qualifying projects in the appropriate program under this chapter, in the jurisdiction of that agency, and in the same amount of the displaced bond funds.

SEC. 2. Chapter 9.5 (commencing with Section 2420) is added to Division 3 of the Streets and Highways Code, to read:

#### CHAPTER 9.5. FEDERAL TRANSPORTATION ECONOMIC STIMULUS FUNDS

2420. This chapter may be cited as the Transportation Economic Stimulus Act of 2009.

2421. The Legislature finds and declares all of the following:

(a) Congress has enacted the American Recovery and Reinvestment Act of 2009 (Public Law 111-5), which provides in part for supplemental federal funding to the states for purposes of the federal-aid highway program.

(b) It is in the interest of the state to ensure that the highway transportation funds apportioned to the state under the federal act are fully obligated within the constraints of that act.

(c) It is the intent of the Legislature that the department, in consultation with the commission, regional transportation planning agencies, counties, and cities, shall have sufficient authority to make full and expeditious use of federal funds apportioned to the state for economic stimulus.

(d) It is the intent of the Legislature that, to the extent allowable under the federal act, priority be given to the use of stimulus funds available for expenditure by the Department of Transportation for projects that repair or rehabilitate the existing transportation system and to advance funds for projects under the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 that have been delayed or are in jeopardy of being canceled due to the state's inability to issue general obligation bonds in the short-term. In the programming of these funds, consideration shall be given to activities that put Californians to work and provide needed economic stimulus throughout the state.

(e) It is the intent of the Legislature that highway infrastructure investment funds made available under the American Recovery and Reinvestment Act of 2009 are used to contribute to a transportation system that is in sound structural condition,



accommodates all users, is environmentally sustainable, and allows for the efficient mobility of goods and people.

(f) It is the intent of the Legislature that the deadlines for obligating and liquidating funds established by the American Recovery and Reinvestment Act of 2009 apply to all federal funds appropriated by this chapter.

(g) As used in this chapter, "federal act" shall mean the American Recovery and Reinvestment Act of 2009.

2422. (a) Notwithstanding any other provision of law, the Legislature hereby appropriates to the department the sum of two billion five hundred sixty-nine million five hundred sixty-eight thousand three hundred twenty dollars (\$2,569,568,320), and any additional funds, made available to the state as highway infrastructure investment funds pursuant to Title XII of Division A of the American Recovery and Reinvestment Act of 2009 and apportioned to the state pursuant to Title 23 of the United States Code to carry out projects eligible under that act and in accordance with this chapter.

(b) The funds appropriated by this section shall be available for obligation and expenditure by the dates specified in the federal requirements implementing the federal act.

(c) It is the intent of the Legislature to allow for such flexibility as is necessary to permit the successful implementation of the appropriations made by this section. The Legislature hereby authorizes the Department of Finance to appropriately itemize and schedule these appropriations, or to make adjustments as are necessary, in order to successfully carry out the intent of the federal act.

(d) The Director of Finance shall, within 90 days after the enactment of this chapter, furnish the chairpersons of the committees in each house of the Legislature that consider appropriations and the state budget, and the Chairperson of the Joint Legislative Budget Committee, with a report that describes the schedule of funding. The Director of Finance shall provide notification to the Legislature of any changes in that schedule 30 days prior to any change taking effect.

2423. (a) The federal highway infrastructure investment funds made available to the state under the formula apportionments of the American Recovery and Reinvestment Act of 2009 shall be considered part of the surface transportation program as set forth in paragraphs (3) and (4) of subdivision (d) of Section 133 of Title 23 of the United States Code. These formula funds shall be apportioned 37.5 percent for expenditure by the state to be programmed by the department and allocated by the commission, and 62.5 percent to the metropolitan planning organizations, county transportation commissions, and regional transportation planning agencies in accordance with subdivisions (b) and (c) of Section 182.6.

(b) (1) Funds available to be programmed by the department pursuant to subdivision (a) shall be programmed for eligible projects consistent with the federal act and this chapter.

(2) (A) A minimum of nine hundred thirty-five million dollars (\$935,000,000) of the funds available pursuant to paragraph (1) shall be programmed for projects in the state highway operations and protection program.

(B) Not more than three hundred ten million dollars (\$310,000,000) of the funds available pursuant to subparagraph (A) may be loaned pursuant to Section 8879.77 of the Government Code to advance projects to be funded with moneys from the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006.



(c) Pursuant to the American Recovery and Reinvestment Act of 2009, 3 percent of the federal funds, which is approximately seventy-seven million dollars (\$77,000,000), made available to the state shall be used for transportation enhancement activities. Funds allocated pursuant to this section for transportation enhancement activities are not subject to the requirements of the state transportation improvement program. Any funds apportioned to the state pursuant to paragraph (2) of subdivision (d) of Section 133 of Title 23 shall be distributed such that 37.5 percent of these funds shall be made available to the department and allocated by the commission and 62.5 percent shall be made available to the metropolitan planning organizations, county transportation commissions, and regional transportation planning agencies in accordance with the formula in subdivisions (b) and (c) of Section 182.6.

(1) In programming and allocating these funds, the department and the metropolitan planning organizations, county transportation commissions, and regional transportation agencies shall give priority to the sponsors of eligible projects that partner with, or commit to employ the services of, a community conservation corps or the California Conservation Corps to construct or undertake the project, provided those projects meet the requirements of the American Recovery and Reinvestment Act of 2009.

(2) After all eligible projects have been selected pursuant to paragraph (1), the department and the metropolitan planning organizations, county transportation commissions, and regional transportation agencies shall next give priority to projects that provide facilities for pedestrians and bicyclists, provided those projects meet the requirements of the American Recovery and Reinvestment Act of 2009.

(3) After all eligible projects have been selected pursuant to paragraph (2), the department and the metropolitan planning organizations, county transportation commissions, and regional transportation agencies may fund any project eligible in accordance with paragraph (35) of subdivision (a) of Section 101 of Title 23 of the United States Code.

(d) It is the intent of the Legislature that at least 40 percent of the funds apportioned to a metropolitan planning organization, county transportation commission, or regional transportation planning agency be available for suballocation by that entity to a city, county, or city and county for projects that meet the requirements of the American Recovery and Reinvestment Act of 2009 and this chapter.

(1) Any funds suballocated by a metropolitan planning organization, county transportation commission, or regional transportation planning agency that will not be obligated by a city, county, or city and county by the deadlines specified in the American Recovery and Reinvestment Act of 2009 shall be reallocated and available for expenditure as determined by the metropolitan planning organization, county transportation commission, or regional transportation planning agency.

(2) A metropolitan planning organization, county transportation commission, or regional transportation agency that suballocates funds to a city, county, or city and county under this chapter shall establish reporting procedures for the city, county, or city and county to ensure that funds are obligated and expended in accordance with the American Recovery and Reinvestment Act of 2009 and this chapter.

(e) (1) A metropolitan planning organization, county transportation commission, or regional transportation planning agency receiving funds under this chapter shall notify the department of the projected amount of obligational authority that the entity



intends to use, including for funds that the entity suballocated to a city, county, or city and county pursuant to subdivision (d). The report shall include, but not be limited to, a list of projects that will be obligated by the following deadlines:

(A) By June 1, 2009, for the 50 percent of funds required to be obligated within 120 days of federal apportionment.

(B) By February 1, 2010, for any funds that will not be obligated within one year of federal apportionment.

(2) Any federal obligational authority that will not be used shall be redistributed by the department to other projects in a manner that ensures that the state will continue to compete for and receive increased obligational authority during the federal redistribution of obligational authority. To the extent practical, the funds shall be obligated within the geographic areas relinquishing the obligational authority.

(f) Funds apportioned by this chapter are not eligible to be exchanged for nonfederal State Highway Account funds as provided in subdivision (g) or (h) of Section 182.6.

(g) The public participation requirements under Title 23 of the United States Code shall apply to all transportation projects using federal funds made available pursuant to this chapter.

2424. (a) The department, metropolitan planning organizations, county transportation commissions, regional transportation planning agencies, counties, cities, and a city and county shall comply with all reporting requirements to the Federal Highway Administration (FHWA) established in federal law regarding funds made available under the American Recovery and Reinvestment Act of 2009.

(b) In complying with the requirements of subdivision (a), the department, metropolitan planning organizations, county transportation commissions, regional transportation planning agencies, counties, cities, and a city and county shall provide the same data they provide to the FHWA to the commission under the same timelines required by the FHWA or federal law. Regional entities shall include in the data provided to the commission information on the use of federal funds made available under the American Recovery and Reinvestment Act of 2009 that were suballocated to cities and counties within their jurisdiction.

(c) All jurisdictions that received and obligated or expended federal funds for transportation enhancement activities pursuant to federal law and this chapter shall include in the data they provide to the commission pursuant to subdivision (b) a description of the number, value, and type of project that involved the participation of a community conservation corps or the California Conservation Corps.

(d) The commission, within 30 days of receiving the information required pursuant to subdivision (b), shall compile the information and submit a report to the budget committees and policy committees with jurisdiction over transportation matters in each house of the Legislature.

SEC. 3. This act addresses the fiscal emergency declared by the Governor by proclamation on December 19, 2008, pursuant to subdivision (f) of Section 10 of Article IV of the California Constitution.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

40151

03/17/09 05:08 PM  
RN 09 10163 PAGE 6  
Substantive

In order to implement the expenditure of federal transportation funds recently made available by Congress as part of the American Recovery and Reinvestment Act of 2009 as quickly as possible, it is necessary that this act take effect immediately.

Amendment 4

On page 1, strike out lines 1 to 4, inclusive, and strike out page 2

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## SUBCOMMITTEE NO. 2

## Agenda

S. Joseph Simitian, Chair  
Alan Lowenthal  
Bob Huff



Thursday, March 19, 2009  
9:30 a.m. or upon adjournment of session  
Room 2040

<u>Item</u>	<u>Department</u>	<u>Page</u>
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### Resources—Environmental Protection—Energy—Transportation

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling 916-324-9335. Requests should be made one week in advance whenever possible.

## 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 boards, departments, and office under the jurisdiction of Cal-EPA.

**Budget Act.** The *2009-10 Budget Act* includes \$15.1 million to support the Secretary for Environmental Protection. This is a 1.2 percent increase over estimated expenditures in the current year. General Fund support for the Secretary is about \$1.9 million.

<b>Summary of Expenditures</b>				
<i>(dollars in thousands)</i>	2008-09	2009-10	\$ Change	% Change
<b>Type of Expenditure</b>				
Administration	\$ 14,976	\$ 15,161	\$ 185	1.2
<b>Total</b>	\$ 14,976	\$ 15,161	\$ 185	1.2
<b>Funding Source</b>				
General Fund	\$ 1,883	\$ 1,932	\$ 49	2.6
Special Funds	8,306	8,328	22	0.3
<i>Budget Act Total</i>	<i>10,189</i>	<i>10,260</i>	<i>71</i>	<i>0.7</i>
Reimbursements	1,974	2,004	30	1.5
State Water Quality Control Fund	188	188	0	0
Environmental Enforcement and Training Account	2,066	2,132	66	3.2
Environmental Education Account	559	577	18	3.2
<b>Total</b>	\$ 14,976	\$ 15,161	\$ 185	1.2



## 1. Employee Ratio

**Agency Duties.** 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 boards, departments, and office under the jurisdiction of Cal-EPA.

**Agency Positions.** The Secretary for Environmental Protection office has 67.7 positions. The CalEPA departments have a total of 4,884 positions. This is a ratio of 72 department positions for each agency level position.

By comparison, the Secretary for Natural Resources has 81.1 positions, and 17,539 department employees. This is a ratio of 216 department positions for each agency level position. It should be noted that some departments within the Resources Agency have a large number of staff, such as CalFIRE with 6,244 positions or the Department of Parks and Recreation with 3,370 positions.

**Staff Comments.** The large number of agency level staff per department employee at the Secretary for Environmental Protection raises questions about the agency's efficiency in coordinating the CalEPA departments and its role in contributing to programs. Staff recommends that the Subcommittee ask the Agency Undersecretary to explain the agency's coordination of departments and how these employees increase the value of the CalEPA's work as a whole.

CalEPA also has a number of vacant positions in the departments. The seven CalEPA departments have a total of 433 vacant positions. This is a vacancy rate of 8.8 percent for the departments. These vacancies break down as follows:

- Air Resources Board – 60 vacant positions
- CIWMB – 84 vacant positions
- Pesticide Regulation – 30 vacant positions
- SWRCB – 139 vacant positions
- Toxic Substances Control – 107 vacant positions
- OEHHA – 13.6 vacant positions

## 2. AB 32

**Background.** The California Global Warming Solutions Act of 2006 (AB 32, Nunez), requires the reduction of statewide greenhouse gas emissions (GHG) to 1990 levels by 2020. The act states that global warming poses a threat to California's economy, public health, natural resources, and environment, and states the necessity of federal and international action to effectively combat global warming. However, the act also notes that California's early efforts to reduce GHG emissions can encourage similar actions by other states, the federal government, and the other countries and position California's economy to benefit from future efforts to limit GHG emissions in other jurisdictions.

The act charges ARB as the sole state agency responsible for monitoring and regulating sources of GHG emissions and gives ARB a role in coordinating with other state agencies and stakeholders in implementing AB 32. The ARB is to require and monitor comprehensive reporting of statewide GHG emissions, determine the state's GHG emissions levels in 1990, and adopt regulations to reduce statewide GHG emissions, by the year 2020, to what they were in 1990.

The act also calls for the Climate Action Team—the multiagency body established in 2005 by executive order and led by the Secretary for Environmental Protection—to continue its coordination of overall climate policy.

**AB 32 Funding.** This chart shows the funding level for AB 32 implementation by department:

Department		Base Funding (000)	New Funding in 2009-10 (000)	Total Funding in 2009-10 (000)	Total Positions
0540	Secretary for Resources	\$425	\$0	\$425	2.0
0555	Secretary for Environmental Protection	\$1,764	\$0	\$1,764	6.0
1760	Department of General Services	\$2,936	\$0	\$2,936	5.0
3360	California Energy Commission	\$610	\$0	\$610	5.0
3540	Department of Forestry and Fire Protection	\$1,481	\$5,395	\$6,876	8.0
3860	Department of Water Resources	\$1,400	\$1,705	\$3,105	17.0
3900	Air Resources Board	\$32,052	\$362	\$32,414	153.0
3910	Integrated Waste Management Board	\$0	\$1,312	\$1,312	6.0
8570	Department of Food and Agriculture	\$343	\$0	\$343	2.0
8660	Public Utilities Commission	\$602	\$0	\$602	1.0
<b>Totals</b>		<b>\$41,613</b>	<b>\$8,774</b>	<b>\$50,387</b>	<b>205.0</b>

**Western Climate Initiative.** On February 26, 2007, Governor Schwarzenegger, along with the Governors of Arizona, New Mexico, Oregon, and Washington signed an agreement establishing the Western Climate Initiative (WCI), a joint effort to reduce greenhouse gas emissions and address climate change. In the spring of 2007, the Governor of Utah and the Premiers of British Columbia and Manitoba joined the WCI. Montana joined in January, 2008. Other U.S. and Mexican states and Canadian provinces have joined as observers.

According to the WCI's memorandum of understanding, WCI members agreed in August 2007 to a regional emissions target of an aggregate reduction of 15 percent below 2005 levels by 2020. Covered emissions include the six primary greenhouse gases identified by the United Nations Framework Convention on Climate Change: carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride. Although the regional target is designed to be consistent with existing targets set by individual member states and is not intended to replace these goals, the AB 32 requirements are far more stringent than the WCI guideline. Under AB 32, California must reduce its greenhouse gas emissions by 25 percent to get to the 1990 emissions goal.

The WCI members have also agreed to establish a market-based system – such as a cap-and-trade program covering multiple economic sectors – to aid in meeting their reduction goal. California law requires a careful evaluation of all possible emissions control mechanisms before a single method is endorsed, and so far such an evaluation has not been conducted.

**Missing Report.** The *2007-08 Budget Act* included trailer bill requiring the Secretary for Natural Resources to submit to the Legislature an annual “Report Card” on greenhouse gas reductions. The agency submitted the report in March 2008. However, this report has not been received for 2009.

**Staff Comments.** AB 32 designates the Secretary for Environmental Protection as the lead of the Climate Action Team but does not otherwise provide a formal role for the Secretary. The Secretary's office has assumed the role of international liaison for California on global warming issues. During 2008, representatives from the agency attended climate change conferences in Bali and Poland. The Subcommittee may wish to have the Secretary's office clarify its role in the climate change response to the Subcommittee.

Staff is concerned that the Secretary's office may be disproportionately utilizing resources for climate change activities at the expense of the other programs they are supposed to be overseeing. Staff recommends that the Subcommittee members ask the Secretary how many of the staff positions are devoted to climate change, and how much in state financial resources is the Secretary's office spending on climate change related activity such as travel and conferences?

Participation in the Western Climate Initiative (WIC) is not directly authorized by the AB 32 statute. The WIC is focused on a single carbon control structure of cap-and-trade. Staff recommends that the Subcommittee members ask the Secretary to explain why California is participating in the WIC and provide detail as to what benefits California can expect from the WIC.

## 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.

**Budget Act.** The 2009-10 Budget Act includes \$629 million to support the ARB in 2008-09. This is about the same as estimated expenditures in the current year. General Fund support for the ARB was cut in 2008-09 due to the budget crisis.

<b>Summary of Expenditures</b>				
<i>(dollars in thousands)</i>	2008-09	2009-10	\$ Change	% Change
<b>Type of Expenditure</b>				
Mobile Source	\$ 563,276	\$ 560,798	-\$2,478	-0.4
Stationary Source	57,049	58,359	1,310	2.3
Subvention	10,111	10,111	-	0.0
Capital Outlay	1,491	-	-1,491	-100.0
Administration	15,085	15,244	159	1.1
<i>less distributed administration</i>	<i>-15,085</i>	<i>-15,244</i>	<i>-159</i>	<i>1.1</i>
<b>Total</b>	<b>\$ 631,927</b>	<b>\$ 629,268</b>	<b>-\$2,659</b>	<b>-0.4</b>
<b>Funding Source</b>				
General Fund	\$ 193	\$ 196	\$ 3	1.6
Special Funds	359,085	353,746	(5,339)	-1.5
Bond Funds	251,236	253,533	2,297	0.9
<i>Budget Act Total</i>	<i>610,514</i>	<i>607,475</i>	<i>-3,039</i>	<i>-0.5</i>
Federal Trust Fund	15,702	15,975	273	1.7
Reimbursements	5,711	5,818	107	1.9
<b>Total</b>	<b>\$ 631,927</b>	<b>\$ 629,268</b>	<b>-\$2,659</b>	<b>-0.4</b>

## 1. AB 32 Implementation Overview

**AB 32 Background.** The California Global Warming Solutions Act of 2006, (AB 32, Nunez) requires the reduction of statewide greenhouse gas emissions to 1990 levels by 2020. This is a 25 percent reduction over current levels, or approximately 174 million metric tons of greenhouse gas (GHG) emissions. This bill codified the intent of Executive Order S-3-05, and expressed the Legislative intent to continue reductions in emissions of GHG beyond 2020.

AB 32 designated the Air Resources Board as the lead agency in addressing GHG emissions, including planning, regulatory, and enforcement efforts. In December 2008, the Air Resources Board adopted a Scoping Plan to reduce GHG emissions to 1990 levels. The largest GHG emitters in California are the transportation and energy sectors, while cattle and landfills also contribute significant amounts of GHG.

## 2. Implementation of Greenhouse Gas Reporting Regulation and Voluntary Credits

**Reporting Requirement.** The California Global Warming Solutions Act of 2006, also known as AB 32 (Nunez, 2006), requires the Air Resources Board (ARB) to adopt regulations for the mandatory reporting and verification of greenhouse gas emissions from major sources. In December 2007, the ARB adopted regulations that require sources responsible for 94 percent of the state's greenhouse gas emissions to report on those emissions by 2010. The regulations also require verification of emissions by ARB-accredited third parties.

**Verification.** The ARB is requiring greenhouse gas emissions reporting be verified by third parties starting in 2010. The ARB argues that independent verification will provide fairness in the regulatory arena and the rigor required to support market trading. This request includes \$200,000 for contract funds which the ARB would use to develop the third-party emissions verification system. The funds would be used for developing and implementing a training and accreditation program for third-party verifiers. The verifiers would have to meet minimum standards for engineering and financial accounting, as well as have no conflict of interest regarding the emissions source.

**Budget Act.** The *2009-10 Budget Act* includes \$362,000 from the Air Pollution Control Fund for one permanent position to implement additional responsibilities related to mandatory greenhouse gas emissions reporting. The amount includes \$200,000 for contract funds.

**Staff Comments.** It is not clear why compliance with a regulation would have to be verified by a third party. Enforcement of regulatory compliance has traditionally been the responsibility of the regulatory agency.

**Staff Recommendation.** Staff recommends that the Subcommittee have the department explain why they selected third party verification and return to this issue at the May open issues hearing.

### 3. Heavy-Duty Diesel Regulatory Implementation

**Background.** California is not in compliance with the federal Clean Air Act. Over 90 percent of Californians live in regions of the state with poor air quality. Two areas, the South Coast region and the San Joaquin Valley have been identified as having the worst air quality in the nation. The federal Clean Air Act was amended in 1990 to require non-compliant states to develop State Implementation Plans (SIPs) and risk losing federal highway funds if clean air standards are not attained. For California, non-attainment of clean air requirements places \$1.8 billion in federal funds at risk.

**Truck and Bus Rule.** To respond to the federal Clean Air Act, the Air Resources Board (ARB) in December 2008, approved new regulations requiring all diesel-powered trucks and buses over 14,000 pounds that operate on-road to be retrofitted with clean-air technology. These types of vehicles were not previously regulated for emissions. California has nearly 420,000 trucks and buses and over 500,000 out-of-state trucks and buses, including vehicles crossing international borders. The ARB anticipates that this new regulation will reduce smog-forming emissions from trucks by over 33 percent and toxic emissions by over 85 percent.

**Industry Concerns.** Retrofitting existing fleets of trucks and buses carries substantial cost to the industry. Each retrofit is estimated to cost approximately \$15,000. Industry has expressed concerns that if the rule is not monitored, non-compliant businesses would have lower operating costs than compliant businesses.

**Budget Act.** The *2009-10 Budget Act* includes \$1,600,000 from the Motor Vehicle Account for five permanent positions. The amount includes \$750,000 in one-time funds for external consultants.

**Staff Recommendation.** Staff recommends that the Subcommittee keep this item in the budget.

### 4. Implementation of SB 375

**SB 375.** SB 375 (Steinberg, 2008) provides incentives for integrated regional land use planning and local development for improved mobility and reduced greenhouse gas emissions consistent with the California Global Warming Solutions Act of 2006 (AB 32). SB 375 requires the Air Resources Board (ARB) to develop, adopt, and track regional greenhouse gas emission reduction targets for cars (“light duty vehicles”). SB 375 requires a plan for each of the 17 federally designated metropolitan areas in the State.

**Position Tasks.** The two requested positions would develop, track, and update regional greenhouse gas emission reduction targets on an ongoing basis. They would also conduct ongoing reviews of submitted Sustainable Community Strategies and Alternative Planning Strategies that demonstrate achievement of the regional targets. Lastly, they would work with the Regional Target Advisory Committee.

**Contract Funds.** The \$300,000 requested for contract funds would be used for developing and applying methods and criteria for conducting the technical reviews of regional greenhouse gas emission reduction modeling, as well as the methods used by the Metropolitan Planning Organizations to develop Sustainable Community Strategies and Alternative Planning Strategies.

**Budget Act.** The *2009-10 Budget Act* includes \$682,000 from the Air Pollution Control Fund for two permanent positions for SB 375 implementation. The funds include \$300,000 for contracts.

**Staff Recommendation.** SB 375 has the potential to dramatically change land use planning for the better. Effectiveness of this new policy will greatly depend on implementation. Staff recommends that the Subcommittee keep this item as part of the budget.

## 5. Proposition 1B Bond Fund Expenditures - Informational

**Proposition 1B.** In November 2006, the voters passed Proposition 1B, which provides \$1 billion for addressing air quality along California's trade corridors.

The Air Resources Board (ARB) defines California's trade corridors as the Los Angeles/Inland Empire Region, the Central Valley Region, the Bay Area Region, and the San Diego/Border Region.

**California Air Quality.** The diesel trucks, ships, harbor craft, locomotives, and cargo handling equipment that move goods through California's ports and trade corridors emit large amounts of diesel particulate matter (PM) and nitrogen oxides (NO<sub>x</sub>). Diesel PM is a toxic air contaminant. Diesel PM from all sources (not just goods movement related) accounts for approximately 70 percent of the known cancer risk from air toxics in California. NO<sub>x</sub> contributes to the atmospheric formation of ozone and the fine particles that are linked to premature death.

Port-related operations and goods movement throughout California are responsible for about 70 percent of the total diesel PM emissions in the state, and nearly 40 percent of the NO<sub>x</sub> emissions. The goods movement sectors operate in close proximity to neighborhoods. Some goods movement, such as locomotives, are outside the state's regulatory authority.

**Previous Budget Actions.** The *2007-08 Budget Act* provided the ARB with \$250 million in Proposition 1B bond funds to provide incentives for clean technology in goods movement.

In addition to funds for goods movement, the *2007-08 Budget Act* provided the ARB with \$193 million for replacement and retrofit of diesel school buses.

Also, the *2009-10 Budget Act* provides the ARB with an additional \$3 million for school bus replacement and retrofits.

## 3910 California 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.

**Budget Act.** The 2009-10 Budget Act includes \$257.3 million to support CIWMB in the budget year. This is an approximately 9 percent increase over the level of support in the current year. This increase is due to additional expenditures from the Tire Recycling Management Fund and Electronic Waste Recovery and Recycling Account. The board does not receive General Fund support.

<b>Summary of Expenditures</b>				
<i>(dollars in thousands)</i>	2008-09	2009-10	\$ Change	% Change
<b>Type of Expenditure</b>				
Waste Reduction and Management	\$ 238,170	\$ 262,071	\$23,901	10.0
Administration	9,927	9,935	8	0.1
<i>less distributed administration</i>	-9,927	-9,935	-8	0.1
<i>loan repayments</i>	-2,807	-4,767	-1,960	69.8
<b>Total</b>	\$ 235,363	\$ 257,304	\$21,941	9.3
<b>Funding Source</b>				
General Fund	\$ -	\$ -	\$ -	0.0
Special Funds	233,658	255,024	21,366	9.1
Bond Funds	-	-	0	0.0
<i>Budget Act Total</i>	233,658	255,024	21,366	9.1
Federal Trust Fund	200	275	75	37.5
Reimbursements	1,505	2,005	500	33.2
<b>Total</b>	\$ 235,363	\$ 257,304	\$21,941	9.3



## 1. Electronic Waste Recycling Program: Technical Adjustment

**Electronic Waste Program.** Electronic Waste (E-waste) is the informal name for electronic products nearing the end of their "useful life." The Electronic Waste Recycling Act of 2003 (SB 20, Sher) requires that certain covered e-waste be recycled rather than sent to the landfill. Electronic devices contain hazardous chemicals that pose a serious threat to human health and the environment.

**Fees.** The e-waste program is funded by fees. On January 1, 2005, retailers began collecting the Electronic Waste Recycling Fee on covered electronic devices from consumers. The initial fees were established by the Legislature in SB 20 and the CIWMB was given the responsibility to annually evaluate the fee levels to maintain sufficient funding to administer the Act. In June 2008, the Board acted to increase the fees to maintain the solvency of the fund. Retailers remit these fees to the Board of Equalization (BOE).

**Auditor Report.** The California State Auditor in its November 2008 report found that some state agencies were improperly disposing of electronic waste. Among the Auditor's findings was that the lack of clear communication from oversight agencies, coupled with some employees' lack of knowledge about E-waste, contributed to the instances of improper waste disposal. Since there are no reports required on the disposal of e-waste, there is no consistent tracking of state agency e-waste disposal.

**Budget Act.** The *2009-10 Budget Act* includes a technical adjustment to the Electronic Waste Recycling Program by a reduction of \$5.7 million in 2009-10 and 2010-11. The decrease is to the consultant and professional line item. Funds for this program come from fees on certain covered electronic devices.

**Fund Condition.** The *2008-09 Budget Act* included budget bill language allowing the CIWMB to borrow funds for the E-waste program because the Electronic Waste Recovery and Recycling Account was close to insolvency. In January 2009 the fees collected by the program were increased.

**Staff Recommendation.** Staff recommends that the Subcommittee ask the department for an update on the e-waste program financial condition and an update on steps taken to address the Auditor's concerns. Also, staff recommends that the Subcommittee keep this item as part of the budget.

## 2. Waste Tire Recycling Management Program Augmentation

**Background.** California produces approximately 40 million waste tires annually. Of these tires, about three-fourths are diverted into productive uses, but 11 million tires a year are still disposed of in landfills. The California Tire Recycling Act of 1989 (AB 1843, Brown) created the Waste Tire Recycling Management Program at the California Integrated Waste Management Board (CIWMB). The program has been successful in creating new uses for waste tires. CIWMB has

stated that the new funds provided in the *2009-10 Budget Act* will help increase the tire recycling rate from 75 percent to 90 percent.

**Budget Act.** The *2009-10 Budget Act* includes \$26 million from the California Tire Recycling Management Fund over three years for the Waste Tire Recycling Management Program. These funds include 4.5 permanent positions and \$2,138,000 in local assistance annually.

**New Department Tasks.** With the funds received in the *2009-10 Budget Act*, CIWMB will:

- **Establish New Equipment Loan Program** – This program will provide \$4 million annually to create additional in-state capacity for processing tires into Tire Derived Aggregate for road construction. The loans are repaid over a 10 year period. \$135,000 and 1.5 PY annually will implement this loan program.
- **Increase Rubberized Asphalt Concrete (RAC) Grant Programs** – This program will be increased from the previous \$2.5 million a year by \$825,000 for a total of \$3,325,000 in grants annually. These grants are awarded to local governments that use rubberized asphalt concrete. \$45,000 and 0.5 PY annually will implement this increase in the grant program.
- **Expend Tire-Derived Product Grant (TDP) Grant Program** – This program will be increased from the previous \$2 million annually to \$3.3 million annually. These grants are designed to promote markets for recycled-content products derived from waste tires generated in California. \$45,000 and 0.5 PY annually will implement this increase in the grant program.
- **Expand Public Education and Outreach on Tire Sustainability/Retreads/RAC** – This is a public education program to reduce the amount of tires that are generated annually. \$2 million a year will be spent on public education and outreach. \$90,000 and one PY will implement this program.
- **Additional Legal Support for New/Expanded Activities Described Above** – The new and expanded programs will require legal support. \$102,000 and one PY annually will provide that legal support.

**Staff Recommendation.** Staff recommends that the Subcommittee review this proposal for public information purposes and keep the funding in the budget.

### 3. Greenhouse Gas Reductions from Solid Waste

**Background.** On June 21, 2007, the Air Resources Board adopted the *Landfill Methane Capture Strategy* as a discrete action measure.

**Proposal.** With these funds, CIWMB would:

- Analyze the economic costs and benefits of solid waste and recycling programs, in support of AB 32 Scoping Plan measures and subsequent implementation. This will provide a basis for determining the best implementation mechanism for each measure, such as market-based, regulatory, or carbon-trading systems. (1 PY)

- Increase recycling from the commercial sector, by evaluating model commercial recycling ordinances and assisting the business sector and local jurisdictions in developing and implementing commercial recycling ordinances. This would also entail assisting businesses, local government, and the waste industry in utilizing a commercial diversion software tool to evaluate costs and savings and calculate reductions in greenhouse gas emissions associated with solid waste activities. (2 PY)
- Partner with the Air Resources Board, California Climate Action Registry (CCAR), and the International Council for Local Environmental Initiatives in developing solid waste management protocols and providing education and outreach to affected stakeholders. These protocols will assist local governments in measuring and reporting greenhouse gas emissions. (1 PY)
- Conduct research to evaluate greenhouse gas emissions associated with product development, manufacturing, use, and disposal. This would entail developing strategies such as economic incentives, improved environmental impact calculators for products, environmental performance standards and labeling, and public outreach. It also would entail identifying data gaps, potential regulations, and potential legislative action. (\$300,000 in contract funds)
- Conduct research on reducing N<sub>2</sub>O emissions at composting facilities. This would include analysis of compost feedstock characteristics and operations parameters to determine their impact on N<sub>2</sub>O emissions. CIWMB would use the study results to assist organics handling businesses, CCAR, and other entities in the development related protocols and operational best management practices to reduce greenhouse gas emissions. (\$500,000 in contract funds)
- Reduce Vehicle Miles Traveled (VMT) through the optimization of solid waste and recycling routes. This would entail assisting key stakeholders and local jurisdictions with evaluation and implementation of optimization schemes to reduce VMT associated with transportation of solid waste and recycling materials. (1 PY)

**Budget Act.** The *2009-10 Budget Act* includes \$1,312,000 from redirected funds, including six positions and \$800,000 in contract funds, for implementing programs that minimize methane emissions from landfills including increased source reduction and recycling, developing viable and sustainable markets to divert materials from landfills, and encouraging new technologies. This proposal also includes \$501,000 for 2010-11. The funds for both 2009-10 and 2010-11 will come from a redirection of the Waste Characterization Study funds.

**Staff Comments.** The Air Resources Board (ARB) is the regulatory agency for AB 32 implementation, and it is unclear to staff why another agency needs resources to implement ARB's regulations.

Some of the expenses do not seem fully justified. For example, the proposal requests two positions to increase recycling from the commercial sector. It seems that this task should already be underway as part of the CIWMB's core mission. Staff recommends that the Subcommittee request the department for more justification for this increase in position authority.

In addition, staff thinks that the one position to reduce the vehicle miles traveled by commercial sector vehicles needs more justification. Since there is no carbon fee added on to the cost of

recycling, commercial sector recyclers will most likely continue to use the lowest cost service rather than the recycling service with the least carbon output.

Staff also recommends that the Subcommittee request the department to elaborate on the benefit of examining the carbon output of goods production. The department's request for \$300,000 in contract funds to examine the carbon output of goods production will not be necessary if the Air Resources Board implements a carbon fee that raises the amount of carbon produced to a business decision.

**Staff Recommendation.** Staff recommends that the Subcommittee provide the department with time to respond to staff concerns and return to this item in the May open issues hearing.

#### 4. Used Oil Recycling Budget Bill Language

**Background.** AB 2076, the California Oil Recycling Enhancement Act (1991, Sher) requires the California Integrated Waste Management Board (CIWMB) to administer a statewide used oil recycling program to promote and develop alternatives to the illegal disposal of used oil. The program is funded from the Used Oil Recycling Fund, which receives its funding from a \$0.16 per gallon fee paid by lubricating oil manufacturers. Industrial oil is exempt from this fee.

Since 2000, the sale of lubricant oil in California has steadily declined. The major reason for this is believed to be the larger number of miles new vehicles can travel between oil changes. In 2000-01, the Used Oil Recycling Fund revenues were about \$22 million, but in 2009-10 the fund's revenues are projected at \$16 million.

**Grant Programs.** The Act established four grant programs to promote used oil recycling infrastructure: Block, Opportunity, Non-Profit, and Research, Testing, and Demonstration. According to current statute, the CIWMB must expend on the Block grants either \$10 million or 50 percent of the Used Oil Recycling Fund balance, whichever is greater. However, the CIWMB is statutorily required to pay for other programs out of the Used Oil Recycling Fund as well. In 2009-10 the Used Oil Recycling Fund Balance is projected to be \$16 million and if the CIWMB funds both the Block grant \$10 million mandatory expenditure and the other statutorily required programs, these expenditures combined would create a deficit in the fund.

**Budget Act.** The *2009-10 Budget Act* includes budget bill language to allow CIWMB to use no less than half of the amount which remains in the Used Oil Recycling Fund after expenditures, even when this amount is less than \$10 million. Budget bill language is in effect for one year only.

**Staff Comment.** The Used Oil Recycling Fund balance has been dropping over the last several years. The current statute assumes that there will always be more than \$10 million in the fund and places pressures on the fund above what is required for the grant program. A long-term solution must be found for the fund, either in reducing the fund's obligations or raising more revenue. The proposed budget bill language provides the Legislature with one year to come up with a policy solution.

## 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.

**Budget Act.** The 2009-10 Budget Act includes \$73.4 million to support the DPR in 2009-10, which is a one percent increase over the level of expenditures as in the current year. The department does not receive any General Fund support.

<b>Summary of Expenditures</b>				
<i>(dollars in thousands)</i>	2008-09	2009-10	\$ Change	% Change
<b>Type of Expenditure</b>				
Pesticide Programs	\$ 72,720	\$ 73,471	\$751	1.0
Administration	10,789	10,568	-221	-2.1
<i>less distributed administration</i>	<i>-10,789</i>	<i>-10,568</i>	<i>221</i>	<i>-2.1</i>
<b>Total</b>	<b>\$ 72,720</b>	<b>\$ 73,471</b>	<b>\$751</b>	<b>1.0</b>
<b>Funding Source</b>				
General Fund	\$ -	\$ -	\$ -	0.0
Special Funds	69,924	70,449	525	0.8
<i>Budget Act Total</i>	<i>69,924</i>	<i>70,449</i>	<i>525</i>	<i>0.8</i>
Federal Trust Fund	2,237	2,257	20	0.9
Reimbursements	559	765	206	36.9
<b>Total</b>	<b>\$ 72,720</b>	<b>\$ 73,471</b>	<b>\$751</b>	<b>1.0</b>

## 1. Volatile Organic Compounds

**Volatile Organic Compounds.** Pesticides emit volatile organic compounds (VOC) that contribute to smog. In California's central valley approximately six percent of the smog is caused by pesticides. VOCs contribute to the formation of ground-level ozone, which is harmful to human health and vegetation when present at high enough concentrations. The federal Clean Air Act requires each state to submit a State Implementation Plan (SIP) for achieving and maintaining federal ambient air quality standards, including the standard for ozone. Nonattainment areas (NAAs) are regions in California that do not meet either federal or state ambient air quality standards. California has five nonattainment areas: San Joaquin Valley, Sacramento Metro, South Coast, Southeast Desert, and Ventura.

**Lawsuits.** In 2006, a federal judge ruled that the Department of Pesticide Regulation (DPR) ignored clean air laws for pesticides. The lawsuit said DPR failed to apply clean air rules to pesticides, dating back to 1997. The judge ordered the department to write regulations that would cut pesticide emissions in the Central Valley by 20 percent from 1991 levels.

The Ninth Circuit Court of Appeals in San Francisco overturned the findings of the federal judge in August 2008. As a result of the Appeals Court victory, the Department of Pesticide Control is now finalizing new regulations that call for a smaller decrease - a 12 percent cut from 1990 levels.

**Past Budget Action.** In the *2008-09 Budget Act*, DPR received \$2.6 million and 11 positions to implement VOC regulations.

**Staff Comments.** Staff recommends that the Subcommittee ask the department to explain why the 12 percent reduction in VOCs was selected. Also, staff recommends that the Subcommittee ask the department to present to the Subcommittee what has been accomplished so far in implementing VOC regulations.

## 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.

**Budget Act.** The 2009-10 Budget Act includes \$197.8 million to support the DTSC in 2009-10. This is almost the same as the estimated expenditures in the current year.

<b>Summary of Expenditures</b>				
<i>(dollars in thousands)</i>	2008-09	2009-10	\$ Change	% Change
<b>Type of Expenditure</b>				
Site Mitigation and Brownfields Reuse	\$ 110,470	\$ 111,060	\$590	0.5
Hazardous Waste Management	70,014	65,141	-4,873	-6.9
Science, Pollution Prevention, and Technology	14,858	19,715	4,857	32.7
State as Certified Unified Program Agency	1,647	1,964	317	19.3
Capital Outlay	2,656	-	-2,656	-100.0
Administration	33,149	33,198	49	0.2
<i>less distributed administration</i>	<i>-33,149</i>	<i>-33,198</i>	<i>-49</i>	<i>0.0</i>
<b>Total</b>	<b>\$ 199,645</b>	<b>\$ 197,880</b>	<b>-\$1,765</b>	<b>-0.9</b>
<b>Funding Source</b>				
General Fund	\$ 25,540	\$ 22,275	-\$3,265	-12.8
Special Funds	131,281	129,666	-1,615	-1.2
<i>Budget Act Total</i>	<i>156,821</i>	<i>151,941</i>	<i>-4,880</i>	<i>-3.1</i>
Federal Trust Fund	27,391	32,983	5,592	20.4
Reimbursements	12,433	12,869	436	3.5
Stringfellow Insurance Proceeds Account	3,000	87	-2,913	-97.1
<b>Total</b>	<b>\$ 199,645</b>	<b>\$ 197,880</b>	<b>-\$1,765</b>	<b>-0.9</b>

## 1. Realignment of Funding for TSCA and HWCA Program Activities

**Background.** The Department of Toxic Substances Control (DTSC) is primarily funded by two special funds: the Toxic Substances Control Account (TSCA) and the Hazardous Waste Control Account (HWCA). The HWCA revenues come from fees paid by hazardous waste generators, transporters, and disposers. The major revenue sources of TSCA are the environmental fee, which is a broad-based assessment on all businesses handling hazardous materials with 50 or more employees, and cost recovery from parties responsible for hazardous waste substance releases.

**Budget Act.** The *2009-10 Budget Act* includes an on-going shift of \$4,795,000 from the Hazardous Waste Control Account to the Toxic Substances Control Account to cover activities related to the regulation and enforcement of toxic substances in products. However, this funding shift cannot be implemented by the Department of Finance because the accompanying trailer bill language is not part of the *2009-10 Budget Act*.

**Trailer Bill Language.** This funding shift requires trailer bill language. The Department of Finance is still finalizing this bill, and will submit it to the Budget Committee in the future.

**Staff Comment.** The department has stated that this fund shift would not result in a change in the fees collected. The trailer bill language was not approved as a part of the February 2009 budget package.

**Staff Recommendation.** Staff recommends that the Subcommittee return to this item when the trailer bill is received and reviewed by all Subcommittee members.

## 2. Green Chemistry Implementation – AB 1879

**Green Chemistry Initiative.** In 2007, CalEPA began the development of a coordinated, comprehensive strategy designed to foster the development of information on the hazards posed by chemicals, ways to reduce exposure to dangerous substances, approaches that encourage cleaner and less polluting industrial processes, and strategies to encourage manufacturers to take greater responsibility for the products they produce. Green chemistry offers a systematic means of comparing options, weighing different hazard traits and environmental endpoints, and considering production, performance, and cost factors as well as other appropriate attributes. Green chemistry is a comprehensive means for preventing dangerous chemicals from entering consumer products at the design and manufacturing stages.

**AB 1879.** AB 1879 (Feuer, 2008) provides the Department of Toxic Substances Control (DTSC) with the authority to establish procedures in regulation to identify and prioritize chemicals of concern. In addition, AB 1879 establishes procedures in regulation to evaluate alternatives to chemicals of concerns in products, and to specify regulatory responses where chemicals of concern are found in products.



**Budget Act.** The *2009-10 Budget Act* includes \$2,144,000 (\$1,239 from the Toxic Substances Control Account and \$905,000 from the Hazardous Waste Control Account) for implementation of AB 1879. This budget item redirects \$2,144,096 for 11 positions and contract funds to work on the Green Chemistry initiative. An additional \$1,082,049 for 5.5 positions will be redirected in 2010-11.

**Staff Recommendation.** Staff recommends that the Subcommittee keep this item in the budget.

### 3. Toxics Information Clearinghouse – SB 509

**Green Chemistry Clearinghouse.** In 2007, CalEPA began the development of Green Chemistry: a coordinated, comprehensive strategy designed to foster the development of information on the hazards posed by chemicals, ways to reduce exposure to dangerous substances, approaches that encourage cleaner and less polluting industrial processes, and strategies to encourage manufacturers to take greater responsibility for the products they produce. As part of the Green Chemistry development, CalEPA developed a report with recommendations for action. One of these recommendations was the development of an online toxics clearinghouse.

The online toxics clearinghouse would build on efforts by other governments and authoritative bodies worldwide to fill chemical information gaps and ensure that hazards and toxicity data is developed and made publicly accessible via online. The intent is to improve the ability of businesses, government, and consumers to shift toward less toxic alternatives in products.

**SB 509.** SB 509 (Simitian, 2008) requires the Department of Toxic Substances Control (DTSC) to:

- Establish the clearinghouse, a decentralized, web-based system for collection, maintenance, and distribution of specific chemical hazard trait and environmental and toxicological end-point data.
- Make the clearinghouse available to the public through a single internet web portal and to operate it at the lowest cost possible.
- Develop the design of the clearinghouse, data quality standards, and test methods that govern the data to be eligible for the clearinghouse.
- Ensure that the clearinghouse has the capacity needed to display updated information as new data becomes available.
- Consult with other states, the federal government, and other nations to identify available data on the following: hazard traits and environmental and toxicological endpoints.
- Facilitate the development of regional, national, and international data sharing arrangements to be included in the clearinghouse.

**Budget Act.** The *2009-10 Budget Act* includes \$233,000 from the Toxic Substances Control Account and redirecting two staff positions for two years to implement SB 509.

**Staff Recommendation.** Staff recommends that the Subcommittee keep this item in the budget.

#### 4. Public Protection from Sales of Noncompliant Electronics

**Background.** SB 20 (Sher, 2003) created the Electronic Recycling Act, which mandates that certain electronic devices exceeding hazardous metal content limitations not be sold or offered for sale in California. Currently California does not have standard testing methods for hazardous metals in electronic devices. The Department of Toxic Substances Control (DTSC) is forced to rely on self-reporting by manufacturers. DTSC also does not have the legal authority to require product testing from manufacturers based outside of California.

**Product Testing.** DTSC intends to purchase analytical laboratory equipment that would allow the department to test hazardous metal content in electronic devices. The metals that would be tested for are cadmium, chromium, lead, and mercury.

**Budget Act.** The *2009-10 Budget Act* includes \$242,000 in one-time funds from the Electronic Waste Recovery and Recycling Account for analytical laboratory equipment.

**Staff Recommendation.** Staff recommends that the Subcommittee review this proposal for public information purposes and keep the funding in the budget.

## 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.

**Budget Act.** The 2009-10 Budget Act includes \$19.8 million to support the OEHHA in 2009-10. This is a higher level of expenditures in the current year due to an increase in reimbursements.

<b>Summary of Expenditures</b>				
<i>(dollars in thousands)</i>	2008-09	2009-10	\$ Change	% Change
<b>Type of Expenditure</b>				
Health Risk Assessment	\$ 18,236	\$ 19,809	\$1,573	8.6
Administration	3,499	3,532	33	0.9
<i>less distributed administration</i>	<i>-3,499</i>	<i>-3,532</i>	<i>-33</i>	<i>0.9</i>
<b>Total</b>	<b>\$ 18,236</b>	<b>\$ 19,809</b>	<b>\$1,573</b>	<b>8.6</b>
<b>Funding Source</b>				
General Fund	\$ 8,282	\$ 8,340	\$ 58	0.7
Special Funds	6,071	6,241	170	2.8
<i>Budget Act Total</i>	<i>14,353</i>	<i>14,581</i>	<i>228</i>	<i>1.6</i>
Federal Trust Fund	514	414	-100	-19.5
Reimbursements	2,444	3,387	943	38.6
<b>Total</b>	<b>\$ 17,311</b>	<b>\$ 18,382</b>	<b>\$1,071</b>	<b>6.2</b>

## 1. Green Chemistry: Toxics Information Clearinghouse

**Background.** SB 509 (Simitian, 2008) requires the establishment of an online Toxics Information Clearinghouse as a web-based system for collecting, maintaining, and distributing available hazard trait and toxicological data on chemical substances. The Clearinghouse will provide a comprehensive, publicly accessible database of information on hazardous chemicals. The Toxics Information Clearinghouse, when implemented, will be the first publicly visible product of the Green Chemistry Initiative and the first state-operated Clearinghouse on chemical information in the United States.

**Department Tasks.** The Office of Environmental Health Hazard Assessment (OEHHA) will gather available hazard trait information from existing summaries as well as the published literature for chemicals used in California, including those in consumer products. OEHHA will also seek information from the federal government and other nations to fill the data gaps. This information will then be used to populate the Toxics Information Clearinghouse. Specifically, OEHHA will complete:

- Evaluation and specification of the chemical hazard traits, toxicological endpoints, and other relevant data to be included in the Clearinghouse;
- Consultation with Department of Toxic Substances Control and all appropriate state agencies in carrying out this evaluation;
- Participation in public workshops to obtain stakeholder input; and
- Consultation with other state, federal, and international agencies to seek appropriate input and available data.

**Budget Act.** The *2009-10 Budget Act* includes a redirection of two positions. The cost of these positions is \$245,000 annually from the Used Oil Recycling Fund.

The two positions being redirected are staff toxicologists from the California Used Oil Recycling Fund who investigated the human and environmental effects of exposure to used oil. This redirection will reduce the number of reports on various aspects of exposure to used oil from about one report annually to one report every two years.

**Staff Recommendation.** Staff recommends that the Subcommittee keep this item in the budget.

## 2. Funding Shift – LAO Recommendation

**OEHHA Duties.** The 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 Cal-EPA and to other state and local agencies. The OEHHA also provides scientific support to environmental regulatory agencies.

**OEHHA General Fund.** OEHHA receives \$8.3 million in General Fund support. Multiple OEHHA programs have at least some level of General Fund support, while some programs are funded entirely by special funds.

**OEHHA Services.** OEHHA provides services in the form of assessments and recommendations to regulatory programs administered by other state agencies. Many of OEHHA's regulatory program support activities receiving General Fund support are already partially funded with fee-based special funds. The LAO recommends going further where such a special fund is available to assume the General Fund's current funding contribution. After accounting for such activities, the LAO has concluded that there is the potential to shift up to about \$5 million of OEHHA's funding from the General Fund to fees.

**Some General Fund is Appropriate.** On the other hand, some of OEHHA's activities have more of a broad-based public health focus – such as those related to children's health and Proposition 65, a 1986 initiative measure that requires the state to annually publish a list of cancer-causing chemicals and inform citizens about exposures to these chemicals. These activities cannot be reasonably or easily connected with discrete regulatory programs. The LAO argues that General Fund continues to be the appropriate primary funding source for these activities.

**Questions:**

1. Could the LAO please identify which funding shifts would require statutory changes?
2. Could the LAO please identify which funding shifts would require an increase in the fees collected?

# SUBCOMMITTEE NO. 2

# Agenda

S. Joseph Simitian, Chair  
John Benoit  
Alan Lowenthal



## Hearing Outcomes

**Day: Thursday March 26, 2009**  
**Time: 9:30 am or upon adjournment of session**  
**Room: Rose Ann Vuich Hearing Room (2040)**

**Consultant: Brian Annis**

### Transportation

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**Note on the 2009-10 Budget Process:** On February 19, 2009, the Legislature approved the 2009-10 Budget Act (SB 1XXX). However, certain items were withheld from the budget, without prejudice, pending a more thorough discussion in the budget subcommittees. Items withheld generally met one or more of the following criteria: (1) were rejected in a prior budget year; (2) have substantial policy implications – for example, information technology or the state's bond capacity; or (3) represent a new program or expansion. Additionally, there are numerous pieces of trailer bill language proposed by the Administration that were not adopted and that require further consideration. The issues in this agenda are these aforementioned issues along with other issues of interest to the Subcommittee.

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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.

## 2720 California Highway Patrol

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

**Governor's Budget:** The Governor proposes total expenditures of \$2.0 billion (no General Fund) and 11,095.9 positions, an increase of \$58 million and an increase of 179.1 positions.

**Activity:** (in millions):

Activity	2008-09	2009-10
Traffic Management	\$1,697	\$1,753
Regulation and Inspection	203	204
Vehicle Safety	46	46
Administration	334	340
<b>TOTAL</b>	<b>\$1,946</b>	<b>\$2,004</b>

**Major Funding Sources** (in millions):

Fund Source or Account	2008-09	2009-10
Motor Vehicle Account (MVA)	\$1,744	\$1,803
State Highway Account (SHA)	62	60
Reimbursements	116	116
Federal funds	18	18
Other special funds (no General Funds)	5	7
<b>TOTAL</b>	<b>\$1,946</b>	<b>\$2,004</b>

**Adopted 2009-10 Framework Budget (SB 1XXX):** In the adopted framework 2009-10 budget, the Legislature removed funding for the following items "without prejudice for further subcommittee discussion":

- New Computer Aided Dispatch (CAD) IT System (Budget Change Proposal (BCP) #4): \$11.9 million in 2009-10 and \$27.8 million total over three years.
- Capital outlay funding for new or reconfiguration of existing field-office facilities: \$13.4 million.

**1. Enhanced Radio System (Ongoing communications project and required report – informational issue).**

**Background:** The budget includes \$99.2 million for the 2009-10 cost of upgrading the CHP's public safety radio system. In 2006-07, the Legislature approved this five-year project that has total costs of about \$500 million. The project will enhance radio interoperability with other public safety agencies and provide additional radio channels for tactical and emergency operations. The project involves new radio transmission equipment at CHP facilities, remote towers, and CHP vehicles – it does not include the dispatch equipment which is the subject of a 2009-10 BCP. As part of project approval, the Legislature required annual project reporting for the life of the project - due annually each March 1.

**Staff Comment:** The CHP should update the Subcommittee on the radio project. The March 1 report was emailed to Committee staff on March 24. At the time this agenda was finalized, staff had not had sufficient time to adequately review the report.

**Staff Recommendation:** Direct staff to review the report received on March 24 and bring this issue back at a future hearing as warranted.

<b>Action: Informational issue – no action.</b>
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## 2. 9-1-1 Call Center Dispatchers (Informational issue).

**Background:** The CHP answers over 80 percent of the emergency 911 calls placed in the state by cell phones. The number of such calls has risen dramatically in the past decade and the CHP answered 9.7 million 911 calls in 2008. In 2006-07, the Administration requested authority to add 173 new positions to staff the 911 call centers – specifically, 156 Public Safety Dispatcher II positions and 17 Supervisor positions. This augmentation was approved, bringing the number of 911 dispatchers from 325 to 498. The total number of dispatchers in the field is 893 – this number includes both 911 and non-911 dispatchers. At the time the request was made, the Administration indicated a possibility that additional staffing would be required in the near future and that out-year budget requests would be submitted as warranted. However, no new 911-dispatcher budget requests have been submitted since 2006-07.

**August 2004 State Auditor’s Report:** The State Auditor touched on 911 staffing in its report, *Wireless Enhanced 911: The State Has Successfully Begun Implementation, but Better Monitoring of Expenditures and Wireless 911 Wait Times is Needed*. The Auditor had the following findings related to the CHP:

- Wait times were high, in part, because dispatchers at CHP centers handled significantly more 911 calls per dispatcher than did local answering points we contacted.
- Unfilled dispatcher positions at CHP centers contributed not only to longer wait times but also to significant overtime costs for the CHP.
- The CHP does not expect the number of wireless 911 calls diverted to local answering points to exceed 20 percent statewide.

**Current Statistics from the CHP:** The CHP indicates that improvements have occurred since the 2004 Auditor’s report. In February 2009, the vacancy rate was 11 percent for dispatchers; however, this represents significant improvement from the 17 percent vacancy rate in February 2008. For January 2009, the CHP reports that statewide 91.5 percent of calls were answered within 10 seconds, and 95.9 percent of calls were answered within 20 seconds. The general national targets are to answer 90 percent of calls within 10 seconds, and 95 percent of calls within 20 seconds. While the statewide average is good, 9 of the 24 communications centers fell below the target. *See Attachment I for additional statistics.*

**Staff Comment:** The CHP should update the Subcommittee on call response times, dispatcher vacancies, and implementation of employee furloughs. The CHP should indicate how they plan to address deficiencies in those 911 communications centers that are failing to meet response-time targets. Bringing the vacancy rate down to the budgeted 5 percent, should resolve some of the issues; however, the affect of the furloughs is uncertain.

**Staff Recommendation:** Informational issue – no action needed.

<p><b>Action: Informational issue – no action. The CHP indicated optimism it could achieve its goal of reducing the dispatcher vacancy rate to 5 percent.</b></p>
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### 3. Computer Aided Dispatch (CAD) Replacement (BCP #4).

**Background:** The Administration requests \$11.9 million (Motor Vehicle Account) in 2009-10 and a total of \$27.8 million over three years to fund an information technology (IT) project to replace the CAD system. The CAD is a system containing servers and workstations used to dispatch emergency services (police, fire, ambulance) to calls from the public needing assistance. The existing CAD system dates back to 1990. The new CAD would also allow persons in a dispatch center to easily view and understand the status of all units being dispatched. Funding for this BCP was removed from the 2009 Budget Act without prejudice to allow further legislative review.

**Detail:** The CHP indicates that CAD replacement is necessary because the existing system is approaching 20 years and is too old to be dependable. Additionally, technology has improved in 20 years to provide new functionality that improves public safety. Specifically, the new system would have features such as Automated Vehicle Location (AVL) and Geospatial Information System (GIS) integrated into the CAD allowing the dispatcher to reduce response time by identifying the closest responder and tracking their movement to the location. The BCP notes that the IT solution would be a commercial off-the-shelf (COTS) product. This system will be fully compatible with the upgraded radio infrastructure outlined in a prior issue.

**Staff Comment:** The CHP should be prepared to present this proposal to the Subcommittee, with a focus on why it thinks this project is critical to move forward in this difficult budget environment.

**Staff Recommendation:** Approve this request.

<b>Action: Approved budget request on a 3-0 vote.</b>
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#### 4. Officer Staffing Augmentation (BCP #18).

**Background:** The Governor requests \$34.9 million (\$36.6 million ongoing) to add 165 uniformed positions, and 8 Automotive Technician positions in 2009-10 (an additional 75 uniformed positions would be added in 2010-11 for a total increase of 240 Patrol Officers). In 2006-07 and 2007-08, the Legislature approved a staffing increase of 471 positions (360 Officers, 32 uniformed managerial, and 79 non-uniformed support staff). Last year, the CHP requested another 120 Officer positions. An LAO analysis suggested the CHP would be unable to fill any of the positions in 2008-09 due to a high level of existing vacancies and constraints on the size of academy classes. The Legislature approved the 120 positions, but moved establishment to 2009-10 – these 120 positions are included in this year's BCP. Full funding for this year's BCP was included in the 2009 Budget Act (SB 1XXX).

**Detail on past budget action:** The need for additional CHP officers was discussed in several CHP reports and LAO analyses at the time the growth in staff began several years ago. Additional staffing was deemed particularly necessary in CHP divisions that had seen large increases in vehicle registrations and highway travel. One measure considered was the growth of vehicle collisions between 2000 and 2004. While various statistics indicated a need to grow the size of the CHP, the CHP budget requests have been made on a year-to-year basis and no overall plan was presented or approved by the Legislature. With past increases and staffing increases requested in this BCP, the number of field Officers would grow from 6,133 in 2006-07, to 6,493 in 2008-09, and to 6,733 in 2010-11. The CHP indicates it allocates new Officers in the field using the following considerations:

- Those commands experiencing the highest percentage of fatal collisions in recent years.
- Those commands requiring additional staff to operate on a 24/7 basis.
- Those commands located in regions experiencing the greatest percentage of growth in terms of population, registered vehicles, and registered drivers.

**Detail on Traffic Safety:** The following statistics are from the California Office of Traffic Safety:

- In 2006, 4,195 people died and 277,373 people were injured in California traffic collisions. This compares to 4,649 deaths (350,068 injuries) in 1991 and 3,730 deaths (303,023 injuries) in 2000.
- California's 2006 Mileage Death Rate (MDR) - fatalities per 100 million miles traveled (100 Million VMT) is 1.28, much lower than the national MDR of 1.41. Of the five largest states in terms of total traffic fatalities, (CA, FL, TX, GA, & NC), California has the lowest rate. This compares to a MDR of 1.8 in 1991 and 1.22 in 2000.

The statistics generally indicate that traffic safety improved throughout the 1990s, but that the trends started to reverse at the beginning of this decade. The CHP is one factor of many in reducing traffic deaths and injuries. Other factors to consider

are speed limits, vehicle collision-safety equipment (air bags), guard-rails and other roadside safety features, etc.

**Detail on 2008-09 Fee Increase:** Last year the Administration proposed, and the Legislature approved, an \$11 motor vehicle registration fee increase and a new late-payment penalty to fund the cost of CHP Officers and other needs. Existing law already included a \$10 fee for CHP Officers and this fee was increased to \$21 dollars. The penalties for late registration vary by lateness, but were essentially doubled. The fee/penalty increase was estimated to raise annual revenue by \$490 million. The Administration proposed the fee increases as necessary to fund the cost of Officers and related support, such as the new radio system. No out-year increase in the number of Officers was agreed to when the fee was approved.

**LAO Recommendation:** The Legislative Analyst recommends the Legislature maintain the 120 Officer positions previously approved for 2009-10 during last year's budget process, but reject the additional staff requested of 120 Officers and 8 Automotive Technicians. This would result in 480 new officers added since the staff growth began in 2006-07. The LAO notes two concerns: (1) the budget request does not account for staggered hiring over the fiscal year, and over-budgets 2009-10 cost by \$13 million; and (2) the additional 120 positions are not justified because they do not tie the augmentation to a level of service, such as Officers in proportion to licensed drivers. In total, the LAO recommends a reduction of \$22 million and new supplemental report language requiring the CHP to report by January 10, 2010, on the current baseline level of patrol services and the level of service it intends to achieve with recent and any future position requests.

**Revised Administration Request:** The Administration recalculated the budget request and indicates that it can be reduced by \$4.3 million in 2009-10 to better-account for the staggered hiring over the fiscal year.

**Staff Calculation:** Another technical budget issue, is that the request does not account for savings from base vacancies that continue in 2009-10. The CHP has reduced these base vacancies (fillable vacancies from base staffing) from 505 vacant positions in July 2008 – an average base vacancy number of 141.5 positions is projected in 2009-10. The academy classes incur higher cadet costs to fill base vacancies but there is still net savings. Savings of about \$7.6 million should occur from these base vacancies. Note, \$40 million was scored from base vacancies in 2008-09. The Administration's correction of \$4.3 million along with the staffing base vacancy calculation of \$7.6 million, sum to \$11.9 million – this is similar to the LAO technical adjustment.

**Staff Comment:** The issues for consideration with this request are: (1) whether the new growth of 120 CHP Officers should be approved this year (beyond the 480 new Officers approved in recent years), and (2) what funding level is technically appropriate for the number of positions approved by the Legislature.

**Staff Recommendation:** Keep open for further analysis.

<p><b>Action: Kept issue open. The LAO and the Administration indicated that a technical budget adjustment of negative \$10.6 million is appropriate.</b></p>
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## 5. Mobile Food Service (Staff Issue).

**Background:** Over the past decade, the CHP has added a mobile food service capability. This has been accomplished with redirected resources, so the Legislature has not reviewed this activity through the budget process. The CHP indicates that, in 2000, it added a mobile field kitchen to support departmental personnel during prolonged emergency incidents (such as the Bio-Tech conference, demonstrations, Democratic National Convention, State Capitol truck fire, etc.) throughout the state. However, this food service is limited and food is typically prepared at the CHP Academy and then transported to the field. The CHP indicates it is currently in the procurement process to expand its emergency food service abilities with the addition of a 36-foot mobile kitchen trailer capable of producing 1,000 meals per day. The CHP indicates this new kitchen trailer will cost \$280,000.

**Alternatives for mobile food service:** The CHP indicates that it only had a need for mobile food service once in 2007-08 – that was during the southern California fires. However, in that case, CHP officers were directed to find their own meals and were compensated through per diem, which the CHP indicates is \$34 per day – the total cost was \$80,000. Staff understands the Department of Forestry and Fire Protection also has emergency food service and generally purchases food from pre-approved local vendors. The CHP does not have an analysis to compare the cost of the mobile kitchen to local vendors or to per diem. The department indicates that the widespread nature of some emergencies, such as Hurricane Katrina, make it difficult to utilize per diem or bulk meal purchases from local vendors.

**Staff Comment:** The CHP should be prepared to discuss best-practices and cost efficiency for this function, and be prepared to answer the following questions:

- A. Does the added value of the mobile vehicle justify the \$280,000 cost relative to the other options of: (1) delivering prepared meals from the CHP academy; (2) bulk meal purchases from local vendors; or (3) per diem payments to individual officers?
- B. Since this equipment is infrequently used, can the cost and use be shared among several state emergency response agencies?

**Staff Recommendation:** This is an informational issue; however, if the Subcommittee does not feel this is an essential expenditure in this difficult budget year, the purchase could be deferred and the funding of \$280,000 reverted.

<b>Action: Informational issue – no action.</b>
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## 6. Construction or Renovation of State-owned Facilities (COBCPs #1, 2, 6, & 7).

**Background:** The Administration requests \$13.4 million (Motor Vehicle Account) in 2009-10 for four capital outlay projects for state-owned facilities. When future construction costs are added, the total costs for these projects, in 2009-10 through completion, is \$49.5 million. Funding for these COBCPs was removed from the 2009 Budget Act without prejudice to allow further legislative review.

**Detail:** According to the 2008 California Infrastructure Plan, the CHP occupies 102 area offices, 25 communications centers, 8 division offices, and 39 other facilities including the Sacramento headquarters and West Sacramento Academy. The Administration generally submits three budget requests over multiple years to complete a State-owned capital outlay facilities project. The first step is preliminary plans, the second step is working drawings, and the third step is construction. The four projects and phases are as follows:

- **Oakhurst Area Office – Replacement (Construction):** \$9.1 million is requested for 2009-10 to replace the Oakhurst Area Office. The Legislature previously approved about \$2.0 million for preliminary plans, working drawings, and site acquisition.
- **Oceanside Area Office – Replacement (Working Drawings):** \$1.2 million is requested for 2009-10 for a replacement facility in Oceanside. The Legislature previously approved about \$3.0 million for preliminary plans and site acquisition. The Administration will likely submit a BCP for 2010-11 requesting approximately \$18.6 million for construction.
- **Santa Fe Springs Area Office – Replacement (Working Drawings):** \$1.2 million is requested for reappropriation. The Legislature approved \$6.3 million for preliminary plans and land acquisition for this project in 2007-08. An additional \$17.5 million will be requested in the out-years to fund construction.
- **Bishop Area Office – Reconfiguration (Construction):** \$1.9 million is requested for 2009-10 to reconfigure the Bishop Area Office by expanding the CHP area into space formerly occupied by the Department of Motor Vehicles. The Legislature previously approved \$132,000 for preliminary plans and \$167,000 for working drawings.

**Staff Comment:** Given the number of aging facilities and growing number of CHP Officers, it is understandable that in any given year, the CHP has a number of facilities projects. The CHP is minimizing costs in some cases by reconfiguring existing facilities instead of building entirely new offices.

A concern this year is the overall economic and budgetary environment. The LAO and the Administration have previously identified approximately \$70 million per year in Motor Vehicle Account revenues that are not restricted by the Constitution and could be transferred to the General Fund. The budget package approved in February did not include this transfer. However, it is possible additional budget solutions may be necessary after the May Revision revenue forecast is released.

**Staff Recommendation:** Keep open pending May Revision revenue projections.

<b>Action: Kept issue open.</b>
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## 2740 Department of Motor Vehicles

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

**Governor's Budget:** The Governor proposes total expenditures of \$963.0 million (no General Fund) and 8,493.1 positions, an increase of \$2.7 million and an increase of 217 positions.

**Activity:** (in millions):

Activity	2008-09	2009-10
Vehicle/vessel identification and compliance	\$547	\$536
Driver licensing and personal identification	246	258
Driver Safety	117	118
Occupational Lic. And Investigative Services	49	48
New Motor Vehicle Board	2	2
Administration (distributed)	(107)	(107)
<b>TOTAL</b>	<b>\$960</b>	<b>\$963</b>

**Major Funding Sources** (in millions):

Fund Source or Account	2008-09	2009-10
Motor Vehicle Account (MVA)	\$619	\$887
Motor Vehicle License Fee Account (MVLFA)*	268	0
Reimbursements	15	15
State Highway Account (SHA)	51	52
Federal funds	2	2
Other special funds (no General Funds)	5	7
<b>TOTAL</b>	<b>\$960</b>	<b>\$963</b>

\* Proposal to shift MVLFA to local law enforcement was rejected, instead a new 0.15 VLF tax was approved.

**Adopted 2009-10 Framework Budget (SB 1XXX):** In the adopted framework 2009-10 budget, the Legislature removed funding for the following items "without prejudice for further subcommittee discussion":

- Driver License / Identification Card (DL/ID) Contract (Budget Change Proposal (BCP) #1): \$11.0 million and 16.0 positions in 2009-10 and \$8.1 million ongoing.
- Real ID Act Material Compliance (BCP #3): \$4.2 million and 45.1 positions in 2009-10 and \$3.7 million ongoing.
- Trailer bill language increasing DL and ID fees by \$3 to fund the above two items.
- Capital outlay funding for new or reconfiguration of existing field-office facilities: \$20.4 million.

## 1. General Background on Federal REAL ID Act.

**Background:** On May 11, 2005, President Bush signed H.R. 1268, which includes the Real ID Act of 2005. In 2006, the DMV estimated that implementation of Real ID would cost the State \$500 million to \$750 million. Final regulations from the federal government on the implementation of Real ID were released on January 11, 2008, and delayed full implementation of the Act. Last year, the DMV updated Subcommittee #4 on the final regulations and re-estimated costs over eight years to implement Real ID at \$143 million for “material compliance” and \$303 million for “full compliance.” The primary difference between material and full compliance is that with full compliance, DMV is fully integrated with new national “pointer” databases of birth records and DL/ID cards. DMV has previously testified that it does not have the authority to fully implement the Real ID Act without legislative approval and statutory change.

**Detail on Prior State Action:** In 2006-07 the Administration submitted, and the Legislature approved, \$18.8 million for information technology (IT) improvements and planning activities to improve DMV’s customer service and data collection – the Department indicated these IT projects were related to Real ID. The Legislature approved the funding and added budget bill language specifying that the funding did not implement Real ID for California, but rather improved efficiencies at the DMV to facilitate implementation at a later date, should enacting legislation be approved. In 2007-08, no budget changes were requested related to Real ID. In 2008-09, the Administration submitted a May Finance Letter requesting authority to spend \$6.5 million in federal grant funds related to Real ID that DMV had applied for. Since no implementing Real ID legislation had been proposed or approved, the request was denied. DMV ended up with a \$3.2 million federal grant (instead of the hoped-for \$6.5 million); however, the grant has multi-year availability and DMV now anticipates a 2010-11 budget request to spend the funds. This year, to date, the DMV has submitted two Budget Change Proposals fully or partially related to the implementation of Real ID, but has not forwarded to the Legislature any statutory change to implement the Act.

**Final Federal Real ID Regulations:** The final regulations differed in significant ways from the draft regulations. Most significantly, States have until 2017, instead of 2013, to implement the Real ID Act for all license and ID card holders. The final regulations allow states to apply to delay initiation of Real ID (i.e., begin the issuance of materially-compliant ID cards) from May 2008 to January 1, 2010 – DMV indicates it has already applied for, and received approval of, this extension. As a condition of receiving a second extension for “full compliance” to May 2011, States must show progress in working toward “material compliance.

**Material Compliance versus Full Compliance:** The DMV indicates that it already meets several criteria of material compliance (such as capturing a digital picture and verifying legal presence in the United States through the Department of Homeland Security (DHS) database) but the department would additionally have to do the



following to meet all criteria for material compliance: require applicant documentation to establish residence address, marking materially compliant cards with a DHS-approved marking; issuing one-year limited-term DL/ID cards when the legal presence document says "Duration of Stay" or has no expiration date; and marking non-compliant cards. DMV believes they would be able to mark non-Real-ID-compliant cards as "California Compliant," but that that marking would have to be approved by the DHS. With budget requests in BCP #1 and BCP #3, the Administration proposes to meet most of the 18 components of material compliance by January 1, 2010. However, the following components would remain unmet under the current Administration proposal: (1) the card would not have the "Real ID compliant" marking and require an amendment to the DL/ID Card contract to mark the Real ID compliant card; (2) California has not made any commitment to Real ID full compliance at this time; and (3) Legislation is required to issue two cards: a CA-compliant card and a Real ID material compliant card.

To achieve full compliance by May 11, 2011, the DMV would have to participate in national electronic verification systems that do not currently exist (verification of other states' birth certificates, U.S. passports, and out-of-state DL/ID card verifications). Full compliance requires an existing cardholder to bring in proof of their true full name, legal presence, and two documents that establish their residence address. Other key points of full compliance that California is not currently meeting are: terming Senior Citizen ID Cards to expire in eight years instead of ten; re-verifying legal presence and Social Security Number when a card is renewed or reissued; preventing individuals from holding both a Real ID driver license and a Real ID identification card at the same time; and retaining copies of all source documents.

*Appendix II and III to this agenda list all individual points of material and full compliance according to DMV's 2008 report to the Legislature.*

**Staff Comment:** The DMV should share with the Subcommittee any recent activities at the federal level, and indicate the Administration's position on the implementation of Real ID, and when any related policy language will be proposed.

**Staff Recommendation:** Informational issue – no action required.

<p><b>Action: Informational issue – no action. Due to time constraints at the hearing, this issue was skipped. It will likely be heard at a future hearing.</b></p>
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**2. New Staff to achieve material compliance for REAL ID (BCP #3).**

**Background:** The Governor requests \$4.2 million (Motor Vehicle Account) and 45.1 new positions to implement new driver license and identification (DL/ID) card issuance procedures that will bring DMV closer to material compliance with the Real ID Act by January 1, 2010. In 2010-11, and ongoing, the budget augmentation would decrease to \$3.7 million and the number of new positions would increase to a new total of 59.1 positions. Funding for this BCP was removed from the 2009 Budget Act without prejudice to allow further legislative review. An associated \$3 increase in DL/ID fees is discussed separately – see issue #4.

**Detail:** DMV proposes to begin requiring two documents to verify residential address at the time of an original application for a DL/ID card. DMV also indicates it will propose *policy* legislation to authorize the issuance of two card types, a Real ID compliant DL/ID card and a non-compliant (or “California Compliant”) DL/ID card. However, no legislation has been proposed to date. For renewals, DMV proposes to make compliance optional – customers could choose to either renew their cards under current requirements (non-compliant card), or resubmit birth/address/social security documents to obtain a compliant card. The majority of the new cost is for counter staff and related management to address the new workload; however, \$1.1 million of first-year funding is for media and security/privacy consulting.

**LAO Recommendation:** The Analyst indicates this budget request is premature because: (1) the State must obtain federal approval prior to beginning issuance of cards marked “Real ID Compliant” and that approval is unlikely to come before January 1, 2010; (2) a new Administration may choose to modify Real ID at the federal level; and (3) states are *not* required to begin issuing Real ID compliant cards by January 1, 2010, to receive a “full compliance” extension to May 11, 2011.

**Staff Comment:** One major trigger for a Real ID budget augmentation is a determination by the Legislature concerning the desirability of implementing Real ID in California. The LAO’s analysis suggest there is time for the Legislature to consider anticipated policy legislation from the Administration this year, and consider budget changes next year (for the 2010-11 fiscal year). The DMV indicates that if staff is not augmented per this BCP, they will not begin verifying residential addresses beginning January 1, 2010, and this would increase the risk that the Department of Homeland Security (DHS) would reject their request for a full-compliance extension to May 2011. Under this scenario, DHS might start barring Californians from boarding airplanes with a California DL/ID after January 1, 2010 (a person would have to have a passport to board a plane). This scenario seems unlikely because the national databases do not exist to achieve full compliance, nor will they by January 1, 2010. Additionally, DMV indicates they will not achieve other points of material compliance by January 1, 2010. Note, the Real ID regulations only require *progress toward* material compliance to receive the extension.

**Staff Recommendation:** Keep open for further review.

<b>Action: Kept issue open. Due to time constraints at the hearing, this issue was skipped. It will likely be heard at a future hearing.</b>
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### 3. New DL/ID Card Contract (BCP #1).

**Background:** The Governor requests \$11.0 million (Motor Vehicle Account) and 16 new positions to implement a new information technology (IT) project to produce new driver license and identification (DL/ID) cards. The cost of this new IT contract is \$63 million over a five-year period. The Administration had submitted a Control Section 11.00 request on January 14, 2009, to sign the vendor contract in the 2008-09 fiscal year; however, the Joint Legislative Budget Committee (JBLC) rejected this request indicating that the budget subcommittee process will provide an opportunity for the department to provide a fuller explanation of, and justification for, its proposal, as well as give the Legislature an opportunity to weigh the proposed contract's costs and benefits and consider the policy implications of the proposed changes. Funding for this BCP was removed from the 2009 Budget Act without prejudice to allow further legislative review. An associated \$3 increase in DL/ID fees is discussed separately – see issue #4.

**Detail on procurement:** DMV's current card contract expires on June 30, 2009. The Department indicates it can extend this contract to June 30, 2010, but that the vendor is unwilling to extend the existing contract beyond June 30, 2010, due to aging equipment that is at risk of failure. DMV did complete the Request for Proposal (RFP) procurement process, and the winning bidder, a company called L1, is also the vendor for the existing contract.

**Features of the proposed new card:** The new contract would include the use of biometric technology as part of the card issuance process. Automated biometric matching is not part of the current DMV procedure and current-law related to DMV was written prior to the advent of this technology. The new card would additionally include the new "2-D bar code" encrypted technology required by the Real ID regulations. The 2-D bar code would not include any information not printed on the front of the card and not on the existing magnetic stripe. DMV indicates the proposed contract would not include "Real ID Compliant" markings, and that they would intend to proceed with a contract amendment if Real ID is implemented. The card would not use radio frequency (RFID) technology.

**Existing Law concerning the privacy of DMV records:** The DMV indicates it is directed by both the California Vehicle Code (Sections 1808 and 1810.5) and by the federal Driver's Privacy Protection Act of 1994 (18 U.S.C. Sec. 2721). Both laws restrict the use of driver records and data, but allow law enforcement use and other specified use by government agencies. The breadth of use by law enforcement is not specifically defined with regards to biometric technology; however, DMV indicates its current technology only allows a "one-to-one" match, such as requesting the fingerprint and picture of a single individual. It seems technically feasible that the bio-metric technology in the proposed contract could be adapted to allow a "one-to-many" search by law enforcement (i.e., a match of a suspect picture or fingerprint against the totality of DMV data). The DMV indicates that it is not their intent to

implement a one-to-many search for law enforcement, but existing statute does not appear directive on this point.

**DMV's proposed use of automated biometric technology.** The DMV believes the new biometric technology will help reduce fraud. When a person applies for a card, the new photo image of the applicant will be checked against all existing photo images (one-to-many) to help identify a person who fraudulently has cards under multiple names. The fingerprint would be checked against the file fingerprint (one-to-one) and also to track the individual across multiple stations at the DMV field office (i.e. that the person who submitted the paperwork is the same person who takes the new photo). The ability to use the photo biometric matching against the existing database is uncertain – DMV indicates the technology may only adequately function with higher-quality images that the new system would capture.

**LAO Comment:** The LAO indicates that the request is not fully justified, in part because the department was unable to provide key information on the specific cost and benefits related to the proposed use of biometrics.

**Staff Comment:** During the JLBC review of the Section 11.00 letter, concern was raised by privacy advocates over the use of biometric technology. In considering this budget request, the Subcommittee may want to review the specific benefit of adding biometrics to the DL/ID card contract – it is not required by Real ID. It does appear that DMV needs a new DL/ID card contract, because the existing contract would be on its third extension and the equipment is aging. However, the new contract and procedures should also be consistent with the priorities of the Legislature. The Legislature's options would include the following:

- A. Approve the funding and contract as proposed, take no further action.
- B. Approve the funding and contract as proposed, but amend statute related to privacy to specify allowable external use (outside of DMV) of the biometric matching technology.
- C. Adopt budget bill language or statutory change to prohibit biometric-matching technology as part of the DL/ID contract, and approve funding for the modified contract.

**Staff Recommendation:** Keep open for further review.

<p><b>Action: Kept issue open. The Subcommittee will submit written questions for DMV response. This issue will likely be heard again at a future hearing.</b></p>
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**4. DL/ID fee increase for Card Contract & Real ID.**

**Background:** The Governor requests a \$3 fee increase for DL/ID cards. This fee revenue would go to the Motor Vehicle Account to fund the costs associated with the proposed DL/ID contract (BCP #1) and Real ID staffing (BCP #3). DMV annually issues about 8.3 million cards, so the new fee would result in about \$25 million in annual revenue to fund the costs associated with the new card contract and Real ID. Trailer bill language to implement this fee increase was excluded from the adopted 2009 Budget Act package to allow further legislative review.

**Staff Comment:** The Legislature may want to conform action on the fee increase to the final action taken on BCPs #1 and #3. The card contract adds approximately \$1 to the current cost of the cards, and the remainder of the new revenue would be attributable to Real ID. While 2009-10 cost would fall below the new revenue, the Administration indicates ongoing cost pressure on the Motor Vehicle Account (MVA). The Administration wants the fee increase to deal with both 2009-10 costs and ongoing cost growth.

**Staff Recommendation:** Keep open for further review.

<b>Action: Kept issue open.</b>
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**5. Overall IT Portfolio.**

**Background:** The DMV has a challenging number of medium to large information technology (IT) projects that were approved for funding in prior years and are underway. There are eight projects either recently-completed or ongoing with a total budgeted cost of about \$350 million. The largest project is the IT Modernization project, which will incrementally upgrade the DMV core systems with new system hardware and software. DMV’s core system is a 40-year old mainframe system and a replacement project failed in the 1990s with a sunk cost of approximately \$50 million. The LAO table below briefly summaries the projects.

**Department of Motor Vehicles (DMV)—Information Technology Projects**

Project Description	
<b>Recently Completed Projects</b>	
Document Imaging and Storage Replacement	Replaced the document imaging, storage, and retrieval system with five digital scanners and related storage capacity.
Remittance System Replacement	Replaced all components of the system with new equipment and new system hardware and software.
Telephone Service Center Replacement	Replaced the nine independent telephone systems in use in the Telephone Service Centers with a single virtual system.
<b>Continuing Projects</b>	
Information Technology Modernization	Will incrementally upgrade the DMV core systems with new equipment and new system hardware and software.
Financial Responsibility	Will develop an in-house system to track vehicle compliance with insurance requirements, and suspend vehicle registrations for lack of compliance.
Real ID <sup>a</sup>	Will expand DMV’s driver license and identification card system name fields to improve security and enhance Web site to enable customers to conduct more business transactions online.
International Registration Plan (IRP) System Replacement	Will replace existing obsolete computer system for processing commercial vehicle registration and electronic payment and distribution of commercial vehicle registration fees among IRP member jurisdictions.
Driver License/Identification/Salesperson Contract	Will select a vendor to continue driver license, identification, and salesperson card issuance, including the addition of various security components.

<sup>a</sup> This project does not implement the federal Real ID Act. It is comprised of two projects—the Expanded Name Field and Web site Infrastructure System projects—that would make it easier for California to comply with the act.

As indicated on the prior table, DMV has completed three of the projects. While the projects were delayed up to 10 months in completion, they were all successfully completed with an overall cost savings relative to initial estimates. The LAO table below indicates original and revised costs for all eight projects, as well as schedule slippage.

**Department of Motor Vehicles' Information Technology Projects: Changes in Cost and Schedule**

(Dollars in Millions)

	Project Cost Estimates				
	Original Cost	Revised Cost	Change		Delay in Completion
			Actual	Percent	
<b>Completed</b>					
Document Imaging and Storage Replacement	\$6	\$4	-\$2	-29%	5 months
Remittance System Replacement	8	7	-2	-20	10 months
Telephone Service Center Replacement	19	22	3	16	8 months
<b>Continuing</b>					
Information Technology Modernization <sup>a</sup>	\$242	\$208	-\$34	-14%	None
Financial Responsibility	19	19	—	—	None
Real ID	35	43	8	23	28 months
International Registration Plan System Replacement	8	11	3	32	16 months
Driver License/Identification/Salesperson Contract	11	34	23	198	19 months

<sup>a</sup> While the completion date for this project has not been officially changed, recent reports indicate the project is currently about six months behind schedule.

**LAO Comment:** The LAO indicates that while the department has experienced some delays and cost variations, the department has done a relatively good job in implementing its IT projects. The projects are still within the total amount appropriated by the Legislature. Moreover, at the time this analysis was prepared, none of the projects appeared to be at risk of failure. Nonetheless, given the number of continuing projects, and the fact that the most costly project (ITM) is still several years from completion, it is important that the department use all available tools to assure these projects stay on schedule and budget. Accordingly, we recommend the department report at budget hearings on actions it is taking to address LAO concerns. In particular, the department should report on: (1) the steps it is taking to manage its staff resources so that different projects within DMV are not competing for staff resources, (2) any recent or planned changes in its IT management approach to encourage better planning and coordination of IT projects among affected programs, (3) its use of oversight consultants and potential improvements in this regard that could achieve better IT project outcomes, and (4) efforts it will make to encourage staff to use the enterprise tools developed by the Enterprise Wide Oversight Consultant (EWOC) to improve project oversight.

**Staff Comment:** While the state has had several expensive IT failures – the most recent being the 21<sup>st</sup> Century Project at the State Controller’s Office, the DMV should be congratulated for recently completing three IT projects. Going forward, the DMV’s IT Modernization project is still a high-cost, high-risk project. The DMV should be prepared to update the Subcommittee specifically on the IT Modernization project, and more generally on the other projects and the issues raised by the LAO (see underlined questions on prior page). Note, the Governor is also proposing a major IT reorganization centered at the Office of the Chief Information Officer, overall IT management is reviewed by Budget Subcommittee #4.

Past budget bill language requires the DMV to submit an annual report to the Legislature by December 31 on the status of the IT Modernization project – this report was provided on March 20th. The report states the project is progressing on schedule and under budget and the scope has remained unchanged.

**Staff Recommendation:** Informational issue – no action necessary.

<b>Action: Informational issue – no action.</b>
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## 6. Construction or Renovation of State-owned Facilities (COBCPs #1 - 8).

**Background:** The Administration requests \$21.6 million (special funds) in 2009-10 for eight capital outlay projects for state-owned facilities. When future construction costs are added, the total costs for these projects, in 2009-10 through completion, is \$62.6 million. Funding for this BCP was removed from the 2009 Budget Act without prejudice to allow further legislative review.

**Detail:** According to the 2008 California Infrastructure Plan, DMV occupies 98 state-owned facilities, 117 leased facilities, and shares an additional 12 facilities with other state agencies. The Administration generally submits three budget requests over multiple years to complete a State-owned capital outlay facilities project. The first step is preliminary plans, the second step is working drawings, and the third step is construction. The eight projects and phases are as follows:

- **Oakland Field Office Reconfiguration (Working Drawings and Construction):** \$155,000 is requested for working drawings and \$2.1 million is requested for construction – both in 2009-10. The Legislature previously approved \$145,000 for preliminary plans. This project is related to a 2008-09 BCP in order to consolidate the Oakland telephone service center into a new Central Valley facility. With the space opened up in the existing Oakland facility, the DMV would then reconfigure the second floor of the existing Oakland field office to house a DMV Business Service Center.
- **Fresno DMV Field Office Replacement Project (Working Drawings) –** \$1.1 million is requested for working drawings. The Legislature previously approved \$912,000 for preliminary plans. An additional \$18.9 million will be requested in the out-years to fund construction. This project will replace the existing facility at 655 West Olive Avenue that is 46 years old and is deficient in size and does not comply with current safety and accessibility codes. The DMV intends to meet a Leadership in Energy & Environmental Design (LEED) silver certification.
- **Stockton Field Office Reconfiguration (Construction Phase):** \$2.9 million is requested for 2009-10. The Legislature previously approved \$309,000 for preliminary plans and \$310,000 for working drawings. Separately, a new Stockton field office is being constructed, and this BCP converts the existing facility (at 710 North American Street) into a stand-alone driver-safety office.
- **Victorville Field Office Reconfiguration (Construction Phase):** \$3.4 million is requested for 2009-10. The Legislature previously approved \$331,000 for preliminary plans and \$308,000 for working drawings. DMV proposes to address physical infrastructure deficiencies by adding additional production terminals and expanding parking capacity.
- **San Bernardino Field Office Reconfiguration (Construction Phase):** \$2.1 million is requested for 2009-10. The Legislature previously approved \$217,000 for preliminary plans and \$198,000 for working drawings. This project would add capacity to the existing office by shifting the current dealer vehicle

registration workload to leased space and adding additional production terminals and lobby space.

- **Redding Field Office Reconfiguration (Construction Phase):** \$3.0 million is requested for 2009-10. The Legislature previously approved \$258,000 for preliminary plans and \$239,000 for working drawings. This project would add capacity to the existing office by adding additional production terminals and lobby space.
- **Fontana DMV Field Office Replacement Project (Site Acquisition and Preliminary Plans)** – \$4.0 million is requested for site acquisition and preliminary plans. Future out-year budget requests are anticipated at \$756,000 for working drawings and \$12.4 million for construction. This project will replace the existing facility in Fontana with a new building more than twice the size. The existing facility would later be converted into a DMV Business Service Center. The DMV intends to meet a Leadership in Energy & Environmental Design (LEED) silver certification.
- **Roseville DMV Field Office Replacement Project (Site Acquisition and Preliminary Plans)** – \$2.7 million is requested for site acquisition and preliminary plans. Future out-year budget requests are anticipated at \$536,000 for working drawings and \$8.5 million for construction. This project will replace the existing facility in Roseville with a new building more than twice the size. The DMV intends to meet a Leadership in Energy & Environmental Design (LEED) silver certification.

**Staff Comment:** Given the number of aging facilities and growing state population, it is understandable that in any given year, the DMV has a number of facilities projects. The DMV is minimizing costs in many cases by reconfiguring existing facilities instead of building entirely new offices.

A concern this year is the overall economic and budgetary environment. The LAO and the Administration have previously identified approximately \$70 million per year in Motor Vehicle Account revenues that are not restricted by the Constitution and could be transferred to the General Fund. The budget package approved in February did not include this transfer. However, it is possible additional budget solutions may be necessary after the May Revision revenue forecast is released.

**Staff Recommendation:** Keep open pending May Revision revenue projections.

<b>Action: Kept issue open.</b>
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### Appendix I – CHP 911 Dispatch Statistics

COMMUNICATIONS CENTER		Jan-2008			Feb-2008			Jan-2009			Feb-2009			Call Answer Times		
		PSD I & II Positions			PSD I & II Positions			PSD I & II Positions			PSD I & II Positions			Communication's Center	January	
Location	Command	Authorized	Vacant	Vacancy Rate	Authorized	Vacant	Vacancy Rate	Authorized	Vacant	vacancy Rat	Authorized	Vacant	Vacancy Rate		10 Sec or Less	20 Sec or Less
420	Bakersfield	25	3	12%	25	2	8%	25	0	0%	25	0	0%	Bakersfield	94.4%	98.1%
835	Barstow**	18	2	11%	18	2	11%	18	4	22%	18	4	22%	Barstow	91.4%	97.0%
825	Bishop	12	3	25%	12	4	33%	12	3	25%	12	3	25%	Bishop	94.7%	98.5%
618	Border CC**	54	14	26%	52	13	25%	50	8	16%	50	10	20%	Border	78.7%	85.6%
25	Capitol CC	12	1	8%	12	1	8%	12	0	0%	12	0	0%	Does not accept wireless 9-1-1 calls		
241	Chico	16	0	0%	18	3	17%	18	0	0%	18	1	6%	Chico	93.2%	98.7%
625	El Centro	12	1	8%	12	1	8%	12	0	0%	12	0	0%	El Centro	96.5%	99.1%
435	Fresno	38	8	21%	38	8	21%	37	5	14%	37	5	14%	Fresno	98.6%	99.1%
318	Golden Gate CC*	143	34	24%	143	35	24%	138	28	20%	138	30	22%	Golden Gate*	80.2%	84.2%
125	Humboldt	13	3	23%	13	3	23%	13	2	15%	13	0	0%	Humboldt	88.9%	98.1%
630	Indio	22	3	14%	22	3	14%	22	0	0%	22	0	0%	Indio	94.8%	98.7%
818	Inland CC	56	4	7%	56	8	14%	56	4	7%	56	4	7%	Inland	74.7%	85.1%
514	Los Angeles CC	171	16	9%	171	19	11%	171	15	9%	171	9	5%	LACC*	97.2%	97.8%
460	Merced	30	10	33%	30	9	30%	30	6	20%	30	8	27%	Merced	88.7%	92.8%
730	Monterey	28	4	14%	28	4	14%	28	1	4%	28	0	0%	Monterey	95.2%	98.7%
676	Orange Co. CC	48	17	35%	48	16	33%	47	5	11%	47	6	13%	Orange County	86.2%	93.4%
135	Redding	15	0	0%	15	0	0%	15	0	0%	15	0	0%	Redding	97.6%	99.5%
214	Sacramento CC	75	4	5%	75	10	13%	75	8	11%	75	3	4%	Sacramento*	81.5%	87.6%
745	San Luis Obispo	17	1	6%	17	2	12%	17	0	0%	17	0	0%	San Luis Obispo	96.9%	99.6%
265	Stockton	23	0	0%	23	1	4%	25	3	12%	25	3	12%	Stockton	97.7%	99.0%
140	Susanville	12	0	0%	12	0	0%	12	0	0%	12	0	0%	Susanville	99.1%	99.9%
222	Truckee	11	0	0%	11	1	9%	11	3	27%	11	2	18%	Truckee	89.9%	97.1%
150	Ukiah	12	3	25%	12	3	25%	12	2	17%	12	2	17%	Ukiah	93.9%	98.4%
765	Ventura	25	6	24%	25	6	24%	24	8	33%	24	8	33%	Ventura	86.3%	94.8%
145	Yreka	13	1	8%	13	0	0%	13	0	0%	13	0	0%	Yreka	99.4%	100.0%
	Statewide Total	901	138	15%	901	154	17%	893	105	12%	893	98	11%	State Average	91.5%	95.9%
		<b>Authorized Positions</b>														
			893	Dispatchers in the field												
			10	Dispatchers assigned to training (both north and south training facilities)												
			114	PSD Supervisor I's												
			24	PSD Supervisor II's												
		TOTAL	1041													

## Appendix II – DMV Assessment of Material Compliance with Real ID

### Requirements to Meet Material Compliance

#	Section	Requirement	Comments
1	§ 37.11(a)	Subject each applicant to a mandatory facial image capture and retain such image even if a driver license (DL) or identification card (ID) is not issued.	Currently in compliance.
2	§ 37.11(b)	Have each applicant sign a declaration under penalty of perjury that the information presented is true and correct, and the State must retain this declaration.	Currently in compliance for original and in-person renewals.  Requires change of procedures for Internet and renewal by mail customers.
3	§ 37.11(c)(1)	Require an individual to present at least one of the source documents listed in subsections (i) through (x) when establishing identity.	Currently in compliance.
4	§ 37.11(d)-(g)	Require documentation of: <ul style="list-style-type: none"> <li>• Date of birth</li> <li>• Social Security Number</li> <li>• Address of principle residence</li> <li>• Evidence of lawful status</li> </ul>	Requires change of procedure.  Requires applicants provide proof of the SSN and residence address.
5	§ 37.11(h)	Have a documented exceptions process that meets the requirements established in 37.11(h)(1)-(3) (if states choose to have such a process).	Requires change of procedure.  New procedures will require a documented exception process.
6	§ 37.13	Make reasonable efforts to ensure that the applicant does not have more than one DL or ID already issued by that state under a different identity	Currently in compliance.
7	§ 37.13(b)(1)	Verify lawful status through SAVE or another method approved by DHS.	Currently in compliance.
8	§ 37.13(b)(2)	Verify social security numbers with the Social Security Administration or another method approved by DHS.	Currently in compliance.
9	§ 37.15(b)	Issue DL/ID cards that contain level 1, 2 and 3 integrated security features.	Currently in compliance.

#	Section	Requirement	Comments
10	§37.17(a)-(l)	Surface of cards include the following printed information in Latin alpha-numeric characters: <ul style="list-style-type: none"> <li>• Full legal name</li> <li>• Date of birth</li> <li>• Gender</li> <li>• Unique DL/ID number</li> <li>• Full facial digital photograph</li> <li>• Address of principal residence [with exceptions]</li> <li>• Signature [with exceptions]</li> <li>• Date of transaction</li> <li>• Expiration date</li> <li>• State or territory of issuance</li> </ul>	Currently in compliance.
11	§ 37.17 (n)	Commit to marking fully compliant DL and IDs with a DHS-approved security marking.	Requires change of procedure.  Requires inclusion of a new security feature on the DL/ID card. Requires change in DL/ID card contract.
12	§ 37.21	Issue temporary or limited-term DL/ID cards to all individuals with temporary lawful status and tie license validity to the end of lawful status.	Currently in compliance with original applicants, with an expiration date on the DHS document.  Requires change of procedure to include all applicants without permanent legal presence status.
13	37.41	Have a documented security plan for DMV operations in accordance with the requirements set forth in § 37.41.	Requires change of procedure.
14	§ 37.41(b)(2)	Have protections in place to ensure the security of personally identifiable information.	Requires legislation.

#	Section	Requirement	Comments
15	§ 37.41 (b) (5) (i)-(ii)	Require all employees handling source documents or issuing DL or IDs to attend and complete the AAMVA approved (or equivalent) fraudulent document recognition training and security awareness training.	Currently in compliance.
16	§ 37.45	Conduct name-based and fingerprint-based criminal history and employment eligibility checks on employees in covered positions or an alternative procedure approved by DHS.	Requires legislation.  Current law includes a grandfather clause for existing employees.
17	§ 37.51 (b)	Commit to be in full compliance with Subparts A through D on or before May 11, 2011.	Requires legislation.
18	§37.71(a)(1)	Clearly state on the face of non-compliant DL or ID cards that the card is not acceptable for official purposes, except for licenses renewed or reissued under § 37.27.	Requires legislation.

### Appendix III – DMV Assessment of Full Compliance with Real ID

#### Remaining Requirements to Meet Full Compliance

#	Section	Requirement	Comments
19	§ 37.05(a)	Issue REAL ID DL/ID cards valid for a period not to exceed eight years.	Requires legislation.  Requires a change on Senior Identification card terms from ten years to eight years.
20	§ 37.11(i)	Take sufficient steps in issuing REAL ID DL/ID cards to safeguard the identities of persons identified in section 37.11(i).	Currently in compliance.
21	§ 37.13(b)(3)	Verify birth certificates.	Requires change of procedure.  Requires use of EVVE System for electronic verification.
22	§ 37.13(b)	Verify a U.S. passport, Consular Report of Birth Abroad, and U.S. Visa with accompanying valid I-94.	Currently in compliance for I-94 cards.  Requires use of new or enhanced electronic verification system.
23	§ 37.13(b)(5)	Verify REAL ID DL/ID cards with the state of issuance.	Requires change of procedure.  Requires the use of the National Pointer System for electronic verification; this system does not exist today.
24	§ 37.15(a)(1)	Include document security features on REAL ID DL/ID cards that are not capable of being reproduced using technologies that are commonly used and made available to the general public.	Currently in compliance.
25	§ 37.15(d)	Conduct a review and submit a report to DHS on card design and the ability of the card to resist forgery and counterfeiting.	Requires change of procedure.

#	Section	Requirement	Comments
26	§ 37.19 (a)-(j) § 37.21(c)	Include all of the information on the face of the card in the PDF-417 (2D bar code) Machine Readable Zone of the card and, in addition, the: <ul style="list-style-type: none"> <li>• Card design revision date</li> <li>• Inventory control number</li> <li>• Indication that license is temporary or limited-term</li> </ul>	Requires a change of procedure.  Requires new data fields to be stored.
27	§ 37.21	Prior to renewing temporary or limited-term driver license or identification cards, require applicants to: <ul style="list-style-type: none"> <li>• Present valid documentary evidence that their qualification is still in effect or that they have qualified for another lawful status; and</li> <li>• Verify information presented through SAVE, or another method approved by DHS</li> </ul>	Currently in compliance.
28	§ 37.23(a)	Have a procedure in place to verify an applicant's identity each time a REAL ID DL/ID card is reissued.	Currently in compliance.
29	§ 37.23(b)	Conduct remote re-issuance, if permitted, in accordance with section 37.13 verification procedures (excluding re-issuance of duplicate cards).	Currently in compliance.
30	§ 37.23(c)	Require in-person re-issuance when there is any material change in personally identifiable information since the prior card issuance, as defined in § 37.03. Such information shall be verified as specified in 37.13.	Currently in compliance.
31	§37.25(a)(1)-(3)	Prior to renewing a REAL ID DL/ID: <ul style="list-style-type: none"> <li>• Take an updated photograph of all holder's of REAL ID drivers license and identification cards no less frequently than every 16 years.</li> <li>• Re-verify an applicant's SSN and lawful status, as well as any information that was unverifiable at previous card issuances or renewals because systems or processes did not exist.</li> </ul>	Currently in compliance with new photo every 16 years.  Requires change in procedure to reverify customer information using SSOLV and SAVE.



#	Section	Requirement	Comments
32	§37.25(b)(1)-(2)	If remote REAL ID renewals are permitted: <ul style="list-style-type: none"> <li>• Re-verify the applicants information through SAVE and SSOLV (or other methods approved by DHS)</li> <li>• Prohibit the remote renewal of REAL ID DL/ID when there is a material change in personally identifiable information, as defined in §37.03.</li> </ul>	Requires change of procedure.
33	§ 37.29	Not permit an individual to hold more than one REAL ID document, and no more than one DL: <ul style="list-style-type: none"> <li>• Prior to issuing a REAL ID driver license, query other states to determine if applicant has been issued a driver license or REAL ID identification card; confirm that the other card has been, or is being, terminated.</li> <li>• Prior to issuing a REAL ID identification card, query other states to determine if applicant has already been issued a REAL ID DL/ID; confirm that the other card has been, or is being, terminated.</li> </ul>	Requires legislation.
34	§37.31(a)(1)-(3)	Retain copies of the application, declaration and source documents. Paper copies and microfiche must be retained for seven years. Digital images must be retained for a minimum of ten years.	Requires change of procedure.
35	§37.31(b)(1)-(3)	If digital imaging is used to retain source documents: <ul style="list-style-type: none"> <li>• Store photo images in a JPEG compatible format.</li> <li>• Store document and signature images that are compressed in TIF or comparable standard.</li> <li>• Require that all images are retrievable by the DMV if properly requested by law enforcement.</li> </ul>	Requires change of procedure.
36	§ 37.33(a)-(b)	Maintain a DMV database containing, at a minimum, items identified in 37.33(a)(1)-(4).	Requires change of procedure.  Requires new data fields to be stored on driver records and DL/ID cards.

#	Section	Requirement	Comments
37	§ 37.41 (b)(4)	Implement documented procedures for controlling access to facilities and systems involved in the enrollment, manufacture, production and issuance of DL/ID cards	Currently in compliance.
38	§ 37.43	Ensure the physical security of locations where driver licenses and identification cards are manufactured or produced, and the security of document materials and papers of which such cards are produced.	Currently in compliance.
39	§ 37.55	Submit final certification package to include: <ul style="list-style-type: none"> <li>• Full compliance certification checklist.</li> <li>• Attorney General letter.</li> <li>• Certification by highest level executive official in state overseeing DMV.</li> <li>• Description of states exceptions process per §37.11(h), waiver process (per §37.45(b)(1)(v)).</li> <li>• State security plan (per §37.41).</li> </ul>	Requires change of procedure.

## SUBCOMMITTEE NO. 2

## Agenda

S. Joseph Simitian, Chair  
Alan Lowenthal  
John J. Benoit



Thursday, April 2, 2009  
9:30 a.m.  
Room 2040

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### Resources—Environmental Protection—Energy—Transportation

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling 916-324-9335. Requests should be made one week in advance whenever possible.

## Bond Funds

- LAO – Jason Dickerson
- DOF – Brian Dewey

**Resources Bond Funds Background.** Since 1996, \$22 billion in resources-related bonds have been approved. Between 1996 and 2006, voters have approved seven resources bonds totaling \$20.6 billion (Propositions 204, 12, 13, 40, 50, 84, and 1E), as well as \$1.2 billion for air quality purposes in the Proposition 1B transportation bond and \$200 million for local parks in the Proposition 1C housing bond. Of these bonds, \$4.3 billion remains available for future appropriations after 2009-10.

**2009-10 Budget Act.** The *2009-10 Budget Act* includes \$1.8 billion in bond fund appropriations for the resources area (Natural Resources: \$1.54 billion; CalEPA: \$264 million). The majority of resources bonds are for the Department of Water Resources, which received \$764 million, primarily for various flood control projects. The Department of Parks and Recreation received \$379 million, primarily for local assistance.

## Federal Stimulus Funds

**American Recovery and Reinvestment Act.** On February 17, 2009, President Obama signed into law the American Recovery and Reinvestment Act (ARRA) of 2009, H.R. 1. The spending and tax-cut plan is intended to help stabilize state budgets and spur economic growth. The ARRA commits a total of \$787 billion nationwide. The funding provides: (1) \$330 billion in aid to the states, (2) about \$170 billion for various federal projects and assistance for other non-state programs, and (3) \$287 billion for tax relief.

**Funds for California.** Of the \$330 billion available under ARRA nationwide for state aid, the LAO estimates that California will receive approximately \$31 billion in additional federal funds during the current and the next two federal fiscal years (FFY). California's health programs will receive the largest share of these federal funds, about \$9 billion, and education-related programs will receive nearly \$8 billion in additional federal funds. These programs are followed by labor and workforce development and social services programs, which will receive about \$6 billion and \$3.5 billion, respectively.

**Funds for California Natural Resources.** The ARRA includes several resources and environmental protection-related provisions that will have a fiscal impact on California. All of

these additional federal funds supplement spending on resources and environmental protection-related programs and do not benefit the state's General Fund.

- **Water** – The ARRA includes about \$283 million provided directly to the state in grant and loan funding for wastewater infrastructure, through the existing Clean Water State Revolving Fund. The funds will all be made available in Federal Fiscal Year (FFY) 2008-09. The State Water Resources Control Board administers the program on behalf of the state in cooperation with the U.S. Environmental Protection Agency (U.S. EPA).
- **Energy** – The ARRA includes \$3.1 billion for State Energy Programs under the existing Energy Policy and Conservation Act, of which \$239 million will come to California. The ARRA directs states to focus on funding energy efficiency programs (such as energy efficient retrofits of buildings and industrial facilities) and renewable energy programs, and in particular to expand those programs already approved by the state. States are also directed to prioritize joint projects between states. All funds must be obligated by September 30, 2010.
- **Energy Efficiency** – The ARRA includes \$2.8 billion for Energy Efficiency and Conservation Block Grants (EECBG), of which \$784 million is to be allocated nationwide directly to the states. (The majority of the remainder will be allocated to local jurisdictions, with a small amount for tribes and other entities.) Of the allocation to the states, California will receive a total of \$56 million, with \$22 million available for state use and \$34 million to be passed through to small cities. An additional \$400 million is available nationally in the form of competitive grants, although there is currently no information available on how these grants are to be awarded.
- **Underground Storage Tank Funds** – The ARRA appropriates \$200 million nationally to the U.S. EPA for the Leaking Underground Storage Tank Fund Program. The state is expected to receive between \$15 million and \$17 million in the first year of funding and may be eligible to receive an additional \$5 million in the second year should other states be unable to fully utilize their grants. These funds must be applied for and are distributed in a competitive grant process.
- **Diesel Emission Reduction** – The ARRA appropriates \$300 million to the U.S. EPA for grants and loans awarded nationally for on- and off-road diesel emission reduction projects, including for diesel engine retrofit and replacement. Of this total, \$90 million is allocated directly to states (and California could receive at least \$1.8 million). The remaining balance -- \$210 million -- is to be awarded directly by the U.S. EPA as competitive grants. As the U.S. EPA's grant guidelines have yet to be developed, it is not known what amount of grant funds that the state could potentially access directly.
- **Wildland Fire Management** – The ARRA appropriates \$250 million to the U.S. Forest Service for state and private forestry activities, including hazardous fuels reduction, forest health, and ecosystem improvement activities on state and private lands. While the U.S. Forest Service has yet to determine how this funding will be delivered to the state, it is likely that a significant portion of the funding coming to the state would be administered by the California Department of Forestry and Fire Protection. The department has already submitted a \$176 million list of potential projects to the U.S. Forest Service.
- **Brownfields** – The ARRA appropriates \$100 million nationally for projects to be awarded by competitive grants under the Comprehensive Environmental Response,

Compensation, and Liability Act. There is no cost-share requirement in order to receive the money. While there is no allocation specific to California, projects in California may be eligible for grant funds. The Department of Toxic Substances Control (DTSC) would be the state's applicant agency.

- **U.S. Department of Defense Environmental Cleanup** – The ARRA appropriates \$5.1 billion to the Department of Defense for environmental cleanup activities. There are several former military installations in California that could be eligible for these funds. The DTSC administers the cleanup of some of these sites with federal reimbursement through the state budget.
- **Wireless and Broadband Access** – The ARRA appropriates \$4.4 billion to the National Telecommunications and Information Administration (under the Department of Commerce) for competitive grants awarded nationally to increase the deployment of broadband services in “unserved and underserved areas.” While there is a 20 percent state matching requirement (which can be waived), the ARRA gives priority to states with a source of matching funds. California has recently enacted legislation that could provide a source for these matching funds—Chapter 393, Statutes of 2008 (SB 1193, Padilla). Chapter 393 created the ratepayer-supported California Advanced Services Fund under the California Public Utilities Commission (CPUC) to help promote the deployment of broadband infrastructure in unserved and underserved areas.

## 3340 California Conservation Corps

**Background.** The California Conservation Corps (CCC) 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 related to environmental conservation, fire protection, and emergency services. Some activities traditionally associated with the Corps are tree planting, stream clearance, and trail building. The Corps also develops and provides funding for 12 community conservation corps.

**Budget Act.** The 2009-10 Budget Act includes \$90.9 million for the California Conservation Corps for 2009-10. This is about a 16 percent decrease over the current year level of support primarily due to a decrease in local assistance grants from bond funds.

<b>Summary of Expenditures</b>				
<i>(dollars in thousands)</i>	<b>2008-09</b>	<b>2009-10</b>	<b>\$ Change</b>	<b>% Change</b>
<b>Type of Expenditure</b>				
Training and Work Program	\$ 92,200	\$ 64,238	-\$27,962	-30.3
Capital Outlay	16,413	26,673	10,260	62.5
Administration	7,712	7,902	190	2.5
<i>less distributed administration</i>	-\$7,712	-\$7,902	-190	2.5
<b>Total</b>	<b>\$ 108,613</b>	<b>\$ 90,911</b>	<b>-\$17,702</b>	<b>-16.3</b>
<b>Funding Source</b>				
General Fund	\$ 37,383	\$ 34,184	-\$3,199	-8.6
Collins-Dugan California Conservation Corps Reimbursement Account	31,412	25,585	-5,827	-18.6
Other Special Funds	620	-	-620	-100.0
Bond Funds	39,198	31,142	-8,056	-20.6
<b>Total</b>	<b>\$ 108,613</b>	<b>\$ 90,911</b>	<b>-\$17,702</b>	<b>-16.3</b>

## 1. Proposed Elimination of the CCC

**CCC Mission.** The California Conservation Corps (CCC) provides young people between the ages of 18 and 23 work experience and educational opportunities. The program participants, referred to as corpsmembers, work on projects that conserve and improve the environment, such as tree planting, trail building, and brush clearance. Corpsmembers also provide assistance during natural disasters, such as filling sandbags during floods. Work projects are sponsored by various governmental and nongovernmental agencies that reimburse the CCC for the work performed by corpsmembers.

The CCC estimates about 4,000 men and women (the equivalent of about 1,200 full-time positions) will participate in the program during the current year. Corpsmembers earn minimum wage and are assigned to work approximately 40 hours per week. On average, corpsmembers stay in the program for a little over seven months. The current annual cost of the program per corpsmember is in the range of \$40,000 to \$45,000 per full-time equivalent.

**CCC Funding.** The CCC receives the majority of its funding from the General Fund (about 60 percent in the current year), with most of the balance coming from reimbursement revenues. When CCC corpsmembers work on projects for other public agencies or private entities, CCC is reimbursed for the labor provided. This reimbursement revenue is used to support the corpsmembers' salaries and benefits as well as department-wide administrative and operational costs. The CCC sets a statewide reimbursement rate target (currently \$18.77 per hour for corpsmember labor) and staff in the field use this target rate when negotiating contracts with client agencies. The current-year budget provides funding for seven residential and 15 nonresidential facilities throughout the state.

**Governor's January 10 Budget.** The Governor's Budget proposed an elimination of the California Conservation Corps. The Governor's Budget also proposed giving \$5 million of the funds that used to go to the CCC to local conservation corps. The proposal was to increase funding for the 12 local corps by \$5 million in 2009-10, increasing to \$10 million in 2010-11 as the CCC operations end completely. This proposal creates net budget-year savings of \$17 million to the General Fund and \$26.4 million to other funds (mostly the Collins-Dugan Reimbursement Account). The net General Fund savings would increase to \$24 million annually beginning in 2010-11 when the CCC would be completely eliminated.

**Budget Act.** The *2009-10 Budget Act* maintained a basic level of support for the CCC.

**LAO Recommendation.** The LAO recommends that in evaluating the Governor's proposal to eliminate CCC, the Legislature should consider various issues. These include (1) the CCC's current capacity to meet its statutory mission, (2) the impact that the CCC's elimination may have on other state agencies that utilize corpsmember labor, (3) the administration's plans to divest the CCC of its capital projects and pay off related debt, and (4) the details of the proposed grant program. The LAO concludes with the recommendation that the Legislature eliminate the CCC but not provide grant funds to the local conservation corps in 2009-10.

The LAO argues that the CCC's mission for education and training has eroded over the years. One of the key legislative goals for the CCC is to provide work training and education for



corpsmembers. In recent years, this primary mission has eroded, with significant reductions in the amount of time spent on training and the number of corpsmembers receiving their high school graduation equivalent. General Fund reductions have shifted the focus of the CCC to those activities generating reimbursement revenues, many of which are not education-or training-oriented. These reimbursable activities range from picking up trash on highways to staffing fire camps during emergencies.

The LAO argues that CCC corpsmember work is not necessarily low-cost for other state agencies. One state agency that utilizes CCC corpsmembers is CalFIRE during large fire incidents. CalFIRE estimates that it may be able to reduce its costs for labor formerly provided by CCC corpsmembers by shifting to local labor contractors. Each corpsmember is reimbursed at \$18.77 per hour (with no payment for overtime), and each supervisor is reimbursed at \$18.77 per hour or at a rate of \$34.84 for overtime. (Overtime is generally necessary for staffing fire camps.) CalFIRE estimates that shifting to a local labor contractor would cost between \$8 and \$10 for normal working hours, and \$12 to \$15 for overtime. The rates for supervisors range from \$12 for normal working hours to \$20 for overtime. A second option involves contracting with local governments using an existing contract at a flat reimbursement rate of \$11.14 per hour. Therefore, options clearly exist for CalFIRE which are significantly less expensive than using CCC labor.

In order to offset the programmatic impact of the CCC elimination, the administration has proposed legislation to start a new program to provide grants to local conservation corps. The proposal appropriates \$5 million in the budget year and \$10 million in subsequent years (General Fund) to the Resources Agency for an undefined grant program to local conservation corps. The administration proposal claims local conservation corps will be able to use the funds to absorb corpsmembers who would otherwise have joined the state CCC. However, the LAO argues that it is not clear that local conservation corps actually have the capacity to absorb state corpsmembers. The budget plan broadly proposes to direct the grant funding to education, operations, job training and emergency response, though it does not have specific details as to which of these would be the highest priority, nor how the grants would be distributed.

The LAO also notes that the administration budget proposal to phase out the CCC includes few details on the administration's plans to divest the operation of its capital assets.

**Staff Comment.** This is an informational item on the LAO's recommendation.

## 2. Federal Funds for CCC

**Federal Funds.** The California Conservation Corps (CCC) is potentially eligible for millions of dollars in federal stimulus funding in three major categories: Land Management/Building Rehabilitation; Workforce Training; and Energy Efficiency Related Activities. The figures below represent a very broad summary of the programs included in the American Recovery and Reinvestment Act (ARRA). It is unknown how much of this funding the Corps will be eligible for until guidelines are finished and programs are in place. However, the breadth of agencies administering funds and the size of appropriations underscore both the unique opportunities that

the CCC has been given and the complexity of pursuing these funds that they will face. Examples of these federal funds in ARRA are:

- Land Management and Building Rehabilitation - \$8.962 billion
- Workforce Training - \$12.912 billion
- Energy Efficiency Related Activities - \$5.161 billion (\$411 million for California)

**Transportation Funds.** AB 20 of the Third Extraordinary Session (Bass, 2009) set aside \$77 million for transportation enhancement projects, such as bike paths and landscaping. Projects that use local conservations corps for the work will be given priority for that funding.

**Section 28.00 Letter.** The Department of Finance sent a Section 28 letter (denoting unanticipated funds) to the Joint Legislative Budget Committee on March 24, 2009. This letter stated that the CCC had received \$585,000 in federal stimulus funds from the U.S. Forest Service. The letter also stated that the CCC only had seven days to begin work on the trail-building projects.

**Staff Comment.** This is an informational item on the federal funds the CCC can anticipate and what the CCC is doing toward ensuring the maximum allocation of federal stimulus funds for CCC projects.

## 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.

**Budget Act.** The 2009-10 Budget Act includes \$1.3 billion for the Department of Conservation. This is almost the same as current year expenditures. The majority of the DOC's budget goes toward recycling ("bottle bill").

<b>Summary of Expenditures</b>					
<i>(dollars in thousands)</i>	<b>2008-09</b>	<b>2009-10</b>	<b>\$ Change</b>	<b>% Change</b>	
<b>Type of Expenditure</b>					
Geologic Hazards and Mineral Resources Conservation	\$ 25,264	\$ 25,494	\$ 230	0.9	
Oil, Gas, and Geothermal Resources	28,803	36,153	7,350	25.5	
Land Resource Protection	25,554	20,900	-4,654	-18.2	
Beverage Container Recycling and Litter Reduction	1,235,530	1,232,190	-3,340	-0.3	
Office of Mine Reclamation	6,698	6,782	84	1.3	
Administration	13,757	13,771	14	0.1	
<i>less distributed administration</i>	-13,757	-13,771	-14	0.1	
<b>Total</b>	<b>\$ 1,321,849</b>	<b>\$ 1,321,519</b>	<b>-\$330</b>	<b>0.0</b>	
<b>Funding Source</b>					
General Fund	\$ 11,583	\$ 15,461	\$ 3,878	33.5	
Special Funds	1,277,126	1,278,565	1,439	0.1	
Bond Funds	21,166	15,447	-5,719	-27.0	
<i>Budget Act Total</i>	<i>\$ 1,309,875</i>	<i>\$ 1,309,473</i>	<i>-\$402</i>	<i>0.0</i>	
Federal Trust Fund	1,364	1,394	\$30	2.2	
Bosco-Keene Renewable Resources Investment Fund	1,196	1,235	39	3.3	
Reimbursements	9,414	9,417	3	0.0	
<b>Total</b>	<b>\$ 1,321,849</b>	<b>\$ 1,321,519</b>	<b>-\$330</b>	<b>0.0</b>	

## 1. Local Grant Funds

**Beverage Container Recycling Fund.** The Beverage Container Recycling Fund (BCRF) receives its funds from a fee paid by consumers when eligible containers are purchased, such as soda cans and plastic water bottles. The fund then pays out to recyclers when the eligible containers are recycled.

**Grants Halted.** The Department of Conservation (DOC) provides recycling grants to local non-profits (including local conservation corps). The recycling grants total approximately \$69 million. However, due to the BCRF's declining fund balance DOC has halted these grants as of March 31, 2009. The funds expended by the grant recipients before March 31 will all be reimbursed, and grants expended after will be reimbursed once the fund retains solvency. Unfortunately, many small non-profits cannot wait even a few months for funds to begin flowing again.

**Staff Comment.** Staff recommends that the Subcommittee ask the department to explain how recent recycling activities in the state have impacted the BCRF fund condition.

## 3540 Department of Forestry and Fire Protection

**Background.** The California Department of Forestry and Fire Protection (CalFire), under the policy direction of the Board of Forestry, provides fire protection services directly or through contracts for timberlands, rangelands, and brushlands owned privately or by state or local agencies. In addition, CalFire: (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.

**Budget Act.** The 2009-10 Budget Act includes \$1.078 billion for support of the Department of Forestry and Fire Protection in 2009-10. This is a 27 percent decrease over current year expenditures, mainly due to decreased capital outlay expenditures.

<b>Summary of Expenditures</b>				
<i>(dollars in thousands)</i>	<b>2008-09</b>	<b>2009-10</b>	<b>\$ Change</b>	<b>% Change</b>
<b>Type of Expenditure</b>				
Office of the State Fire Marshal	\$ 20,669	\$ 20,813	\$ 144	0.7
Fire Protection	1,243,086	993,271	-249,815	-20.1
Resource Management	63,769	61,661	-2,108	-3.3
Board of Forestry	449	449	0	0.0
Capital Outlay	165,139	1,323	-163,816	-99.2
Administration	67,156	80,054	12,898	19.2
<i>less distributed administration</i>	-66,492	-79,412	-12,920	19.4
<b>Total</b>	<b>\$ 1,493,776</b>	<b>\$ 1,078,159</b>	<b>-\$415,617</b>	<b>-27.8</b>
<b>Funding Source</b>				
General Fund	\$ 1,025,972	\$ 767,764	-\$258,208	-25.2
Special Funds	12,314	13,390	1,076	8.7
Bond Funds	155,439	10,034	-145,405	-93.5
<i>Budget Act Total</i>	<i>\$ 1,193,725</i>	<i>\$ 791,188</i>	<i>-\$402,537</i>	<i>-33.7</i>
Federal Trust Fund	33,334	18,390	-14,944	-44.8
Forest Resources Improvement Fund	3,532	7,874	4,342	122.9
Timber Tax Fund	34	34	0	0.0
Reimbursements	263,151	260,673	-2,478	-0.9
<b>Totals</b>	<b>\$ 1,493,776</b>	<b>\$ 1,078,159</b>	<b>-\$415,617</b>	<b>-27.8</b>

## 1. Emergency Response Initiative

**Panel Recommendations.** In October of 2007, a massive wildfire devastated Southern California, burning over 500,000 acres, killing 17 people, and destroying over 3,000 homes. After the 2007 Southern California wildfires, meetings were held to discuss steps that could be taken to reduce future costs in a large fire by improving resources available for deployment. Recommendations included better coordination with military agencies, increasing staffing on engines during peak and transition fire season to four staff per engine (instead of three), replacement of CalFire's aging helicopter fleet, replacement of defective parts on the S-2T aircraft and existing helicopters, and AVL tracking of firefighting assets.

**Emergency Response Initiative Fee.** The Governor's Budget proposed a new fee on fire and multiperil property insurance premiums that would help pay for emergency response efforts in the state. The Emergency Response Initiative (ERI) fee would be set at 2.8 percent of the property coverage premium, and would be collected by insurance companies. The insurance companies would then pass the collections to the Board of Equalization on a quarterly basis. In order for this new fee to become effective, a trailer bill must be passed.

**Governor's Budget.** The Governor's proposed budget included three proposals with ERI funding:

*Emergency Response Initiative Staffing:* \$29,896,000 in 2009-10 and \$60,749,000 starting in 2010-11. This proposal includes 236 new positions to increase staffing on fire engines from three people to four people. These funds would also be used for automatic vehicle locators on fire engines, crew transports, dozers and aviation assets, and replacement of CalFire's 11 helicopters.

*Aviation Asset Coordinator:* \$265,000 and 1.5 PY to create and staff a new program to coordinate aviation assets between CalFire, the federal military, the California Military Department, and the Modular Airborne Fire Fighting System Program.

*Wide Area Network:* \$11,413,000 (of which \$3,995,000 is on-going) and six positions over seven years to upgrade CalFire's internet connectivity. Currently only five percent of CalFire stations have broadband capability, with most stations using dial-up internet and some with no internet at all. The lack of bandwidth becomes a problem during fire incidents when large data files must be shared at rapid pace to be useful in firefighting.

**Budget Act.** The *2009-10 Budget Act* does not include any Emergency Response Initiative funding. The Budget Act also did not include trailer bill language authorizing this new fee.

**Staff Comments.** The structure of the new fee is a policy decision on how state emergency services should be funded. Currently these expenditures come from the General Fund, but the benefits of state fire protection are almost exclusively in the State Responsibility Areas.

If the Budget Subcommittee chooses to move forward with an emergency services fee, staff would point out the following potential General Fund savings:

1. The Subcommittee could consider using the new fee revenue to substitute base General Fund funding, rather than adding new staffing to the department.
2. The department has several new proposals in the *2009-10 Budget Act* that are funded with General Fund. These include 18 new Battalion Chiefs for approximately \$1.7 million and 20 new accounting oversight positions for \$1.3 million. The Subcommittee may wish to revisit these proposals later in the spring to see if they should be substituted with ERI funds or delayed for one year.

**Staff Recommendation.** Staff recommends that the Subcommittee take testimony on the proposed new fee. Staff also recommends that the Subcommittee consider funding the automatic vehicle locators, the new helicopters, the aviation asset coordinator, and the Wide Area Network if the fee is passed.

## 2. Air Resources Board Regulations on Diesel Equipment

**Air Resources Board Regulations.** In January 2007, the Air Resources Board (ARB) adopted regulations for “On-Road Heavy-Duty Diesel-Fueled Public Fleets”. This regulation requires all state agencies and local governments to retrofit 60 percent of their diesel vehicles to reduce identified diesel particulate matter in the exhaust by 75 percent by 2010. If 60 percent of the fleet is not retrofitted, the state agency may face penalties of \$1,000 to \$10,000 per day of non-compliance.

**ABxx 8.** In February 2009, legislation was passed that extended the compliance period for the Air Resources Board regulations.

**Governor’s Budget.** The Governor’s Budget proposed \$2,762,000 in General Fund for CalFire to retrofit 45 off-road heavy-duty diesel vehicles to meet new ARB clean air regulations. The compliance is towards the following regulations:

1. *In-Use On-Road Regulations for Public Fleets* – CalFire has 59 vehicles that meet this criteria. Sixty percent of these vehicles must be retrofitted by December 31, 2009. It will cost approximately \$20,000 to retrofit each vehicle, for a total of \$1,180,000.
2. *In-Use Off-Road Regulations for Diesel Vehicles* – CalFire has 145 off-road vehicles that have to comply with this regulation to reduce NOX and Particulate Matter pollution. The total cost of retrofitting this fleet is \$2,900,000 over five years, or \$580,000 annually.
3. *Portable Equipment Registration Program (PERP)* – This program monitors the movement of heavy-duty equipment between air districts. In order to move a piece of heavy-duty equipment from one air district to another, CalFire will need a permit. CalFire has 126 pieces of such equipment, 89 of which are too old to quality and must be replaced with a cost of \$2,406,000. After replacement, these pieces still have to be registered if transported. The total registration fee for all CalFire equipment under the PERP program is \$79,400 annually.

**Budget Act.** The *2009-10 Budget Act* includes no funds for this item.

**ABxx 8.** AB 8 of the Second Extraordinary Session of 2009-10 extended the implementation deadline for the ARB regulation on Off-Road Diesel Vehicles. This extension allows until 2011 instead of the original 2010 for 20 percent of the fleet to be retrofitted.

**Staff Comment.** Due to ABxx 8, CalFire does not have to retrofit any of its in-use off-road diesel vehicles during 2009-10. The ARB regulations for in-use on-road public fleets requires 60 percent of the fleet retrofitted by December 31, 2009. CalFire has 59 in-use on-road diesel vehicles, of which 36 would have to be retrofitted during the 2009-10 fiscal year for a cost of \$720,000. CalFire will still have to meet the portable equipment registration program requirements.

**Staff Recommendation.** Staff recommends that the Subcommittee wait until the April revenue numbers are received before considering funding for this item. Also, alternative funding sources such as the federal stimulus funds for diesel emission reduction should be considered.

### 3. Assembly Bill 2917

**Emergency Medical Technician.** The State Fire Marshall (SFM) is, by statute, authorized to certify public safety personnel as Emergency Medical Technicians (EMT). The SFM certification program is designed to correlate with the state Emergency Medical Service (EMS) certification standards to provide a record of training. Through this program CalFire oversees approximately 5,000 EMTs statewide.

**AB 2917.** AB 2917 (Torrico, 2008) requires the entity certifying EMTs to establish and maintain a centralized system for monitoring and tracing EMT certification and licensure status. AB 2917 also requires CalFire to establish EMT certification and disciplinary guidelines.

**Budget Act.** The *2009-10 Budget Act* includes \$319,000 (\$279,000 from General Fund and \$40,000 from reimbursements).

**LAO Recommendation.** In the 2009-10 Budget Analysis, the LAO states that while CalFire is required to comply with this legislation, the LAO finds that it has proposed a relatively costly method to do so. Specifically, CalFire proposes to hire an outside medical director to oversee compliance. The LAO recommends that the Legislature reject this proposal, and direct the department to resubmit its proposal after finding a more cost-effective way to comply with the law.

**Staff Recommendation.** Staff recommends that the Subcommittee remove funding for this item from the *2009-10 Budget Act*.



## 4. Arson and Bomb Unit

**Background.** Each year approximately 160,000 pounds of illegal fireworks are seized in California. Due to environmental and safety reasons, existing statute requires that the State Fire Marshal dispose of seized illegal fireworks. The cost of safely disposing of the illegal fireworks is approximately \$6 per pound. To cover the cost of illegal firework disposal, SB 839 (Calderon, 2007) established the State Fire Marshal Fireworks and Enforcement Fund to receive 65 percent of penalties from the possession of illegal fireworks “to enforce, prosecute, dispose of, and manage dangerous fireworks and to educate public safety agencies in the proper handling and management of dangerous fireworks.”

**Governor’s Budget.** The Governor’s Budget proposed \$285,000 from the Fireworks and Enforcement Fund for two new positions to establish an Arson and Bomb Unit within the State Fire Marshal. The Unit would conduct enforcement and disposal of illegal fireworks.

**Budget Act.** The *2009-10 Budget Act* does not include any funds for the arson and bomb unit.

**Staff Recommendation.** Staff recommends that the Subcommittee approve the budget proposal. This proposal is significantly scaled back from the 2008-09 proposal that was rejected. Due to concerns over the handling of explosives and clean air concerns, trained personnel must handle the disposal of large quantities of fireworks. The funding comes from a dedicated source for fireworks disposal.

## 5. Lease-Revenue Bond Funded Capital Outlay Proposals

**Background.** All lease-revenue bond funded capital outlay proposals were pulled from the 2009-10 Budget Act without prejudice. The concerns over lease-revenue proposals were two-fold: (1) lease-revenue bond funded projects must have all phases of the project approved, removing legislative control over decisions on the project prior to the completion of plans; and (2) long-term debt service of the state.

**Governor’s Budget.** The Governor’s Budget proposed \$290,344,000 in lease-revenue bond funded projects. These projects were:

1. El Dorado Fire Station: service warehouse – replace facility. This project includes construction of a 16-bed barracks and mess hall; 5-bay auto shop with a welding bay, service center/warehouse with Self Contained Breathing Apparatus component and generator/pump/storage building with generator. \$26,375,000
2. Cuesta Conservation Camp – relocate facility. This project would relocate the Cuesta Conservation Camp and the Unite Mobile Equipment Maintenance Facility to another location within the same state-owned Camp San Luis Obispo property. \$70,238,000
3. Parlin Fork Conservation Camp – replace facility. This project would replace a conservation camp with: a new administrative building; standard 14-bed barracks/mess hall; warehouse; physical training building; 4-bay utility garage; auto and welding shop; generator/pump/storage building; and various inmate use buildings. \$53,544,000

4. Soquel Fire Station – replace facility. This project would construct an 8-bed barracks/mess hall; 2-bay apparatus building; and a generator/pump/storage building with an emergency generator. \$10,599,000
5. Gabilan Conservation Camp. This project would construct a 14-bed officer’s quarters, an 8-bed officer’s quarters for Department of Corrections staff, a vehicle wash rack and a fire cache trailer cover. \$21,865,000
6. Potrero Fire Station – replace facility. This project would construct a new standard 2-engine fire station with a 14-bed barracks/mess hall; 3-bay apparatus building, a battalion chief’s office and a generator/pump/storage building with an emergency generator. \$10,389,000
7. Tuolumne-Calaveras Service Center – relocate facility. This project would relocate and construct a 10,000 sq ft service center (warehouse with office space); an administrative office building; a physical training building; an emergency command center; a fuel dispensing system; and a generator/pump building with an emergency generator. \$24,655,000
8. Butte Unit – replace facility. This project would include demolition of existing buildings and the construction of a 20-bed barracks/mess hall, 3-bay apparatus building; an administrative office building; 5-bay auto shop, 2-bay dozer shed, covered vehicle wash rack, a physical fitness building, service center/warehouse, a maintenance building, and a generator/storage building. \$30,692,000
9. Cayucos Fire Station – replace facility. This project would include demolition of existing structures and construction of an 8-bed barracks, 2-bay apparatus building and a generator/storage building with an emergency generator. \$9,678,000
10. Felton Fire Station – replace facility. This project would include demolition of existing buildings and construction of a 12-bed barracks, 2-bay apparatus building, a dozer shed, an administrative office building, a dispatch area, two generator/pump/storage buildings, and a physical training building. \$25,100,000
11. Parkfield Fire Station – replace facility. This project would include construction of an 8-bed barracks/mess hall, a 2-bay apparatus building, a generator/pump/storage building, fuel facilities, vehicle wash pad, underground utilities, propane system, septic system, a new well, a new water treatment system, a security fence, and landscaping. \$7,209,000

**Budget Act.** The *2009-10 Budget Act* does not include funds for CalFire capital outlay proposals. The funds for capital outlay projects were removed without prejudice.

**Staff Recommendation.** Staff recommends that the Subcommittee wait until spring revenue numbers become available to decide if some of the lease-revenue funded projects could be pursued this year.

## 6. Hemet-Ryan Air Attack Base – Replace Facility

**Project.** This project consists of constructing the following: a helicopter and OV-10 hanger; a helipad; tarmac improvements including six retardant loading pits; a protective aircraft weather canopy; a 2-story air operations building; a 22-bed barracks/mess hall; a 3-bay apparatus storage and vehicular equipment building; a fire retardant chemical mixing plant with 40,000 gallons of

storage capacity. This project would also include installation of sewer connections, fencing, paving, landscaping, utilities, and surface water runoff mitigation.

**Special Considerations.** The Hemet-Ryan Air Attack Base is one of two CalFire air bases in southern California. Most of the structures on the base were built in the 1950s. The base is located at Hemet Airport, which is owned by Riverside County. The county is a recipient of federal funds, and thus all projects at the airport fall under the Federal Aviation Authority's (FAA) regulations. The restrictions placed on projects by the FAA preclude the state from using lease-revenue bonds.

**Governor's Budget.** The Governor's January 10 Budget proposed \$21,327,000 General Fund for the construction phase of this project.

**Budget Act.** The *2009-10 Budget Act* does not include any funds for this project.

**Staff Recommendation.** Staff recommends that the Subcommittee ask the department if it would be feasible to move forward with only some of the new building constructions in 2009-10, rather than start all of the buildings at the same time. The rest of the new buildings could be funded in later years, thus phasing in construction.

## 7. LAO Recommended General Fund Savings

**CalFire General Fund Budget.** Due to the size of the fire protection budget and its dramatic increases in recent years, the LAO thinks it is critical to address the spiraling costs of fire protection as one strategy for balancing the 2009-10 budget. In order to do so, the LAO recommends that the Legislature reduce the department's General Fund budget for fire protection by \$55.1 million in 2009-10 (with \$16.8 million in ongoing savings), as follows:

- **Eliminate Funding for DC-10 Aircraft Contract:** \$6.8 Million Ongoing Savings. CalFire contracts with the owners of a DC-10 jet aircraft that has been converted for use in fire fighting. The department has used the DC-10 to supplement its existing air fleet, rather than to replace existing aviation assets. In 2008, the cost of this contract was \$6.8 million. While the addition of this resource has added to CalFire's fire protection capabilities, the department has not shown that the use of this asset has improved its fire protection response capability in a cost-effective manner.
- **Delay Vehicle Replacements in the Budget Year:** \$17 Million One-Time Savings. The proposed budget includes \$10.8 million from the General Fund for fire engine replacements and \$6.2 million from the General Fund for replacement of other vehicles. The LAO recommends that the Legislature eliminate this funding in the budget year, and that these expenditures be delayed for one year. As vehicles age, the cost of maintaining them increases and the amount of time they are unavailable due to maintenance needs increases. Ultimately, CalFire will have to resume its vehicle replacement program. However, given the state's very difficult budget situation, the LAO recommends that this replacement program be delayed by one year. The LAO thinks this can be done without significantly impacting the department's emergency response capability.

- **Close Low-Priority Fire Stations and Other Facilities:** \$10 Million Ongoing Savings. The LAO recommends that the Legislature reduce CalFire's base General Fund fire protection budget by \$10 million and direct the department to close the fire stations that are a lower priority to keep open for wildland fire protection, in order to achieve this level of savings. The department has identified a list of such lower-priority stations, based on criteria including the number of calls to those stations, the frequency of large fires in the surrounding areas, and other factors. While this recommendation would reduce the level of fire protection service provided by the department, the LAO notes that it reflects a reduction of only two percent to the proposed budget and would leave the department with a General Fund base budget approximately equal to the enacted 2008-09 budget.
- **Capital Outlay Deferral:** \$21.3 Million One-Time Savings. The Governor's budget proposes to spend \$21.3 million from the General Fund in 2009-10 on a capital outlay project to replace the Hemet-Ryan Air Attack Base. This deteriorating facility ultimately will need to be replaced. However, the LAO finds that the department can continue to use this facility in the near term (albeit with increasing maintenance costs). The LAO recommends the Legislature defer the project until a later year.

**Staff Comment.** The capital outlay projects for the department have already been deferred in the *2009-10 Budget Act*.

## 8. Timber Harvest Plans – Update

**Timber Harvest Plans.** Under the state Forest Practice Act, logging operations must comply with a timber harvest plan (THP). The THP describes the proposed logging methods and projected production from an area, as well as any environmental mitigation measures that the timber harvesters will undertake to prevent or offset damage to natural resources, such as fish or wildlife. Current THPs cover a three-year period during which the landowner can log the acreage of timber specified in the THP. The THP process is intended as an in-lieu of a California Environmental Quality Act (CEQA) document. During 2007, CalFire received 435 THP requests, which covered 133,876 acres.

**THP Review.** The Department of Forestry and Fire Protection (CalFire) has the statutory responsibility to review THPs, approve or deny them, and to monitor compliance with the plan during logging operations. In addition to CalFire's review of THPs, the Department of Conservation, the State Water Resources Control Board, and the Department of Fish and Game (DFG) also participate in the review and enforcement of THPs under their own statutory authorities. Under current statute, there is a THP review fee in place, however that fee does not pay for the general cost of reviewing or monitoring compliance with THPs. The state covers approximately \$24 million of the THP review and monitoring costs from the General Fund.

**2008 Subcommittee Hearing.** At the April 7, 2008, Budget Subcommittee 2 hearing, CalFire and the DFG were instructed to work together to examine efficiencies in the THP review process. The departments should report their progress to the Subcommittee.

## 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.

**Budget Act.** The *2009-10 Budget Act* includes \$450 million for support of the Department of Fish and Game. This is a reduction of \$24 million, or 5 percent, over current year expenditures. This reduction is primarily due to a reduction in bond funds and the 2008-09 expenditure of a one-time General Fund appropriation.

<b>Summary of Expenditures</b> <i>(dollars in thousands)</i>	<b>2008-09</b>	<b>2009-10</b>	<b>\$ Change</b>	<b>% Change</b>
<b>Type of Expenditure</b>				
Biodiversity Conservation Program	\$ 254,032	\$ 214,607	-\$39,425	-15.5
Hunting, Fishing, and Public Use	71,621	72,104	483	-0.7
Management of Department Lands	47,087	51,245	4,158	8.8
Enforcement	62,101	68,449	6,348	10.2
Communications, Education, and Outreach	4,722	4,806	84	1.8
Spill Prevention and Response	33,624	35,815	2,191	6.5
Fish and Game Commission	1,345	1,379	34	2.5
Capital Outlay	530	2,149	1,619	305.5
Administration	43,672	43,811	139	0.3
<i>less distributed administration</i>	<i>-43,672</i>	<i>-43,811</i>	<i>-139</i>	<i>0.3</i>
<b>Totals</b>	<b>\$ 475,062</b>	<b>\$ 450,554</b>	<b>-\$24,508</b>	<b>-5.2</b>
<b>Funding Source</b>				
General Fund	\$ 85,135	\$ 75,848	-\$9,287	-10.9
Special Funds	172,899	184,957	12,058	7.0
Bond Funds	127,457	85,919	-41,538	-32.6
<i>Budget Act Total</i>	<i>385,491</i>	<i>346,724</i>	<i>-38,767</i>	<i>-10.1</i>
Federal Trust Fund	51,328	52,718	1,390	2.7
Reimbursements	38,597	44,444	5,847	15.2
Salton Sea Restoration Fund	-4,229	2,883	7,112	-168.2
Harbors and Watercraft Revolving Fund	2,149	2,181	32	1.5
Special Deposit Fund	1,586	1,604	18	1.1
Coastal Wetlands Account	140	0	-140	-100.0
<b>Total</b>	<b>\$ 475,062</b>	<b>\$ 450,554</b>	<b>-\$24,508</b>	<b>-5.2</b>

## 1. Diesel Vehicle Retrofit Program

**Background.** In January 2007, the Air Resources Board (ARB) adopted regulations for “On-Road Heavy-Duty Diesel-Fueled Public Fleets”. This regulation requires all state agencies and local governments to retrofit 60 percent of their diesel vehicles by December 31, 2009 to reduce identified diesel particulate matter in the exhaust. If 60 percent of the fleet is not retrofitted, the state agency may face penalties of \$1,000 to \$10,000 per day of non-compliance.

**Fish and Game Fleet.** The Department of Fish and Game (DFG) has 75 vehicles that are considered on-road heavy-duty diesel vehicles. These vehicles are used for fish planning, stream-bed restoration, habitat maintenance, and other department activities. DFG estimates that it will cost \$900,000, or \$20,000 per vehicle, to retrofit 45 vehicles and reach regulation compliance by 2010.

**Governor’s Budget.** The Governor’s Budget proposes \$900,000 from various funding sources for the clean-air retrofits of 45 department on-road heavy-duty diesel vehicles. The funding sources are:

- \$405,000 from the General Fund
- \$270,000 from the Fish and Game Preservation Fund
- \$63,000 from the California Environmental License Plate Fund
- \$63,000 from the Oil Spill Preservation and Administration Fund
- \$54,000 from Reimbursements
- \$45,000 from the Hatcheries and Inland Fisheries Fund

**Staff Recommendation.** Staff recommends that the Subcommittee wait until the April revenue numbers are received before considering funding for this item. Also, alternative funding sources such as the federal stimulus funds for diesel emission reduction should be considered.

## 2. Renewable Energy Regulatory Action Team

**Background.** Current statute requires that California’s energy use consist of a minimum of 20 percent renewable energy by 2010. The Governor’s Executive Order S-14-08 expanded the required use of renewable energy to 33 percent of energy use by 2020. The Public Utilities Commission has estimated that in 2008 renewable energy made up 13.7 percent of all energy sales in California. To reach the goal of 20 percent, more renewable power facilities must be constructed, and those facilities must have transmission lines to deliver power to distribution centers. There are a number of environmental permits and concerns overseen by the Department of Fish and Game (DFG) that apply when new power facilities and transmission lines are constructed. These include incidental take permits, the California Environmental Quality Act, and endangered species habitat concerns.

**Renewable Energy Conservation Planning Program.** The Department of Fish and Game’s Renewable Energy Conservation Planning Program (RECPP) will focus on providing permit and technical assistance to expedite siting and construction of renewable energy projects. The RECPP will also work on including the Renewable Portfolio Standard into the Natural

Communities Conservation Plan process. This program is anticipated to run for the next 15-20 years as increasing amounts of renewable energy are constructed in California.

**Governor's Budget.** The Governor's Budget proposes \$3,057,000 from reimbursements for 22 temporary two-year positions to establish a Renewable Energy Action Team and a Renewable Energy Conservation Planning Program. The reimbursement for 2009-10 comes from:

- \$1,498,897 from the Energy Commission
- \$1,558,103 from the Wildlife Conservation Board Proposition 84 bond funds

The reimbursement for 2010-11 comes from:

- \$749,489 from the Energy Commission
- \$1,498,897 from the Wildlife Conservation Board Proposition 84 bond funds
- \$1,528,500 from energy generators

**Budget Act.** The *2009-10 Budget Act* does not include funds for this purpose.

**Staff Recommendation.** Staff recommends no action at this time.

### 3. Anadromous Fish Management

**Background.** The Department of Fish and Game (DFG) Anadromous fish management has three components: the Coastal Salmonid Monitoring Plan, the Coho Recovery Plan Implementation, and Coastal Steelhead and Chinook Recovery.

*Coastal Salmonid Monitoring Plan.* The State of California does not have in place a coast-wide program to monitor the status and trend of salmon and steelhead populations. The DFG and the National Marine Fisheries Service (NMFS) have partnered on the development of the California Coastal Salmonid Monitoring Plan to monitor Anadromous fishes on the entire coast of California. The emphasis of the plan is to gather the data needed to manage fishing and hatcheries, and to de-list the federal and state-listed species.

*Coho Recovery Plan Implementation.* Coho salmon are listed as either threatened or endangered in California, depending on the river. The DFG adopted a Coho Recovery Strategy in 2004 that sets forth detailed actions to recover the species to the point of de-listing. The funding provided for the 2009-10 fiscal year will support projects through a direct grant program, managed by existing Fisheries Restoration Grant Program staff.

*Coastal Steelhead and Chinook Recovery.* The DFG approved a Steelhead Restoration and Management Plan in 1996, but until 2008-09 no funding was provided for the implementation of this plan. Nearly all salmon and steelhead runs on the coast are now listed as threatened or endangered.

**2008-09 Budget Act.** The *2008-09 Budget Act* included \$10,856,000 from Proposition 84 bond funds for grant funds and eight permanent and six temporary positions for Anadromous fish management.



**Budget Act.** The *2009-10 Budget Act* includes \$9,734,000 from Proposition 84 bond funds for Anadromous fish management. This includes Coastal Salmonid Monitoring Plan implementation, Coho Recovery Plan implementation, and Coastal Steelhead and Chinook recovery. No new positions were included in the *2009-10 Budget Act*.

Specifically, with these funds DFG will:

- Provide grants for fisheries restoration activities.
- Provide infrastructure in the Fisheries Branch and Regions to provide the bases for future plan implementation.
- Inform state and federal regulatory and environmental documentation needs.
- Provide a guide to the implementation of recovery plans.
- Assist other monitoring efforts in coastal watersheds by establishing a sampling matrix and guidelines for annual probabilistic surveys.
- Establish a joint Department/NMFS policy oversight and management team.

**Staff Recommendation.** Staff recommends that the Subcommittee ask the department to explain their work plan for these funds and how this work builds on the \$10.8 million in Proposition 84 funds the department received in 2008-09.

#### 4. ERP Implementation NCCP

**Background.** The objective of the Natural Communities Conservation Plan (NCCP) is to conserve natural communities at the ecosystem scale while accommodating compatible land use. The NCCP is a plan for the conservation of natural communities that takes an ecosystem approach and encourages cooperation between private and government interests. The plan identifies and provides for the regional or area-wide protection and perpetuation of plants, animals, and their habitats, while allowing compatible land use and economic activity. Proposition 84 includes a set-aside of \$20 million for the development of NCCPs.

**Governor's Budget.** The Governor's budget requested \$8,914,000 in Proposition 84 bond funds for the NCCP for the CALFED Bay-Delta Program. Funds would be used for conservation actions, baseline surveys, data analysis, peer review, habitat mapping and other activities necessary for development of the Bay-Delta Conservation Plan.

**Budget Act.** The *2009-10 Budget Act* includes no funds for this proposal.

**Staff Recommendation.** Staff recommends that the Subcommittee ask the department to explain how this proposal is related to the ERP implementation projects (issue 5 below) and the timeline for completing the plan and the projects.

## 5. Ecosystem Restoration Program

**ERP Background.** The Ecosystem Restoration Program (ERP) is a part of the CALFED Record of Decision on how to fix the Sacramento-San Joaquin Bay Delta. The Bay-Delta provides the drinking water to two-thirds of Californians. The ERP was designed to:

- Improve the ecological health of the San Francisco Bay and Sacramento-San Joaquin Delta.
- Achieve recovery of at-risk species in the Delta, Suisun Marsh, and San Francisco Bay and in the watershed above the estuary.
- Restore ecological processes associated with water conveyance, environmental productivity, water quality, and floodplains.

**Budget Act.** The *2009-10 Budget Act* includes \$22,022,000 in Proposition 84 bond funds for the Ecosystem Restoration Program.

**Proposal.** With these funds, the department intends to pursue the Stage 2 Conservation Strategy of the Ecosystem Restoration Program. This stage would adaptively address current scientific research, monitoring, results, and changing conditions identified regarding climate change, levee fragility, and increased water quality and demand.

**Staff Comment.** These funds are to fulfill the CALFED Record of Decision (ROD) environmental restoration goals. With the Bay-Delta Blue Ribbon Commission the state is moving away from the ROD and reconsidering the Delta restoration priorities. A proposal in the Department of Water Resources' budget to fund an alternative Delta conveyance water facility raises questions as to: (1) how such an alternative conveyance facility will impact the Delta ecosystem and (2) how effective the ERP is in relation to the ecological changes such an alternative conveyance system may bring to the Delta.

**LAO Recommendation.** The LAO recommends that the Legislature reject the budget proposal for new ecosystem restoration projects until the Legislature has had an opportunity to consider the long-term uses and configurations of the Delta as both an ecosystem and a water supply system. The result of those deliberations may be significant changes to the way in which the state uses the Delta. The LAO thinks it would be premature to fund restoration projects before those decisions are made, since fundamental changes to the Delta may make the proposed projects unsustainable in the long term.

**Staff Recommendation.** Staff recommends that the Subcommittee ask the Department of Fish and Game about the effectiveness of the ERP to date. Staff recommends that the Subcommittee bring this item back in the May open issues hearing after the Subcommittee has made a decision on whether or not to fund the alternative Delta conveyance proposal under the Department of Water Resources budget.

## 6. Law Enforcement Warden Increase

**Wardens.** Fish and Game wardens, in addition to traditional law enforcement duties, are responsible for enforcing State and Federal laws relating to fish, wildlife, pollution and habitat within the State and offshore to 200 miles. California currently has 370 warden positions who are responsible for patrolling all DFG managed lands and enforcing statute related to wildlife.

**Environmental License Plate Fund.** The Environmental License Plate Fund (ELPF) revenues come from people voluntarily paying an extra fee for an environmental picture license plate when they register their vehicle. The fund revenues have been dropping for the last several years, with fund reserves dropping to zero in 2008-09.

The Governor's budget included trailer bill language, which has not yet been passed by the Legislature, that would increase the ELPF fees. Even with this increase in fees, departments that receive ELPF funds would see a reduction in their share of ELPF funding. The Department of Fish and Game ELPF funding levels were reduced by \$3 million in 2009-10, and that reduction was backfilled with Fish and Game Preservation Fund. That \$3 million was entirely to support Fish and Game wardens.

**Budget Act.** The *2009-10 Budget Act* includes an increase of \$3 million from the Fish and Game Preservation Fund for 15 new warden positions. These funds are in addition to the funding swap from ELPF to the Fish and Game Preservation Fund that also took place.

**Staff Comment.** The Environmental License Plate Fund fee increase will be considered at the April 23 hearing under the Secretary for Resources.

## 7. Quagga Mussel

**Background.** The Quagga Mussel is a highly invasive freshwater mussel that is capable of devastating aquatic ecosystems and impacting water infrastructure. The Quagga Mussel is related to the Zebra Mussel and can reproduce at very rapid rates. It has spread throughout the eastern United States, and is known for hindering water for domestic, municipal, industrial, and agricultural purposes by clogging pipes and other water delivery infrastructure. The Quagga Mussel was discovered in California on January 17, 2007. The Quagga Mussel was found in Lake Mead, Lake Havasu, and on the Metropolitan Water District intake pumps.

DFG has expressed concern that the species could cause potentially wide-spread damage to drinking water pumping systems and other related infrastructure. Early estimates indicate that the establishment of this species in California waters can result in costs to the state of at least \$70 million in infrastructure costs and \$40 million in annual maintenance. The Quagga Mussel is spread by boats that are moved from one body of water to another.

**AB 1683.** AB 1683 (Wolk, 2007) requires DFG to develop Quagga Mussel control and eradication plans, as well as assist water agencies in the development and implementation of their plans of control and eradication if the Quagga is discovered in their systems. Also, AB

1863 required DFG to inspect waters and water facilities in the state for Quagga Mussel presence. If Quagga or Zebra mussels are found in a local water body, AB 1683 requires local agencies that operate a water supply system to prepare a plan to control Quagga and Zebra mussels.

**Local Governments.** In January 2008, zebra mussels were found in San Justo Reservoir in San Benito County. Zebra mussels have never before been found in California. By state law, the local water agency is required to develop a plan for controlling the mussel infestation. In response to the San Justo Reservoir infestation, the county and local water district cooperated with nearby counties to develop a regional approach to an inspection program, including a computerized tracking system, for five counties in the Bay Area (Santa Clara, Contra Costa, Alameda, Monterey, and San Benito). This regional inspection-based approach is unique to this coalition.

**Staff Recommendation.** Staff recommends that the Subcommittee consider providing some funding from the Harbors and Watercraft Fund to the Bay Area multi-county response effort as a pilot project.

## 8. Marine Life Protection Act

**Background.** AB 993 (Shelley, 1999) established the Marine Life Protection Act (MLPA). The MLPA directs the state to design and manage a network of marine protected areas in order to, among other things, protect marine life and habitats, marine ecosystems, and marine natural heritage, as well as improve recreational, educational, and study opportunities provided by marine ecosystems. The Fish and Game Commission develops the plan that drives the implementation of the Act.

The implementation of MLPA will occur in five regions: (1) Central Coast; (2) North Central Coast; (3) South Coast; (4) North Coast; and (5) San Francisco Bay.

There are six goals that guide the development of Marine Protected Areas (MPA) in the MLPA planning process:

1. Protect the natural diversity and abundance of marine life, and the structure, function and integrity of marine ecosystems.
2. Help sustain, conserve and protect marine life populations, including those of economic value, and rebuild those that are depleted.
3. Improve recreational, educational and study opportunities provided by marine ecosystems that are subject to minimal human disturbance, and to manage these uses in a manner consistent with protecting biodiversity.
4. Protect marine natural heritage, including protection of representative and unique marine life habitats in California waters for their intrinsic values.
5. Ensure California's MPAs have clearly defined objectives, effective management measures and adequate enforcement and are based on sound scientific guidelines.
6. Ensure the State's MPAs are designed and managed, to the extent possible, as a network.

**Science Advisory Team.** The MLPA Master Plan Science Advisory Team (SAT) will be appointed by the director of the California Department of Fish and Game to help advise the Marine Life Protection Act (MLPA) process. The SAT provides the scientific information and technical judgment that assists with: (1) meeting the objectives of the MLPA; (2) providing informed recommendations to the MLPA Blue Ribbon Task Force (BRTF); and (3) completing the master plan for marine protected areas (MPAs).

The SAT reviews and comments on scientific papers relevant to the implementation of the MLPA; reviews alternative MPA proposals; reviews master plan documents; responds to scientific issues presented in those documents; and addresses scientific questions raised by the BRTF and stakeholders. Members of the SAT are technical experts in a range of fields including marine ecology, fisheries, the design of marine protected areas, economics, and social sciences.

**Staff Comment.** Staff recommends that the Subcommittee ask the department for an update on MLPA implementation. As part of this update, the department should address how the effectiveness of the MPAs is measured; what are the costs of the program; as well as how priorities for the protected area locations are set.

## 9. LAO Recommendation – Fee Increases

**LAO Recommendation.** Several of the program areas proposed for reductions are regulatory program activities that currently receive some fee-based support or could be supported with revenues from new fees, based on the “polluter pays” principle and the “beneficiary pays” principle. In the case of the fees recommended by the LAO, the department is responding to proposals by the regulated community that impact natural resources. Because the department’s efforts in these programs are driven directly by the activities of the regulated community, the LAO thinks it is appropriate that the regulated community pay the full cost of operating these regulatory programs. In particular, the following program areas have existing fees or could be supported by fees:

- *California Endangered Species Act Review.* State law requires the protection of all species that are designated as threatened or endangered. The department has statutory responsibility to enforce these laws and is also empowered to grant permits for “incidental take” of protected species where activities -- such as development -- can be done in a way that does not threaten protected species’ long-term survival. Currently, there is no existing fee for this activity in statute. Currently, this program is supported primarily by the General Fund, with additional support from various special funds. The LAO recommends the enactment of legislation to create a new regulatory fee to fully fund this program, saving the General Fund about \$1.9 million and potentially \$800,000 in special funds.
- *Natural Communities Conservation Plan (NCCP) Review.* In state law, there is an alternative to the Endangered Species Act approach of looking at individual species. Under the Natural Communities Conservation Planning Act, government agencies and/or private entities can create long-term, ecosystem-based conservation plans designed to protect multiple threatened or endangered species. This system allows for a more comprehensive approach to species protection, while at the same time giving the

proponents of a plan assurances about future regulation, thereby allowing them to proceed with projects that may impact species in the future. Under state law, the department is required to review and approve any proposed NCCP. Currently, this program is supported by the General Fund, as well as various bond, special, and federal funds. Current law allows a fee to be assessed by the department to recover its costs. The LAO recommends that the Legislature eliminate the General Fund support for this program and direct the department to raise fees sufficient to cover its costs, as state law allows it to do -- yielding General Fund savings of about \$850,000 and potential additional savings to the other fund sources currently supporting the program.

**Staff Comment.** Due to the state's \$8 billion budget shortfall, staff advises the Subcommittee to consider all options for General Fund savings, even if no vote is taken at this time.

## 3790 Department of Parks and Recreation

**Background.** The Department of Parks and Recreation 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.

**Budget Act.** The 2009-10 Budget Act includes \$840.7 million for Parks and Recreation. This is an increase of nearly 20 percent from current year due to an increase in bond funds for local assistance.

<b>Summary of Expenditures</b>				
<i>(dollars in thousands)</i>	<b>2008-09</b>	<b>2009-10</b>	<b>\$ Change</b>	<b>% Change</b>
<b>Type of Expenditure</b>				
Support of the Department of Parks and Recreation	\$ 463,503	\$ 434,089	-\$29,414	-6.4
Local Assistance Grants	98,967	324,841	225,874	228.2
Capital Outlay	139,439	81,809	-57,630	-41.3
<b>Total</b>	<b>\$ 701,909</b>	<b>\$ 840,739</b>	<b>138,830</b>	<b>19.8</b>
<b>Funding Source</b>				
General Fund	\$ 141,940	\$ 143,408	1,468	1.0
Special Funds	306,150	247,174	-58,976	-19.3
Bond Funds	159,114	379,238	220,124	138.3
<i>Budget Act Total</i>	<i>607,204</i>	<i>769,820</i>	<i>162,616</i>	<i>26.8</i>
Federal Trust Fund	45,404	17,906	-27,498	-60.6
Reimbursements	47,118	51,750	4,632	9.8
Harbors and Watercraft Revolving Fund	2,183	1,263	-920	-42.1
<b>Total</b>	<b>\$ 701,909</b>	<b>\$ 840,739</b>	<b>138,830</b>	<b>19.8</b>

## 1. Parks Concession Contracts

**Concession Contracts.** Pursuant to Public Resources Code 5080.2, the Legislature must approve Department of Park and Recreation concession contracts. For the 2009-10 fiscal year there are four concession agreements that require legislative approval.

1. Ferry Service from San Francisco to Angel Island
2. Hollister Hills State Vehicular Recreation Area — Park Store Concession
3. Oceano Dunes State Vehicular Recreation Area — Camp Trailer Rental Service
4. Santa Monica State Beach — Food Service Concession Stand

**Supplemental Report Language.** Supplemental Report Language (SRL) describing the contacts should be included in the final Supplemental Report Language as part of the *2009-10 Budget Act*. Proposed language:

Item 3790-001-0001 --- Department of Parks and Recreation:

Concession Contracts. Pursuant to Public Resources Code Section 5080.20, the following concession proposals are approved as described below:

- a. Angel Island State Park – Ferry Service Concession. The department may bid a new concession contract to provide ferry service transportation exclusively between San Francisco and Angel Island State Park.

The proposed provisions of the new concession contract include a term of up to ten years; annual rent will be the greater of a guaranteed flat rate or a percentage of annual gross receipts. Proposers will be required to bid a minimum annual rent of up to \$50,000 or up to 15 percent of monthly gross receipts whichever is greater, and commit up to 2 percent monthly gross receipts for dock maintenance.

It is anticipated that the new concession contract will be implemented during the fall of 2009.

- b. Hollister Hills State Vehicular Recreation Area – Park Store Concession. The department may bid a new concession contract to operate, and maintain a park store concession with food service with Hollister Hills State Vehicular Recreation Area.

The proposed provisions of the new concession contract include a contract term of up to 10 years to maintain and operate a park store to sell sundry items, food, motorcycle parts and provide repair services. The new contract may consider the inclusion of rental equipment services. Annual rent to the State will be the greater of a guaranteed flat rate or a percentage of gross receipts. Proposers will be required to bid a minimum annual rent of up to \$48,000 or up to 8 percent of gross receipts whichever is greater. The contract will also include up to \$60,000 in capital improvements to the structure.

It is anticipated that the new concession contract will be implemented during the winter of 2010.



- c. Oceano Dunes State Vehicular Recreation Area -- Camp Trailer Rental Service Concession. The department may bid a new concession contract to provide for camping trailer rental services for park visitors camping at Oceano Dunes State Vehicular Recreation Area.

The proposed provisions of the new contract will include a term of up to 10 years; annual rent will be the greater of a guaranteed flat rate or a percentage of monthly gross receipts. Proposers will be required to bid a minimum annual rent of up to \$36,000 or up to 10 percent of monthly gross receipts whichever is greater.

It is anticipated that the new contract will be implemented during the winter of 2010.

- d. Santa Monica State Beach --- Food Service Concession. The department may authorize the City of Santa Monica, under their current operating agreement with the Department of Parks and Recreation, to solicit proposals from the public for a contract to operate a food service concession on Santa Monica State Beach.

The proposed provisions of the new contract include a contract term of up to 10 years. Annual rent will be the greater of a guaranteed flat rate or a percentage of gross receipts. Proposers will be required to bid a minimum of up to \$75,000 per year or up to 15 percent of gross receipts, whichever is greater. In addition, limited one-time capital improvements to the facility of up to \$20,000 may be a consideration.

It is anticipated that a new concession contract will be issued during the summer of 2009.

**Staff Recommendation.** Staff recommends that the Subcommittee adopt SRL describing the scope of the concession contracts.

## 2. Diesel Regulation Compliance

**Background.** In January 2007, the Air Resources Board (ARB) adopted regulations for “On-Road Heavy-Duty Diesel-Fueled Public Fleets”. This regulation requires all state agencies and local governments to retrofit 60 percent of their diesel vehicles by December 31, 2009, to reduce identified diesel particulate matter in the exhaust. If 60 percent of the fleet is not retrofitted, the state agency may face penalties of \$1,000 to \$10,000 per day of non-compliance. The Department of Parks and Recreation has 129 vehicles that fall under the on-road heavy-duty diesel regulations.

**Budget Act.** The *2009-10 Budget Act* includes no funds for this item.

**Governor’s Budget.** The Governor’s January 10 Budget proposed \$1,635,000 General Fund for retrofits of the department’s heavy-duty diesel vehicles.

**Staff Recommendation.** Staff recommends that the Subcommittee wait until the April revenue numbers are received before considering funding for this item. Also, alternative funding sources such as the federal stimulus funds for diesel emission reduction should be considered.

## 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.

**Budget Act.** The 2009-10 Budget Act includes \$517,000 to support CVMC. This is a dramatic decrease from current year estimated expenditures due to the near elimination of bond funds for the conservancy.

<b>Summary of Expenditures</b>				
<i>(dollars in thousands)</i>	<b>2008-09</b>	<b>2009-10</b>	<b>\$ Change</b>	<b>% Change</b>
<b>Type of Expenditure</b>				
Coachella Valley Mountains Conservancy	\$442	\$517	\$75	17.0
Capital Outlay	18,375	0	-18,375	-100.0
<b>Total</b>	<b>\$18,817</b>	<b>\$517</b>	<b>-\$18,300</b>	<b>-97.3</b>
<b>Funding Source</b>				
Special Funds	\$303	\$318	\$15	5.0
Bond Funds	17,905	60	-17,845	-100.0
<i>Budget Act Total</i>	<i>18,208</i>	<i>378</i>	<i>-17,830</i>	<i>-97.3</i>
Reimbursements	609	139	-470	-77.2
<b>Total</b>	<b>\$18,817</b>	<b>\$517</b>	<b>-\$18,300</b>	<b>-97.3</b>

### 1. Opportunity Land Acquisitions

**Proposition 84.** California voters in November 2006 passed Proposition 84, the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Act of 2006, which provides \$5.388 billion in general obligation bonds for environmental and resource purposes. The Proposition 84 bond language allocated funds to the state's conservancies in order to guarantee land acquisitions and environmental restoration projects. Coachella Valley Mountains Conservancy was allocated \$36 million through Proposition 84.

**Budget Act.** The *2009-10 Budget Act* included Proposition 84 bond funds for many of the state's conservancies. However, the *2009-10 Budget Act* includes no bond funds for Coachella Valley Mountains Conservancy to make land purchase grants.

**Land Value Appraisals.** The Coachella Valley Mountains Conservancy's bond funds request was initially denied by the Department of Finance due to the conservancy not seeking third party verification of the property value appraisals for land purchased. However, the conservancy has now adopted regulations requiring that the conservancy and all its grantees always seek a third party independent review of the property value appraisals prior to purchasing land. As this administrative problem has been corrected, it is no longer a reason for holding back the conservancy's bond funding.

**Staff Recommendation.** Staff recommends that the Subcommittee appropriate \$3 million in Proposition 84 bond funds, as well as \$343,000 in Prop 12 funds and \$456,000 in Prop 40 funds, to the Coachella Valley Mountains Conservancy for land acquisition.

## SUBCOMMITTEE NO. 2

## Agenda

S. Joseph Simitian, Chair  
Alan Lowenthal  
John J. Benoit



Thursday, April 23, 2009  
9:30 a.m. or upon adjournment of session  
Room 2040

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3940	State Water Resources Control Board .....	14

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### Resources—Environmental Protection—Energy—Transportation

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling 916-324-9335. Requests should be made one week in advance whenever possible.

## 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 boards, departments, and conservancies under the jurisdiction of the Resources Agency.

**Budget Act.** The 2009-10 Budget Act includes \$87.5 million to support the Secretary for Resources. This is a 40 percent decrease over estimated expenditures in the current year primarily due to reduced bond fund expenditures.

<b>Summary of Expenditures</b>				
<i>(dollars in thousands)</i>	<b>2008-09</b>	<b>2009-10</b>	<b>\$ Change</b>	<b>% Change</b>
<b>Type of Expenditure</b>				
Administration	\$ 104,383	\$ 69,764	-\$34,619	-33.2
CALFED Bay-Delta Program	42,564	17,814	-24,750	-58.2
<b>Total</b>	<b>\$ 146,947</b>	<b>\$ 87,578</b>	<b>-\$59,369</b>	<b>-40.4</b>
<b>Funding Source</b>				
General Fund	\$ 5,377	\$ 5,736	\$ 359	6.7
Special Funds	4,621	3,467	-1,154	-25.0
Bond Funds	107,525	61,000	-46,525	-43.3
<i>Budget Act Total</i>	<i>117,523</i>	<i>70,203</i>	<i>-47,320</i>	<i>-40.3</i>
Federal Trust Fund	12,778	8,471	-4,307	-33.7
Reimbursements	16,646	8,904	-7,742	-46.5
<b>Total</b>	<b>\$ 146,947</b>	<b>\$ 87,578</b>	<b>-\$59,369</b>	<b>-40.4</b>

### Mike Chrisman, Secretary for Resources

- Overview of Resources Agency
- Discussion of Federal Funds
- Salmon Recovery

## 1. Environmental License Plate Fund Fee Increase

**ELPF.** The Environmental License Plate Fund (ELPF) provides support to numerous conservancies and departments within the Resources Agency. The ELPF has a structural imbalance. Without a fee increase, and keeping expenditures constant the 2009-10 fiscal year expenditures would exceed available resources by \$7 million.

**Trailer Bill.** The trailer bill language would raise the environmental license plate fee by ten percent.

**Budget Act.** The *2009-10 Budget Act* does not include trailer bill authorizing the ELPF fee increase. The Budget Act does provide decreased funding to departments and conservancies from the ELPF by \$4,720,000, but this decrease would be even more dramatic without the fee increase.

- Secretary for Resources – Reduction to out of state travel and equipment replacement program: -\$50,000
- California Conservation Corps – Reduction to administration: -\$300,000
- CalFire – Environmental Protection Program field coordinator reduction (-\$15,000); Fire and Resource Assessment Program resource management strategies design (-\$30,000): Total reduction of -\$45,000
- Department of Fish and Game – Fund shift of \$3 million to the Fish and Game Preservation fund for wardens: -\$3 million
- State Coastal Conservancy – Reduction to Ocean Protection Council research on algal blooms: -\$257,000
- Santa Monica Mountains Conservancy – Reduction to consultant contracts for project planning and implementation: -\$50,000
- Sierra Nevada Conservancy – Reduction to interagency agreements: -\$500,000
- Department of Water Resources – Reduction in work on the Trinity River Restoration Program: -\$60,000
- CalEPA, Department of Pesticide Regulation – Fund shift of \$458,000 with the Department of Pesticide Regulation Fund

**Staff Comment.** Due to concerns over the role of the Secretary for Resources in protecting fish species, especially salmon, action on budget items for the Secretary for Resources will be withheld until the Secretary's actions to protect salmon have been reviewed.

## 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.

**Budget Act.** The 2009-10 Budget Act includes \$517,000 to support CVMC. This is a dramatic decrease from current year estimated expenditures due to the near elimination of bond funds for the conservancy.

<b>Summary of Expenditures</b>				
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**Budget Act.** The *2009-10 Budget Act* included Proposition 84 bond funds for many of the state's conservancies. However, the *2009-10 Budget Act* includes no bond funds for Coachella Valley Mountains Conservancy to make land purchase grants.

**Land Value Appraisals.** The Coachella Valley Mountains Conservancy's bond funds request was initially denied by the Department of Finance due to the conservancy not seeking third party verification of the property value appraisals for land purchased. However, the conservancy has now adopted regulations requiring that the conservancy and all its grantees always seek a third party independent review of the property value appraisals prior to purchasing land. As this administrative problem has been corrected, it is no longer a reason for holding back the conservancy's bond funding.

**Staff Recommendation.** Staff recommends that the Subcommittee appropriate \$6 million in Proposition 84 bond funds, as well as \$343,000 in Prop 12 funds and \$456,000 in Prop 40 funds, to the Coachella Valley Mountains Conservancy for land acquisition. This will allow the conservancy to move forward with its top priority land purchase.



## 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 Delta.

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

**Budget Act.** The Governor's Budget proposes \$6.3 billion to support DWR in the budget year. This is a 20 percent decrease over estimated expenditures in the current year, mainly the result of a decrease in capital outlay and California Energy Resources Scheduling (CERS) funding. General Fund support for the department is proposed to decrease by nearly 20 percent. The \$4.3 billion in CERS funding is not subject to the Budget Act (these funds are primarily for energy payments related to the 2001 electricity crisis). The CERS funds will significantly decrease in 2012 as the majority of the power contracts are paid off.

<b>Summary of Expenditures</b> <i>(dollars in thousands)</i>	<b>2008-09</b>	<b>2009-10</b>	<b>\$ Change</b>	<b>% Change</b>
<b>Type of Expenditure</b>				
California Water Plan	\$ 848,513	\$ 150,139	-\$698,374	-82.3
Implementation of the State Water Resources Development System	861,730	903,861	42,131	4.9
Public Safety and Prevention of Damage	896,695	436,090	-460,605	-51.4
Central Valley Flood Protection Board	7,828	8,549	2,000	25.5
Services	9,425	9,660	235	2.5
California Energy Resources Scheduling	4,601,388	4,271,583	-329,805	-7.2
Capital Outlay	668,530	489,797	-178,733	-26.7
Administration	65,319	67,155	1,836	2.8
<i>less distributed administration</i>	<i>-65,319</i>	<i>-67,155</i>	<i>-1,836</i>	<i>2.8</i>
Loan Repayment Program	-4,013	-4,013	0	0.0
<b>Total</b>	<b>\$ 7,890,096</b>	<b>\$ 6,265,666</b>	<b>-\$1,624,430</b>	<b>-20.6</b>
<b>Funding Source</b>				
General Fund	\$ 161,324	\$ 129,590	-\$31,734	-19.7
Special Funds	527,896	493,655	-34,241	-6.5
Bond Funds	2,503,681	1,285,720	-1,217,961	-48.7
<i>Budget Act Total</i>	<i>3,192,901</i>	<i>1,908,965</i>	<i>-1,283,936</i>	<i>-40.2</i>
Federal Trust Fund	13,530	13,922	392	2.9
DWR Electric Power Fund	4,601,388	4,271,583	-329,805	-7.2
Bosco-Keene Renewable Resources Investment Fund	20	0	-20	-100.0
Reimbursements	82,257	71,196	-11,061	-13.5
<b>Total</b>	<b>\$ 7,890,096</b>	<b>\$ 6,265,666</b>	<b>-\$1,624,430</b>	<b>-20.6</b>

## 1. State Water Project Accountability Issues

**Background.** The State Water Project (SWP) is the nation's largest state-built water conveyance system, providing water to 23 million Californians and 755,000 acres of agriculture. The SWP moves water mostly from Northern California to parts of the San Francisco Bay Area, the Central Valley, and Southern California. The DWR protects and manages California's water resources. In this capacity, the department maintains the SWP. The project was initiated by legislation in 1959 under the Burns-Porter Act, with voters ratifying in November 1960 the \$1.75 billion bond for the project authorized in the act.

**Paying for the SWP System.** Users of the water system ("SWP contractors") fund most of SWP's capital and operational costs through water user fees. Other sources of funding for the project include federal funding (mainly for flood control), state general obligation bonds (mainly for environmental programs), and the General Fund combined with user fees (recreation and fish and wildlife programs). The project is mainly funded by users of the water system (often referred to as SWP contractors). These user revenues are commonly referred to as SWP funds. However, there are other significant sources of funding related to SWP. Specifically, the federal government provides a share of the costs for flood control projects related to SWP, the General Fund has supported related recreation and fish and wildlife programs, and state general obligation bond funds have supported several related environmental programs, including CALFED.

**State Water Project Funding is "Off-Budget".** When a fund is "off-budget" it means that the funds are not appropriated in the annual budget bill and that the Legislature cannot annually change the level of financial support for the program through the budget. As an off-budget program the SWP has "continuous appropriation" authority to spend its revenues, and does not need annual Legislative authorization to support its positions, operating costs, or capital outlay expenditures. While DWR must seek approval from the Legislature to establish permanent new positions, it does not need additional legislative approval for the funding to support them. That is because the expenditure authority for these positions is already provided off-budget.

**LAO Analysis.** The LAO is concerned that the role of SWP has changed substantially from its inception in 1960. In the past, SWP operated as a discrete, self-contained program with sufficient fiscal oversight provided by SWP contractors who pay most of the project's costs. However, this situation has changed. Specifically, the LAO found that SWP had developed increasing fiscal and programmatic ties to other state on-budget programs, such as CALFED. The SWP operation has created significant liabilities for other programs and funding sources, including the General Fund, without any legislative oversight. These are reasons that the LAO believes justify placing this program under regular legislative budget scrutiny along with requests for additional positions. The LAO's analysis has led the Legislative Analyst to conclude that the Legislature has the authority to do so.

The LAO is concerned that the process DWR follows to develop SWP budgets lacks checks and balances that would help ensure accountability. Review of the now \$900 million budget takes place internally at DWR, with ultimate approval coming from within the department and DOF. While the SWP seeks and receives some advice from SWP water contractors, it does not actually review its budget with the contractors prior to the submission of departmental requests for

additional positions to the Legislature. At no point is the budget vetted and approved in a public setting, nor do ratepayers—those affected most by spending decisions—have an opportunity to review the budget prior to approval, as is the general practice at other state agencies.

The only public review of the SWP spending plan takes place at legislative budget hearings, and only then in the context of specific requests for position authority. Consequently, this complicates the Legislature's ability to fully evaluate SWP position requests in the context of the SWP's total current-year staffing of 1,509 positions. This relative lack of budgetary oversight also applies to SWP's capital projects, although there is some limited oversight provided by DOF and the bonding agencies in cases in which the SWP issues revenue bonds to finance the construction costs of its projects. Because of broad and ongoing off-budget expenditure authority, the department is not required to submit funding requests in conjunction with position requests.

The LAO found that lack of transparency in the development of the SWP budget appears to have triggered increasing billing protests from SWP contractors. This, in turn, has led to increases in staffing and increased costs to handle the billing protests, which are ultimately passed on to water ratepayers. The LAO argues that this upward expenditure cycle is due in part to the lack of effective budgetary oversight of the SWP.

There is also growing recognition of SWP's role in contributing both to the causes of, and the potential solutions to, water-related problems in the Delta. This has major policy and fiscal implications for a number of state programs. For these reasons, the LAO continues to recommend the enactment of legislation that would make SWP subject in all respects to the annual legislative budget process.

**Water Contractors' Letter.** The State Water Project contractors have submitted a letter to the Subcommittee stating their opposition to bringing the SWP on-budget.

**Missing Report.** As part of the *2007-08 Budget Act*, the Legislature passed Supplemental Report Language that required the following:

“As an alternative to placing the SWP “on budget,” the department shall submit **annually** with their January 10 budget a supplemental budget that would detail SWP funds that (a) contribute to projects in the Delta, (b) are a cost share of state funds, (c) require any future commitment of state funds, and (d) any SWP funded positions that are transferred to state to be then funded on budget with state funds.”

The Budget Committee received such a budget document in May of 2008. No report has been received for 2009.

**Staff Analysis.** SWP operations impact the critical water resources for 23 million Californians. As the Legislature debates new water bonds for water conveyance infrastructure and resources management in the Delta, it would be beneficial for the Legislators to be aware of what financial resources the SWP is placing towards these efforts already.

**Staff Recommendation.** Staff recommends that the Subcommittee adopt trailer bill language requiring the following:

On or before January 10, 2010, DWR shall report to the chairs of the fiscal committees in both houses on the SWP budget. The report shall include the expenditures of SWP by program for the last three years starting with 2007-08, and total revenues for each of those years. Additionally, the report shall include for each year presented the number of SWP positions and any non-SWP funds that are used as a cost-share toward SWP projects or operations.

## 2. State Water Project Facilities Fish and Wildlife Enhancement and Recreation

**Davis-Dolwig Act.** Chapter 867, Statutes of 1961 (AB 261, Davis), also known as the Davis-Dolwig Act, states the broad intent of the Legislature that State Water Project (SWP) facilities be constructed “in a manner consistent with the full utilization of their potential for the enhancement of fish and wildlife and to meet recreational needs.” The Department of Water Resources (DWR) is charged with implementing the act as part of planning for construction of SWP facilities. The Davis-Dolwig Act does not provide criteria specifying what kinds of recreation facilities or fish and wildlife enhancements are to be developed, nor does it require legislative review or approval of such facilities or enhancements.

**DWR has Authority to Determine Cost-Share.** DWR determines what share of the costs of SWP facilities relate to fish and wildlife enhancements and recreation and are Davis-Dolwig costs not subject to reimbursement by state water contractors. In practice, most Davis-Dolwig costs are related to recreation. Most fish and wildlife costs are classified as being related to “preservation” of these species, rather than the “enhancement” of fish and wildlife, and therefore are not usually attributed to Davis-Dolwig.

There are two primary costs under the Davis-Dolwig Act. First is the capital cost of the creation of recreation facilities when the SWP was constructed (such as the purchase of additional land for hiking trails and camping). The second is an allocation to recreation of the total annual budget of the overall SWP, based on an assessment of each facility’s value as a recreational asset. This is an indirect form of cost allocation, whereby a portion of the operation and capital cost at every SWP facility is allocated to recreation. These indirect recreation-related costs, on a statewide basis, average about 3 percent for operations and 6 percent for capital spending.

**General Fund Role in Davis-Dolwig Act.** The Davis-Dolwig Act states that DWR is not to include costs of fish and wildlife enhancements and recreation in charges levied on the SWP contractors. The act states the intent of the Legislature that such costs be paid for by an annual appropriation from the General Fund. The act, however, did not actually appropriate any General Fund monies to pay for Davis-Dolwig costs.

Since 1961, DWR has allocated over \$464 million of SWP costs to Davis-Dolwig. Of this amount, \$107 million has been paid from a combination of tidelands oil revenue (\$90 million) and the General Fund (\$17 million). A further \$202 million in Davis-Dolwig costs fronted by SWP contractors was offset with monies owed by them to the state, which had fronted the costs for SWP construction projects. The remaining \$155 million allocated by DWR for Davis-Dolwig recreation costs has been paid for, on an interim basis, by SWP contractors.

**Budget Act.** The *2009-10 Budget Act* includes no funds for the SWP facilities fish and wildlife enhancement and recreation.

**Governor's Budget.** The Governor's Budget proposed a total of \$38.5 million for Davis-Dolwig related costs. These were:

- \$30,984,000 from Proposition 84 for development, rehabilitation, acquisition, and restoration of SWP facilities for fish and wildlife enhancement and recreation.
- \$7.5 million from Harbors and Watercraft Fund for on-going operations funding for SWP recreation.
- Trailer bill language.

**Trailer Bill.** The Governor proposed trailer bill language to provide a continuously appropriated annual transfer of \$7.5 million from the Harbors and Watercraft Fund for payment of the recreation component of the SWP. This \$7.5 million would pay for on-going operations of SWP recreation, but would become "off-budget" and not subject to Legislative appropriation each year. The trailer bill language also includes an annual reporting requirement on what the funds were used for during the previous budget year.

**LAO Recommendation.** The LAO recommends that the Legislature deny the request for Davis-Dolwig funding in the budget year and reject the proposed statutory change to provide an ongoing appropriation from the Harbors and Watercraft Revolving Fund to pay Davis-Dolwig costs. The LAO further recommends that the Legislature carefully evaluate the policy and legal implications for the state before adopting the administration's proposal to modify state law to declare that no historical state funding obligation exists for Davis-Dolwig costs. To this effect, the LAO makes a series of recommendations:

- The LAO recommends that Davis-Dolwig be amended to specify that only costs related to construction of recreation facilities at new SWP facilities are to be paid for by the state under Davis-Dolwig. The LAO advises the Legislature to specify that there is to be no allocation of total SWP costs to recreation. The recreation cost component of SWP capital projects would be removed, presumably allowing revenue bonds to be sold and construction to continue on pending SWP projects.
- The LAO recommends that the Legislature specify that SWP is no longer to incur operational and maintenance costs for state recreation areas, or use SWP funds for these purposes. These costs should be considered for funding alongside any other budget requests for the state park system, and be subject to legislative review and approval in the annual budget process. In particular, the LAO thinks that DWR should not incur any further costs related to the operation of the SRA at Lake Perris.
- The LAO also recommends that the Legislature specify that any SWP recreation facilities that are to be developed or improved under a regulatory requirement shall not be

considered eligible state costs under Davis-Dolwig. This approach is consistent with legislative policy on how regulatory compliance costs are to be funded. If this recreation spending is required by a federal, state, or local regulatory agency as a condition of approving the construction or operation of an SWP facility, these regulatory costs should be considered a project cost and paid for by SWP contractors.

**Staff Recommendation.** Staff recommends that the Subcommittee hold this item open.

### 3. CALFED General Fund Reductions

**LAO Recommendation.** The *2009-10 Budget Act* includes a total of \$14 million from the General Fund for CALFED. Of this amount, about one-half (\$7.2 million) is for CALFED program oversight of various state agencies. The majority of the remaining funding is allocated to Department of Water Resources (DWR) for a variety of specific CALFED programs. The General Fund contribution in each of these DWR-administered programs is only three percent of the total state funds (including bond funds and SWP funds) that are spent on these programs.

The LAO's analysis indicates that the CALFED programs in DWR proposed to receive General Fund support may have merit and work towards achieving CALFED's goals. Most of the programs proposed for General Fund support, such as the Delta levees subventions program, have existed in some form or another prior to the creation of CALFED. In the intervening years since these programs began, however, multiple funding sources in addition to the General Fund have become available to support them. This includes substantial increases in available bond funds, many of which are allocated specifically to CALFED. Now, the General Fund contributes less than 3 percent overall to these CALFED programs.

In light of the magnitude of the state's General Fund fiscal problems, the LAO thinks that it is a good time for the Legislature to reconsider whether DWR's CALFED activities warrant continued General Fund support. The LAO believes such a reassessment of priorities is reasonable, given the level of support available to CALFED from other funding sources (approximately \$225 million for 2009-10). The LAO therefore recommends that CALFED's base General Fund budget be reduced by \$5.9 million by reducing or eliminating General Fund support in two programs: Delta levees and water use efficiency.

*Delta Levees: \$4.9 Million General Fund Savings.* The budget allocates \$4.9 million from the General Fund for levee maintenance and repairs within the Delta. This program pertains to levees outside of the state's Central Valley flood control system, mainly Delta islands, that are operated by local reclamation districts. While improving these levees has some merit, the need to continue to stabilize levees on many islands in the Delta is currently being assessed as the department evaluates alternatives for Delta conveyance. Therefore, it is uncertain whether preserving these levees will remain a priority for state funding. The availability of other fund sources (mainly bond funds) means that General Fund support can be eliminated without significantly impacting the program.

*Water Use Efficiency: \$1 Million General Fund Savings.* The General Fund provides \$1.4 million of the nearly \$27 million budgeted for CALFED water use efficiency programs, mostly from bond funds. Of the \$1.4 million, about \$1 million is allocated to the California Irrigation Management Information System (CIMIS), a program operated jointly with the University of California, Davis, intended to assist irrigators in managing their water resources efficiently. The LAO is concerned that the original purpose of the program, agricultural water efficiency, has been changed. Many of the 6,000 registered users of the system are not irrigators, but are water agencies, researchers, educators, and water consultants. In the LAO's view, General Fund support for the water use efficiency program can be reduced by \$1 million without significantly impacting the original program scope. The remaining \$350,000 of the General Fund support is used for review of urban water conservation plans, a high-priority activity for which an alternative funding source is not likely to be available.

**Staff Recommendation.** Staff recommends that the Subcommittee take comments from the department and the public. The Subcommittee may wish to consider these cuts when spring revenue numbers become known.

#### 4. Central Valley Flood Protection Board

**Background.** Legislation was enacted in 2007 (AB 5 and SB 17) that renamed the Reclamation Board the Central Valley Flood Protection Board (Board). The Board is required to act independently of the Department of Water Resources and continue to exercise all of its powers, duties, purposes, responsibilities, and jurisdiction. The membership of the Board increased from seven to nine members, seven being appointed by the Governor and subject to Senate confirmation, and two members serving as non-voting ex officio members. Salary of the seven appointed members will be equivalent to the members of the Air Resources Board. Furthermore, AB 162 (Wolk, 2007) requires the Board to review revised safety elements of local governments' general plans prior to the adoption of the amended safety element.

**Budget Act.** The *2009-10 Budget Act* includes \$7.5 million General Fund and \$1 million in Proposition 1E bond funds for support of the Central Valley Flood Protection Board.

**Finance Letter.** The Governor has submitted a spring finance letter that would shift \$2,190,000 General Fund from the Central Valley Flood Protection Board to the Public Safety and Prevention of Damage program.

**Staff Comment.** The Central Valley Flood Protection Board was created in 2007 and received funding for the first time in the *2008-09 Budget Act*. At the time it was understood that all of the Board's expenses were not known. Now that it is understood that the Board can operate with fewer funds than it was initially appropriated, the Legislature may wish to consider reverting the additional funds rather than shift them to another program within DWR.



## 3940 State Water Resources Control Board

**Background.** The State Water Resources Control Board (SWRCB), in conjunction with nine semi-autonomous 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.

**Budget Act.** The *2009-10 Budget Act* includes \$598.6 million to support the SWRCB in the budget year. This proposal is approximately \$178 million less than current year expenditure levels, mainly due to a reduction in bond funding. General Fund appropriation is expected to stay nearly the same.

<b>Summary of Expenditures</b> <i>(dollars in thousands)</i>	2008-09	2009-10	\$ Change	% Change
<b>Type of Expenditure</b>				
Water Quality	\$ 765,487	\$ 586,951	-\$178,536	-23.3
Water Rights	11,894	11,658	-236	-2.0
Administration	21,097	21,141	44	0.2
<i>less distributed administration</i>	<i>-21,097</i>	<i>-21,141</i>	<i>-44</i>	<i>0.2</i>
<b>Total</b>	<b>\$ 777,381</b>	<b>\$ 598,609</b>	<b>-\$178,772</b>	<b>-23.0</b>
<b>Funding Source</b>				
General Fund	\$ 40,283	\$ 40,575	\$ 292	0.7
Special Funds	378,822	364,874	-13,948	-3.7
Bond Funds	178,217	7,395	-170,822	-95.9
<i>Budget Act Total</i>	<i>597,322</i>	<i>412,844</i>	<i>-184,478</i>	<i>-30.9</i>
Federal Trust Fund	128,470	128,975	505	0.4
Reimbursements	6,198	8,062	1,864	30.1
State Water Quality Control Fund	27,723	31,078	3,355	12.1
State Water Pollution Control Revolving Fund	5,532	5,532	-	0.0
Petroleum Underground Storage Tank Financing Account	12,136	12,118	-18	-0.2
<b>Total</b>	<b>\$ 777,381</b>	<b>\$ 598,609</b>	<b>-\$178,772</b>	<b>-23.0</b>

## 1. Methyl Mercury in Wetlands

**Mercury.** Mercury is a rare, dense metal, slightly more common than gold in the earth's crust. It has unusual properties that have made it valuable in metallurgy, electrical systems, and chemical processes. It is a liquid at ordinary temperatures and evaporates when exposed to the atmosphere. Environmental mercury contamination concerns in California are focused less on atmospheric sources, and more on aquatic sources for several natural and historic reasons. During the Gold Rush era more than 220,000,000 pounds of elemental mercury were produced in California. There were few controls on the dispersion of mercury from these operations, leading to significant increases in environmental mercury concentrations in affected soil, sediment, plants, fish, and other animals.

**Methyl Mercury.** Of even greater environmental concern is the presence of methyl mercury, an organic form of mercury that is a potent neurotoxin and is especially detrimental to developing

fetuses and young children (less than about 6 years old). Methyl mercury accumulates and biomagnifies in the food chain, reaching highest concentrations in predatory fish, many of which are prized by sports fishermen. Numerous water bodies in California have fish-consumption advisories because of mercury contamination from historical mining. Several of these advisories are based on data collected by the United States Geological Survey (USGS), including those in Trinity County, and the Bear, Yuba, and American River watersheds in the Sierra Nevada.

**Role of Wetlands.** Mercury from hydraulic and placer mining for gold has been transported with sediments downstream into the San Francisco Bay/Sacramento-San Joaquin Delta estuary, where it has likely contributed to elevated mercury concentrations in fish, resulting in consumption advisories. The USGS reports that the sedimentary supply of mercury to the Delta and in Delta sediments (cinnabar, metacinnabar, and elemental Hg) typically are insoluble, but will pose an environmental hazard if they are (1) solubilized and (2) methylated in Delta and Estuary wetlands.

**Budget Act.** The *2009-10 Budget Act* includes \$2.3 million in Proposition 13 bond funds for the Department of Water Resources to reduce methyl mercury in abandoned mines in the Delta. The funds include support for a best management practices study that would reduce methyl mercury from the Yolo Basin and other wetlands.

Also, the Central Valley Regional Water Board is currently creating the Total Maximum Daily Load (TMDL) requirements for mercury. These requirements will impact how mercury is treated for in the water supply.

**Staff Comment.** The Department of Water Resources is focused on water supply issues while the State Water Resources Control Board works on water quality issues. To gain perspective on the impact of mercury in wetlands that stay wet year round, it may be beneficial to have the Water Board conduct additional testing on water quality, as well as to establish best management practices in the development of new wetlands, including pre- and post- monitoring for new wetlands projects.

## 2. Missing Reports

**Background.** As part of the *2008-09 Budget Act*, the Legislature passed the following two supplemental report languages:

1. *San Diego Bay Toxic Sediment Cleanup.* On or before January 30, 2009, the State Water Resources (SWRCB) shall submit a report to the Joint Legislative Budget Committee (JLBC) on the work of the San Diego Regional Water Quality Control Board (SDRWCB) on San Diego Bay cleanup. The report shall include information on the resources the SDRWCB is dedicating to the project, the estimated total cost and scope of the project, and a progress report for the project.
2. *Agricultural Water Runoff.* On or before March 30, 2009, SWRCB shall submit a report to the JLBC and to the relevant policy committees that details: (a) the precise actions the SWRCB would have to undertake to obtain a 30 percent reduction to agricultural

pollution runoff into the Sacramento-San Joaquin Delta and its tributary watersheds by 2012, (b) the estimated costs of those actions, and (c) which of those actions can be completed administratively and which would require legislation to implement.

**Staff Recommendation.** Staff recommends that the Subcommittee withhold action on SWRCB actions until the reports are received.

### 3. Underground Storage Tank Funding Brownfield Initiative

**Background.** The Underground Storage Tank Cleanup Fund (USTCF) acts as an insurance program for Underground Storage Tank (UST) operators. The USTCF provides up to \$1.5 million in reimbursements per occurrence to petroleum UST owners and operators to fix leaks in USTs. Funds for the USTCF come from a fee of \$0.014 per gallon of petroleum per gallon stored. The USTCF has been authorized to expend approximately \$200 million per year.

Since 1992 the USTCF has received 19,000 claims, 11,000 of which received letters of commitment. The claimants include individuals, small businesses, local governments, and major corporations. Statute mandates a priority system where individuals and small businesses have their claims addressed first. As of June 2008, the department had over 3,400 claims that are over five years old.

**Governor's Budget.** The Governor's Budget proposes \$719,000 from the Underground Storage Tank Cleanup Fund and five temporary positions to review claims that have been active for more than five years.

**Budget Act.** The *2009-10 Budget Act* did not fund the Governor's Budget request of \$719,000 for five temporary positions.

**Finance Letter.** The Governor submitted a finance letter proposing two fund transfers from the Underground Storage Tank Cleanup Fund (USTCF):

1. \$10 million to the School District Account in the USTCF
2. \$20 million to the Underground Storage Tank Petroleum Contamination Orphan Site Cleanup Fund

**Staff Recommendation.** Staff recommends that the Subcommittee hold action on this item.

### 4. Water Rights Program

**Water Rights Based on Priorities.** Water rights are based on a priority system that is used to determine who can continue taking water when there is not enough water to supply all needs. Those with high priority rights know that they are likely to receive water. Those with low priority rights know that they may not receive water in all years and can plan accordingly.

**Riparian Water Rights.** A riparian water right is a right to use the natural flow of water on riparian land. Riparian land is land that touches a lake, river, stream, or creek. California is the only western state that continues to recognize riparian rights. The California Legislature has enacted very few laws regarding riparian rights. As a result, riparian rights have been frequently litigated. As a result of these lawsuits, the courts have clarified rules that apply to riparian rights. If there is not enough water available for competing riparian users, they must share the available supply according to their needs. Generally in this situation, water used for interior domestic purposes, such as drinking, cooking, and bathing, has the highest priority.

**Water Right Permits.** Water right permits include conditions to protect other water users and the environment. The State Water Resources Control Board (Water Board) has continuing authority over permits that it issues, and it can modify permits and licenses it previously issued to require more protective conditions. The Water Board must provide the permit or license holder with notice and opportunity for a hearing before making changes. If the permit holder disagrees with the Water Board's decision to modify the permit, it can ask the court to review the matter.

**Water Rights Administration.** Water rights law is administered by the Water Board. Within the Water Board, the Division of Water Rights acts on behalf of the Water Board for day to day administrative matters. The Water Board is the only agency with authority to administer water rights in California.

**Staff Comment.** Staff recommends that the Subcommittee approve Supplemental Report Language requiring:

On or before January 30, 2010, the State Water Resources (SWRCB) shall submit a report to the Joint Legislative Budget Committee (JLBC) and relevant policy committees a planning document for creating greater efficiency in administering and enforcing water rights in the state. The report shall include a cost estimate for implementation of the plan.

## 5. Confined Animal Facilities Permitting

**Permit Requirements.** There are approximately 2,000 confined animal facilities in the Central Valley. The majority of these are operating under a general waiver of the Waste Discharge Requirements (WDR) due to their smaller size. There are 64 facilities in the Central Valley that have individual WDR permits, and about 250 facilities that are regulated under the National Pollutant Discharge Elimination System (NPDES).

The United States Environmental Protection Agency (USEPA) required under the Federal Clean Water Act that all confined animal facilities with more than 1,000 animals obtain an NPDES permit. The Regional Water Boards are supposed to issue these permits. However, to date, no permits have been issued in the Central Valley and applications are waiting for review.

**Staff Comment.** The large confined animal facilities contribute to nitrate pollutants in the groundwater. By not issuing permits and recommending mitigation measures, the Water Board is allowing a known source of groundwater pollution to go unchecked.

## SUBCOMMITTEE NO. 2

## Outcomes

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S. Joseph Simitian, Chair  
Alan Lowenthal  
John J. Benoit



Thursday, April 23, 2009

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### Resources—Environmental Protection—Energy—Transportation

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## 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 boards, departments, and conservancies under the jurisdiction of the Resources Agency.

**Budget Act.** The *2009-10 Budget Act* includes \$87.5 million to support the Secretary for Resources. This is a 40 percent decrease over estimated expenditures in the current year primarily due to reduced bond fund expenditures.

<b>Summary of Expenditures</b>				
<i>(dollars in thousands)</i>	<b>2008-09</b>	<b>2009-10</b>	<b>\$ Change</b>	<b>% Change</b>
<b>Type of Expenditure</b>				
Administration	\$ 104,383	\$ 69,764	-\$34,619	-33.2
CALFED Bay-Delta Program	42,564	17,814	-24,750	-58.2
<b>Total</b>	<b>\$ 146,947</b>	<b>\$ 87,578</b>	<b>-\$59,369</b>	<b>-40.4</b>
<b>Funding Source</b>				
General Fund	\$ 5,377	\$ 5,736	\$ 359	6.7
Special Funds	4,621	3,467	-1,154	-25.0
Bond Funds	107,525	61,000	-46,525	-43.3
<i>Budget Act Total</i>	<i>117,523</i>	<i>70,203</i>	<i>-47,320</i>	<i>-40.3</i>
Federal Trust Fund	12,778	8,471	-4,307	-33.7
Reimbursements	16,646	8,904	-7,742	-46.5
<b>Total</b>	<b>\$ 146,947</b>	<b>\$ 87,578</b>	<b>-\$59,369</b>	<b>-40.4</b>

### Mike Chrisman, Secretary for Resources

- Overview of Resources Agency
- Discussion of Federal Funds
- Salmon Recovery

## 1. Environmental License Plate Fund Fee Increase

**ELPF.** The Environmental License Plate Fund (ELPF) provides support to numerous conservancies and departments within the Resources Agency. The ELPF has a structural imbalance. Without a fee increase, and keeping expenditures constant the 2009-10 fiscal year expenditures would exceed available resources by \$7 million.

**Trailer Bill.** The trailer bill language would raise the environmental license plate fee by ten percent.

**Budget Act.** The *2009-10 Budget Act* does not include trailer bill authorizing the ELPF fee increase. The Budget Act does provide decreased funding to departments and conservancies from the ELPF by \$4,720,000, but this decrease would be even more dramatic without the fee increase.

- Secretary for Resources – Reduction to out of state travel and equipment replacement program: -\$50,000
- California Conservation Corps – Reduction to administration: -\$300,000
- CalFire – Environmental Protection Program field coordinator reduction (-\$15,000); Fire and Resource Assessment Program resource management strategies design (-\$30,000): Total reduction of -\$45,000
- Department of Fish and Game – Fund shift of \$3 million to the Fish and Game Preservation fund for wardens: -\$3 million
- State Coastal Conservancy – Reduction to Ocean Protection Council research on algal blooms: -\$257,000
- Santa Monica Mountains Conservancy – Reduction to consultant contracts for project planning and implementation: -\$50,000
- Sierra Nevada Conservancy – Reduction to interagency agreements: -\$500,000
- Department of Water Resources – Reduction in work on the Trinity River Restoration Program: -\$60,000
- CalEPA, Department of Pesticide Regulation – Fund shift of \$458,000 with the Department of Pesticide Regulation Fund

**Staff Comment.** Due to concerns over the role of the Secretary for Resources in protecting fish species, especially salmon, action on budget items for the Secretary for Resources will be withheld until the Secretary's actions to protect salmon have been reviewed.

**Action:** Held open



## 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.

**Budget Act.** The 2009-10 Budget Act includes \$517,000 to support CVMC. This is a dramatic decrease from current year estimated expenditures due to the near elimination of bond funds for the conservancy.

<b>Summary of Expenditures</b>				
<i>(dollars in thousands)</i>	<b>2008-09</b>	<b>2009-10</b>	<b>\$ Change</b>	<b>% Change</b>
<b>Type of Expenditure</b>				
Coachella Valley Mountains Conservancy	\$442	\$517	\$75	17.0
Capital Outlay	18,375	0	-18,375	-100.0
<b>Total</b>	<b>\$18,817</b>	<b>\$517</b>	<b>-\$18,300</b>	<b>-97.3</b>
<b>Funding Source</b>				
Special Funds	\$303	\$318	\$15	5.0
Bond Funds	17,905	60	-17,845	-100.0
<i>Budget Act Total</i>	<i>18,208</i>	<i>378</i>	<i>-17,830</i>	<i>-97.3</i>
Reimbursements	609	139	-470	-77.2
<b>Total</b>	<b>\$18,817</b>	<b>\$517</b>	<b>-\$18,300</b>	<b>-97.3</b>

### 1. Opportunity Land Acquisitions

**Proposition 84.** California voters, in November 2006, passed Proposition 84, the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Act of 2006, which provides \$5.388 billion in general obligation bonds for environmental and resource purposes. The Proposition 84 bond language allocated funds to the state's conservancies in order to guarantee land acquisitions and environmental restoration projects. Coachella Valley Mountains Conservancy was allocated \$36 million through Proposition 84.

**Budget Act.** The *2009-10 Budget Act* included Proposition 84 bond funds for many of the state's conservancies. However, the *2009-10 Budget Act* includes no bond funds for Coachella Valley Mountains Conservancy to make land purchase grants.

**Land Value Appraisals.** The Coachella Valley Mountains Conservancy's bond funds request was initially denied by the Department of Finance due to the conservancy not seeking third party verification of the property value appraisals for land purchased. However, the conservancy has now adopted regulations requiring that the conservancy and all its grantees always seek a third party independent review of the property value appraisals prior to purchasing land. As this administrative problem has been corrected, it is no longer a reason for holding back the conservancy's bond funding.

**Staff Recommendation.** Staff recommends that the Subcommittee appropriate \$6 million in Proposition 84 bond funds, as well as \$343,000 in Prop 12 funds and \$456,000 in Prop 40 funds, to the Coachella Valley Mountains Conservancy for land acquisition. This will allow the conservancy to move forward with its top priority land purchase.

**Action:** Held open

## 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 Delta.

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

**Budget Act.** The Governor's Budget proposes \$6.3 billion to support DWR in the budget year. This is a 20 percent decrease over estimated expenditures in the current year, mainly the result of a decrease in capital outlay and California Energy Resources Scheduling (CERS) funding. General Fund support for the department is proposed to decrease by nearly 20 percent. The \$4.3 billion in CERS funding is not subject to the Budget Act (these funds are primarily for energy payments related to the 2001 electricity crisis). The CERS funds will significantly decrease in 2012 as the majority of the power contracts are paid off.

<b>Summary of Expenditures</b> <i>(dollars in thousands)</i>	<b>2008-09</b>	<b>2009-10</b>	<b>\$ Change</b>	<b>% Change</b>
<b>Type of Expenditure</b>				
California Water Plan	\$ 848,513	\$ 150,139	-\$698,374	-82.3
Implementation of the State Water Resources Development System	861,730	903,861	42,131	4.9
Public Safety and Prevention of Damage	896,695	436,090	-460,605	-51.4
Central Valley Flood Protection Board	7,828	8,549	2,000	25.5
Services	9,425	9,660	235	2.5
California Energy Resources Scheduling	4,601,388	4,271,583	-329,805	-7.2
Capital Outlay	668,530	489,797	-178,733	-26.7
Administration	65,319	67,155	1,836	2.8
<i>less distributed administration</i>	<i>-65,319</i>	<i>-67,155</i>	<i>-1,836</i>	<i>2.8</i>
Loan Repayment Program	-4,013	-4,013	0	0.0
<b>Total</b>	<b>\$ 7,890,096</b>	<b>\$ 6,265,666</b>	<b>-\$1,624,430</b>	<b>-20.6</b>
<b>Funding Source</b>				
General Fund	\$ 161,324	\$ 129,590	-\$31,734	-19.7
Special Funds	527,896	493,655	-34,241	-6.5
Bond Funds	2,503,681	1,285,720	-1,217,961	-48.7
<i>Budget Act Total</i>	<i>3,192,901</i>	<i>1,908,965</i>	<i>-1,283,936</i>	<i>-40.2</i>
Federal Trust Fund	13,530	13,922	392	2.9
DWR Electric Power Fund	4,601,388	4,271,583	-329,805	-7.2
Bosco-Keene Renewable Resources Investment Fund	20	0	-20	-100.0
Reimbursements	82,257	71,196	-11,061	-13.5
<b>Total</b>	<b>\$ 7,890,096</b>	<b>\$ 6,265,666</b>	<b>-\$1,624,430</b>	<b>-20.6</b>

## 1. State Water Project Accountability Issues

**Background.** The State Water Project (SWP) is the nation's largest state-built water conveyance system, providing water to 23 million Californians and 755,000 acres of agriculture. The SWP moves water mostly from Northern California to parts of the San Francisco Bay Area, the Central Valley, and Southern California. The DWR protects and manages California's water resources. In this capacity, the department maintains the SWP. The project was initiated by legislation in 1959 under the Burns-Porter Act, with voters ratifying in November 1960 the \$1.75 billion bond for the project authorized in the act.

**Paying for the SWP System.** Users of the water system ("SWP contractors") fund most of SWP's capital and operational costs through water user fees. Other sources of funding for the project include federal funding (mainly for flood control), state general obligation bonds (mainly for environmental programs), and the General Fund combined with user fees (recreation and fish and wildlife programs). The project is mainly funded by users of the water system (often referred to as SWP contractors). These user revenues are commonly referred to as SWP funds. However, there are other significant sources of funding related to SWP. Specifically, the federal government provides a share of the costs for flood control projects related to SWP, the General Fund has supported related recreation and fish and wildlife programs, and state general obligation bond funds have supported several related environmental programs, including CALFED.

**State Water Project Funding is "Off-Budget".** When a fund is "off-budget" it means that the funds are not appropriated in the annual budget bill and that the Legislature cannot annually change the level of financial support for the program through the budget. As an off-budget program the SWP has "continuous appropriation" authority to spend its revenues, and does not need annual Legislative authorization to support its positions, operating costs, or capital outlay expenditures. While DWR must seek approval from the Legislature to establish permanent new positions, it does not need additional legislative approval for the funding to support them. That is because the expenditure authority for these positions is already provided off-budget.

**LAO Analysis.** The LAO is concerned that the role of SWP has changed substantially from its inception in 1960. In the past, SWP operated as a discrete, self-contained program with sufficient fiscal oversight provided by SWP contractors who pay most of the project's costs. However, this situation has changed. Specifically, the LAO found that SWP had developed increasing fiscal and programmatic ties to other state on-budget programs, such as CALFED. The SWP operation has created significant liabilities for other programs and funding sources, including the General Fund, without any legislative oversight. These are reasons that the LAO believes justify placing this program under regular legislative budget scrutiny along with requests for additional positions. The LAO's analysis has led the Legislative Analyst to conclude that the Legislature has the authority to do so.

The LAO is concerned that the process DWR follows to develop SWP budgets lacks checks and balances that would help ensure accountability. Review of the now \$900 million budget takes place internally at DWR, with ultimate approval coming from within the department and DOF. While the SWP seeks and receives some advice from SWP water contractors, it does not actually review its budget with the contractors prior to the submission of departmental requests for

additional positions to the Legislature. At no point is the budget vetted and approved in a public setting, nor do ratepayers—those affected most by spending decisions—have an opportunity to review the budget prior to approval, as is the general practice at other state agencies.

The only public review of the SWP spending plan takes place at legislative budget hearings, and only then in the context of specific requests for position authority. Consequently, this complicates the Legislature's ability to fully evaluate SWP position requests in the context of the SWP's total current-year staffing of 1,509 positions. This relative lack of budgetary oversight also applies to SWP's capital projects, although there is some limited oversight provided by DOF and the bonding agencies in cases in which the SWP issues revenue bonds to finance the construction costs of its projects. Because of broad and ongoing off-budget expenditure authority, the department is not required to submit funding requests in conjunction with position requests.

The LAO found that lack of transparency in the development of the SWP budget appears to have triggered increasing billing protests from SWP contractors. This, in turn, has led to increases in staffing and increased costs to handle the billing protests, which are ultimately passed on to water ratepayers. The LAO argues that this upward expenditure cycle is due in part to the lack of effective budgetary oversight of the SWP.

There is also growing recognition of SWP's role in contributing both to the causes of, and the potential solutions to, water-related problems in the Delta. This has major policy and fiscal implications for a number of state programs. For these reasons, the LAO continues to recommend the enactment of legislation that would make SWP subject in all respects to the annual legislative budget process.

**Water Contractors' Letter.** The State Water Project contractors have submitted a letter to the Subcommittee stating their opposition to bringing the SWP on-budget.

**Missing Report.** As part of the *2007-08 Budget Act*, the Legislature passed Supplemental Report Language that required the following:

“As an alternative to placing the SWP “on budget,” the department shall submit **annually** with their January 10 budget a supplemental budget that would detail SWP funds that (a) contribute to projects in the Delta, (b) are a cost share of state funds, (c) require any future commitment of state funds, and (d) any SWP funded positions that are transferred to state to be then funded on budget with state funds.”

The Budget Committee received such a budget document in May of 2008. No report has been received for 2009.

**Staff Analysis.** SWP operations impact the critical water resources for 23 million Californians. As the Legislature debates new water bonds for water conveyance infrastructure and resources management in the Delta, it would be beneficial for the Legislators to be aware of what financial resources the SWP is placing towards these efforts already.

**Staff Recommendation.** Staff recommends that the Subcommittee adopt trailer bill language requiring the following:

On or before January 10, 2010, DWR shall report to the chairs of the fiscal committees in both houses on the SWP budget. The report shall include the expenditures of SWP by program for the last three years starting with 2007-08, and total revenues for each of those years. Additionally, the report shall include for each year presented the number of SWP positions and any non-SWP funds that are used as a cost-share toward SWP projects or operations.

**Action:** Approved staff recommended trailer bill language

**Vote:** 3-0

## 2. State Water Project Facilities Fish and Wildlife Enhancement and Recreation

**Davis-Dolwig Act.** Chapter 867, Statutes of 1961 (AB 261, Davis), also known as the Davis-Dolwig Act, states the broad intent of the Legislature that State Water Project (SWP) facilities be constructed “in a manner consistent with the full utilization of their potential for the enhancement of fish and wildlife and to meet recreational needs.” The Department of Water Resources (DWR) is charged with implementing the act as part of planning for construction of SWP facilities. The Davis-Dolwig Act does not provide criteria specifying what kinds of recreation facilities or fish and wildlife enhancements are to be developed, nor does it require legislative review or approval of such facilities or enhancements.

**DWR has Authority to Determine Cost-Share.** DWR determines what share of the costs of SWP facilities relate to fish and wildlife enhancements and recreation and are Davis-Dolwig costs not subject to reimbursement by state water contractors. In practice, most Davis-Dolwig costs are related to recreation. Most fish and wildlife costs are classified as being related to “preservation” of these species, rather than the “enhancement” of fish and wildlife, and therefore are not usually attributed to Davis-Dolwig.

There are two primary costs under the Davis-Dolwig Act. First is the capital cost of the creation of recreation facilities when the SWP was constructed (such as the purchase of additional land for hiking trails and camping). The second is an allocation to recreation of the total annual budget of the overall SWP, based on an assessment of each facility’s value as a recreational asset. This is an indirect form of cost allocation, whereby a portion of the operation and capital cost at every SWP facility is allocated to recreation. These indirect recreation-related costs, on a statewide basis, average about 3 percent for operations and 6 percent for capital spending.

**General Fund Role in Davis-Dolwig Act.** The Davis-Dolwig Act states that DWR is not to include costs of fish and wildlife enhancements and recreation in charges levied on the SWP contractors. The act states the intent of the Legislature that such costs be paid for by an annual

appropriation from the General Fund. The act, however, did not actually appropriate any General Fund monies to pay for Davis-Dolwig costs.

Since 1961, DWR has allocated over \$464 million of SWP costs to Davis-Dolwig. Of this amount, \$107 million has been paid from a combination of tidelands oil revenue (\$90 million) and the General Fund (\$17 million). A further \$202 million in Davis-Dolwig costs fronted by SWP contractors was offset with monies owed by them to the state, which had fronted the costs for SWP construction projects. The remaining \$155 million allocated by DWR for Davis-Dolwig recreation costs has been paid for, on an interim basis, by SWP contractors.

**Budget Act.** The *2009-10 Budget Act* includes no funds for the SWP facilities fish and wildlife enhancement and recreation.

**Governor's Budget.** The Governor's Budget proposed a total of \$38.5 million for Davis-Dolwig related costs. These were:

- \$30,984,000 from Proposition 84 for development, rehabilitation, acquisition, and restoration of SWP facilities for fish and wildlife enhancement and recreation.
- \$7.5 million from Harbors and Watercraft Fund for on-going operations funding for SWP recreation.
- Trailer bill language.

**Trailer Bill.** The Governor proposed trailer bill language to provide a continuously appropriated annual transfer of \$7.5 million from the Harbors and Watercraft Fund for payment of the recreation component of the SWP. This \$7.5 million would pay for on-going operations of SWP recreation, but would become "off-budget" and not subject to Legislative appropriation each year. The trailer bill language also includes an annual reporting requirement on what the funds were used for during the previous budget year.

**LAO Recommendation.** The LAO recommends that the Legislature deny the request for Davis-Dolwig funding in the budget year and reject the proposed statutory change to provide an ongoing appropriation from the Harbors and Watercraft Revolving Fund to pay Davis-Dolwig costs. The LAO further recommends that the Legislature carefully evaluate the policy and legal implications for the state before adopting the administration's proposal to modify state law to declare that no historical state funding obligation exists for Davis-Dolwig costs. To this effect, the LAO makes a series of recommendations:

- The LAO recommends that Davis-Dolwig be amended to specify that only costs related to construction of recreation facilities at new SWP facilities are to be paid for by the state under Davis-Dolwig. The LAO advises the Legislature to specify that there is to be no allocation of total SWP costs to recreation. The recreation cost component of SWP capital projects would be removed, presumably allowing revenue bonds to be sold and construction to continue on pending SWP projects.
- The LAO recommends that the Legislature specify that SWP is no longer to incur operational and maintenance costs for state recreation areas, or use SWP funds for these purposes. These costs should be considered for funding alongside any other budget requests for the state park system, and be subject to legislative review and approval in the



annual budget process. In particular, the LAO thinks that DWR should not incur any further costs related to the operation of the SRA at Lake Perris.

- The LAO also recommends that the Legislature specify that any SWP recreation facilities that are to be developed or improved under a regulatory requirement shall not be considered eligible state costs under Davis-Dolwig. This approach is consistent with legislative policy on how regulatory compliance costs are to be funded. If this recreation spending is required by a federal, state, or local regulatory agency as a condition of approving the construction or operation of an SWP facility, these regulatory costs should be considered a project cost and paid for by SWP contractors.

**Staff Recommendation.** Staff recommends that the Subcommittee hold this item open.

**Action:** Held open

### 3. CALFED General Fund Reductions

**LAO Recommendation.** The *2009-10 Budget Act* includes a total of \$14 million from the General Fund for CALFED. Of this amount, about one-half (\$7.2 million) is for CALFED program oversight of various state agencies. The majority of the remaining funding is allocated to Department of Water Resources (DWR) for a variety of specific CALFED programs. The General Fund contribution in each of these DWR-administered programs is only three percent of the total state funds (including bond funds and SWP funds) that are spent on these programs.

The LAO's analysis indicates that the CALFED programs in DWR proposed to receive General Fund support may have merit and work towards achieving CALFED's goals. Most of the programs proposed for General Fund support, such as the Delta levees subventions program, have existed in some form or another prior to the creation of CALFED. In the intervening years since these programs began, however, multiple funding sources in addition to the General Fund have become available to support them. This includes substantial increases in available bond funds, many of which are allocated specifically to CALFED. Now, the General Fund contributes less than 3 percent overall to these CALFED programs.

In light of the magnitude of the state's General Fund fiscal problems, the LAO thinks that it is a good time for the Legislature to reconsider whether DWR's CALFED activities warrant continued General Fund support. The LAO believes such a reassessment of priorities is reasonable, given the level of support available to CALFED from other funding sources (approximately \$225 million for 2009-10). The LAO therefore recommends that CALFED's base General Fund budget be reduced by \$5.9 million by reducing or eliminating General Fund support in two programs: Delta levees and water use efficiency.

*Delta Levees: \$4.9 Million General Fund Savings.* The budget allocates \$4.9 million from the General Fund for levee maintenance and repairs within the Delta. This program pertains to levees outside of the state's Central Valley flood control system, mainly Delta islands, that are operated by local reclamation districts. While improving these levees has some merit, the need to continue to stabilize levees on many islands in the Delta is currently being assessed as the

department evaluates alternatives for Delta conveyance. Therefore, it is uncertain whether preserving these levees will remain a priority for state funding. The availability of other fund sources (mainly bond funds) means that General Fund support can be eliminated without significantly impacting the program.

*Water Use Efficiency: \$1 Million General Fund Savings.* The General Fund provides \$1.4 million of the nearly \$27 million budgeted for CALFED water use efficiency programs, mostly from bond funds. Of the \$1.4 million, about \$1 million is allocated to the California Irrigation Management Information System (CIMIS), a program operated jointly with the University of California, Davis, intended to assist irrigators in managing their water resources efficiently. The LAO is concerned that the original purpose of the program, agricultural water efficiency, has been changed. Many of the 6,000 registered users of the system are not irrigators, but are water agencies, researchers, educators, and water consultants. In the LAO's view, General Fund support for the water use efficiency program can be reduced by \$1 million without significantly impacting the original program scope. The remaining \$350,000 of the General Fund support is used for review of urban water conservation plans, a high-priority activity for which an alternative funding source is not likely to be available.

**Staff Recommendation.** Staff recommends that the Subcommittee take comments from the department and the public. The Subcommittee may wish to consider these cuts when spring revenue numbers become known.

**Action:** None. The Subchair expressed that this item may be revisited after revenue numbers are public.

**Note:** The department noted to the Subcommittee that eliminating the \$1 million for Water Use Efficiency would remove all of the funding for the program. The department also noted that the Delta Levees program needs about \$1 million General Fund to administer claims for projects started before the 2006 bonds were passed.

## 4. Central Valley Flood Protection Board

**Background.** Legislation was enacted in 2007 (AB 5 and SB 17) that renamed the Reclamation Board the Central Valley Flood Protection Board (Board). The Board is required to act independently of the Department of Water Resources and continue to exercise all of its powers, duties, purposes, responsibilities, and jurisdiction. The membership of the Board increased from seven to nine members, seven being appointed by the Governor and subject to Senate confirmation, and two members serving as non-voting ex officio members. Salary of the seven appointed members will be equivalent to the members of the Air Resources Board. Furthermore, AB 162 (Wolk, 2007) requires the Board to review revised safety elements of local governments' general plans prior to the adoption of the amended safety element.

**Budget Act.** The *2009-10 Budget Act* includes \$7.5 million General Fund and \$1 million in Proposition 1E bond funds for support of the Central Valley Flood Protection Board.

**Finance Letter.** The Governor has submitted a spring finance letter that would shift \$2,190,000 General Fund from the Central Valley Flood Protection Board to the Public Safety and Prevention of Damage program.

**Staff Comment.** The Central Valley Flood Protection Board was created in 2007 and received funding for the first time in the *2008-09 Budget Act*. At the time it was understood that all of the Board's expenses were not known. Now that it is understood that the Board can operate with fewer funds than it was initially appropriated, the Legislature may wish to consider reverting the additional funds rather than shift them to another program within DWR.

**Action:** The Subchair directed the department to report on how many staff the Reclamation Board had. Also, the Subchair directed the department to report how many new staff the CVFPB were given in 2008-09 and how many of those staff were transfers from elsewhere in DWR.

## 3940 State Water Resources Control Board

**Background.** The State Water Resources Control Board (SWRCB), in conjunction with nine semi-autonomous 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.

**Budget Act.** The *2009-10 Budget Act* includes \$598.6 million to support the SWRCB in the budget year. This proposal is approximately \$178 million less than current year expenditure levels, mainly due to a reduction in bond funding. General Fund appropriation is expected to stay nearly the same.

**Note:** No State Water Resources Control Board items were discussed due to time constraints. The Water Board will be discussed on May 7, 2009.

# SUBCOMMITTEE NO. 2

# Agenda

S. Joseph Simitian, Chair  
John Benoit  
Alan Lowenthal



## Hearing Outcomes

(See outcomes listed in the box under each issue)

**Day: Thursday April 30, 2009**  
**Time: 9:30 am or upon adjournment of session**  
**Room: Rose Ann Vuich Hearing Room (2040)**

**Consultant: Brian Annis**

### Transportation

2660	Department of Transportation .....	1-19
2640	State Transit Assistance (cross-cutting issue related to Proposition 1B) .....	10-12
3900	Air Resources Board (cross-cutting issues related to Diesel Retrofit).....	15-16
2670	Board of Pilot Commissioners.....	20-24
2665	High Speed Rail Authority.....	23-30
	Appendix I – High Speed Rail Authority list of projects for Federal Stimulus .....	31

**Note on the 2009-10 Budget Process:** On February 19, 2009, the Legislature approved the 2009 Budget Act (SB 1XXX). However, certain items were withheld from the budget, without prejudice, pending a more thorough discussion in the budget subcommittees. Items withheld generally met one or more of the following criteria: (1) were rejected in a prior budget year; (2) have substantial policy implications – for example, information technology or the state’s bond capacity; or (3) represent a new program or expansion. Additionally, there are numerous pieces of trailer bill language proposed by the Administration that were not adopted and that require further consideration. The issues in this agenda are these aforementioned issues along with April Finance Letters and other issues of interest to the Subcommittee.

## 2660 Department of Transportation

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

**Governor's Budget:** The January Governor's Budget proposed total expenditures of \$13.0 billion (\$1.7 billion General Fund) and 22,186 positions, a decrease of \$1.3 billion and an increase of 50 positions. The primary driver of the year-over-year expenditure decline is the Proposition 1B program – specifically Prop 1B funding is running out for the State Transportation Improvement Program (STIP) component. It should be noted that the Governor's January Budget did not include the \$964 million appropriated for Caltrans from the American Recovery and Reinvestment Act (see also issue #1)

**Activity:** (in millions):

<b>Activity</b>	<b>2008-09</b>	<b>2009-10</b>
Aeronautics	\$8	\$9
Highway: Capital Outlay Support	1,863	1,855
Highway: Capital Outlay Projects	7,091	6,106
Highway: Local Assistance	2,487	2,206
Highway: Program Development	77	77
Highway: Legal	81	81
Highway: Operations	209	209
Highway: Maintenance	1,247	1,300
Mass Transportation	529	423
Transportation Planning	185	173
Administration	485	514
Equipment Program (distributed costs)	(217)	(253)
<b>TOTAL</b>	<b>\$14,264</b>	<b>\$12,955</b>

**Major Funding Sources** (in millions):

<b>Fund Source or Account</b>	<b>2008-09</b>	<b>2009-10</b>
Federal Funds	\$3,662	\$3,578
State Highway Account (SHA)	3,453	3,447
Proposition 1B Bond Funds	3,865	2,766
Reimbursements	1,467	1,288
General Fund (Proposition 42 – Caltrans share)	472	580
Federal Revenue Bonds (GARVEEs)	406	622
Public Transportation Account	266	260
Other funds	673	414
<b>TOTAL</b>	<b>\$14,264</b>	<b>\$12,955</b>

**Adopted 2009-10 Framework Budget (SB 1XXX):** In the adopted framework 2009-10 budget, the Legislature removed funding for the following items “without prejudice” for further subcommittee discussion:

- Diesel Engine Retrofit (Budget Change Proposal (BCP) #6): \$53.4 million in 2009-10 and approximately \$260 million total over five years.
- Federal Revenue Bonds, a.k.a. GARVEEs (BCP #4): \$769.0 million for multiyear debt repayment of \$622 million in 2009-10 borrowing.
- Workforce Development Centers (BCP 15): \$1.0 million annually ongoing for work skills training.

**1. Update on Federal Stimulus Funds.** On March 18, 2009, Budget Subcommittee #2 held an informational hearing on the American Recovery and Reinvestment Act (ARRA) and examined draft statutory language to implement ARRA in California for highway and road projects. The following week, the Legislature passed and the Governor signed AB 20XXX (Bass) to appropriate \$2.6 billion in ARRA funds for transportation. The legislation directed: \$935 million to State Operations and Protection Program (SHOPP) projects (with \$310 million of this available for short-term loans to Proposition 1B projects); \$77 million to Transportation Enhancement projects such as bicycle and hiking trails; and the remainder of \$1.6 billion to regional transportation agencies, cities, and counties. Since the bill was signed, the following has occurred:

- The California Transportation Commission (CTC) has allocated \$625 million in SHOPP projects. As of April 22, Caltrans has obligated \$294 million of these funds (here, *obligated* means under contract).
- The CTC approved a “lump sum” allocation of the \$1.6 billion in funds directed to local agencies.
- The CTC approved ARRA Prop 1B loans for four high-priority highway projects: (1) the 905 in San Diego; (2) the 405 in Los Angeles; (3) the 215 in San Bernardino; and (4) the 24 (Caldecott Tunnel 4<sup>th</sup> Bore) in Alameda.
- The CTC has allocated one State Transportation Enhancement (TE) project costing \$2.1 million from the \$29 million in the Caltrans TE funds – a final project list is still pending.

**New ARRA Issues.** On April 2, 2009, the Administration submitted a Section 28.00 letter to the Joint Legislative Budget Committee (JLBC) to augment Caltrans’ federal trust fund budget by \$32.3 million to distribute federal grants for public transit. California is expected to receive a total of \$1.1 billion in ARRA funds for transit (this amount is in addition to the \$2.6 billion appropriated by AB 20XXX). ARRA also includes about \$1.5 billion in competitive grants, for which Caltrans intends to apply. Guidelines for the competitive grants are still pending with the federal Department of Transportation and project awards are expected to arrive early next year.

**Technical Adjustment to Federal Funds Appropriation:** The revised 2008 Budget Act and the adopted 2009 Budget Act included \$200 million in funds anticipated from federal stimulus to offset any decrease in the SHOPP that would occur because the budget package included a shift of transportation funds from tribal gaming to the General Fund. The ARRA appropriation in AB 20XXX was not adjusted to reflect the funding that had already been provided in the prior legislative actions.

**Staff Comment:** Caltrans should update the Subcommittee on the ARRA funds appropriated by AB 20XXX, the ARRA funds in the Section 28.00 letter, and the other transportation-related ARRA funds. Caltrans should indicate if further Section 28.00 or Finance Letters are expected this year for ARRA funds, and what technical



budget adjustments may be warranted to the federal appropriations. Caltrans has indicated it will apply for its maximum share of federal discretionary grants – the maximum for one state is \$300 million. Caltrans should speak to its strategy for these competitive grants.

**Staff Recommendation:** Adopt the technical fix of reducing the federal appropriation (the SHOPP item) by \$200 million to correct the double-counting of federal stimulus funds in AB 20XXX and the 2009 Budget Act (SB 1XXX).

***Action: Approved technical budget fix on a 3-0 vote.***

**2. Late Reports (Staff Issue).** The following reports required by statute, prior budget acts, or supplemental report language, were overdue as of April 29, 2009:

- (a) Surface Transportation Project Delivery Pilot Program (due January 1, 2009). This report requirement was added by AB 2650 (Chapter 248, Statutes of 2008, Carter).
- (b) State Bond Measure Annual Report (due January 1, 2009). This report requirement was added by AB 1368 (Chapter 770, Statutes of 2003, Kehoe).

**Staff Comment:** Caltrans should update the Subcommittee on the status of these overdue reports. Staff understands it is the practice of Subcommittee #2 to reduce by 5 percent the administration budget of any department with overdue legislative reports.

**Staff Recommendation:** Hold open pending receipt of the overdue reports.

**Action: No action taken – Caltrans anticipates these reports will be delivered by May 8<sup>th</sup>.**

**3. Caltrans Section 26.00 Violations (Staff Issue).** Staff has discovered, and Caltrans confirms, that the department has been shifting funds among programs scheduled in the budget act without Section 26.00 reporting. Scheduling in the budget act is binding on department expenditures, but budget Control Section 26.00 does allow funding shifts among scheduled items with 30-day legislative reporting. Caltrans calls its process “cross-allocation” and indicates it promotes effective management when the type of work to be performed by a division and related to that divisions’ primary function, is better performed by experts in another division. For example, the 2008 Budget Act scheduled \$1.9 billion for Highway Transportation – Capital Outlay Support (COS), and \$77 million for Highway Transportation – Legal; however, Caltrans “cross-allocated” \$16.7 million and 101 positions from COS to legal. This practice results in a second set of books for Caltrans, with the public documents indicating a legal budget of \$78 million and 172 positions, but in reality, Caltrans cross-allocated to achieve a real budget of \$94 million and 273 positions for legal.

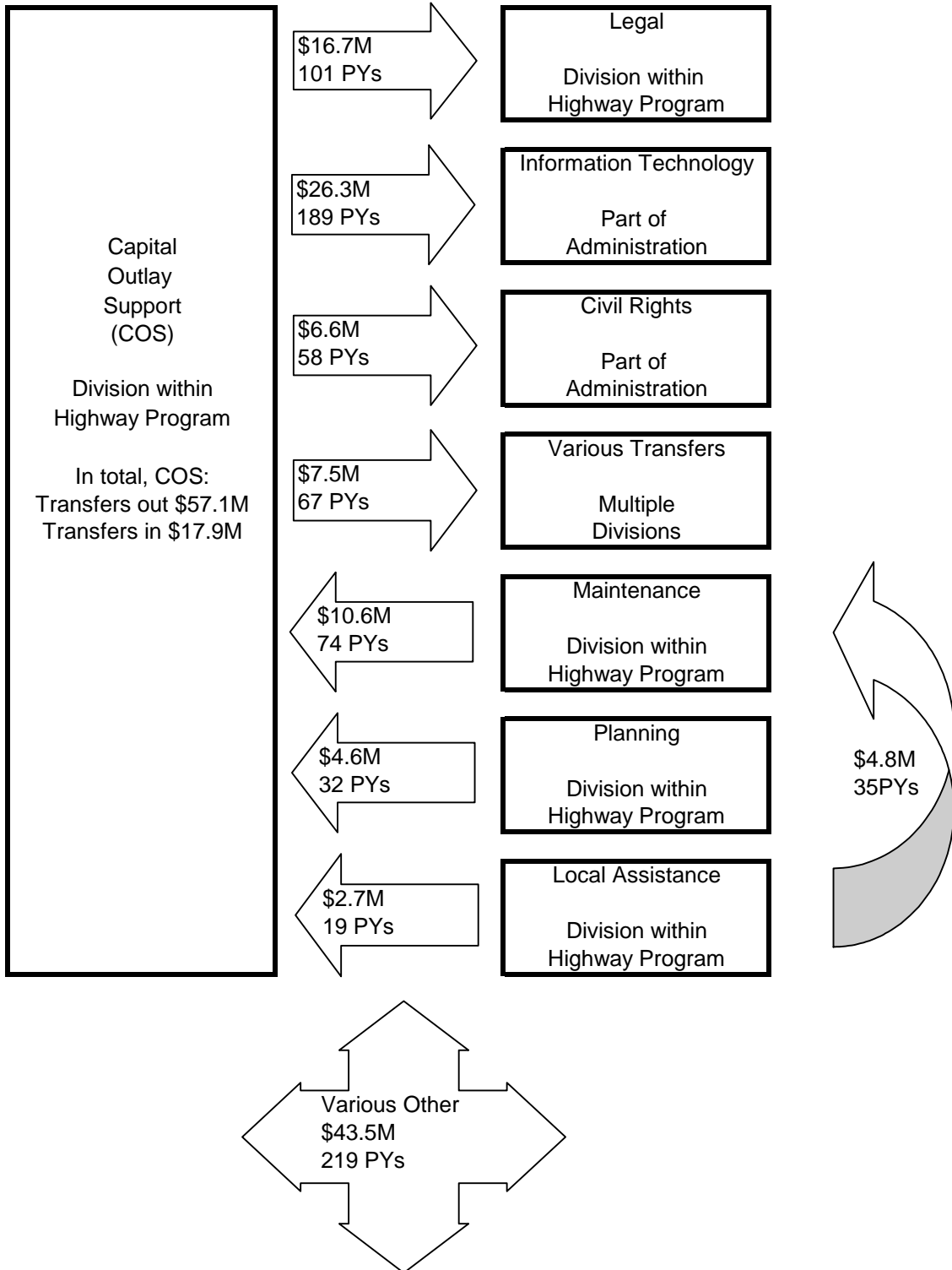
**Bottom-line legal issue.** While the management efficiency of the Caltrans “cross-allocation” practice can be discussed, the bottom-line is that no legal authority exists for the Administration to shift funds in this manner without notification to the Legislature. Staff is unable to find any statutory or State Administration Manual (SAM) definition or authority for the practice Caltrans calls “cross allocation” and the Administration has not provided any reference for legal authority.

**Special Concern for the Capital Outlay Support Budget.** The Caltrans Highway Transportation – Capital Outlay Support Program is uniquely budgeted because statute requires the department to zero-base the COS budget annually based on project workload – the Administration submits a May Revision letter each year to accomplish this adjustment. To get the best aggregate workload, based on Caltrans assessment of individual highway and road projects, the letter comes late in the budget process – in May. Due to the May timeframe and the complexity of the project-by-project workload, the LAO and legislative staff basically accept Caltrans workload numbers without detailed review. Cross allocation of funding and positions out of COS suggest Caltrans might be asking for Engineers and Engineer Techs, and then shifting that funding for Attorneys and other non-engineer work. The final expenditures may be justifiable, but the methodology and lack of transparency raise major concerns.

**Special Concern for the Maintenance Budget.** During the 2006 budget process, Caltrans proposed to shift funding and staffing for major *maintenance* contracts (including state worker design and oversight) from the Maintenance Division to the COS Division and SHOPP *rehabilitation* program. The Legislature rejected this request and kept the major maintenance funding in the Maintenance Division. This was done to maintain transparency for maintenance expenditures (because major maintenance was not consolidated into the SHOPP budget item) and to avoid a bigger COS May Finance Letter and the time constraints and data issues inherent in the May COS letter. The cross-appropriation information from Caltrans suggests the

department ignored this legislative direction and shifted \$10.6 million and 74 positions from Maintenance to COS on its second set of books.

**Detail on Caltrans “cross-allocations” for 2008-09**



**Cross Allocation Chart:** The chart on the prior page shows the “cross allocations” or shifts among divisions scheduled in the 2008 Budget Act. Staff excluded three Caltrans shifts from the chart: (1) Grant Anticipation Revenue Vehicles (or GARVEE) bond payments are scheduled in COS, but shifted to Administration for payment – this suggests a technical correction is needed, but GARVEE debt is elsewhere displayed in the Governor’s budget, so there is not a transparency concern; (2) Audits – centralized auditors are typically funded by the function they audit as they move within a department – so this shift does not raise concerns; and (3) statewide shifts such as positions shifted to the Director’s Office, the Secretary for BT&H Agency, and the Governor’s Office – while these funding shifts may raise other transparency concerns, they are statewide issues beyond the scope of this issue.

**Staff Comment:** Caltrans has not been able to suggest a legal justification for “cross allocations” so the department should suggest a fix. The amounts shifted without legislative reporting are substantial – more than \$123 million and 794 positions in 2008-09. This amount is over five percent of the Caltrans state operations budget. Among the options to fix this problem are the following:

- (a) Adjust the Budget Act scheduling to the anticipated expenditures of funds by each division (a Section 26.00 could later be submitted if additional adjustments are needed).
- (b) Add provisional language to the Budget Act to allow Caltrans to shift a defined amount of funding between divisions without legislative reporting.

Caltrans will provide a zero-based May Revision Finance Letter on its Capital Outlay Support workload for 2009-10. This letter should be an accurate representation of the *engineering-related* workload (both state worker and contractors) and correctly adjust for any positions shifts in the past for attorneys or other non-engineering work.

**Staff Recommendation:** Take no action at this time. If Caltrans wishes to shift funds among programs scheduled in the 2009 Budget Act, it should provide a revised expenditure plan at or before the May Revision. Use of the Section 26.00 process should only be used for *unanticipated* budget shifts.

**Action:** *Discussion of this issue was deferred to a future hearing at the request of Caltrans. In the interim, Caltrans will present detail to legislative staff and the LAO on the department’s proposed remedy.*

- 4. Specialty Building Facilities Appropriation (Staff Issue):** The Administration requests an appropriation of \$56.0 million (State Highway Account) in 2009-10 for specialty building facilities such as equipment shops, maintenance stations, material labs, and traffic management centers – these facilities are part of the SHOPP approved by the California Transportation Commission. The Budget Act includes a separate item of appropriation for better transparency and budget tracking.

**Caltrans violation of Provision Language:** Provision language in the Budget Act restricts expenditures for specialty facilities to the amount specifically appropriated for that purpose in the “303” appropriation item. Specifically, language in the main SHOPP appropriation (the “302” item) says “*No funds appropriated in this item are available for expenditure on specialty building facilities.*” Despite this prohibition, SHOPP documents indicate the department is spending funds from the “302” item on specialty facilities (specifically for right-of-way acquisition).

**Excess appropriations for specialty facilities:** Part of the reason for the separate specialty facilities appropriation is to make sure that the department appropriately prioritizes on-road investments and off-road investments. For example, good highway pavement would generally be a higher priority than good pavement at an employee parking lot at a maintenance station. Caltrans and the CTC also recognize this prioritization and in recent years have deferred certain specialty facility projects; however, these deferrals are not recognized in the budget request. With the amount approved in 2009 Budget Act and carry-over funds from prior years, there is about \$108 million available for specialty facilities expenditures in 2008-09 and 2009-10. However, discussions with Caltrans suggest the Department may only obligate about \$77 million through June 2010. This would suggest an excess of about \$31 million. Caltrans requests that a contingency of \$20 million be maintained for a project in litigation and for possible cost overruns.

**Updates from Caltrans:** Caltrans indicates that they inadvertently scheduled right-of-way funding for specialty facilities in the wrong appropriation item – so the amount of \$3.7 million should be shifted to the correct item. Additionally, Caltrans believes the appropriation could be reduced by \$11.2 million and still provide sufficient funding for all planned projects and for a prudent contingency of \$20 million.

**Staff Comment:** The appropriation provides three years of availability to encumber the funds; however, with projects deferred it is unclear why the proposed budget includes authority beyond planned expenditures. This also reduces budget transparency as more expenditures are indicated in the budget than Caltrans anticipates spending.

**Staff Recommendation:** Reduce the specialty facilities’ appropriation by \$11.2 million to tie funding to planned projects and a prudent contingency reserve. Approve a technical shift to correctly budget right-of-way for specialty facilities.

**Action: Adopted staff recommendation on a 3-0 vote.**

**5. Proposition 1B:** The 2007 Budget Act; the 2008 Budget Act; and other associated legislation have appropriated a total of \$9.3 billion, or 47 percent, of total Proposition 1B funds. In January, the Governor requested \$3.4 billion of total Prop 1B funds for 2009-10 – this amount was included in the 2009 Budget Act (SB 1XXX). However, the Administration had also requested an increase of \$1.5 billion in a mid-year augmentation to the 2008 Budget Act for transit and for local streets and roads Prop 1B funds – these increases were rejected pending budget subcommittee review. The status of Prop 1B funds as of March 31, 2009, is as follows (dollars in millions):

Proposition 1B Category	Total 1B Amount	Total Approp'd to date	Allocations through Mar 30 '09	Additional Approp withheld	Budget Entity
<b>Transportation Categories appropriated within the Caltrans Budget:</b>					
Corridor Mobility Improvement Account (CMIA)	\$4,500	\$3,635	\$1,514		Caltrans
State Transportation Improvement Program (STIP)	\$2,000	\$1,955	\$1,072		Caltrans
State Highway Operations and Preservation Program (SHOPP)	\$500	\$448	\$261		Caltrans
State Route 99 Improvements	\$1,000	\$547	\$19		Caltrans
Local Bridge Seismic Retrofit	\$125	\$66	\$21		Caltrans
Intercity Rail	\$400	\$383	\$96		Caltrans
Grade Separations	\$250	\$247	\$6		Caltrans
Traffic-Light Synchronization	\$250	\$245	\$47		Caltrans
Trade Infrastructure	\$2,000	\$903	\$91		Caltrans
State/Local Partnership	\$1,000	\$400	\$0		Caltrans
<b>Transportation Categories appropriated in other Departments:</b>					
Local Streets & Roads	\$2,000	\$1,287	\$998	\$700	Shared Revenues
Transit	\$3,600	\$1,300	\$530	\$800	State Transit Assistance
<b>Air Quality and Transportation Security Categories appropriated in other Departments:</b>					
School Bus Retrofit	\$200	\$196	\$191		Air Res. Board
Trade Infrastructure Air Quality	\$1,000	\$750	\$250		Air Res. Board
Port Security*	\$100	\$99	\$41		Emerg Mgt Agency
Transit Security*	\$1,000	\$304	\$101		Emerg Mgt Agency
<b>TOTAL</b>	<b>\$19,925</b>	<b>\$12,766</b>	<b>\$5,238</b>	<b>\$1,500</b>	

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

While over 60 percent of Prop 1B funds have been appropriated by the Legislature, only about 26 percent have been allocated (or made available for expenditure) to project sponsors. One factor that slowed allocations was the infrastructure funding freeze that started in December 2008 due to the inability of the Treasurer to sell bonds in the face of the banking crisis and California's budget problems.

**Background on Proposition 1B Appropriations:** After voters approved Proposition 1B in November 2006, the Administration requested that the Legislature approve three-year's worth of appropriation authority up front (i.e., the Administration wanted the Legislature to fully appropriate all the funding needed for planned allocations in 2007-08, 2008-09, and 2009-10). The Legislature rejected this multiple-year appropriation because it would reduce oversight of the annual expenditure plan. However, the Legislature has generally appropriated Prop 1B funds each year to match the cost of the projects that are ready-to-go to construction. In keeping with this precedent, the amount appropriated for 2009-10 should reflect that amount Caltrans can demonstrate is needed for ready-to-go projects, but not more.

**Detail on the Administration's 2008-09 mid-year Budget Request:** As part of the budget special session, the Administration requested \$1.5 billion in additional Prop 1B appropriations. This funding was rejected pending subcommittee review and analysis of federal stimulus funding. The specific bond programs were: (1) Local Streets and Road - \$700 million, and (2) Transit - \$800 million. These Prop 1B programs are both formula-based allocations and the funding is allocated in advance of expenditures instead of as a reimbursement. Both of these categories are receiving large amounts of federal stimulus funds (\$1.1 billion for transit and about \$640 million to cities and counties for local streets and roads), and it is unclear that there is project capacity (projects ready to go) to merit these additional Prop 1B appropriations. Note, if the State allocates bond funds prematurely, an additional interest cost is incurred.

**Recent bond sales:** Since the Legislature approved a budget package in February, the Treasurer has been successful in selling general obligation bonds. In March, the Treasurer sold \$6.5 billion in bonds and on April 21, he sold \$6.8 billion. The Administration indicates that the April bond sale will allow all ready-to-go Prop 1B projects to proceed to construction through about September 2009.

**Staff Comment:** The Administration should update the Subcommittee on the Prop 1B program, including: (1) success to date in moving projects to construction; (2) the impact of the recent bond sale for Prop 1B projects; and (3) the desirability of additional Prop 1B appropriations for transit and local streets and roads in light of ARRA funds directed to the same purposes. This hearing would also be an opportunity for transit advocates and local government representatives to speak to the desirability of additional Prop 1B appropriations for their projects.



Since the Air Resources Board is also at this hearing, the Subcommittee may want to received an update on their Prop 1B programs and success in moving projects to construction.

**Staff Recommendation:** Take no action to augment Prop 1B funding at this time – revisit after the May Revision as warranted.

***Action: No action taken – the Administration indicated it is still reviewing appropriations for the Prop 1B components of (1) local streets and roads and (2) transit. The Administration will submit a May Finance letter if it chooses to request a funding change.***

- 6. GARVEE Bonds (BCP #4).** The January Governor's Budget proposed an appropriation of \$769 million to fund the full multi-year debt repayment for Grant Anticipation Revenue Vehicles (GARVEE) bonds that Caltrans would like to issue in 2009-10. GARVEE bonds are revenue bonds backed by future federal transportation funding. The use of GARVEE bonds accelerates projects that would otherwise be delayed because of insufficient transportation funds, saving construction-inflation costs, and delivering the projects faster to travelers. The January Governor's Budget proposed to use GARVEE financing to advance three State Highway Operations and Protection Program (SHOPP) projects. The appropriation was pulled from the 2009 Budget Act (SB 1XXX), without prejudice, to allow for further budget subcommittee review. The funding was pulled because it was unclear at that time: (1) whether federal stimulus funds would reduce the need for GARVEE financing; and (2) whether additional revenue would materialize from a proposed increase in the gasoline and diesel excise tax.

**Background on past use of GARVEEs.** Existing statute allows the California Transportation Commission to authorize GARVEE projects up to a level where GARVEE debt service reaches 15 percent of annual federal funding. GARVEEs have been appropriated in two prior state budgets. The 2004 Budget Act appropriated \$783 million for GARVEE debt service – the principal of approximately \$660 million was used to accelerate eight State Transportation Improvement Program (STIP) projects. The 2008 Budget Act appropriated \$181 million for GARVEE debt service – so far \$98 million of the \$141 million principal amount has been used to accelerate two SHOPP projects. Debt service for the two prior debt issuances is still low relative to base federal funding – less than three percent in 2009-10.

**Update from the Administration:** The Administration has revised its GARVEE proposal in light of federal stimulus funds. The updated GARVEE plan includes two, instead of three, SHOPP projects. The revised funding request is \$675 million and the two projects are: (1) San Francisco US 101 Doyle Drive, and (2) Bridge replacement project in Long Beach, at Schuyler Heim Bridge.

**Staff Comment:** The Administration should outline their revised GARVEE proposal for the Subcommittee. Staff notes that this GARVEE request is consistent with past requests approved by the Legislature and the cumulative GARVEE debt load would be well within the limits in statute.

**Staff Comment:** Approve the revised GARVEE request of \$675 million, which would allow the Doyle Drive and Schuyler Heim Bridge projects to move forward.

**Action: Approve the revised GARVEE request on a 3-0 vote.**

**7. Big Picture: Environmental Mitigation Efforts (Informational).** Each year, the Caltrans budget includes funding related to equipment retrofit, stormwater management, and other initiatives to mitigate environmental impacts. Since Caltrans has been moved to Subcommittee #2, which is also responsible for departments whose primary role is environmental mitigation, Caltrans environmental mitigation efforts may benefit from increased legislative oversight. To provide a big picture view of the various Caltrans environmental mitigation efforts, some of the major ongoing components are presented here:

- New Construction: Employing stormwater best-management-practices into new construction projects (State Transportation Improvement Program (STIP) and State Highway Operations and Protection Program (SHOPP)) totals about 4 to 5 percent of the overall project costs (around \$380 million annually).
- Maintenance of Stormwater Mitigation: The budget separately appropriates \$96 million in 2009-10 for the maintenance of stormwater systems.
- Use of Recycled Tire Rubber in Pavement: Caltrans purchased rubberized hot mixed asphalt in 2008 that included approximately 3.9 million recycled tires.
- Litter Pickup: Caltrans currently spends \$60 million annually on litter pickup.
- Equipment Retrofit: About \$63 million is requested for 2009-10 (see issue on next page for detail).
- Environmental Enhancement and Mitigation Program (EEMP): The Governor's Budget includes \$10 million in 2008-09 consistent with the historic funding level.
- Alternative Fuel Usage: Caltrans reported that its alternative fuel usage increased over 400 percent in the July 2008 through March 2009 period relative to the prior measuring period. This is about three percent of total fuel usage.
- Fish Passage: Caltrans indicates that SHOPP projects that involve waterways inhabited by fish are designed to fix any legacy fish passage barriers. Caltrans indicates it will perform surveys and repair of additional fish passages to the extent external funding is identified.

**Funding for Environment Mitigation:** As indicated above, Caltrans expends more than \$600 million each year to mitigate the environmental impacts of the transportation system. Most of these activities are new or expanded since the excise tax on gasoline and diesel was last raised in 1994. The funds directed to these activities would otherwise be available for the under-funded SHOPP. While Prop 1B and now federal stimulus funds have provided some temporary funding relief, over the long-term, the Legislature may want to consider new revenue sources to fund the expanding environmental mitigation efforts. For example, an environmental-mitigation fee of three to four cents on gasoline and diesel would be sufficient to fund Caltrans's current activities.

**Staff Comment:** The Subcommittee may want to hear from Caltrans on the ongoing environmental efforts outlined above, funding issues, and any additional ongoing efforts Caltrans wants to describe. A Budget Change Proposal related to equipment diesel retrofit is the issue on the following page.

**Staff Recommendation:** This is an informational issue – no action is required.

**Action: No action taken – informational issue.**

- 8. Diesel Retrofit and other Mitigation (BCP #6).** The Administration submitted a January budget for \$53.4 million (State Highway Account) to replace or retrofit 1,161 vehicles and pieces of equipment. This includes both on-road and off-road vehicles. Caltrans indicates this budget augmentation is necessary to comply with State Air Resources Board (ARB) and South Coast Air Quality Management District (SCAQMD) regulations. This funding was pulled from the 2009 Budget Act (SB 1XXX), without prejudice, to allow further review in the subcommittee. The funding was pulled because this is the start of a new round of retrofit that may cost about \$260 million over five years.

**LAO Comment:**

ARB Issues: The Legislative Analyst indicates that compliance with diesel rules is much more costly than planned – the ARB had estimated the total cost for the entire state fleet at \$60 million. Additionally, in some cases, such as for off-road vehicles, even new replacement vehicles must be retrofitted with particulate matter traps. Because most such devices are too large to easily fit onto the department's trucks, Caltrans is requesting staff to modify and rebuild some of its vehicles. Caltrans concluded, based on its discussions with ARB that this expensive and difficult process is the only way to achieve compliance. If ARB found the technology does not exist to complete this type of retrofit at a feasible cost, it could amend its regulations.

SCAQMD Issues: The SCAQMD regulations require that Caltrans use alternative energy sources (such as natural gas) for vehicle *replacement* in the district. Natural gas vehicles cost about \$100,000 more than an ARB-compliant new diesel truck. Caltrans has been complying with this SCAQMD requirement, but the ARB rules will also require Caltrans to *retrofit* a portion of the existing diesel fleet in SCAQMD. Absent the SCAQMD rules, Caltrans would do more diesel *replacement* in that district and less diesel *retrofit*. Caltrans will be pursuing the less cost-effective retrofit, in order to avoid the higher cost natural gas vehicles in the SCAQMD. (Caltrans indicates an additional cost of \$14.2 million if they pursued alternative-fuel vehicle replacement in SCAQMD instead of the proposed diesel retrofit.)

LAO recommendations: The LAO recommends that Caltrans and the ARB report at the hearing:

- Any changes to the statewide and regional air quality regulations that should be made to allow the state to reach its air quality goals in a cost-effective manner.
- Any legislation needed to allow the state to take a more cost-effective approach to comply with these air quality rules. This could include changes in the way the ARB and SCAQMD implement their air quality rules.
- How Caltrans can comply with these air quality requirements, over multiple years, in the most cost-effective manner.

- The steps Caltrans can take that are technologically feasible to comply with these air quality rules and what actions are not technologically feasible.
- The number of Caltrans vehicles that provide emergency services and whether or not these vehicles have been (and can be) exempted from the regulations.

**Revised Request:** Since the January budget proposal and the LAO *Analysis*, there have been several meetings among Caltrans, ARB, LAO, and legislative staff. These meetings have resulted in a consensus between Caltrans and ARB about the options Caltrans has in complying with the ARB rules. Caltrans indicates that compliance with ARB rules can be achieved with a slightly smaller level of retrofits/replacements in 2009-10. The modified request is \$5.4 million less, but it should be noted this represents a deferral of costs instead of long-run cost savings.

**Staff Comment:** The ARB is also noticed for this hearing, so that department, along with Caltrans can explain the regulations and the proposed solutions. Both departments should update the Subcommittee on any conclusions that may have been revised since Caltrans submitted the BCP, and be prepared to respond to all the issues raised by the LAO. Staff also understands that the South Coast Air Quality Management District will have a representative at the hearing.

The multi-year Caltrans costs of diesel retrofit/replacement is estimated at \$260 million, and it is unfortunate that cost is significantly higher than the original ARB estimate. ARB, however, notes there is a high cost of diesel pollution for human health and the environment. For the SCAQMD issue, Caltrans should explain their decision to opt for diesel retrofit instead of alternative-fuel vehicle replacement in terms of cost savings and pollution mitigation.

**Staff Recommendation:** Approve the revised budget request of \$48 million (this is the original request of \$53.4 million minus the \$5.4 million in deferred retrofit).

**Action:** *Alternative motion to reject the revised administration request was moved by Senator Benoit and defeated on a 1-2 vote. Main motion by Senator Lowenthal to approve the revised administration request was passed on a 2-1 vote with Senator Benoit voting no.*

**9. Fuel Budget (BCP # 1).** The 2008 Budget Act included a permanent funding increase of \$21.3 million (State Highway Account) for Caltrans's fuel costs to bring fuel funding from a base of \$2.04 per gallon to \$3.55 per gallon. Caltrans estimated it would use approximately 13.5 million gallons of fuel in 2008-09. In this year's BCP#1, Caltrans indicates it will use 13.6 million gallons of fuel in 2009-10 and estimates fuel will cost \$3.52 per gallon. The estimates for 2009-10 result in a budget reduction of \$373,000. This \$373,000 budget reduction was included in the 2009 Budget Act (SB 1XXX). The total Caltrans fuel budget in SB 1XXX is \$47.8 million.

**Staff Comment:** The Caltrans estimate of \$3.52 per gallon of fuel was produced in the fall when fuel prices were still comparatively high. Fuel prices have fallen dramatically since last fall and an additional reduction seems warranted. For example, if the forecast fuel price is reduced to \$2.50 per gallon, a budget reduction of \$13.9 million would be warranted. Caltrans should update the fuel budget to recognize current projections of fuel prices.

**Staff Recommendation:** Keep issues open – staff understands the Administration will review fuel prices as part of the May Revision process and submit a budget adjustment at that time as warranted.

**Action: No action – kept open for May Revision for anticipated Administration revision to the budget request.**

**10. Tort Payments (April Finance Letter).** The Administration requests a permanent increase of \$20.0 million (State Highway Account) to fund tort payments. In a Section 26.00 letter dated April 3, 2009, the Department of Finance reported to the Joint Legislative Budget Committee (JLBC) that Caltrans has requested a shift of funding among programs of \$17.7 million in order to pay higher-than-budgeted tort claims in 2008-09 (the JLBC approved the request). While the budget for tort claims has remained unchanged in recent years at \$53.6 million, Caltrans has had to shift budget resources in four of the past five years to pay tort claims. The historic tort budget funding and actual expenditures (in millions) are outlined in the following table.

	Budget Funding	Actual Expenditures	Shortfall
2000-01	\$41.4	\$65.1	\$23.7
2001-02	41.4	62.4	21.0
2002-03	41.4	37.5	-3.9
2003-04	41.4	32.7	-8.7
2004-05	41.4	50.3	8.9
2005-06	41.4	66.7	25.3
2006-07	53.6	51.5	-2.1
2007-08	53.6	72.9	19.3
2008-09*	53.6	71.3	17.7
2009-10**	73.6	73.6	0

\* Estimate

\*\* Budget funding is an April Finance Letter request

**Detail on this year's Section 26.00 request for Tort:** When Caltrans has tort judgements and settlements in excess of the budgeted amount, the department typically makes a Section 26.00 request to shift funds from other budget areas. Some of the funds shifted represent administrative savings and do not affect the highway system. However, in some years, Caltrans has reduced pavement maintenance contracts to generate savings for the tort redirection. This raises concerns due to the cost efficiency of pavement maintenance activities. This year's Section 26.00 request originally shifted \$11.17 million from major pavement maintenance contracts (deferring eight projects that would treat approximately 232 lane miles throughout the state), but Caltrans has since found other savings and their revised request does NOT include the deferral of pavement maintenance work.

**Staff Comment:** Last year's and this year's Section 26.00 letters suggest tort is under-funded for actual liabilities. Given this recent history, the \$20 million increase in the tort budget seems justified. Should actual tort costs fall below the budgeted level, budget bill language allows the savings to be available for expenditures for the State Highway Operations and Protection Program (SHOPP).

**Staff Recommendation:** Approve the April Finance Letter.

<b>Action: Approved Finance Letter on a 3-0 vote.</b>
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**11. Workforce Development (BCP # 15).** The January Governor's Budget requested a permanent increase of \$1 million (half federal funds, half State Highway Account) in grants to local non-profits for workforce development training in the transportation area. This would be in addition to a one-time federal grant of \$1.2 million that Caltrans recently received for this purpose. As a new program, the \$1.0 million in the BCP was excluded from the 2009 Budget Act (SB 1XXX).

**Proposal Detail:** The department indicates the \$1 million would be used to fund five workforce development centers (\$200,000 each). These centers would provide pre-apprentice level training to up to 300 people each year. The training would teach "soft skills" such as how to show up to work on time, how to dress properly for a job, how to properly wear a hardhat, and how to use a tape measure. Some basic carpentry skills and other skills, such as truck driver training, would also be taught. Graduates would receive job placement assistance.

**LAO Comment:** The Legislative Analyst believes the proposal should be rejected, because the activities to be funded in part with State Highway Account (SHA) dollars are beyond the scope of Caltrans's core mission and duplicative of other state labor training programs. Additionally, the LAO raises concern over whether this expenditure would be a constitutionally allowable use of SHA dollars.

**Staff Comment:** The funds proposed for this purpose would otherwise be available for the State Highway Operations and Protection Program (SHOPP). So at the margin, this proposal would shift funds available for construction jobs to job training. The one-time federal grant of \$1.2 million for this purpose was a competitive grant available for only this purpose. Caltrans indicates it would compete in the future for other grants of this nature.

Caltrans should be prepared to outline problems with the transportation workforce that this proposal seeks to remedy. What positions are left vacant at Caltrans for lack of qualified applicants and what positions are contractors having difficulty filling. What broader efforts does Caltrans feel are needed to prepare tomorrow's transportation workforce.

**Staff Recommendation:** Approve the request, but change it to two-year limited term. Add supplemental report language that would quantify the success of the program to aid a future decision about whether it should be made permanent.

<p><b>Action:</b> <i>Approved Staff Recommendation on a 2-1 vote with Senator Benoit voting no.</i></p>
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## **2670 Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun**

The Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun (Board) licenses and regulates maritime pilots who guide vessels entering or leaving those bays.

The January Governor's Budget proposed expenditures of \$2.9 million (no General Fund) and 2.5 positions – an increase of \$400,000 and no change in positions. The Board is wholly funded through fees on shippers. The year-over-year budget change is primarily explained by a one-time \$600,000 increase for Attorney General fees related to legal defense of the Cosco Busan allision (see also the discussion below). The 2009 Budget Act (SB 1XXX) included funding for the Board as requested by the Governor.

**(see next page for issues)**

- 1. Report on Cosco Busan Reforms (Informational issue):** Last year, the Legislature approved Supplementation Report Language as follows:

*The Board of Pilot Commissioners shall report to the Joint Legislative Budget Committee and the appropriate policy committees of each house of the Legislature by March 1, 2009, regarding its process for making mental fitness determinations and the related appeals process. The board shall also update the Legislature on its process review, as well as significant policy and process changes related to the Cosco Busan incident.*

**Background:** In November 2007, the Cosco Busan tanker hit a tower of the Bay Bridge spilling oil into the bay. Press reports suggested the cause was pilot error and that the pilot had health issue that raised questions about his fitness for the job. Since the Board licenses pilots, questions have arose over the rigor of the Board's evaluation of pilots to test for health and fitness, and the Board's response to pilot misconduct charges.

**Preliminary Draft Report:** A preliminary draft report was provided to staff indicating, among other things:

Medical Oversight:

- Pilots are now mandated to report all medications.
- The Commission has formed a "Pilot Fitness Committee" to conduct a comprehensive review of the standards used to determine the fitness of pilots licensed by the Commission, the procedures used to determine that fitness, the qualifications of physicians used, and appeal procedures to protect both public and individual rights.

Pilot Training and Navigational Technology:

- The Commission has formed a "Navigation Technology Committee" to evaluate the scope of the types of electronic charts found on ships in the Bay Area, and to evaluate the possible use of "Portable Pilot Units".

Pilot Investigation Procedures:

- SB 1627 (Wiggins), discussed below, included changes in the Commission's investigation procedures. The Commission is implementing those changes and continues to review procedures for possible areas of improvement.

**Staff Comment:** The Commission should briefly update the Subcommittee on recent reforms.

**Staff Recommendation:** Informational issue – no action necessary.

<b>Action: Informational issue – no action.</b>
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- 2. New Assistant Director Position (April Finance Letter #1):** The Administration requests \$242,000 (Board of Pilot Commissioners' Special Fund) and 1.0 new permanent position to implement certain reforms required by SB 1627 (Chapter 567, Statutes of 2008, Wiggins). Also included in the funding is a six-month limited-term attorney position. SB 1627 is intended to provide a measure of legislative oversight and administrative responsibility to the Board of Pilot Commissioners in the wake of the November 2007, Cosco Busan oil spill in the San Francisco Bay. Among other provisions, SB 1627 moves the Board into the Business, Transportation and Housing Agency, and establishes a new Assistant Director Position who serves at the pleasure of the Governor (the existing Executive Director position serves at the pleasure of the 7-member Board, members of which are appointed by the Governor and confirmed by the Senate).

**Staff Recommendation:** Approve the April Finance Letter.

**Action: Approved Finance Letter on a 2-0 vote with Senator Benoit not voting.**

## **2665 High-Speed Rail Authority**

The California High-Speed Rail Authority (HSRA or Authority) was created by Chapter 796, Statutes of 1996, to direct development and implementation of inter-city high-speed rail service that is fully coordinated with other public transportation services. The cost to build the initial phase (from San Francisco to Anaheim) is currently estimated by the HSRA to cost \$34 billion (in 2008 dollars) – this includes a contingency, calculated at 30 percent of construction costs, as well as an allowance for environmental impact mitigation, calculated at three percent of construction costs.

**January Budget:** The January Governor's Budget included funding of \$125.2 million for the HSRA (all High-Speed Passenger Train Bond Fund). The 2009 Budget Act (SB 1XXX) reduced the HSRA budget down to base staff funding of \$1.8 million, without prejudice to the merit of the request, to allow for a thorough subcommittee review of the budget. Since the Safe, Reliable High-Speed Train Bond Act for the 21<sup>st</sup> Century (Proposition 1A) was approved by voters in November 2008, the HSRA has \$9 billion in bonding authority to begin implementation of the system. This transition from a small-budget study organization to a multi-billion dollar engineering and construction entity requires additional discussion with regard to the structure of the Authority and management and implementation of the high-speed rail project.

**April Finance Letters:** The Administration additionally submitted April 1 Finance Letters to augment the HSRA budget by \$14 million for additional contract costs, bringing the total request for 2009-10 to \$139.2 million.

**March 17, 2009 Senate Transportation and Housing Committee Hearing:** On March 17, 2009, the Senate Transportation and Housing Committee held an informational hearing with a focus on the Legislative Analyst's Office's analysis of the HSRA's proposed \$125.4 million budget for 2009-2010, and state government's response to the \$8 billion provided for high-speed rail by the federal stimulus program, the American Recovery and Reinvestment Act of 2009. Some of the information in this agenda is derived from this prior hearing.

**Pooled Money Investment Account (PMIA) loans:** Since the March 17 policy committee hearing, the State Treasurer has been successful in selling general obligation bonds and the HSRA has received a PMIA loan to pay contract expenses in 2008-09.

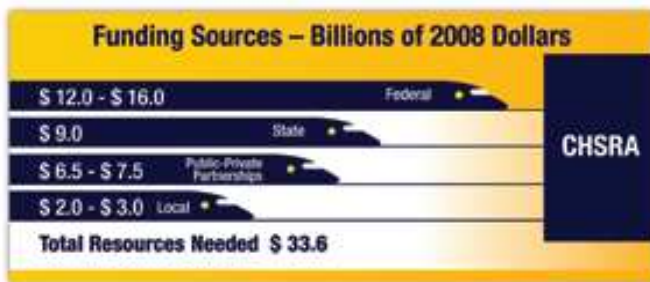
**Issue Proposed for Discussion:**

**1. Implementation of a Transportation Mega-Project.** As was alluded to in the introduction, the HSRA is tasked with quickly transforming itself from a small-budget study organization into a multi-billion dollar engineering and construction entity. This challenge is compounded by the fact that the high-speed rail project is a mega-project like the San-Francisco Oakland Bay Bridge or the “Big Dig” in Boston – these projects have few peers in scope and complexity. Mega projects often experience large cost escalations and schedule delays. With this great challenge in mind, the Legislature has explored different structural models to increase the chances of successful implementation. Last year’s SB 53 (Chapter 612, Statutes of 2008, Ducheny) requires the California Research Bureau to analyze the state’s rail management structure and report recommendations by May 1, 2009. Other bills in the current legislative session look at consolidation of rail functions at Caltrans and the HSRA, and other project implementation and oversight issues.

**Administration’s Implementation Plan:** The Administration is not proposing any government reorganization in the area of rail. In terms of implementation of the high-speed system, the Administration proposes to contract for engineering and design, and then contract with other consultants for oversight of those original contracts. The rationale for this model is that the Authority should avoid developing a large permanent organizational staff because the project is a one-time endeavor, requires highly specialized skills, and will require limited ongoing support. On the basis of this approach to project management, the HSRA is relying upon outside consultants to provide both technical and managerial services. The counter to this argument is that this model is the historic information-technology (IT) model that has often been unsuccessful. In fact, the Administration is currently proposing an IT reorganization that would in-source oversight of state IT projects to the Office of the Chief Information Office (OCIO).

The Business Plan suggests the HSRA will be completing the preliminary engineering and environmental review over the next three years, after which right-of-way acquisition and construction will commence. However, the federal stimulus funds may accelerate the start of right-of-way acquisition.

**Administration’s Funding and Timeline:** The following two tables show the Authority’s anticipated funding sources and timeline for implementation:



\* HSRA graphic



\* HSRA graphic from Business Plan

**Issue raised by the LAO:** The Legislative Analyst raised several concerns with the HSRA Business Plan, which was required by statute and released in November 2008. The LAO indicates that the report includes, to some degree, each of the statutorily required elements, the information provided is very general and does not provide specifics that are included in the typical business plans. The LAO lists details absent from the Business Plan in the table on the next page and recommends that the Authority expand on its Business Plan to include the missing detail (see table on next page).

The LAO recommends:

- (1) that the Legislature withhold budget funding for 2009-10, until the additional information is provided;
- (2) that the Legislature require the authority to adopt project selection and evaluation criteria to ensure that bond funds are used efficiently and that they deliver projects with immediate mobility benefits; and
- (3) that the Legislature enacts legislation directing the authority to provide an annual report to the Legislature at the time the Authority submits its annual budget.

**LAO Report: Business Plan Fails to Provide Many Details**

<b>Statutory Requirements</b>	<b>Sample of Missing Details</b>
Description of the anticipated system	What are the expected service levels? What is the assumed train capacity?
Forecast of patronage, operation & capital costs	How are ridership estimates projected?  What is the operating break-even point? How will costs be distributed by segment route?
Estimate of necessary federal, state, and local funds	How would funds be secured?  What level of confidence is there for receiving each type of funding?
Proposed construction timeline for each segment	What is the proposed schedule, by segment, for completing design/environmental clearance? For beginning/completing construction
Discussion of risks and mitigation strategies	How would each type of risk impact the project? What specific mitigation strategies are planned to be deployed?

Source: Legislative Analyst's Office

**Staff Comment:** The HSRA should address the issues in this agenda item. The issues include:

- What department structure and project oversight model maximize the chances for successful implementation? What advantages and disadvantages does the Authority see if the HSRA and the Caltrans Division of Rail were to be consolidated into a new department? Why has the Administration foregone the option of using state staff, such as rail engineers at Caltrans, to in-source design and engineering contract oversight and to provide project management?
- What missing details cited by the LAO have since been provided by the HSRA? What is the HSRA response to each of the individual concerns raised by the LAO in the above table?
- What functions should the HSRA add internally as the project ramps up? For example, HSRA does not currently have an accounting section – that function is performed by the California Highway Patrol under an inter-agency agreement.

**Staff Recommendation:** Hold open for additional review.

**Action: No action taken, but the Subcommittee requested the following information from HSRA by May 8: (1) detail on the statutory impediments to the HSRA adding new staff with higher-salary classifications; (2) a description of the management structure needed to successfully implement the project; and (3) a two to three page summary of the contractor deliverables for 2009-10.**

- 2. Federal Stimulus Funds.** The federal American Recovery and Reinvestment Act (ARRA) includes over \$8 billion for high-speed rail and other rail investments. California is ahead of other states in terms of having a completed Program Level Environmental Impact Report / Environmental Impact Statement (EIR/EIS), and in having \$9 billion in state funds already approved for the project. Hopefully California can use these advantages to obtain a significant share of federal funds. In addition to the \$8 billion in stimulus funds dedicated to high-speed rail, President Obama has proposed in his budget plans \$1 billion annually for the next five years.

**Last year's federal Passenger Rail Investment and Improvement Act of 2008:**

The federal stimulus program allocates \$8 billion for high-speed rail projects under the terms and conditions of existing federal law. In the case of the high-speed rail funds, the money will be allocated through program categories established by the *Passenger Rail Investment and Improvement Act of 2008* (PRIIA). There are three categories of funding in PRIIA:

- High-speed rail corridor development grants
- Intercity passenger rail service corridor capital assistance
- Congestion grants for corridors in which Amtrak service operates.

**US Department of Transportation (US DOT) Strategic Plan for ARRA funds:** To ensure there is a consistency between the policies of PRIIA and the stimulus act, Congress directed the Secretary of Transportation to prepare a strategic plan. On April 16, 2009, the US DOT released this plan. This plan does not provide any specifics to suggest how much of the funds California might receive.

**US DOT Interim Guidelines for ARRA funds:** By *June 17, 2009*, the FRA will issue interim guidelines that will outline the specific selection criteria and other conditions governing the submittal of applications for stimulus funds for high-speed rail. Projects that are awarded grants must be under contract by 2012.

**Possible Projects for federal ARRA funds:** The HSRA has sent a letter to Senator Dianne Feinstein identifying projects that may be ready for funding, although the projects have not been developed by the HSRA. A revised list of projects, with a total value of \$3.6 billion was circulated at the HSRA's March meeting. Attachment I is the revised list of projects prepared by its staff. This list totals \$3.6 billion and includes \$1.5 billion for statewide high-speed rail projects and \$2.1 billion for regional projects complementing high-speed rail.

**Substitution of federal funds for state bond funds.** The HSRA letter indicates some of the federal funds may be available for design and engineering work that would otherwise be funded from Proposition 1A. Accordingly, the Subcommittee may want to consider the addition of budget bill language to allow a substitution of federal funds for Prop 1A funds. Such a substitution would only occur to the extent it was allowable under the federal program. The state bond funds would still be available for the project in future years, but the state General Fund would see



reduced interest costs. The language, based on existing Caltrans language, could read as follows:

*Notwithstanding any other provision of law, funds appropriated in this item from the High-Speed Train Passenger Train Bond Fund, to the extent permissible under federal law, may be reduced and replaced by an equivalent amount of federal funds determined by the High-Speed Rail Authority to be available and necessary to comply with Section 8.50 and the most effective management of state high-speed rail transportation resources. Not more than 30 days after replacing the state funds with federal funds, the Director of Finance shall notify in writing the chairpersons of the committees in each house of the Legislature that consider appropriations and the Chairperson of the Joint Legislative Budget Committee of this action.*

**Staff Comment:** The HSRA should update the Subcommittee development that have occurred with federal stimulus funding since the March 17, 2009, Senate Transportation and Housing Committee hearing. The Administration should also comment on the desirability of adding the budget bill language to allow substitution of federal funds for state bond funds.

**Staff Recommendation:** Adopt new budget bill language to allow the substitution of federal funds for State bond funds.

<b>Action: Approve draft budget bill language on a 3-0 vote.</b>
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- 3. Budget Change Proposals and April Finance Letters.** The updated Administration budget request (including April Finance Letters) requests a total of \$139.2 million from Proposition 1A bond funds. Of this request, \$1.9 million is for state staff and operations and \$138.0 million is for contract work. All of these requests were excluded from the 2009 Budget Act (SB 1XXX) to allow for a thorough review by budget subcommittees.

**Detail on the HSRA's budget requests:** The eight requests are as follows:

- BCP #1 and April FL #10 – Program Management Services: \$26.6 million is requested for the project management team of contractors. The team is charged with directing, managing, and providing oversight for the regional engineering/environmental teams, as well as the developing of the basic design of the statewide high-speed train system. In addition to the overall management of the regional teams, the Program Management Team is responsible, through their project engineering group, to review and oversee the site specific designs for the entire system.
- BCP #2 and April FL #11 – Preliminary Engineering and Design/Project-Level Environmental Review: \$105.3 million is requested for the anticipated 2009-10 phase of preliminary engineering and design/project-level environmental work. In addition, two state-worker positions are requested to review the design of bridges and structures for compliance with State and federal requirements.
- BCP #3 – Visualization Simulation Plan Development: \$255,000 is requested for visualization simulations (computer animation) to educate the public on potential impacts high-speed trains may have to their communities.
- BCP #4 – Ridership/Revenue Forecast: \$2.0 million is requested for a ridership and revenue forecast model. Two prior forecasts have been completed, most recently a study funded by the Metropolitan Transportation Commission (MTC), but this request would bring a model in-house to update the numbers for the project-level environmental work as well as the development of public private partnership packages.
- BCP #5 – Financial Plan and Public Private Partnership Program (P3): The Authority requests \$2.0 million to continue the work of the Financial Plan consultants as well as develop and commence the Public Private Partnership program.
- BCP #6 – Right-of-way Plan Development: \$750,000 is requested to fund inter-departmental contracts for other state agencies for the development of a right-of-way plan.
- BCP #7 – Program Management Oversight: \$350,000 is requested for the Program Management Oversight consultants, which the Authority indicates are an extension of state staff. The consultants' work includes monitoring of the project to determine if the project is on schedule, within budget, proceeding in conformance with approved work plans, staffing plans, and other agreements, and is being implemented efficiently and effectively.
- BCP #8 – Department of Justice Services: \$136,000 is requested to cover legal and litigation services provided via inter-agency contract with the Department of Justice.

**Staff Comment:** The HSRA should briefly walk the Subcommittee through each of the individual budget requests.

**Staff Recommendation:** Hold open for additional review.

**Action:** *No action taken on this item. HSRA will continue discussions with legislative staff and the LAO.*

**Attachment I**

**High-Speed Rail Authority’s List of Projects for Federal Stimulus Funds**

**Proposed Federal Stimulus List**

Category 1—Statewide High-Speed Rail Projects	
<b>Projects</b>	<b>Estimated Cost</b>
Planning & Engineering	\$500,000,000.00
Heavy Maintenance and Layover Facilities	\$200,000,000.00
Right-of-Way	\$800,000,000.00
<b>Total Category 1 Projects</b>	
<b>\$1,500,000,000.00</b>	
Category 2—Regional Projects Complementing High-Speed Rail	
<b>Projects</b>	<b>Estimated Cost</b>
Grade Separations – Los Angeles to Anaheim	
Passons Boulevard/Serpis Street	\$ 43,400,000.00
Pioneer Boulevard	45,000,000.00
Norwalk Boulevard	150,000,000.00
Lakeland Road	40,000,000.00
Rosecrans Avenue/Marquardt Avenue	150,000,000.00
Valley View Avenue	72,000,000.00
Subtotal	\$500,400,000.00
San Bruno Construction	
	\$250,000,000.00-- \$300,000,000.00
<i>This includes:</i>	
✓ <i>Street crossings at San Bruno Avenue, San Mateo Avenue and Angus Street</i>	
✓ <i>Pedestrian Crossings at Euclid Avenue and Sylvan Avenue</i>	
✓ <i>Elevated Station</i>	
Caltrain Corridor Electrification	
	\$1,100,000,000.00
<i>This includes:</i>	
✓ <i>Electrification of the system from San Jose to San Francisco</i>	
✓ <i>Train Controls</i>	
Subtotal	\$250,000,000 to \$1,400,000,000
High-Speed Rail Infrastructure at ARTIC Station	
	\$200,000,000.00
<b>Total Category 2 Projects</b>	
<b>\$2,100,400,000.00</b>	

Source: California High-speed Rail Authority, Revised Federal Stimulus List as of 3-6-09.

## SUBCOMMITTEE NO. 2

## Agenda

S. Joseph Simitian, Chair  
Alan Lowenthal  
John J. Benoit



Thursday, May 7, 2009  
10:00 a.m.  
Room 2040

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### Resources—Environmental Protection—Energy—Transportation

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling 916-324-9335. Requests should be made one week in advance whenever possible.

## Vote-Only Calendar

### Spring Finance Letters

The Governor has submitted a series of spring finance letters which deal with technical changes to the budget and additions of funding for emergencies. The letters are listed in the chart below.

Department	Proposal	2009-10 Amount (000)
Department of Water Resources	Salton Sea Conservation Implementation: Increase reimbursements to support the Salton Sea restoration, mitigation, and monitoring activities.	\$ 8,000
Department of Water Resources	Groundwater Storage Grant Program: Funds to pay for two Groundwater Storage Grant Program contracts were reverted even though the work was completed and no payments were made. These funds will allow the contracts to be paid. Funding comes from the Conjunctive Use Subaccount for bond funds.	\$ 218
Department of Water Resources	Floodplain Mapping: Federal funds to continue floodplain mapping in California.	\$ 5,320
Department of Water Resources	Supervision of Safety of Dams: Additional funds from the Dam Safety Fund for installation of strong motion instruments on high hazard dams and for reconvening the Earthquake Analysis Board.	\$ 300
Department of Water Resources	Delta Fishery Improvements: State Water Project Funds: four positions to evaluate cost-effective fish facility improvement alternatives for the State Water Project.	\$ 800
Department of Water Resources	Delta Fish Agreement 2008 Amendment: State Water Project Funds: four permanent positions and one temporary position to implement mitigation measures for Delta smelt, longfin smelt, and salmon as required by the Delta Fish Agreement 2008 amendment. These activities will comply with federal permit requirements.	\$ 735
Department of Water Resources	South Sacramento County Streams: Increased bond funds (\$4.2 million) and reimbursements (\$1.7 million) to continue construction of the South Sacramento County Streams project.	\$ 6,000
Department of Water Resources	Reappropriations of Capital Outlay Projects: General fund funded capital outlay projects. These projects were started prior to the passage of the 2006 bonds, and thus those bond funds cannot be used to pay for them.	\$ 4,393
Department of Water Resources	Extension of Liquidation: For one year on the Merced County Streams project, which is funded from General Fund.	
Department of Water Resources	Reappropriations, Extensions of Liquidation, and Technical Adjustment of CALFED funds. From various bond fund sources. Extensions are for one year. These funds are for both state operations and local assistance.	

Department	Proposal	2009-10 Amount (000)
Department of Water Resources	Reappropriations, Extensions of Liquidation, and Technical Adjustment of Non-CALFED funds. From various bond fund sources. Extensions are for one year. These funds are for both state operations and local assistance.	
Department of Water Resources	Reversions: Proposition 13 and Proposition 50 reversions necessary to maintain expenditures within the amounts authorized in various bond allocations.	
Department of Water Resources	Technical Adjustments: Correct the continuation of a \$869,000 limited-term appropriation into the 2009-10 Budget Act. Also, shift \$570,000 reduction from data collection to flood management to reflect the program reduced accurately.	-\$869
State Water Resources Control Board	Reversion of Proposition 40 and Proposition 50 bond funds from projects completed under budget.	-\$645
Food and Agriculture	Asian Citrus Psyllid Project: \$1 million in federal funds and 2 temporary positions to detect and eradicate a new agricultural pest.	\$1,000

**Staff Recommendation:** Staff recommends that the Subcommittee approve the finance letters shown in the chart.

## 3360 Energy Resources Commission

### 1. West Coast Regional Carbon Sequestration Partnership

**WESTCARB.** The WESTCARB project aims to demonstrate a California-based zero-emissions power plant by applying a new and innovative carbon sequestration technology. The advanced generation technology being used for WESTCARB provides a generation system that produces only carbon dioxide and water as by-products. If the carbon sequestration technology proves effective, the technology may be tested with other greenhouse gasses such as NO<sub>x</sub> and SO<sub>x</sub>.

The first two phases of the project have been completed. These phases involved evaluation and research. The first two phases totaled \$11.4 million in grants and were managed by contractors. The third phase of the project received \$65.5 million in federal funds, and will end in 2018.

**Governor's Budget.** The Governor's Budget proposes a total of \$10,220,000 and five positions for phase III of the WESTCARB project.

The proposed staff will be used in the advance generation carbon capture and sequestration research area to develop, award, and manage the contracts and provide broad outreach on the results of the research.

**Budget Act.** The *2009-10 Budget Act* includes no funds for this proposal.

**Staff Recommendation.** Staff recommends that the Subcommittee approve the proposal.

## 2. Siting Renewable Generation

**Renewable Portfolio Standard.** Current statute requires that electricity providers obtain a minimum of 20 percent of their energy from renewable sources of energy by 2010. The Governor's Executive Order S-14-18 increases this goal to 33 percent by 2020. Currently, renewable energy generation only comprises about 12 percent of electrical sales in California.

**Transmission Lines.** Many of California's renewable energy developments are likely to happen in remote areas, which will require new transmission lines to get the energy to distribution centers. Renewable generation and renewable transmission lines have many of the same siting constraints as fossil fuel plants, including land use conflicts, community concerns over project location, biological and cultural resource impacts, and visual concerns. Historically, the planning, permitting, and construction of transmission projects has taken up to ten years to complete.

**Governor's Budget.** The Governor's Budget proposes \$2,589,000 from the Energy Resources Programs Account and 10 positions to work on accelerating transmission projects to meet the Renewable Portfolio Standard. Of the amount requested, \$1,225,000 is for contract funds to have the Department of Fish and Game complete environmental work.

These new resources would be used to:

1. Work with the Department of Fish and Game to develop a Natural Community Conservation Plan for the Mojave and Colorado deserts that will facilitate the development of renewable resources and to identify sites for solar development in the California desert to facilitate the development of solar power plants;
2. Assist the Federal Bureau of Land Management (BLM) in the development of the Solar Programmatic Environmental Impact Statement; and
3. Develop Best Management Practices to facilitate solar development while minimizing environmental impacts.

**Budget Act.** The *2009-10 Budget Act* includes no funds for this proposal.

**Staff Recommendation.** Staff recommends that the Subcommittee approve the budget proposal.

## 3. Siting Program Workload Requirements

**Renewable Portfolio Standard.** Current statute requires that electricity providers obtain a minimum of 20 percent of their energy from renewable sources of energy by 2010. The



Governor's Executive Order S-14-18 increases this goal to 33 percent by 2020. The renewable portfolio standard (RPS) is driving the planning for many new renewable energy projects.

**Siting Applications.** The Energy Commission's siting workload has been steadily increasing for the last ten years. During the 1990s, the average number of siting applications for new power plants was five to six annually. During March 2009, the Energy Commission had 25 applications under review. Due to staffing limitations, the Energy Commission is able to review only about half of the applications it receives during the statutory 12-month review period.

**Baseline Budget.** The *2009-10 Budget Act* includes 80 positions for the Siting, Transmission, and Environmental Protection Division, which handles power plant siting. Approximately 65 of these positions directly work on siting, while the other 15 work on programs such as the Renewable Energy Transmission Initiative (RETI).

**Fee Structure.** Currently, fossil fuel power plants pay a siting application fee of \$132,154 plus \$329 for each megawatt to be generated. The fee cannot exceed \$350,000. Current statute states that no fees can be charged from siting applications for renewable energy power plants.

**Finance Letter.** The Governor submitted a finance letter requesting \$2,339,000 from the Energy Resources Program Account for 18 positions to process power plant siting applications in a timely manner.

**Staff Comment.** The workload for new applications is being driven largely by renewable energy power plants. However, no application fee can be charged from renewable energy applicants. Therefore, if the Subcommittee were to consider raising the application fee to cover increased costs, the funds would come from fossil fuel energy generators, who are not driving the majority of the increased workload.

**Staff Recommendation.** Staff recommends that the Subcommittee approve the budget proposal.

## 3860 Department of Water Resources

### 4. Bay-Delta Modeling, Reporting, Review, and Support

**Budget Act.** The *2009-10 Budget Act* includes no new positions for the State Water Project (SWP) per Control Section 4.12. The SWP funds are off-budget, but the Legislature must approve all new positions for the SWP.

**Governor's Budget.** The Governor's Budget proposes five permanent positions for \$936,000 from State Water Project funds to support and enhance modeling tools used by DWR for planning and management of the state's water resources system. Specifically, the positions would be for:

1. Development, maintenance, and application of the currently unsupported Particle Tracking Model (PTM) – one position

2. Development of the State Water Project Delivery Reliability Report – one position
3. Development of new tools to analyze complex Delta hydrodynamic, water quality, and statewide surface water and groundwater modeling results – one position
4. Clerical support for the Administrative Section – one position
5. Multi-Dimensional Modeling Support – one position

**LAO Recommendation.** The LAO recommends that the budget request be denied. The LAO notes that the department has said this modeling activity is increasingly important to its work. However, there is no proposal to redirect funding to this activity from other programs to reflect its higher-priority status. Over the past several years, the division which carries out this modeling work has increased by 19 staff and \$80 million. While this activity may have merit in concept, the LAO recommends that the department fund these activities out of existing resources by redirecting funding from lower-priority activities.

**Staff Recommendation.** Staff recommends that the Subcommittee approve the proposal.

## 5. Transfer of Operations and Maintenance of Sixteen Flow Monitoring Stations in the Delta

**Flow Monitoring Stations.** The Department of Water Resources has sixteen continuous flow monitoring stations in the Sacramento-San Joaquin Delta. These stations are currently being operated and maintained by the United States Geologic Survey (USGS) under two contracts that will expire in December 2009. The USGS charges DWR approximately \$80,000 per station annually to monitor the flow stations, but DWR estimates it could monitor the flow stations in-house for only \$45,000 per station annually.

**Budget Act.** The *2009-10 Budget Act* includes no new positions for the State Water Project (SWP) per Control Section 4.12. The SWP funds are off-budget, but the Legislature must approve all new positions for the SWP.

**Governor's Budget.** The Governor's budget proposed four new permanent positions to monitor continuous flow stations in the Bay-Delta. The positions would be paid for with State Water Project funds and would lead to a savings of \$560,000 annually over the USGS contracts.

**LAO Recommendation.** The LAO recommends that this proposal be rejected, because there is merit to maintaining independent monitoring by USGS of water quality and flow monitoring stations in the Delta. As the state's Delta policy continues to evolve over the next few years, potentially fundamentally affecting SWP operations, having independent monitoring could become increasingly important. The LAO therefore recommends that the Legislature direct the department to extend its current contract with USGS to provide this information.

**Staff Recommendation.** Staff recommends that the Subcommittee reject the requested positions.

## 6. State Water Project Management Group

**SWP Management Group.** The Department of Water Resources (DWR) established a methodology to deal with all State Water Project (SWP) fiscal analysis. This methodology was intended to provide a consistent means and documentation process for initiating, approving, financing, and managing SWP programs in a centralized manner. To manage this control effort, 24 existing SWP employees were used to form a management group within the State Water Project Analysis Office (SWPAO).

**Budget Act.** The *2009-10 Budget Act* includes no new positions for the State Water Project (SWP) per Control Section 4.12. The SWP funds are off-budget, but the Legislature must approve all new positions for the SWP.

**Governor's Budget.** The Governor's January 10 Budget proposed nine new permanent positions for the SWP Analysis Office. The estimated cost of these positions is \$1,544,000 from SWP funds.

**LAO Recommendation.** The LAO notes that at least 17 positions related to SWP administration, legal review, and protest resolution have been added to the existing base budget for these activities in the past three years. Moreover, it is unclear why the 50-year old program requires, at this time, a new central program management group. As the budget request has not been justified, the LAO recommends that it be denied.

**Staff Recommendation.** Staff recommends that the Subcommittee reject this proposal.

## 7. Critical Support for the Department of Water Resources

**Position Request.** The Department of Water Resources (DWR) requested 26 new permanent positions and four temporary positions to provide administrative support to the department as it takes on additional work-load for flood management and levee repairs, information technology needs, and State Water Project operations and financing. The DWR staffing level has changed from 2,549 positions in 2003-04 to 3,163 positions in 2008-09, but the administrative overhead support increased by five positions during the same time period.

**Budget Act.** The *2009-10 Budget Act* includes \$427,000 from special funds for new staff at the DWR. The Budget Act does not include new staff for the SWP, which was requested at \$2,738,000 in State Water Project funds. The new positions are divided as follows:

- Payroll and Benefits – 5 positions
- Selection Services Unit – 3 positions
- Labor Relations Office – 1 position
- Procurement and Contracting Office – 3 positions
- Facilities Management Office – \$896,000 additional funds for CHP security contract
- Division of Technology Services – 14 positions

**LAO Recommendation.** SWP has already received additional administrative positions in recent years. The LAO finds that the request for further additional administrative positions has not been justified, and therefore recommend denying this component of the budget request.

**Staff Recommendation.** Staff recommends that the Subcommittee reject the SWP positions requested.

## 8. State Water Project Facilities Fish and Wildlife Enhancement and Recreation

**Davis-Dolwig Act.** Chapter 867, Statutes of 1961 (AB 261, Davis), also known as the Davis-Dolwig Act, states the broad intent of the Legislature was that State Water Project (SWP) facilities be constructed “in a manner consistent with the full utilization of their potential for the enhancement of fish and wildlife and to meet recreational needs.” The Department of Water Resources (DWR) is charged with implementing the act as part of planning for construction of SWP facilities. The Davis-Dolwig Act does not provide criteria specifying what kinds of recreation facilities or fish and wildlife enhancements are to be developed, nor does it require legislative review or approval of such facilities or enhancements.

**DWR has Authority to Determine Cost-Share.** DWR determines what share of the costs of SWP facilities relate to fish and wildlife enhancements and recreation and are Davis-Dolwig costs not subject to reimbursement by state water contractors. There are two primary costs under the Davis-Dolwig Act. First is the capital cost of the creation of recreation facilities when the SWP was constructed (such as the purchase of additional land for hiking trails and camping). The second is an allocation to recreation of the total annual budget of the overall SWP, based on an assessment of each facility’s value as a recreational asset.

**Budget Act.** The *2009-10 Budget Act* includes no funds for the SWP facilities fish and wildlife enhancement and recreation.

**Governor’s Budget.** The Governor’s Budget proposed a total of \$38.5 million for Davis-Dolwig related costs. These were:

- \$30,984,000 from Proposition 84 for development, rehabilitation, acquisition, and restoration of SWP facilities for fish and wildlife enhancement and recreation.
- \$7.5 million from Harbors and Watercraft Fund for on-going operations funding for SWP recreation.
- Trailer bill language.

**Trailer Bill.** The Governor proposed trailer bill language to provide a continuously appropriated annual transfer of \$7.5 million from the Harbors and Watercraft Fund for payment of the recreation component of the SWP. This \$7.5 million would pay for on-going operations of SWP recreation, but would become “off-budget” and not subject to Legislative appropriation each

year. The trailer bill language also includes an annual reporting requirement on what the funds were used for during the previous budget year.

**Staff Recommendation.** Staff recommends that the Subcommittee reject this proposal for funding recreational projects in order to provide the policy process an additional year to resolve the matter.

## 8570 Department of Food and Agriculture

### 9. Senior Farmers' Market Nutrition Program

**Background.** The Senior Farmers' Market Nutrition Program used to be located at the California Department of Aging. This program provides low-income senior citizens with nutrition information about the health benefits of eating five servings of fruits and vegetables a day and \$20 coupon books to purchase fresh fruits, vegetables, and herbs at California's Certified Farmers' Markets.

The California Department of Food and Agriculture (CDFA) will use the 10 percent available within the federal grant to support the administrative costs associated with the program. The California Department of Aging Area Agencies on Aging will administer the program at the local level, as they did when the California Department of Aging ran this program.

**Previous Budget Action.** The 2008-09 fiscal year Budget Balancing Reductions eliminated this program at the California Department of Aging, where it was funded with General Fund.

**Budget Act.** The *2009-10 Budget Act* includes \$810,000 from federal funds to establish the Senior Farmers' Market Nutrition Program at the CDFA.

**Staff Comment.** The federal government expressed to CDFA officials that if no California department takes on the administration of the Senior Farmers' Market Nutrition Program, the federal government will distribute California's share of the funds to other states and California would be shut out of the program indefinitely. The benefit of this program outweighs the costs since this program serves low-income seniors who may be reliant on the coupons for their monthly food supply and only federal funds would be used to run the program.

The CDFA certifies all California farmers' markets and thus has knowledge of where transactions can take place. Thirty-three of the fifty-eight Area Agencies on Aging have expressed willingness to participate in the program.

**Staff Recommendation.** Staff recommends that the Subcommittee approve the proposal.

## 8660 Public Utilities Commission

### 10. Renewable Portfolio Standard and Renewable Transmission

**Renewable Portfolio Standard.** Current statute requires that electricity providers obtain a minimum of 20 percent of their energy from renewable sources of energy by 2010. The Governor's Executive Order S-14-18 increases this goal to 33 percent by 2020. Legislation is currently being debated by the Legislature that would codify the 33 percent renewable portfolio standard (RPS).

**Budget Act.** The *2009-10 Budget Act* includes no funds for this proposal.

**Governor's Budget.** The Governor's Budget proposes \$322,000 from the Public Utilities Commission Utilities Reimbursement Account and three positions to implement the 33 percent renewable portfolio standard.

**Department Tasks.** With these positions, the PUC would:

1. Design and implement policy needed for a 33 percent RPS by 2020 target, in addition to the 20% to 2010 mandate.
2. Identify the least-cost best-fit renewable resources required to achieve a 33 percent RPS.
3. Identify the project-specific barriers that prevent the renewable developers from building sufficient renewable generation to achieve a 33 percent RPS.
4. Develop a detailed implementation workplan that will address the project-specific barriers.
5. Work with multiple agencies (Energy Commission, CAISO, and the California Air Resources Board) and stakeholders (e.g., renewable developers, local governments, and environmentalists) to ensure successful implementation of a 33 percent RPS workplan.
6. Analyze the cost and rate impact of a 33 percent RPS.
7. Evaluate the increased number of transmission siting filings due to the identification of approximately 35,000 Megawatts of solar generation capacity by the U.S. Bureau of Land Management.
8. Coordinate specific transmission siting filings with potential corridor designations through California Energy Commission studies.

**Staff Recommendation.** Staff recommends that the Subcommittee approve the proposal.

## Discussion Items

### 3940 State Water Resources Control Board

**Background.** The State Water Resources Control Board (SWRCB), in conjunction with nine semi-autonomous 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.

**Budget Act.** The *2009-10 Budget Act* includes \$598.6 million to support the SWRCB. This proposal is approximately \$178 million less than current year expenditure levels, mainly due to a reduction in bond funding. General Fund appropriation is expected to stay nearly the same.

<b>Summary of Expenditures</b>				
<i>(dollars in thousands)</i>	2008-09	2009-10	\$ Change	% Change
<b>Type of Expenditure</b>				
Water Quality	\$ 765,487	\$ 586,951	-\$178,536	-23.3
Water Rights	11,894	11,658	-236	-2.0
Administration	21,097	21,141	44	0.2
<i>less distributed administration</i>	<i>-21,097</i>	<i>-21,141</i>	<i>-44</i>	<i>0.2</i>
<b>Total</b>	<b>\$ 777,381</b>	<b>\$ 598,609</b>	<b>-\$178,772</b>	<b>-23.0</b>
<b>Funding Source</b>				
General Fund	\$ 40,283	\$ 40,575	\$ 292	0.7
Special Funds	378,822	364,874	-13,948	-3.7
Bond Funds	178,217	7,395	-170,822	-95.9
<i>Budget Act Total</i>	<i>597,322</i>	<i>412,844</i>	<i>-184,478</i>	<i>-30.9</i>
Federal Trust Fund	128,470	128,975	505	0.4
Reimbursements	6,198	8,062	1,864	30.1
State Water Quality Control Fund	27,723	31,078	3,355	12.1
State Water Pollution Control Revolving Fund	5,532	5,532	-	0.0
Petroleum Underground Storage Tank Financing Account	12,136	12,118	-18	-0.2
<b>Total</b>	<b>\$ 777,381</b>	<b>\$ 598,609</b>	<b>-\$178,772</b>	<b>-23.0</b>

## 1. Federal Funds for Wastewater

**ARRA Funding for Wastewater.** The American Recovery and Reinvestment Act (ARRA) includes about \$283 million provided directly to California in grant and loan funding (including for loan forgiveness and “negative–interest rate” loans) for wastewater infrastructure, through the existing Clean Water State Revolving fund (negative–interest rate loans have a zero interest rate and some degree of forgiveness of the loan principal, effectively making the interest rate negative). The funds will all be made available in FFY 2008–09. The State Water Resources Control Board (Water Board) administers the program on behalf of the state in cooperation with the U.S. Environmental Protection Agency (U.S. EPA).



**ARRA Requirements.** The ARRA required that the state change its existing program in two ways. First, the current state matching fund requirement is waived as a condition of receiving the federal economic stimulus monies. Second, the federal authorization expressly includes three forms of financial assistance - grants, loan forgiveness, and negative-interest rate loans - that are expressly prohibited under state law for the Clean Water SRF program.

**SBX3 27.** SB X3 27 (Negrete McLeod, Carter et al), Chapter 25 statutes of 2009-10, made various changes to state law needed to expedite the expenditure of federal funds under the ARRA for water quality projects. While this bill was moving through the legislative process, the Water Board adopted guidelines for how it would expend the funds. The Water Board decided that it would provide grants for projects within disadvantaged communities while urban districts would be able to access very low or zero interest loans for their. Below are the allocations approved by the Water Board for the \$283 million in ARRA funds:

1. \$70 million for grants for disadvantaged communities
2. \$70 million to restart stalled bond projects.
3. \$60 million for 0% interest loans for innovative projects (e.g. water recycling).
4. \$80 million for 1% interest loans for any agency.

**Staff Comment.** Some urban water agencies have objected to the Water Board's adopted guidelines to allocate ARRA funds, because they would limit grants to districts with disadvantaged communities in areas of low population density. One concern is that low income communities in urbanized areas would not have access to grants because they do not qualify as "disadvantaged communities" as defined by the regulations due to population levels. Additionally, urban districts are concerned that by funding infrastructure projects through loans rather than grants will ultimately increase rates for ratepayers as funds are needed to pay back loans.

On April 16th, the Speaker of the Assembly and the Senate President pro Tempore sent a letter to the Water Board stating a shared concern that economically challenged communities in both rural and urban parts of the state will not have equal access to these funds under the adopted regulations. At the hearing, the Water Board should be prepared to discuss whether changes have been made to these regulations and what options the Legislature could consider that would address these concerns.

## 2. Underground Storage Tank Funding Brownfield Initiative

**Background.** The Underground Storage Tank Cleanup Fund (USTCF) acts as an insurance program for Underground Storage Tank (UST) operators. The USTCF provides up to \$1.5 million in reimbursements per occurrence to petroleum UST owners and operators to fix leaks in USTs. Funds for the USTCF come from a fee of \$0.014 per gallon of petroleum per gallon stored.

Since 1992 the USTCF has received 19,000 claims, 11,000 of which received letters of commitment. The claimants include individuals, small businesses, local governments, and major corporations. Statute mandates a priority system where individuals and small businesses have

their claims addressed first. As of June 2008, the department had over 3,400 claims that are over five years old.

**Governor's Budget.** The Governor's Budget proposes \$719,000 from the Underground Storage Tank Cleanup Fund and five temporary positions to review claims that have been active for more than five years.

**Budget Act.** The *2009-10 Budget Act* did not fund the Governor's Budget request of \$719,000 for five temporary positions.

**Finance Letter.** The Governor submitted a finance letter proposing two fund transfers from the Underground Storage Tank Cleanup Fund (USTCF) and trailer bill language:

1. \$10 million to the School District Account in the USTCF
2. \$20 million to the Underground Storage Tank Petroleum Contamination Orphan Site Cleanup Fund

**Trailer Bill Language.** The Governor's finance letter also includes trailer bill language creating the School District Account within the USTCF.

**Staff Analysis.** The current fee for the USTCF is set at \$0.0014 and generates approximately \$250 million annually. The fund acts as a form of insurance against environmental cleanup costs for underground storage tank owners. However, the fund is currently over subscribed, meaning expenditures are outpacing revenues. Many of the expenditures are set in statute as transfers to subaccounts within the USTCF. As a result of the fund condition, many claims are going unresolved for five years or longer.

**Staff Recommendation.** Staff recommends that the Subcommittee approve the proposal and the spring Finance Letter. Staff also recommends that the Subcommittee adopt trailer bill language in concept that would:

1. Augment the current fee by six-tenths of one cent (\$0.006)
2. Use two-tenths of one cent (\$0.002) of this augmentation to fund unresolved claims
3. Cap the fee augmentation to scale down to two-tenths of one cent (\$0.002) if the price of gasoline rises to \$3.00 per gallon, and to zero if the price of gasoline rises to \$3.50 per gallon.

### 3. Methyl Mercury in Wetlands

**Mercury.** Mercury is a rare, dense metal, slightly more common than gold in the earth's crust. It has unusual properties that have made it valuable in metallurgy, electrical systems, and chemical processes. It is a liquid at ordinary temperatures and evaporates when exposed to the atmosphere. Environmental mercury contamination concerns in California are focused less on atmospheric sources, and more on aquatic sources for several natural and historic reasons. During the Gold Rush era more than 220,000,000 pounds of elemental mercury were produced in California. There were few controls on the dispersion of mercury from these operations, leading

to significant increases in environmental mercury concentrations in affected soil, sediment, plants, fish, and other animals.

**Methyl Mercury.** Of even greater environmental concern is the presence of methyl mercury, an organic form of mercury that is a potent neurotoxin and is especially detrimental to developing fetuses and young children (less than about 6 years old). Methyl mercury accumulates and biomagnifies in the food chain, reaching highest concentrations in predatory fish, many of which are prized by sports fishermen. Numerous water bodies in California have fish-consumption advisories because of mercury contamination from historical mining. Several of these advisories are based on data collected by the United States Geological Survey (USGS), including those in Trinity County, and the Bear, Yuba, and American River watersheds in the Sierra Nevada.

**Role of Wetlands.** Mercury from hydraulic and placer mining for gold has been transported with sediments downstream into the San Francisco Bay/Sacramento-San Joaquin Delta estuary, where it has likely contributed to elevated mercury concentrations in fish, resulting in consumption advisories. The USGS reports that the sedimentary supply of mercury to the Delta and in Delta sediments (cinnabar, metacinnabar, and elemental Hg) typically are insoluble, but will pose an environmental hazard if they are (1) solubilized and (2) methylated in Delta and Estuary wetlands.

**Budget Act.** The *2009-10 Budget Act* includes \$2.3 million in Proposition 13 bond funds for the Department of Water Resources to reduce methyl mercury in abandoned mines in the Delta. The funds include support for a best management practices study that would reduce methyl mercury from the Yolo Basin and other wetlands.

Also, the Central Valley Regional Water Board is currently creating the Total Maximum Daily Load (TMDL) requirements for mercury. These requirements will impact how mercury is treated for in the water supply.

**Staff Comment.** The Department of Water Resources is focused on water supply issues while the State Water Resources Control Board works on water quality issues. To gain perspective on the impact of mercury in wetlands that stay wet year round, it may be beneficial to have the Water Board conduct additional testing on water quality, as well as to establish best management practices in the development of new wetlands, including pre- and post-monitoring for new wetlands projects.

## 4. Water Rights Program

**Water Rights Based on Priorities.** Water rights are based on a priority system that is used to determine who can continue taking water when there is not enough water to supply all needs. Those with high priority rights know that they are likely to receive water. Those with low priority rights know that they may not receive water in all years and can plan accordingly.

**Riparian Water Rights.** A riparian water right is a right to use the natural flow of water on riparian land. Riparian land is land that touches a lake, river, stream, or creek. California is the

only western state that continues to recognize riparian rights. The California Legislature has enacted very few laws regarding riparian rights. As a result, riparian rights have been frequently litigated. As a result of these lawsuits, the courts have clarified rules that apply to riparian rights. If there is not enough water available for competing riparian users, they must share the available supply according to their needs. Generally in this situation, water used for interior domestic purposes, such as drinking, cooking, and bathing, has the highest priority.

**Water Right Permits.** Water right permits include conditions to protect other water users and the environment. The State Water Resources Control Board (Water Board) has continuing authority over permits that it issues, and it can modify permits and licenses it previously issued to require more protective conditions. The Water Board must provide the permit or license holder with notice and opportunity for a hearing before making changes. If the permit holder disagrees with the Water Board's decision to modify the permit, it can ask the court to review the matter.

**Water Rights Administration.** Water rights law is administered by the Water Board. Within the Water Board, the Division of Water Rights acts on behalf of the Water Board for day-to-day administrative matters. The Water Board is the only agency with authority to administer water rights in California.

**Staff Recommendation.** Staff recommends that the Subcommittee approve Supplemental Report Language requiring:

On or before March 30, 2010, the State Water Resources (SWRCB) shall submit a report to the Joint Legislative Budget Committee (JLBC) and relevant policy committees that provides recommendations for creating greater efficiency in administering and enforcing water rights in the state. The report shall include a cost estimate for implementation of the recommendations.

## 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 Delta.

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

**Budget Act.** The *2009-10 Budget Act* includes \$6.3 billion to support DWR. This is a 20 percent decrease over estimated expenditures in the current year, mainly the result of a decrease in capital outlay and California Energy Resources Scheduling (CERS) funding. General Fund support for the department is proposed to decrease by nearly 20 percent. The \$4.3 billion in CERS funding is not subject to the Budget Act (these funds are primarily for energy payments related to the 2001 electricity crisis). The CERS funds will significantly decrease in 2012 as the majority of the power contracts are paid off.

<b>Summary of Expenditures</b> <i>(dollars in thousands)</i>	<b>2008-09</b>	<b>2009-10</b>	<b>\$ Change</b>	<b>% Change</b>
<b>Type of Expenditure</b>				
California Water Plan	\$ 848,513	\$ 150,139	-\$698,374	-82.3
Implementation of the State Water Resources Development System	861,730	903,861	42,131	4.9
Public Safety and Prevention of Damage	896,695	436,090	-460,605	-51.4
Central Valley Flood Protection Board	7,828	8,549	2,000	25.5
Services	9,425	9,660	235	2.5
California Energy Resources Scheduling	4,601,388	4,271,583	-329,805	-7.2
Capital Outlay	668,530	489,797	-178,733	-26.7
Administration	65,319	67,155	1,836	2.8
<i>less distributed administration</i>	<i>-65,319</i>	<i>-67,155</i>	<i>-1,836</i>	<i>2.8</i>
Loan Repayment Program	-4,013	-4,013	0	0.0
<b>Total</b>	<b>\$ 7,890,096</b>	<b>\$ 6,265,666</b>	<b>-\$1,624,430</b>	<b>-20.6</b>
<b>Funding Source</b>				
General Fund	\$ 161,324	\$ 129,590	-\$31,734	-19.7
Special Funds	527,896	493,655	-34,241	-6.5
Bond Funds	2,503,681	1,285,720	-1,217,961	-48.7
<i>Budget Act Total</i>	<i>3,192,901</i>	<i>1,908,965</i>	<i>-1,283,936</i>	<i>-40.2</i>
Federal Trust Fund	13,530	13,922	392	2.9
DWR Electric Power Fund	4,601,388	4,271,583	-329,805	-7.2
Bosco-Keene Renewable Resources Investment Fund	20	0	-20	-100.0
Reimbursements	82,257	71,196	-11,061	-13.5
<b>Total</b>	<b>\$ 7,890,096</b>	<b>\$ 6,265,666</b>	<b>-\$1,624,430</b>	<b>-20.6</b>

## 1. Central Valley Flood Protection Board

**Background.** Legislation was enacted in 2007 (AB 5 and SB 17) that renamed the Reclamation Board the Central Valley Flood Protection Board (Board). The Board is required to act independently of the Department of Water Resources and continue to exercise all of its powers, duties, purposes, responsibilities, and jurisdiction. The membership of the Board increased from seven to nine members, seven being appointed by the Governor and subject to Senate confirmation, and two members serving as non-voting ex officio members. Salary of the seven appointed members will be equivalent to the members of the Air Resources Board. Furthermore, AB 162 (Wolk, 2007) requires the Board to review revised safety elements of local governments' general plans prior to the adoption of the amended safety element.

**Budget Act.** The *2009-10 Budget Act* includes \$7.5 million General Fund and \$1 million in Proposition 1E bond funds for support of the Central Valley Flood Protection Board.

**Finance Letter.** The Governor has submitted a spring finance letter that would shift \$2,190,000 General Fund from the Central Valley Flood Protection Board to the Public Safety and Prevention of Damage program.

**Staff Comment.** The Central Valley Flood Protection Board was created in 2007 and received funding for the first time in the *2008-09 Budget Act*. At the time existing staff from within DWR was transferred to the Board because the Board's staffing needs were not fully known. Now some of those staff are being transferred back to DWR through the finance letter proposal.

Despite the fact that the Board has new functions, the Governor appointed the same members to the Board as served on the now-defunct Reclamation Board. Shifting board members from one decision-making entity to another without a Legislative confirmation is not consistent with existing practice of confirming board appointments. Because the Central Valley Flood Protection Board has some new functions that the Reclamation Board did not, it is appropriate for the Board members to answer questions about their decision-making rubric publicly.

**Staff Recommendation.** Staff recommends that the Subcommittee approve the finance letter. Staff also recommends that the Subcommittee adopt trailer bill language requiring the Governor to appoint new members to the Central Valley Flood Protection Board by January 1, 2010, or the Board's budget will be zeroed.

## 2. New and Expanded Requirements for Operating the State Water Project

**Budget Act.** The *2009-10 Budget Act* includes no new positions for the State Water Project (SWP) per Control Section 4.12. The SWP funds are off-budget, but the Legislature must approve all new positions for the SWP.

**Governor's Budget.** The Governor's January 10 Budget proposed 42 new permanent positions at a cost of \$5,920,000 from State Water Project funds. These positions would work on

improving operational efficiencies, maintaining dependable equipment for the SWP conservation and water delivery system, providing a safe working environment, and protecting SWP facilities from potential threats, while complying with new mandatory regulations, practices, and other requirements related to the department's energy and water operations and responsibilities. The 42 positions break down as follows:

- 15 positions – Energy regulatory requirements for operating the SWP
- 1 position – Aquatic nuisance species
- 1 position – Endangered species analysis and reporting
- 1 position – Facilities performance data management and review
- 10 positions – Installation and data collection for Partial Discharge Analyzer (PDA) systems
- 3 positions – Aging facilities at San Luis Field Division
- 4 positions – Safety and Security of SWP facilities; FERC environmental compliance and monitoring

**LAO Recommendation.** The SWP currently has 1,509 positions. The LAO found that over the past three years, the SWP has added 195 positions mainly for administration, environmental compliance, and legal support. The majority of the positions added over the past three years were added for purposes similar to those described in this proposal, including positions for energy license implementation and environmental compliance. The LAO does not find that the additional requested positions are justified at this time, and therefore recommend that this component of the staffing request be denied.

**Staff Recommendation.** Staff advises the Subcommittee only approve those new positions that the department has demonstrated relate to increased workload. Using this criteria, staff recommends the approval of 19 positions as follows:

- One position for aquatic nuisance species: the spread of the Quagga mussel poses a threat to the water delivery infrastructure within California. In Southern California, the Metropolitan Water District is already expending resources to contain the rapidly reproducing mussel that can block pipes. A position to assist in dealing with the spread of invasive species seems justified to staff given the new threat of the Quagga mussel.
- Three positions for aging facilities at San Luis Field Division: the SWP administrators at DWR inform staff that the San Luis Field Division is experiencing an increasing amount of maintenance as facilities age. The concern is that at times some facilities are left without maintenance staff available to deal with issues. The U.S. Bureau of Reclamation will cover 45 percent of the cost of these three positions.
- 15 positions for energy regulatory requirements for operating the SWP: due to CAISO market redesign, the SWP will have to deal with a new type of spot-market for energy purchases that will be more complex than the three-tier market it previously operated under. Also, the need to purchase more renewable energy and FERC relicensing of some facilities creates additional energy-related workload for the SWP.



### 3. State Water Project Climate Change Energy Activities

**Reid Gardner.** The Reid Gardner power plant is located in Nevada. The plant burns coal for energy. The plant became operational in 1965 and Unit No. 4 was added on in 1983. The Department of Water Resources (DWR) State Water Project (SWP) leases Unit No. 4 of the Reid Gardner plant. With the passage of the California Global Warming Solutions Act of 2006 (AB 32, Nunez) DWR had to find ways to reduce its carbon footprint. The SWP is the largest single customer for electricity in California, and thus reducing the carbon emissions of the electricity purchased would help DWR meet its carbon reduction goals. DWR's contract with Reid Gardner will end in 2013, and DWR has formally notified the power plant that the contract will not be renewed.

**Budget Act.** The *2009-10 Budget Act* includes no new positions for the State Water Project (SWP) per Control Section 4.12. The SWP funds are off-budget, but the Legislature must approve all new positions for the SWP.

**Governor's Budget.** The Governor's January 10 Budget proposed nine new permanent positions at a cost of \$1,705,000 from State Water Project funds. The proposed positions would work on:

- Phasing out use of cold power supplied from Reid Gardner Plant Unit No. 4, and replacing it with other less carbon-intensive resources.
- Replace fossil fuel use and increase energy efficiency in SWP operations.
- Reduce energy and water consumption through DWR's statutory and regulatory authority and through disbursement of bond funds.
- Report to the Legislature on the annual carbon footprint of DWR's total operations.

**LAO Recommendation.** The LAO finds that the budget proposal has not justified why existing SWP staff working on energy-related matters could not be utilized for this proposal by redirecting their focus to increasing SWP's use of renewable energy. Consequently, the LAO recommends rejection of these positions.

**Staff Analysis.** Legal and environmental concerns around ending the Reid Gardner power contract warrant oversight to ensure minimum state liability and on schedule contracting for less carbon intensive energy takes place. Staff thinks a position to ensure this process takes place reasonably is warranted.

As part of proposal number four, "New and Expanded Requirements for Operating the State Water Project" staff recommended approving 15 new energy-related positions. These positions should be trained to consider the carbon output of the energy that is purchased, so that greenhouse gas considerations become a part of the department's routine operations. Additional positions to deal with only carbon output are not necessary.

**Staff Recommendation.** Staff recommends that the Subcommittee approve one legal position to address the decommissioning of the Reid Gardner power contract.

## 4. Delta Habitat Conservation and Conveyance Program – Initial Phase Support

**Delta Habitat Conservation and Conveyance Program.** The Delta Habitat Conservation and Conveyance Program (DHCCP) was created in June 2008 to support planning, environmental, right of way, and engineering activities, as well as the potential construction of habitat restoration and conveyance facilities in line with the ongoing efforts of the Bay Delta Conservation Plan.

**CALFED Conveyance Program.** The goal of the Conveyance Program is to identify and implement water conveyance modifications in the Delta that will: (1) improve water supply reliability for in-Delta and export users; (2) support continuous improvement in drinking water quality; and (3) complement the Delta ecosystem.

**Budget Act.** The *2009-10 Budget Act* includes no new positions for the State Water Project (SWP) per Control Section 4.12. The SWP funds are off-budget, but the Legislature must approve all new positions for the SWP. The *2009-10 Budget Act* also does not include any bond funds for the Delta Habitat Conservation and Conveyance Program.

**Governor's Budget.** The Governor's Budget proposes 11 permanent positions, eight temporary positions, and \$180,000 in Proposition 13 bond funds. The funds break down as follows:

- Delta Habitat and Conveyance Program: 11 new permanent positions and six temporary positions to be funded from State Water Project Funds for a total of \$2,630,000. These positions would work on Delta water conveyance and alternative conveyance issues, including supporting planning, environmental, right-of-way, engineering, and construction activities.
- CALFED Conveyance Program: \$180,000 in Proposition 13 bond funds and two temporary positions to support the South Delta Fish Facility Improvement Projects. These positions would work on a fish collection, handling, transportation, and release study. These positions would also then work on implementing the study's findings.

**LAO Recommendation.** The LAO argues that activities proposed for funding directly benefit both the Central Valley Project and SWP water contractors, as they are part of a larger conservation planning effort intended to provide greater regulatory certainty to water exporters and thus greater reliability of water supplies. The LAO recommends that this funding request be rejected, on the basis that the activity's direct beneficiaries (the state and federal water contractors) should pay for the activity, rather than state funds.

**Staff Recommendation.** Staff thinks it is premature to begin engineering, right-of-way, and construction activities on a new Delta conveyance plan until the planning process is completed. Thus, staff recommends that the Subcommittee reject the State Water Project positions (11 permanent, six temporary). Staff recommends rejection of the CALFED conveyance program's two positions and funds.

## 5. South Delta Improvement Project

**Water Diversions.** The State Water Project (SWP) currently diverts water from the Delta at Clifton Court Forebay. This diversion is permitted through water rights permits contingent on meeting water level and water quality criteria in south Delta channels. Low water levels can create problems for farmers in the south Delta, who, under low water conditions are unable to divert water for irrigation.

**Salmon.** Salmon smolts migrate down the San Joaquin River in the spring, and can be pulled into the SWP and Central Valley Project (CVP) water pumps. Water diversions that pull small salmon into the pumps prevent those salmon from reaching the sea and impact the salmon population numbers. Ongoing declines of salmon and other fish species has resulted in a federal court issuing a Cease and Desist order for water diversion reductions at the SWP and CVP facilities.

**South Delta Improvement Project.** The South Delta Improvement project would construct permanent operable gates to control water flows at four locations: Middle River, Old River near Tracy, Grantline Canal, and Old River near the San Joaquin River. The department is proposing to share project costs with the federal government, but no federal funds have been secured for the project at this point.

**Budget Act.** The *2009-10 Budget Act* does not include funds for the South Delta Improvement Project.

**Governor's Budget.** The Governor's budget proposed \$29,400,000 from bond funds (\$26,600,000 from Proposition 13 and \$2,800,000 from Proposition 50) for the South Delta Improvement Project.

**Staff Comment.** The cost-effectiveness of the South Delta Improvement Project depends upon how the Legislature decides to handle water conveyance in the Delta and how Delta environmental restoration is pursued. If an alternative water conveyance facility is constructed, the South Delta Improvement Project may become obsolete. It may be prudent to spend these funds on other projects that could have a longer beneficial impact.

**Staff Recommendation.** Staff recommends that the Subcommittee reject the budget proposal.

## 6. Sutter Bypass East Borrow Canal Water Control Structures project

**Project.** The purpose of this project is the replace two water control structures, Weir No. 2 and Willow Slough Weir, which are located along the East Borrow Canal of the Sutter Bypass. The structures are part of the State Plan of Flood Control. The weirs allow the Department of Water Resources to control water levels in the East Borrow Canal for irrigation purposes.

**Project Addition.** The additional funds requested would cover an increase in project costs resulting from changes in foundation designs, environmental mitigation requirements, and access requirements for adjacent property owners. The department asserts that without additional funding, the State would continue to expose itself to potential liability resulting from flooding, crop loss, and injuries. In addition, the State could also be subjected to criminal liability as a result of “take” of species under the protection of the Endangered Species Act.

**Previous Appropriations.** Previous budget acts have provided \$11 million for this project.

**Finance Letter.** The Governor has submitted a spring finance letter requesting \$3,992,000 in Proposition 1E bond fund and 7.2 existing positions to complete the replacement of two hydraulic control structures in the East Borrow Canal of the Sutter Bypass.

**Staff Recommendation.** Staff recommends that the Subcommittee approve the finance letter.

## 7. CALFED General Fund Reductions

**LAO Recommendation.** The *2009-10 Budget Act* includes a total of \$14 million from the General Fund for CALFED. Of this amount, about one-half (\$7.2 million) is for CALFED program oversight of various state agencies. The majority of the remaining funding is allocated to the Department of Water Resources (DWR) for a variety of specific CALFED programs. The General Fund contribution in each of these DWR-administered programs is only three percent of the total state funds (including bond funds and SWP funds) that are spent on these programs.

The LAO’s analysis indicates that the CALFED programs in DWR proposed to receive General Fund support may have merit and work towards achieving CALFED’s goals. Most of the programs proposed for General Fund support, such as the Delta levees subventions program, have existed in some form or another prior to the creation of CALFED. In the intervening years since these programs began, however, multiple funding sources in addition to the General Fund have become available to support them. This includes substantial increases in available bond funds, many of which are allocated specifically to CALFED. Now, the General Fund contributes less than three percent overall to these CALFED programs.

In light of the magnitude of the state’s General Fund fiscal problems, the LAO thinks that it is a good time for the Legislature to reconsider whether DWR’s CALFED activities warrant continued General Fund support. The LAO believes such a reassessment of priorities is reasonable, given the level of support available to CALFED from other funding sources (approximately \$225 million for 2009-10). The LAO therefore recommends that CALFED’s base General Fund budget be reduced by \$5.9 million by reducing or eliminating General Fund support in two programs: Delta levees and water use efficiency.

*Delta Levees: \$4.9 Million General Fund Savings.* The budget allocates \$4.9 million from the General Fund for levee maintenance and repairs within the Delta. This program pertains to levees outside of the state’s Central Valley flood control system, mainly Delta islands, that are operated by local reclamation districts. While improving these levees has some merit, the need

to continue to stabilize levees on many islands in the Delta is currently being assessed as the department evaluates alternatives for Delta conveyance. Therefore, it is uncertain whether preserving these levees will remain a priority for state funding. The availability of other fund sources (mainly bond funds) means that General Fund support can be eliminated without significantly impacting the program.

*Water Use Efficiency: \$1 Million General Fund Savings.* The General Fund provides \$1.4 million of the nearly \$27 million budgeted for CALFED water use efficiency programs, mostly from bond funds. Of the \$1.4 million, about \$1 million is allocated to the California Irrigation Management Information System (CIMIS), a program operated jointly with the University of California, Davis, intended to assist irrigators in managing their water resources efficiently. The LAO is concerned that the original purpose of the program, agricultural water efficiency, has been changed. Many of the 6,000 registered users of the system are not irrigators, but are water agencies, researchers, educators, and water consultants. In the LAO's view, General Fund support for the water use efficiency program can be reduced by \$1 million without significantly impacting the original program scope. The remaining \$350,000 of the General Fund support is used for review of urban water conservation plans, a high-priority activity for which an alternative funding source is not likely to be available.

**Staff Comment.** These cuts were discussed at the April 23, 2009, Subcommittee 2 hearing. The \$1 million General Fund for Water Use Efficiency represents the entire CALFED water use efficiency program, and it may not be prudent to eliminate these funds in the midst of a drought.

For the Delta Levees program, \$1 million General Fund is needed for administrative costs related to levee projects started prior to the passage of the 2006 bond acts.

**Staff Recommendation.** Staff recommends that the Subcommittee reduce the Delta Levees budget by \$3.9 million General Fund.

## 8660 Public Utilities Commission

**Background.** The California Public Utilities Commission (PUC) is responsible for the regulation of privately-owned "public utilities," such as gas, electric, telephone, and railroad corporations, as well as certain video providers and passenger and household goods carriers. The 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.

**Budget Act.** The 2009-10 Budget Act includes \$1.36 billion to support the PUC. This is approximately \$165 million more than estimated expenditures in the current year. This is due to growth in the various programs for low-income assistance from natural gas to telephone service. The commission does not receive any General Fund support.

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### Summary of Expenditures

(dollars in thousands)

	2008-09	2009-10	\$ Change	% Change
<b>Type of Expenditure</b>				
Regulation of Utilities	\$ 568,505	\$ 700,177	\$131,672	23.2
Universal Service Telephone Programs	606,791	638,749	31,958	5.3
Regulation of Transportation Administration	20,869	22,425	1,556	7.5
Administration	29,123	28,507	-616	-2.1
<i>less distributed administration</i>	-29,123	-28,507	616	-2.1
<b>Total</b>	<b>\$ 1,196,165</b>	<b>\$ 1,361,351</b>	<b>\$165,186</b>	<b>13.8</b>

### Funding Source

Special Funds	1,176,097	1,337,187	161,090	13.7
<i>Budget Act Total</i>	<i>\$ 1,176,097</i>	<i>\$ 1,337,187</i>	<i>\$161,090</i>	<i>13.7</i>
Federal Trust Fund	1,284	1,284	0	0.0
Reimbursements	18,784	22,880	4,096	21.8
<b>Total</b>	<b>\$ 1,196,165</b>	<b>\$ 1,361,351</b>	<b>\$165,186</b>	<b>13.8</b>

## 1. Energy Efficiency Savings

**Role of Energy Efficiency in California.** Current statute requires the electric and gas utilities to rely on energy efficiency savings as the first resource to meet customer demand. The utilities

must achieve all cost-effective energy efficiency before building new power plants, before signing new natural gas supply contracts, and before building new electric or natural gas transmission lines.

California's utilities have been working on energy efficiency measures since the 1970s. However, as part of the greenhouse gas reductions for AB 32, the utilities must increase their energy efficiency gains. The Public Utilities Commission (PUC) established a new three-year energy efficiency program and portfolio planning process for energy efficiency for the 2006 to 2008 period and authorized the utilities to spend \$2.1 billion in ratepayer funds on programs expected to achieve savings sufficient to avoid the need to build three new 500 MW power plants. This is approximately a \$500 million annual increase over what the utilities previously invested into energy efficiency measures.

**Budget Act.** The *2009-10 Budget Act* includes no funds for this proposal.

**Governor's Budget.** The Governor's Budget proposed \$461,000 from the Public Utilities Commission Utilities Reimbursement Account for four positions to work on energy efficiency goals.

- Two positions for Statewide Energy Efficiency Strategic Plan implementation, coordination, and ongoing revisions and updates.
- Two positions for evaluation, measurement, and verification (EM&V) of energy savings.

**Staff Analysis.** The utilities will receive incentive payments or financial penalties depending on how well they meet their energy efficiency goals. Thus, it is important that the calculations for energy efficiency gains be as accurate as possible. The two positions for measurement and verification of energy savings will help assure accurate financial incentives and planning for AB 32 goals.

The increase in funds used for energy efficiency gains at the utilities' level warrants some oversight and planning assistance from the PUC. The increased workload justifies two additional positions.

As part of the energy efficiency work, the utilities will hire contractors to perform building renovations. These contractors will in turn train workers in "green collar" jobs. Though such training is appropriate for independent contractors to perform, staff thinks that the PUC should not become involved in job training as that is not a part of the PUC's mission. Thus staff recommends that the Subcommittee consider provisional language to specify that the PUC will not plan career training programming or include career training in the evaluation criteria for projects.

**Staff Recommendation.** Staff recommends that the Subcommittee approve the proposal with the following provisional language:

The Public Utilities Commission shall not directly engage in workforce education and training curriculum development as part of the Commission's energy efficiency programs.

## 2. Outside Legal Counsel and Economic Consulting

**Energy Crisis.** The California energy crisis of 2000 and 2001 resulted from spot market manipulation allowed for by flawed power market design. The California energy market had been partially deregulated, allowing for market manipulation by energy companies. During the crisis the state government, through the Department of Water Resources, had to step in to purchase power, and 56 contracts totaling \$42 billion were signed. The utilities themselves bought over \$11 billion in energy contracts. The highly variable power prices of the time led to the overcharging of California's consumers by as much as billions of dollars.

**Case History.** In 2003, Federal Energy Regulatory Commission (FERC) determined that it could not modify the long-term contracts merely on the grounds that the contracts did not satisfy the requirement of the Federal Power Act that all rates be "just and reasonable," and that evidence of market manipulation was irrelevant. The PUC appealed FERC's decision to the Ninth Circuit Court of Appeals, which reversed FERC and found in the PUC's favor. In late 2008, the United States Supreme Court upheld the Ninth Circuit's ruling. The case has now been sent back to the FERC, where the PUC must defend the interest of California consumers.

The case for modifying long-term contracts was also litigated by the Electricity Oversight Board (EOB) before the EOB was defunded in the *2008-09 Budget Act* through the Governor's veto. The EOB was using outside counsel and expert witnesses for its litigation. The responsibility for litigating the case is now shifting mainly to the PUC.

**Governor's Budget.** The Governor's Budget proposes \$2.5 million from the Public Utilities Commission Utilities Reimbursement Account for outside legal and economic consultants.

**Budget Act.** The *2009-10 Budget Act* includes no funds for this item.

**Staff Analysis.** The refunds sought for consumers in this proceeding are estimated in excess of \$1.4 billion. The funds for economic and legal counsel to allow California to recoup those overcharges are relatively small compared to the benefits of a successful settlement.

**Staff Recommendation.** Staff recommends that the Subcommittee approve the proposal.

## 3. Independent Monitoring of CAISO

**MRTU.** The California Independent System Operator (CAISO) has implemented a new market design called the "Market Redesign and Technology Upgrade" (MRTU) in March 2009. The MRTU aligns California's electricity market with wholesale market designs throughout North America. The MRTU establishes an integrated forward market with day ahead trading; a full network model that "sees" bottlenecks before schedules actually run; provide for locational marginal pricing, which allows least cost decisions about how to fix bottlenecks; and puts new computer systems in place.



California utilities supervised by the CPUC must buy a substantial portion of the power needed to serve customers on the wholesale power market at market-based rates. The California Public Utilities Commission (PUC) is required to analyze market data and make appropriate recommendations about the proper functioning of newly-designed competitive wholesale markets both at the CAISO and in Federal Energy Regulatory Commission (FERC) proceedings.

**Budget Act.** The *2009-10 Budget Act* includes no funds for this proposal.

**Governor's Budget.** The Governor's Budget proposed \$174,000 from the Public Utilities Commission Utilities Reimbursement Account for two positions to: 1) monitor the California Independent System Operator (CAISO) market after the implementation of MRTU, and 2) effective oversight of the utilities' \$11 billion annual procurement of energy and capacity.

**Staff Analysis.** The Electricity Oversight Board (EOB), which was defunded in 2007-08, served as the oversight entity for the CAISO. Now that the EOB is no longer functioning, those oversight tasks are appropriate to move to another agency. However, staff disagrees that the PUC is the appropriate entity to oversee the CAISO due to a conflict of interest with the PUC's ratemaking capacity. The PUC should not oversee an entity to which it makes recommendations. Also, the Governor's proposed energy reorganization would place the CAISO oversight role in the proposed California Department of Energy. It may be best for the Subcommittee to allow the decision on oversight to move through the policy process.

**Staff Recommendation.** Staff recommends that the Subcommittee reject the proposal.

## 3360 Energy Resources Commission

**Background.** The Energy Resources Conservation and Development Commission (commonly referred to as the 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.

**Budget Act.** The 2009-10 Budget Act includes \$370 million to support CEC. The proposed budget is approximately ten percent less than estimated expenditures in the current year due to a reduction in the Public Interest Research, Development, and Demonstration Fund (PIER). The department does not receive any General Fund support.

<b>Summary of Expenditures</b>				
<i>(dollars in thousands)</i>	<b>2008-09</b>	<b>2009-10</b>	<b>\$ Change</b>	<b>% Change</b>
<b>Type of Expenditure</b>				
Regulatory and Planning	\$ 27,779	\$ 32,444	\$4,665	16.8
Energy Resources Conservation	50,837	30,993	-19,844	-39.0
Development	339,796	310,435	-29,361	-8.6
Policy, Management, and Administration	20,967	21,690	723	3.5
<i>less distributed administration</i>	-20,967	-21,690	-723	3.5
<i>less loan repayments</i>	-3,873	-3,970	-97	2.5
<b>Total</b>	\$ 414,539	\$ 369,902	-\$44,637	-10.8
<b>Funding Source</b>				
Special Funds	386,353	310,454	-75,899	-19.6
<i>Budget Act Total</i>	\$ 386,353	\$ 310,454	-75,899	-19.6
Federal Trust Fund	22,366	53,628	31,262	139.8
Reimbursements	5,820	5,820	0	0.0
<b>Total</b>	\$ 414,539	\$ 369,902	-\$44,637	-10.8

## 1. Energy Efficiency and Conservation

**Energy Independence and Security Act of 2007.** The Energy Independence and Security Act of 2007 is a federal bill that created the Energy Efficiency and Conservation Block Grants. The purpose of these grants is to reduce energy costs, greenhouse gas and criteria pollutant emissions, total energy use, and improve energy efficiency in buildings. The Act provided \$560 million annually for five years for these grants to be administered by state governments. The funds are divided between the 50 states based on a formula. It is estimated that California will receive approximately \$34 million.

**AB 2176.** AB 2176 (Caballero, 2008) requires that of the Energy Efficiency and Conservation grant funds California will receive, a minimum of 60 percent be used to provide cost-effective grants to cities with a population less than 35,000 or counties with a population less than 200,000. AB 2176 also limits the administrative costs for the program to five percent.

**Large Cities and Counties.** Those cities and counties with populations larger than 35,000 or 200,000, respectively, are able to apply for energy efficiency funds directly from the federal government. Also, depending on the guidelines that the Energy Commission develops, larger cities and counties may be eligible for the forty percent of funds that the Energy Commission will distribute based on the guidelines that will be developed.

**Guidelines.** The Energy Commission is currently developing guidelines for the distribution of the energy efficiency funds. The Energy Commission has discretion on how to allocate forty percent of the federal energy efficiency funds that it will administer. The guidelines for this forty percent will be completed in July 2009.

**Budget Act.** The *2009-10 Budget Act* includes no funds for this proposal.

**Governor's Budget.** The Governor's Budget proposed \$34 million from federal funds. \$703,000 of these funds would pay for five positions and travel costs.

**Staff Comment.** Additional federal funds for energy efficiency became available for California with the passage of the American Recovery and Reinvestment Act (ARRA) of 2009 in February 2009. The Energy Commission estimated that the ARRA funds the Energy Commission will receive will be approximately \$15.6 million.

**Staff Recommendation.** Staff recommends that the Subcommittee augment the proposal to reflect the additional federal funds the Energy Commission is likely to receive in the fall of 2009. Staff recommends an approval of \$49.6 million in federal fund expenditure authority and the five positions requested.

## 8570 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 promotes California's agricultural products and protects consumers 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.

**Budget Act.** The *2009-10 Budget Act* provides \$405 million to support CDFA. This is approximately \$89 million more than the level of expenditures estimated in the current year. This growth is primarily due to capital outlay expenditures.

<b>Summary of Expenditures</b> <i>(dollars in thousands)</i>	<b>2008-09</b>	<b>2009-10</b>	<b>\$ Change</b>	<b>% Change</b>
<b>Type of Expenditure</b>				
Agricultural Plant and Animal Health; Pest Prevention; Food Safety Services	\$ 179,216	\$ 169,402	-\$9,814	-5.5
Marketing; Commodities and Agricultural Services	61,232	60,158	-1,074	-1.8
Assistance to Fair and County Agricultural Services	26,121	26,090	-31	-0.1
General Agricultural Activities	43,084	58,182	15,098	35.0
Capital Outlay	4,887	89,833	84,946	1738.2
Executive, Management, and Administration Services	19,427	19,400	-27	-0.1
<i>less distributed administration</i>	-17,940	-17,987	-47	0.3
<b>Total</b>	<b>\$ 316,027</b>	<b>\$ 405,078</b>	<b>\$89,051</b>	<b>28.2</b>
<b>Funding Source</b>				
General Fund	\$ 98,014	\$ 98,355	\$ 341	0.4
Special Funds	157,354	239,594	82,240	52.3
<i>Budget Act Total</i>	<i>\$ 255,368</i>	<i>\$ 337,949</i>	<i>82,581</i>	<i>32.3</i>
Federal Trust Fund	47,221	54,099	6,878	14.6
Harbors and Watercraft Revolving Fund	3,513	3,508	-5	-0.1
Reimbursements	9,925	9,522	-403	-4.1
<b>Total</b>	<b>\$ 316,027</b>	<b>\$ 405,078</b>	<b>\$89,051</b>	<b>28.2</b>

## 1. Agricultural Products Marketing Committees

**Authorization.** The marketing programs are authorized under the California Marketing Act of 1937 and individual sections of statute in the Food and Agricultural Code. State law requires that the California Department of Food and Agriculture oversee all State marketing programs. Each marketing program is governed by a board made up of industry members. Some boards also have public members.

Marketing programs are industry initiated and usually do not go into effect without approval by an industry vote. Since all industry members stand to gain from a marketing program's activities, all affected producers and/or handlers of each commodity are required to abide by the marketing program's statutory provisions and share the cost of funding the program's activities.

**Purpose.** The purpose of marketing programs is to provide agricultural producers and handlers an organizational structure, operating under government sanction, which allows them to solve production and marketing problems collectively that they could not address individually. Current marketing programs' activities include commodity promotion, research, and maintenance of quality standards. Some of the programs carry out all three authorized activities while others carry out only one or two, depending on the needs of each respective industry. None involve volume control and cooperative price establishment (which is specifically prohibited by law). These organizations provide a structure for solving problems and also provide a vehicle for collecting funds to support activities.

**Audit Cycles.** The California Department of Food and Agriculture (CDFA) received some complaints from industry members over the expenditures of specific marketing programs. Spot audits found problems with both the Tomato Commission and the Avocado Commission, both of which have now been disbanded. The CDFA is instituting a four-year audit cycle. This is in addition to the internal audits that the marketing committees perform.

**Staff Recommendation.** No recommendation. Informational item only.

**OUTCOMES FOR: Subcommittee No. 3: Thursday, May 7, 2009**

(Please use this document with the Agenda for this day.)

**I. Items for “Vote Only” (Pages 2 to 3)**

- **Vote: 2-0 (Senator Ashburn absent)**
- **Approved Vote Only Items as follows:**
  1. Department of Public Health
    - Department’s Correction for Genetic Disease Screening Program
    - California Electronic Death Registration System
    - Enterprise-Wide Online Licensing Project
  2. Department of Developmental Services
    - Trailer Bill Language to Extend SB 962 Homes

**II. Discussion Items for the Department of Developmental Services**

- **Left Open for Continued Discussion**

## SUBCOMMITTEE NO. 2

## Agenda

S. Joseph Simitian, Chair  
John J. Benoit  
Alan Lowenthal



Thursday, May 14, 2009  
9:30 a.m. or upon adjournment of session  
Room 2040

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### Resources—Environmental Protection—Energy—Transportation

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling 916-324-9335. Requests should be made one week in advance whenever possible.



## Vote-Only Calendar

### Spring Finance Letters

	Department	Proposal	2009-10 Amount (000)
1	Secretary for Natural Resources	California River Parkways: Extend liquidation period for \$29.9 million in Proposition 50 bond fund grants to June 30, 2011.	\$29,900
2	Secretary for Natural Resources	Strategic Growth Council: Two permanent positions to support the Strategic Growth Council funded from Proposition 84 bond funds.	\$146
3	Secretary for CalEPA	Unified Program Data System: One position and additional funds from the Unified Program Account for a local government web-based inspection and enforcement reporting system.	\$219
4	Secretary for CalEPA	Unified Program Electronic Reporting: Six positions and contract funds to support the integration of previously developed applications and the development of technical interfaces with 118 local agencies. This activity is in response to AB 2286 (Feuer, 2008) which requires a Unified Hazardous Materials and Hazardous Waste Regulatory Management Program electronic information management system by January 1, 2010.	\$2,513
5	Tahoe Conservancy	Environmental Improvement Program: Extend the liquidation period for various Proposition 12 bond funded local assistance grants and capital outlay projects until June 30, 2011.	LA: \$6,203 CO: \$1,031
6	California Conservation Corps	Capital Outlay Reappropriation: The working drawings and construction for the Tahoe Base Center Relocation Project.	\$10,432
7	Department of Conservation	Land Resource Protection Program: Technical adjustments to reflect decreasing Williamson Act revenues.	-\$882
8	Department of Conservation	Information Technology Infrastructure Lifecycle Support: Fixes to security of DOC's network computing infrastructure.	\$132
9	Boating and Waterways	Imperial Beach Restoration Project: Provide funding from Harbors and Watercraft Revolving Fund for the City of Imperial Beach Silver Strand Shore Protection Project.	\$4,200
10	CalFire	California Emergency Management Agency Coordinator: Additional reimbursement authority to provide dispatch services for CalEMA's Emergency Command Center.	\$155
11	CalFire	Mobile Command Center Prototype: Increased reimbursement authority to receive a grant from CalEMA for the construction of a prototype Mobile Communications Center.	\$1,350
12	CalFire	Fuels Treatment: Federal grant funds for fuels treatment projects in San Bernardino, Riverside, and San Diego counties.	\$3,261
13	CalFire	Bond Funds Liquidation Extension: Extend liquidation period until June 30, 2011 on various Proposition 12, 40, and 50 bond funds.	\$3,728
14	CalFire	Capital Outlay Reappropriations: Reappropriate and extend the liquidation period for 41 capital outlay projects. Acquisitions would be extended until June 30, 2012; Construction would be extended until June 30, 2014; and all others would be extended until June 30, 2011.	

	<b>Department</b>	<b>Proposal</b>	<b>2009-10 Amount (000)</b>
15	Fish and Game	Facilities Health and Safety Compliance: Funds to enter into a lease on a new facility, since the current facility is too small for the current staff and out of compliance with ADA requirements.	\$741
16	Fish and Game	Bond Fund Realignment: Technical changed to reduce bond funds that expired in 2008-09 but were accidentally left in the 2009-10 Budget.	-\$600
17	Fish and Game	Delta Fish Agreement: Increase reimbursements to implement environmental restoration work to offset direct fish losses resulting from pumping in the Delta.	\$1,000
18	Fish and Game	Ecosystem Water Quality: Increase reimbursements to address low levels of dissolved oxygen and methyl mercury in the Delta.	\$7,596
19	Fish and Game	Technical Budget Adjustments: An intra-schedule transfer of funds to reflect spending for local assistance out of the appropriate budget program.	\$0
20	Wildlife Conservation Board	Wetland and Riparian Habitat Conservation Projects: Revert General Fund that was never encumbered.	-\$1,535
21	Wildlife Conservation Board	Reappropriation and Extension of Liquidation for Various Funds: Habitat Conservation Fund capital outlay and Wildlife Restoration Fund Public Access Program.	\$33,024
22	State Coastal Conservancy	Increase Reimbursement Authority: This increase will allow the Coastal Conservancy to receive matching funds from local and non-profit project partners. Current reimbursement authority is \$1.8 million.	\$6,200
23	State Coastal Conservancy	Proposition 50 Bond Funds: Revert unused Proposition 50 funds and appropriate those same funds for the Conservancy's support budget.	\$500
24	State Coastal Conservancy	Technical Budget Adjustments: Proposition 84 Santa Ana River Parkway Program technical adjustment to keep the section of the bond reserved for this program from being over allocated.	
25	Parks and Recreation	Technical Adjustments: Reappropriations to the public safety dispatch system in the following amounts: \$3,074,000 GF; \$876,000 Off-Highway Vehicle Trust Fund; and \$5.6 million OHV Fund grants.	\$9,550
26	Parks and Recreation	Technical Adjustments: Baseline reductions to remove one-time costs. \$1,420,000 GF and \$333,000 OHV	-\$1,753
27	Parks and Recreation	Extension of Liquidation for various Proposition 12 bond funds for state support and local assistance projects.	
28	Parks and Recreation	Proposition 12 Funding for Local Park Grants: Proposition 12 stated that eight years after the original appropriation funds for local assistance projects would revert. Due to the bond freeze, many projects were unable to liquidate in a timely manner. This appropriation would allow those previously started projects one year to complete.	\$39,795

	Department	Proposal	2009-10 Amount (000)
29	Parks and Recreation	Capital Outlay Reappropriations: Reappropriate 44 capital outlay projects.	
30	San Joaquin River Conservancy	Fund shift of \$54,000 from in-house property management to contract management of the Conservancy's lands. Due to the large area covered by the Conservancy's responsibility area, travel costs and travel time make it prohibitive for one person to effectively manage the lands. The Conservancy intends to employ other state agencies and non-profits in the management activities.	\$0
31	Sierra Nevada Conservancy	Extension of Liquidation: Proposition 84 funded local assistance grants for two additional years.	
32	Integrated Waste Management Board	Education and Environment Initiative: Increase federal funding for training teachers in the EEI curriculum.	\$26
33	Integrated Waste Management Board	Education and Environment Initiative: Increase reimbursement authority for curriculum development.	\$1,000
34	Integrated Waste Management Board	National Environmental Information Exchange Network: Federal funds toward California's participation in an environmental data network.	\$100

**Staff Recommendation:** Staff recommends that the Subcommittee approve the 34 spring finance letters listed in the chart.

## 3340 California Conservation Corps

### 1. Local Corp Bond Funding Reappropriation

**Background.** There are twelve local conservation corps in California. They provide workforce training and education to youth at the local level. In the *2008-09 Budget Act*, the Legislature provided \$23 million in bond funds for the local corps. The budget act was passed in August 2008, providing less than a full fiscal year to expend the funds. Then, in December 2008, the Pooled Money Investment Board froze bond funds. That action halted the ability of the local corps to continue their projects.

**2008-09 Budget Act.** The *2008-09 Budget Act* provided \$23 million in Proposition 84 bond funding for the local conservation corps. The funding had a liquidation period of one year only.

**Staff Recommendation.** Staff recommends that the Subcommittee reappropriate the \$23 million in Proposition 84 bond funds to the local conservation corps to allow them to complete projects begun during the 2008-09 fiscal year.

## 2. Funding Youth Employment

**Background.** The California Conservation Corps (CCC) 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 related to environmental conservation, fire protection, and emergency services. Some activities traditionally associated with the Corps are tree planting, stream clearance, and trail building. The Corps also develops and provides funding for 12 community conservation corps.

**Staff Comment.** At a time of high unemployment in California, it is more important than ever to provide young people with educational opportunities and employment. Proposition 84 bond funds exist that can be used to employ in public works projects youth that may otherwise be reliant on social services.

**Staff Recommendation.** Staff recommends that the Subcommittee appropriate \$7 million in Proposition 84 bond funds for the CCC and \$8 million in Proposition 84 bond funds for the local conservation corps to increase youth employment and education. Staff recommends that the Subcommittee approve budget bill language directing the use of these funds to include education and employment of foster youth. Staff also recommends that the Subcommittee approve budget bill language to make these funds available until June 30, 2011.

## 3540 Department of Forestry and Fire Protection

### 3. Arson and Bomb Unit

**Background.** Each year approximately 160,000 pounds of illegal fireworks are seized in California. Due to environmental and safety reasons, existing statute requires that the State Fire Marshal dispose of seized illegal fireworks. The cost of safely disposing of the illegal fireworks is approximately \$6 per pound. To cover the cost of illegal firework disposal, SB 839 (Calderon, 2007) established the State Fire Marshal Fireworks and Enforcement Fund to receive 65 percent of penalties from the possession of illegal fireworks “to enforce, prosecute, dispose of, and manage dangerous fireworks and to educate public safety agencies in the proper handling and management of dangerous fireworks.”

**Governor’s Budget.** The Governor’s Budget proposed \$285,000 from the Fireworks and Enforcement Fund for two new positions to establish an Arson and Bomb Unit within the State Fire Marshal. The Unit would conduct enforcement and disposal of illegal fireworks.

**Budget Act.** The *2009-10 Budget Act* does not include any funds for the arson and bomb unit.

**Staff Recommendation.** Staff recommends that the Subcommittee approve the budget proposal. This proposal is significantly scaled back from the 2008-09 proposal that was rejected. Due to concerns over the handling of explosives and clean air concerns, trained personnel must handle the disposal of large quantities of fireworks. The funding comes from a dedicated source for fireworks disposal.

#### 4. Lease-Revenue Bond Funded Capital Outlay Proposals

**Background.** All lease-revenue bond funded capital outlay proposals were pulled from the 2009-10 Budget Act without prejudice. The concerns over lease-revenue proposals were two-fold: (1) lease-revenue bond funded projects must have all phases of the project approved, removing legislative control over decisions on the project prior to the completion of plans; and (2) long-term debt service of the state.

**Governor's Budget.** The Governor's Budget proposed \$290,344,000 in lease-revenue bond funded projects. These projects were:

1. El Dorado Fire Station: service warehouse – replace facility. This project includes construction of a 16-bed barracks and mess hall; 5-bay auto shop with a welding bay, service center/warehouse with Self Contained Breathing Apparatus component and generator/pump/storage building with generator. \$26,375,000
2. Cuesta Conservation Camp – relocate facility. This project would relocate the Cuesta Conservation Camp and the Unite Mobile Equipment Maintenance Facility to another location within the same state-owned Camp San Luis Obispo property. \$70,238,000
3. Parlin Fork Conservation Camp – replace facility. This project would replace a conservation camp with: a new administrative building; standard 14-bed barracks/mess hall; warehouse; physical training building; 4-bay utility garage; auto and welding shop; generator/pump/storage building; and various inmate use buildings. \$53,544,000
4. Soquel Fire Station – replace facility. This project would construct an 8-bed barracks/mess hall; 2-bay apparatus building; and a generator/pump/storage building with an emergency generator. \$10,599,000
5. Gabilan Conservation Camp. This project would construct a 14-bed officer's quarters, an 8-bed officer's quarters for Department of Corrections staff, a vehicle wash rack and a fire cache trailer cover. \$21,865,000
6. Potrero Fire Station – replace facility. This project would construct a new standard 2-engine fire station with a 14-bed barracks/mess hall; 3-bay apparatus building, a battalion chief's office and a generator/pump/storage building with an emergency generator. \$10,389,000
7. Tuolumne-Calaveras Service Center – relocate facility. This project would relocate and construct a 10,000 sq ft service center (warehouse with office space); an administrative office building; a physical training building; an emergency command center; a fuel dispensing system; and a generator/pump building with an emergency generator. \$24,655,000
8. Butte Unit – replace facility. This project would include demolition of existing buildings and the construction of a 20-bed barracks/mess hall, 3-bay apparatus

- building; an administrative office building; 5-bay auto shop, 2-bay dozer shed, covered vehicle wash rack, a physical fitness building, service center/warehouse, a maintenance building, and a generator/storage building. \$30,692,000
9. Cayucos Fire Station – replace facility. This project would include demolition of existing structures and construction of an 8-bed barracks, 2-bay apparatus building and a generator/storage building with an emergency generator. \$9,678,000
  10. Felton Fire Station – replace facility. This project would include demolition of existing buildings and construction of a 12-bed barracks, 2-bay apparatus building, a dozer shed, an administrative office building, a dispatch area, two generator/pump/storage buildings, and a physical training building. \$25,100,000
  11. Parkfield Fire Station – replace facility. This project would include construction of an 8-bed barracks/mess hall, a 2-bay apparatus building, a generator/pump/storage building, fuel facilities, vehicle wash pad, underground utilities, propane system, septic system, a new well, a new water treatment system, a security fence, and landscaping. \$7,209,000

**Budget Act.** The *2009-10 Budget Act* does not include funds for CalFire capital outlay proposals. The funds for capital outlay projects were removed without prejudice.

**Staff Recommendation.** Staff recommends that the Subcommittee approve the lease-revenue funded CalFire capital outlay projects in the following amounts:

1. El Dorado Fire Station: \$26,376,000
2. Cuesta Conservation Camp: \$70,239,000
3. Parlin Fork Conservation Camp: \$53,545,000
4. Soquel Fire Station: \$10,600,000
5. Gabilan Conservation Camp: \$21,866,000
6. Potrero Fire Station: \$10,390,000
7. Tuolumne-Calaveras Service Center: \$24,656,000
8. Butte Unit: \$30,693,000
9. Cayucos Fire Station: \$9,679,000
10. Felton Fire Station: \$25,101,000
11. Parkfield Fire Station: \$7,210,000

## 5. Air Resources Board Regulations on Diesel Equipment

**Air Resources Board Regulations.** In January 2007, the Air Resources Board (ARB) adopted regulations for “On-Road Heavy-Duty Diesel-Fueled Public Fleets”. This regulation requires all state agencies and local governments to retrofit 60 percent of their diesel vehicles to reduce identified diesel particulate matter in the exhaust by 75 percent by 2010. If 60 percent of the fleet is not retrofitted, the state agency may face penalties of \$1,000 to \$10,000 per day of non-compliance.

**ABxx 8.** In February 2009, legislation was passed that extended the compliance period for the Air Resources Board regulations.

**Governor's Budget.** The Governor's Budget proposed \$2,762,000 in General Fund for CalFire to retrofit 45 off-road heavy-duty diesel vehicles to meet new ARB clean air regulations. The compliance is towards the following regulations:

1. *In-Use On-Road Regulations for Public Fleets* – CalFire has 59 vehicles that meet this criteria. Sixty percent of these vehicles must be retrofitted by December 31, 2009. It will cost approximately \$20,000 to retrofit each vehicle, for a total of \$1,180,000.
2. *In-Use Off-Road Regulations for Diesel Vehicles* – CalFire has 145 off-road vehicles that have to comply with this regulation to reduce NOX and Particulate Matter pollution. The total cost of retrofitting this fleet is \$2,900,000 over five years, or \$580,000 annually.
3. *Portable Equipment Registration Program (PERP)* – This program monitors the movement of heavy-duty equipment between air districts. In order to move a piece of heavy-duty equipment from one air district to another, CalFire will need a permit. CalFire has 126 pieces of such equipment, 89 of which are too old to quality and must be replaced with a cost of \$2,406,000. After replacement, these pieces still have to be registered if transported. The total registration fee for all CalFire equipment under the PERP program is \$79,400 annually.

**Budget Act.** The 2009-10 Budget Act includes no funds for this item.

**ABxx 8.** AB 8 of the Second Extraordinary Session of 2009-10 extended the implementation deadline for the ARB regulation on Off-Road Diesel Vehicles. This extension allows until 2011 instead of the original 2010 for 20 percent of the fleet to be retrofitted.

**Staff Comment.** Due to ABxx 8, CalFire does not have to retrofit any of its in-use off-road diesel vehicles during 2009-10. The ARB regulations for in-use on-road public fleets requires 60 percent of the fleet retrofitted by December 31, 2009. CalFire has 59 in-use on-road diesel vehicles, of which 36 would have to be retrofitted during the 2009-10 fiscal year for a cost of \$720,000. CalFire will still have to meet the portable equipment registration program requirements.

**Staff Recommendation.** Staff recommends that the Subcommittee approve \$2,762,000 in one-time funding from Air Quality Improvement Fund for these diesel retrofits. Staff also recommends trailer bill language allowing for the one-time expenditure of these funds from the Air Quality Improvement Fund.

## 3600 Department of Fish and Game

### 6. Renewable Energy Regulatory Action Team

**Background.** Current statute requires that California's energy use consist of a minimum of 20 percent renewable energy by 2010. The Governor's Executive Order S-14-08 expanded the required use of renewable energy to 33 percent of energy use by 2020. The Public Utilities Commission has estimated that in 2008 renewable energy made up 13.7 percent of all energy

sales in California. To reach the goal of 20 percent, more renewable power facilities must be constructed, and those facilities must have transmission lines to deliver power to distribution centers. There are a number of environmental permits and concerns overseen by the Department of Fish and Game (DFG) that apply when new power facilities and transmission lines are constructed. These include incidental take permits, the California Environmental Quality Act, and endangered species habitat concerns.

**Renewable Energy Conservation Planning Program.** The Department of Fish and Game's Renewable Energy Conservation Planning Program (RECPP) will focus on providing permit and technical assistance to expedite siting and construction of renewable energy projects. The RECPP will also work on including the Renewable Portfolio Standard into the Natural Communities Conservation Plan process. This program is anticipated to run for the next 15-20 years as increasing amounts of renewable energy are constructed in California.

**Governor's Budget.** The Governor's Budget proposes \$3,057,000 from reimbursements for 22 temporary two-year positions to establish a Renewable Energy Action Team and a Renewable Energy Conservation Planning Program. The reimbursement for 2009-10 comes from:

- \$1,498,897 from the Energy Commission
- \$1,558,103 from the Wildlife Conservation Board Proposition 84 bond funds

The reimbursement for 2010-11 comes from:

- \$749,489 from the Energy Commission
- \$1,498,897 from the Wildlife Conservation Board Proposition 84 bond funds
- \$1,528,500 from energy generators

**Budget Act.** The *2009-10 Budget Act* does not include funds for this purpose.

**Staff Comment.** This item was held open while the corresponding items for the Energy Commission and the Public Utilities Commission (PUC) were debated. The Subcommittee indicated that more time was needed to discuss the policy implications of the 33 percent renewable portfolio standard by sending the corresponding proposals for both the Energy Commission and the PUC to Conference.

**Staff Recommendation.** Staff recommends that the Subcommittee reject this proposal in order to have more time in Conference to debate the state's approach to the 33 percent RPS standard.

## 7. Ecosystem Restoration Program Implementation NCCP

**NCCP.** The objective of the Natural Communities Conservation Plan (NCCP) is to conserve natural communities at the ecosystem scale while accommodating compatible land use. The NCCP is a plan for the conservation of natural communities that takes an ecosystem approach and encourages cooperation between private and government interests. The plan identifies and provides for the regional or area-wide protection and perpetuation of plants, animals, and their habitats, while allowing compatible land use and economic activity. Proposition 84 includes a set-aside of \$20 million for the development of NCCPs.



**BDCP.** The Bay Delta Conservation Plan (BDCP) is intended to create a stable regulatory framework to help conserve at-risk native species and natural communities in the Delta. The BDCP will implement a program for restoring and managing habitats within the Bay-Delta, along with improving the design and operation of the State Water Project and the Central Valley Project. The BDCP is intended to provide coordinated and standardized mitigation measures for the various federal and state environmental requirements, such as the Habitat Conservation Plan and the NCCP.

**Governor's Budget.** The Governor's budget requested \$8,914,000 in Proposition 84 bond funds for the NCCP for the CALFED Bay-Delta Program. Funds would be used for conservation actions, baseline surveys, data analysis, peer review, habitat mapping and other activities necessary for development of the Bay-Delta Conservation Plan.

**Budget Act.** The *2009-10 Budget Act* includes no funds for this proposal.

**Staff Recommendation.** Staff recommends that the Subcommittee approve the proposal with the following budget bill language:

Of the funds appropriated in this item, \$8,900,000 shall be used exclusively to develop a natural communities conservation plan for the Sacramento San Joaquin Bay Delta pursuant to Chapter 10 (commencing with Section 2800) of the Fish and Game Code.

## 8. Diesel Vehicle Retrofit Program

**Background.** In January 2007, the Air Resources Board (ARB) adopted regulations for "On-Road Heavy-Duty Diesel-Fueled Public Fleets". This regulation requires all state agencies and local governments to retrofit 60 percent of their diesel vehicles by December 31, 2009 to reduce identified diesel particulate matter in the exhaust. If 60 percent of the fleet is not retrofitted, the state agency may face penalties of \$1,000 to \$10,000 per day of non-compliance.

**Fish and Game Fleet.** The Department of Fish and Game (DFG) has 75 vehicles that are considered on-road heavy-duty diesel vehicles. These vehicles are used for fish planning, stream-bed restoration, habitat maintenance, and other department activities. DFG estimates that it will cost \$900,000, or \$20,000 per vehicle, to retrofit 45 vehicles and reach regulation compliance by 2010.

**Governor's Budget.** The Governor's Budget proposes \$900,000 from various funding sources for the clean-air retrofits of 45 department on-road heavy-duty diesel vehicles. The funding sources are:

- \$405,000 from the General Fund
- \$270,000 from the Fish and Game Preservation Fund
- \$63,000 from the California Environmental License Plate Fund
- \$63,000 from the Oil Spill Preservation and Administration Fund
- \$54,000 from Reimbursements

- \$45,000 from the Hatcheries and Inland Fisheries Fund

**Staff Recommendation.** Staff recommends that the Subcommittee approve \$900,000 in one-time funding from Air Quality Improvement Fund for these diesel retrofits. Staff also recommends trailer bill language allowing for the one-time expenditure of these funds from the Air Quality Improvement Fund.

## 9. Quagga Mussel

**Background.** The Quagga Mussel is a highly invasive freshwater mussel that is capable of devastating aquatic ecosystems and impacting water infrastructure. The Quagga Mussel is related to the Zebra Mussel and can reproduce at very rapid rates. It has spread throughout the eastern United States, and is known for hindering water for domestic, municipal, industrial, and agricultural purposes by clogging pipes and other water delivery infrastructure. The Quagga Mussel was discovered in California on January 17, 2007. The Quagga Mussel was found in Lake Mead, Lake Havasu, and on the Metropolitan Water District intake pumps.

DFG has expressed concern that the species could cause potentially wide-spread damage to drinking water pumping systems and other related infrastructure. Early estimates indicate that the establishment of this species in California waters can result in costs to the state of at least \$70 million in infrastructure costs and \$40 million in annual maintenance. The Quagga Mussel is spread by boats that are moved from one body of water to another.

**AB 1683.** AB 1683 (Wolk, 2007) requires DFG to develop Quagga Mussel control and eradication plans, as well as assist water agencies in the development and implementation of their plans of control and eradication if the Quagga is discovered in their systems. Also, AB 1863 required DFG to inspect waters and water facilities in the state for Quagga Mussel presence. If Quagga or Zebra mussels are found in a local water body, AB 1683 requires local agencies that operate a water supply system to prepare a plan to control Quagga and Zebra mussels.

**Local Governments.** In January 2008, zebra mussels were found in San Justo Reservoir in San Benito County. Zebra mussels have never before been found in California. By state law, the local water agency is required to develop a plan for controlling the mussel infestation. In response to the San Justo Reservoir infestation, the county and local water district cooperated with nearby counties to develop a regional approach to an inspection program, including a computerized tracking system, for five counties in the Bay Area (Santa Clara, Contra Costa, Alameda, Monterey, and San Benito). This regional inspection-based approach is unique to this coalition.

**Staff Recommendation.** Staff recommends that the Subcommittee appropriate \$250,000 from the Harbors and Watercraft Fund for two years to the Bay Area multi-county response effort as a pilot project.

## 3790 Department of Parks and Recreation

### 10. Diesel Regulation Compliance

**Background.** In January 2007, the Air Resources Board (ARB) adopted regulations for “On-Road Heavy-Duty Diesel-Fueled Public Fleets”. This regulation requires all state agencies and local governments to retrofit 60 percent of their diesel vehicles by December 31, 2009, to reduce identified diesel particulate matter in the exhaust. If 60 percent of the fleet is not retrofitted, the state agency may face penalties of \$1,000 to \$10,000 per day of non-compliance. The Department of Parks and Recreation has 129 vehicles that fall under the on-road heavy-duty diesel regulations.

**Budget Act.** The *2009-10 Budget Act* includes no funds for this item.

**Governor’s Budget.** The Governor’s January 10 Budget proposed \$1,635,000 General Fund for retrofits of the department’s heavy-duty diesel vehicles.

**Staff Recommendation.** Staff recommends that the Subcommittee approve \$1,635,000 in one-time funding from Air Quality Improvement Fund for these diesel retrofits. Staff also recommends trailer bill language allowing for the one-time expenditure of these funds from the Air Quality Improvement Fund.

### 11. Parks Concession Contracts

**Concession Contracts.** Pursuant to Public Resources Code 5080.2, the Legislature must approve Department of Park and Recreation concession contracts. For the 2009-10 fiscal year there are six concession agreements that require legislative approval.

1. Ferry Service from San Francisco to Angel Island
2. Hollister Hills State Vehicular Recreation Area — Park Store Concession
3. Oceano Dunes State Vehicular Recreation Area — Camp Trailer Rental Service
4. Santa Monica State Beach — Food Service Concession Stand
5. California Citrus State Historic Park – Wealthy Grower’s Mansion Concession
6. Old Town San Diego State Historic Park – Franklin House Concession

**Supplemental Report Language.** Supplemental Report Language (SRL) describing the contacts should be included in the final Supplemental Report Language as part of the *2009-10 Budget Act*. Proposed language:

Item 3790-001-0001 --- Department of Parks and Recreation:

Concession Contracts. Pursuant to Public Resources Code Section 5080.20, the following concession proposals are approved as described below:

- a. Angel Island State Park – Ferry Service Concession. The department may bid a new concession contract to provide ferry service transportation exclusively between San Francisco and Angel Island State Park.

The proposed provisions of the new concession contract include a term of up to ten years; annual rent will be the greater of a guaranteed flat rate or a percentage of annual gross receipts. Proposers will be required to bid a minimum annual rent of up to \$50,000 or up to 15 percent of monthly gross receipts whichever is greater, and commit up to 2 percent monthly gross receipts for dock maintenance.

It is anticipated that the new concession contract will be implemented during the fall of 2009.

- b. Hollister Hills State Vehicular Recreation Area – Park Store Concession. The department may bid a new concession contract to operate, and maintain a park store concession with food service with Hollister Hills State Vehicular Recreation Area.

The proposed provisions of the new concession contract include a contract term of up to 10 years to maintain and operate a park store to sell sundry items, food, motorcycle parts and provide repair services. The new contract may consider the inclusion of rental equipment services. Annual rent to the State will be the greater of a guaranteed flat rate or a percentage of gross receipts. Proposers will be required to bid a minimum annual rent of up to \$48,000 or up to 8 percent of gross receipts whichever is greater. The contract will also include up to \$60,000 in capital improvements to the structure.

It is anticipated that the new concession contract will be implemented during the winter of 2010.

- c. Oceano Dunes State Vehicular Recreation Area -- Camp Trailer Rental Service Concession. The department may bid a new concession contract to provide for camping trailer rental services for park visitors camping at Oceano Dunes State Vehicular Recreation Area.

The proposed provisions of the new contract will include a term of up to 10 years; annual rent will be the greater of a guaranteed flat rate or a percentage of monthly gross receipts. Proposers will be required to bid a minimum annual rent of up to \$36,000 or up to 10 percent of monthly gross receipts whichever is greater.

It is anticipated that the new contract will be implemented during the winter of 2010.

- d. Santa Monica State Beach --- Food Service Concession. The department may authorize the City of Santa Monica, under their current operating agreement with the Department of Parks and Recreation, to solicit proposals from the public for a contract to operate a food service concession on Santa Monica State Beach.

The proposed provisions of the new contract include a contract term of up to 10 years. Annual rent will be the greater of a guaranteed flat rate or a percentage of gross receipts. Proposers will be required to bid a minimum of up to \$75,000 per year or up to 15 percent of gross receipts, whichever is greater. In addition, limited one-time capital improvements to the facility of up to \$20,000 may be a consideration.

It is anticipated that a new concession contract will be issued during the summer of 2009.

e. California Citrus State Historic Park --- Wealthy Grower's Mansion Concession.

The department may bid a new concession contract to plan, design, permit, and construct a historic replica of a wealthy grower's mansion and to operate and maintain this facility as a visitor serving concession.

The proposed provisions of the new concession contract will provide visitor services, which may include overnight lodging, food service, retail sales, and event and conference space. The provisions include a contract term of up to 50 years and a minimum annual rental requirement will be based on the results of a feasibility study to be completed in the summer of 2009, and a capital investment of \$3 million for construction of the historic lodge.

It is anticipated that the new concession contract will be implemented during the winter of 2010.

f. Old Town San Diego State Historic Park --- Franklin House Concession. The department may bid a new concession contract to plan, design, permit, and construct a historic replica of the Franklin House and to operate and maintain the facility as a visitor serving concession.

The proposed provisions of the new concession contract will provide a variety of services, including overnight lodging, food service, and retail sales. The contract term will be up to 50 years. It is anticipated that the newly created concession contract will include a minimum rental bid requirement based on the results of a feasibility study to be completed in the summer of 2009, and a capital improvement investment of approximately \$6.5 million.

It is anticipated that the new concession contract will be implemented during the winter of 2010.

**Staff Recommendation.** Staff recommends that the Subcommittee adopt Supplemental Report Language describing the scope of the concession contracts.

## 3850 Coachella Valley Mountains Conservancy

### 12. Opportunity Land Acquisitions

**Proposition 84.** California voters in November 2006 passed Proposition 84, the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Act of 2006, which provides \$5.388 billion in general obligation bonds for environmental and resource purposes. The Proposition 84 bond language allocated funds to the state's conservancies in order to guarantee land acquisitions and environmental restoration projects. Coachella Valley Mountains Conservancy was allocated \$36 million through Proposition 84.

**Budget Act.** The *2009-10 Budget Act* included Proposition 84 bond funds for many of the state's conservancies. However, the *2009-10 Budget Act* includes no bond funds for Coachella Valley Mountains Conservancy to make land purchase grants.

**Land Value Appraisals.** The Coachella Valley Mountains Conservancy's bond funds request was initially denied by the Department of Finance due to the conservancy not seeking third party verification of the property value appraisals for land purchased. However, the conservancy has now adopted regulations requiring that the conservancy and all its grantees always seek a third party independent review of the property value appraisals prior to purchasing land. As this administrative problem has been corrected, it is no longer a reason for holding back the conservancy's bond funding.

**Staff Recommendation.** Staff recommends that the Subcommittee appropriate \$6 million in Proposition 84 bond funds, as well as \$343,000 in Proposition 12 funds and \$456,000 in Proposition 40 funds, to the Coachella Valley Mountains Conservancy for land acquisition.

## 3910 California Integrated Waste Management Board

### 13. Greenhouse Gas Reductions from Solid Waste

**Background.** On June 21, 2007, the Air Resources Board adopted the *Landfill Methane Capture Strategy* as a discrete action measure.

**Proposal.** With these funds, CIWMB would:

- Analyze the economic costs and benefits of solid waste and recycling programs, in support of AB 32 Scoping Plan measures and subsequent implementation. This will provide a basis for determining the best implementation mechanism for each measure, such as market-based, regulatory, or carbon-trading systems. (1 PY)
- Increase recycling from the commercial sector, by evaluating model commercial recycling ordinances and assisting the business sector and local jurisdictions in developing and implementing commercial recycling ordinances. This would also entail

assisting businesses, local government, and the waste industry in utilizing a commercial diversion software tool to evaluate costs and savings and calculate reductions in greenhouse gas emissions associated with solid waste activities. (2 PY)

- Partner with the Air Resources Board, California Climate Action Registry (CCAR), and the International Council for Local Environmental Initiatives in developing solid waste management protocols and providing education and outreach to affected stakeholders. These protocols will assist local governments in measuring and reporting greenhouse gas emissions. (1 PY)
- Conduct research to evaluate greenhouse gas emissions associated with product development, manufacturing, use, and disposal. This would entail developing strategies such as economic incentives, improved environmental impact calculators for products, environmental performance standards and labeling, and public outreach. It also would entail identifying data gaps, potential regulations, and potential legislative action. (\$300,000 in contract funds)
- Conduct research on reducing N<sub>2</sub>O emissions at composting facilities. This would include analysis of compost feedstock characteristics and operations parameters to determine their impact on N<sub>2</sub>O emissions. CIWMB would use the study results to assist organics handling businesses, CCAR, and other entities in the development related protocols and operational best management practices to reduce greenhouse gas emissions. (\$500,000 in contract funds)
- Reduce Vehicle Miles Traveled (VMT) through the optimization of solid waste and recycling routes. This would entail assisting key stakeholders and local jurisdictions with evaluation and implementation of optimization schemes to reduce VMT associated with transportation of solid waste and recycling materials. (1 PY)

**Budget Act.** The *2009-10 Budget Act* includes \$1,312,000 from redirected funds, including six positions and \$800,000 in contract funds, for implementing programs that minimize methane emissions from landfills including increased source reduction and recycling, developing viable and sustainable markets to divert materials from landfills, and encouraging new technologies. This proposal also includes \$501,000 for 2010-11. The funds for both 2009-10 and 2010-11 will come from a redirection of the Waste Characterization Study funds.

**Staff Comments.** The Air Resources Board (ARB) is the regulatory agency for AB 32 implementation, and it is unclear to staff why another agency needs resources to implement ARB's regulations.

Some of the expenses do not seem fully justified. For example, the proposal requests two positions to increase recycling from the commercial sector. It seems that this task should already be underway as part of the CIWMB's core mission.

In addition, staff thinks that the one position to reduce the vehicle miles traveled by commercial sector vehicles is not justified. Since there is no carbon fee added on to the cost of recycling, commercial sector recyclers will most likely continue to use the lowest cost service rather than the recycling service with the least carbon output.

**Staff Recommendation.** Staff recommends that the Subcommittee reject the proposal.

## 3930 Department of Pesticide Regulation

### 14. Volatile Organic Compounds

**Volatile Organic Compounds.** Fumigant pesticides emit volatile organic compounds (VOC) that contribute to smog. In California's central valley approximately six percent of the smog is caused by pesticides. VOCs contribute to the formation of ground-level ozone, which is harmful to human health and vegetation when present at high enough concentrations. The federal Clean Air Act requires each state to submit a State Implementation Plan (SIP) for achieving and maintaining federal ambient air quality standards, including the standard for ozone. Nonattainment areas (NAAs) are regions in California that do not meet either federal or state ambient air quality standards. California has five nonattainment areas: San Joaquin Valley, Sacramento Metro, South Coast, Southeast Desert, and Ventura.

**State Implementation Plan.** The 1994 SIP was developed by the Air Resources Board and approved by the USEPA as a plan for addressing air quality in California. The 1994 SIP specified that California would reduce fumigant pesticide VOC emissions by 12 percent below the 1991 levels. Currently, the USEPA is reviewing the updated 2007 SIP that would change the reduction in VOC from percentages to tons of emissions. The 2007 SIP keeps the reduction level the same and only changes how that reduction is measured.

**Lawsuits.** In 2006, a federal judge ruled that the Department of Pesticide Regulation (DPR) ignored clean air laws for pesticides. The lawsuit said DPR failed to apply clean air rules to pesticides, dating back to 1997. The judge ordered the department to write regulations that would cut fumigant pesticide emissions in the Central Valley by 20 percent from 1991 levels.

As a response to that court ruling, DPR wrote regulation to reduce fumigant pesticide VOC emissions by 20 percent from 1991 levels. Those regulations were approved by the Office of Administrative Law on January 25, 2008, and were placed into effect.

In August 2008, the Ninth Circuit Court of Appeals in San Francisco overturned the findings of the federal judge. As a result of the Appeals Court victory, the Department of Pesticide Control is now finalizing new regulations that call for a smaller decrease - a 12 percent cut from 1990 levels.

**Past Budget Action.** In the *2008-09 Budget Act*, DPR received \$2.6 million and 11 positions to implement VOC regulations. These positions were an increase in staffing due to the additional workload created by a 20 percent reduction in VOCs from the 1991 levels.

**Staff Comments.** The department has been provided with the staff and funding to implement a 20 percent reduction in VOCs from the 1991 levels. Also, the department already finalized the more stringent VOC regulations. Thus, there is no need to relax standards that protect human and environmental health.

**Staff Recommendation.** Staff recommends that the Subcommittee adopt trailer bill language requiring the department to implement 20 percent fumigant pesticide VOC reduction regulations.



## Discussion Items

### 0540 Secretary for Natural Resources

**Background.** The Secretary for Natural Resources heads the Resources Agency. The Secretary is responsible for overseeing and coordinating the activities of the boards, departments, and conservancies under the jurisdiction of Resources Agency.

**Budget Act.** The *2009-10 Budget Act* includes \$87.5 million to support the Secretary for Natural Resources. This is a 40 percent decrease over estimated expenditures in the current year primarily due to reduced bond fund expenditures.

<b>Summary of Expenditures</b>				
<i>(dollars in thousands)</i>	<b>2008-09</b>	<b>2009-10</b>	<b>\$ Change</b>	<b>% Change</b>
<b>Type of Expenditure</b>				
Administration	\$ 104,383	\$ 69,764	-\$34,619	-33.2
CALFED Bay-Delta Program	42,564	17,814	-24,750	-58.2
<b>Total</b>	<b>\$ 146,947</b>	<b>\$ 87,578</b>	<b>-\$59,369</b>	<b>-40.4</b>
<b>Funding Source</b>				
General Fund	\$ 5,377	\$ 5,736	\$ 359	6.7
Special Funds	4,621	3,467	-1,154	-25.0
Bond Funds	107,525	61,000	-46,525	-43.3
<i>Budget Act Total</i>	<i>117,523</i>	<i>70,203</i>	<i>-47,320</i>	<i>-40.3</i>
Federal Trust Fund	12,778	8,471	-4,307	-33.7
Reimbursements	16,646	8,904	-7,742	-46.5
<b>Total</b>	<b>\$ 146,947</b>	<b>\$ 87,578</b>	<b>-\$59,369</b>	<b>-40.4</b>

### 1. Environmental License Plate Fund Fee Increase

**ELPF.** The Environmental License Plate Fund (ELPF) provides support to numerous conservancies and departments within the Resources Agency. The ELPF has a structural imbalance. Without a fee increase, and keeping expenditures constant the 2009-10 fiscal year expenditures would exceed available resources by \$7 million.

**Trailer Bill.** The trailer bill language would raise the environmental license plate fee by \$4 per plate. The new fee would be \$34 for renewals and \$44 for new plates.

**Budget Act.** The *2009-10 Budget Act* does not include trailer bill authorizing the ELPF fee increase. The Budget Act does provide decreased funding to departments and conservancies from the ELPF by \$4,720,000, but this decrease would be even more dramatic without the fee increase.

- Secretary for Natural Resources – Reduction to out of state travel and equipment replacement program: -\$50,000
- California Conservation Corps – Reduction to administration: -\$300,000
- CalFire – Environmental Protection Program field coordinator reduction (-\$15,000); Fire and Resource Assessment Program resource management strategies design (-\$30,000): Total reduction of -\$45,000
- Department of Fish and Game – Fund shift of \$3 million to the Fish and Game Preservation fund for wardens: -\$3 million
- State Coastal Conservancy – Reduction to Ocean Protection Council research on algal blooms: -\$257,000
- Santa Monica Mountains Conservancy – Reduction to consultant contracts for project planning and implementation: -\$50,000
- Sierra Nevada Conservancy – Reduction to interagency agreements: -\$500,000
- Department of Water Resources – Reduction in work on the Trinity River Restoration Program: -\$60,000
- CalEPA, Department of Pesticide Regulation – Fund shift of \$458,000 with the Department of Pesticide Regulation Fund

**Staff Recommendation.** Staff recommends that the Subcommittee approve the approve trailer bill language increasing the environmental license plate fee by \$8 per plate and to direct half of this increase to the Department of Fish and Game for wardens.

## 2. CALFED Science Program

**Background.** CALFED provides a science research grant for projects that provide scientific information related to water project operations, water quality, ecosystem restoration, and prevention and management of invasive species. The primary purpose of the CALFED Science Program is to implement programs and projects to articulate, test, refine, and improve the scientific understanding of all aspects of the Bay-Delta and its watershed areas. The Science Program aims to reduce the scientific uncertainties in the planning and implementation of CALFED Bay-Delta Program actions.

To award the science grants, the CALFED Science Program and the CALFED Agencies first determine the critical scientific information needs to help guide management decisions. These needs are then used to develop the Proposal Solicitation Package. The proposals undergo a technical review by two separate committees. Once the grant has been approved, the Science

Program staff works with the researcher and contract staff to develop a contract that includes information on the statement of work, schedules, deliverables, presentations, and final products.

**Finance Letter.** The Governor's spring finance letter requests the following:

1. An appropriation of \$2,899,000 in Proposition 50 bond funds and provisional budget bill language to have five years to encumber those funds. The requested amount comes from previously reverted Proposition 50 bond funds.
2. Extend Budget Act of 2008-09 provisional budget bill language for CALFED Proposition 50 funds from three years (expires June 30, 2011) to five years (expires June 30, 2013).
3. New five-year encumbrance period provisional budget bill language for the CALFED \$8 million reimbursement authority for an interagency agreement with Department of Water Resources in the Budget Act of 2009-10. The funds are from Proposition 84.

**Staff Comment.** The Legislature is currently considering various policy alternatives for how the Delta should be governed. These policy process discussions could change how funds related to environmental restoration, science, and other CALFED activities are spent in the future. Thus the policy process should inform the appropriation of these funds.

In the last five years the longest encumbrance period given to CALFED science funds has been three years. A shorter encumbrance period would allow the Legislature to redirect funds if it decided to change the structure of the program. Staff does not support extending the encumbrance or liquidation period for funds that are not expiring at the end of the current fiscal year. Also, if these science funds take five years to produce completed research, they are unlikely to provide research to inform the current debate of the Delta's future.

**Staff Recommendation.** Staff recommends that the Subcommittee:

1. Approve \$1,500,000 in Proposition 50 bond fund with a three-year encumbrance period.
2. Approve provisional language providing a three-year encumbrance period for the CALFED \$8 million reimbursement authority for an interagency agreement with the Department of Water Resources.
3. Approve trailer bill language requiring all approved science grants to be posted on the CALFED website.
4. Reject all funding for the CALFED Bay-Delta Program in the Secretary for Natural Resources that does not relate to the Science Program.

### 3. New River Project

**New River.** The New River flows from the Colorado River into the Salton Sea, a distance of about 73 miles. The river flows from Mexico to the United States, with about 60 miles of river located within California. The New River is polluted by agricultural drainage, treated sewage and raw sewage, and industrial waste.

**Sanitation Project.** The New River Sanitation Improvement Project will be constructed on the United States side of the U.S.-Mexico border. The project includes a headworks to lift trash out

of the river as it enters the United States. The project also includes a diversion structure to send design flood river flows directly into the culverts and direct normal flows into the bar screen. The project will also include a monitoring station.

Before construction on the project can begin, the project development and planning phase must be completed. The planning phase includes preliminary site assessments (including hydrogeological investigation and surveying/mapping) and preparation of the supporting studies, including the California Environmental Quality Act (CEQA) documents.

**Federal Funds.** This project received a \$4 million federal grant recently. If matching funds are not provided, the federal funds will soon revert and the state will lose an opportunity to clean up an impaired water body.

**Staff Recommendation.** Staff recommends that the Subcommittee appropriate \$800,000 in bond funds from Proposition 84 Section 75050(d).

## 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.

**Budget Act.** The *2009-10 Budget Act* includes \$450 million for support of the Department of Fish and Game. This is a reduction of \$24 million, or 5 percent, over current year expenditures. This reduction is primarily due to a reduction in bond funds and the 2008-09 expenditure of a one-time General Fund appropriation.

<b>Summary of Expenditures</b> <i>(dollars in thousands)</i>	<b>2008-09</b>	<b>2009-10</b>	<b>\$ Change</b>	<b>% Change</b>
<b>Type of Expenditure</b>				
Biodiversity Conservation Program	\$ 254,032	\$ 214,607	-\$39,425	-15.5
Hunting, Fishing, and Public Use	71,621	72,104	483	-0.7
Management of Department Lands	47,087	51,245	4,158	8.8
Enforcement	62,101	68,449	6,348	10.2
Communications, Education, and Outreach	4,722	4,806	84	1.8
Spill Prevention and Response	33,624	35,815	2,191	6.5
Fish and Game Commission	1,345	1,379	34	2.5
Capital Outlay	530	2,149	1,619	305.5
Administration	43,672	43,811	139	0.3
<i>less distributed administration</i>	<i>-43,672</i>	<i>-43,811</i>	<i>-139</i>	<i>0.3</i>
<b>Totals</b>	<b>\$ 475,062</b>	<b>\$ 450,554</b>	<b>-\$24,508</b>	<b>-5.2</b>
<b>Funding Source</b>				
General Fund	\$ 85,135	\$ 75,848	-\$9,287	-10.9
Special Funds	172,899	184,957	12,058	7.0
Bond Funds	127,457	85,919	-41,538	-32.6
<i>Budget Act Total</i>	<i>385,491</i>	<i>346,724</i>	<i>-38,767</i>	<i>-10.1</i>
Federal Trust Fund	51,328	52,718	1,390	2.7
Reimbursements	38,597	44,444	5,847	15.2
Salton Sea Restoration Fund	-4,229	2,883	7,112	-168.2
Harbors and Watercraft Revolving Fund	2,149	2,181	32	1.5
Special Deposit Fund	1,586	1,604	18	1.1
Coastal Wetlands Account	140	0	-140	-100.0
<b>Total</b>	<b>\$ 475,062</b>	<b>\$ 450,554</b>	<b>-\$24,508</b>	<b>-5.2</b>

# 1. Anadromous Fish Management

**Background.** The Department of Fish and Game (DFG) Anadromous fish management has three components: the Coastal Salmonid Monitoring Plan, the Coho Recovery Plan Implementation, and Coastal Steelhead and Chinook Recovery.

*Coastal Salmonid Monitoring Plan.* The State of California does not have in place a coast-wide program to monitor the status and trend of salmon and steelhead populations. The DFG and the National Marine Fisheries Service (NMFS) have partnered on the development of the California Coastal Salmonid Monitoring Plan to monitor Anadromous fishes on the entire coast of California. The emphasis of the plan is to gather the data needed to manage fishing and hatcheries, and to de-list the federal and state-listed species.

*Coho Recovery Plan Implementation.* Coho salmon are listed as either threatened or endangered in California, depending on the river. The DFG adopted a Coho Recovery Strategy in 2004 that sets forth detailed actions to recover the species to the point of de-listing. The funding provided for the 2009-10 fiscal year will support projects through a direct grant program, managed by existing Fisheries Restoration Grant Program staff.

*Coastal Steelhead and Chinook Recovery.* The DFG approved a Steelhead Restoration and Management Plan in 1996, but until 2008-09 no funding was provided for the implementation of this plan. Nearly all salmon and steelhead runs on the coast are now listed as threatened or endangered.

**2008-09 Budget Act.** The *2008-09 Budget Act* included \$10,856,000 from Proposition 84 bond funds for grant funds and eight permanent and six temporary positions for Anadromous fish management.

**Budget Act.** The *2009-10 Budget Act* includes \$9,734,000 from Proposition 84 bond funds for Anadromous fish management. This includes Coastal Salmonid Monitoring Plan implementation, Coho Recovery Plan implementation, and Coastal Steelhead and Chinook recovery. No new positions were included in the *2009-10 Budget Act*.

Specifically, with these funds DFG will:

- Provide grants for fisheries restoration activities.
- Provide infrastructure in the Fisheries Branch and Regions to provide the bases for future plan implementation.
- Inform state and federal regulatory and environmental documentation needs.
- Provide a guide to the implementation of recovery plans.
- Assist other monitoring efforts in coastal watersheds by establishing a sampling matrix and guidelines for annual probabilistic surveys.
- Establish a joint Department/NMFS policy oversight and management team.

**Staff Comment.** The department's salmon recovery efforts are hindered by a multitude of factors, including destruction of streambeds during suction dredge gold mining and logging activities.

The DFG provides permits for suction dredge activities. The Alameda County Superior Court has ordered DFG to complete a CEQA review of suction dredging impact on salmon. The CEQA review was supposed to be completed by June 2008. In the *2008-09 Budget Act* the department received \$1.5 million General Fund to complete the CEQA review. Since the court has found suction dredging to have impact on salmon, it is advisable to halt suction dredging until the extent of that impact is understood.

Forestry practices can have an impact on salmon through factors such as stream temperatures. Forests can be managed in ways that are beneficial to salmon. Fish and Game Code Section 2112 requires the development of regulations for species for which a recovery plan has been approved. Though the Coho salmon has an approved recovery plan, the Fish and Game Commission and the Board of Forestry have not yet adopted permanent regulations for Coho salmon. For the last nine years, salmon have been regulated under temporary rules that require permitting only when a “take” of salmon occurs.

**Staff Recommendation.** Staff recommends that the Subcommittee approve the proposal and adopt trailer bill language that would:

1. Ban suction dredging in salmon habitat until one year after the updated CEQA document is approved.
2. Direct the Fish and Game Commission and the Board of Forestry to adopt permanent rules on salmon. The Board of Forestry should adopt regulations that implement the Coho recovery plan and that are not dependent on a finding that an application for a timber harvest plan permit will result in the take of Coho salmon.

## 2. Ecosystem Restoration Program

**ERP Background.** The Ecosystem Restoration Program (ERP) is a part of the CALFED Record of Decision on how to fix the Sacramento-San Joaquin Bay Delta. The Bay-Delta provides the drinking water to two-thirds of Californians. The ERP was designed to:

- Improve the ecological health of the San Francisco Bay and Sacramento-San Joaquin Delta.
- Achieve recovery of at-risk species in the Delta, Suisun Marsh, and San Francisco Bay and in the watershed above the estuary.
- Restore ecological processes associated with water conveyance, environmental productivity, water quality, and floodplains.

**Budget Act.** The *2009-10 Budget Act* includes \$22,022,000 in Proposition 84 bond funds for the Ecosystem Restoration Program.

**Proposal.** With these funds, the department intends to pursue the Stage 2 Conservation Strategy of the Ecosystem Restoration Program. This stage would adaptively address current scientific research, monitoring, results, and changing conditions identified regarding climate change, levee fragility, and increased water quality and demand.



**Staff Comment.** These funds are to fulfill the CALFED Record of Decision (ROD) environmental restoration goals. With the Bay-Delta Blue Ribbon Commission the state is moving away from the ROD and reconsidering the Delta restoration priorities. A proposal in the Department of Water Resources' budget to fund an alternative Delta conveyance water facility raises questions as to: (1) how such an alternative conveyance facility will impact the Delta ecosystem and (2) how effective the ERP is in relation to the ecological changes such an alternative conveyance system may bring to the Delta.

**LAO Recommendation.** The LAO recommends that the Legislature reject the budget proposal for new ecosystem restoration projects until the Legislature has had an opportunity to consider the long-term uses and configurations of the Delta as both an ecosystem and a water supply system. The result of those deliberations may be significant changes to the way in which the state uses the Delta. The LAO thinks it would be premature to fund restoration projects before those decisions are made, since fundamental changes to the Delta may make the proposed projects unsustainable in the long term.

**Staff Recommendation.** Staff recommends that the Subcommittee reject the budget proposal. This item will move to Conference so the department can provide a list of the projects to the Committee and a discussion can be had about the role of these projects in the future of the Delta.

## 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 Delta.

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

**Budget Act.** The *2009-10 Budget Act* includes \$6.3 billion to support DWR. This is a 20 percent decrease over estimated expenditures in the current year, mainly the result of a decrease in capital outlay and California Energy Resources Scheduling (CERS) funding. General Fund support for the department is proposed to decrease by nearly 20 percent. The \$4.3 billion in CERS funding is not subject to the Budget Act (these funds are primarily for energy payments related to the 2001 electricity crisis). The CERS funds will significantly decrease in 2012 as the majority of the power contracts are paid off.

<b>Summary of Expenditures</b> <i>(dollars in thousands)</i>	<b>2008-09</b>	<b>2009-10</b>	<b>\$ Change</b>	<b>% Change</b>
<b>Type of Expenditure</b>				
California Water Plan	\$ 848,513	\$ 150,139	-\$698,374	-82.3
Implementation of the State Water Resources Development System	861,730	903,861	42,131	4.9
Public Safety and Prevention of Damage	896,695	436,090	-460,605	-51.4
Central Valley Flood Protection Board	7,828	8,549	2,000	25.5
Services	9,425	9,660	235	2.5
California Energy Resources Scheduling	4,601,388	4,271,583	-329,805	-7.2
Capital Outlay	668,530	489,797	-178,733	-26.7
Administration	65,319	67,155	1,836	2.8
<i>less distributed administration</i>	<i>-65,319</i>	<i>-67,155</i>	<i>-1,836</i>	<i>2.8</i>
Loan Repayment Program	-4,013	-4,013	0	0.0
<b>Total</b>	<b>\$ 7,890,096</b>	<b>\$ 6,265,666</b>	<b>-\$1,624,430</b>	<b>-20.6</b>
<b>Funding Source</b>				
General Fund	\$ 161,324	\$ 129,590	-\$31,734	-19.7
Special Funds	527,896	493,655	-34,241	-6.5
Bond Funds	2,503,681	1,285,720	-1,217,961	-48.7
<i>Budget Act Total</i>	<i>3,192,901</i>	<i>1,908,965</i>	<i>-1,283,936</i>	<i>-40.2</i>
Federal Trust Fund	13,530	13,922	392	2.9
DWR Electric Power Fund	4,601,388	4,271,583	-329,805	-7.2
Bosco-Keene Renewable Resources Investment Fund	20	0	-20	-100.0
Reimbursements	82,257	71,196	-11,061	-13.5
<b>Total</b>	<b>\$ 7,890,096</b>	<b>\$ 6,265,666</b>	<b>-\$1,624,430</b>	<b>-20.6</b>

## 1. Central Valley Flood Protection Board

**Statute.** Legislation was enacted in 2007 (AB 5 and SB 17) that renamed the Reclamation Board the Central Valley Flood Protection Board (Board). The Board is required to act independently of the Department of Water Resources and continue to exercise all of its powers, duties, purposes, responsibilities, and jurisdiction. Furthermore, AB 162 (Wolk, 2007) requires the Board to review revised safety elements of local governments' general plans prior to the adoption of the amended safety element.

**Board Membership.** With the enabling statute the membership of the Board increased from seven to nine members, seven being appointed by the Governor and subject to Senate confirmation, and two members serving as non-voting ex officio members. The statute stated that the old Reclamation Board members would continue to serve on the Board until the Governor appoints new board members. The statute specified subject-area expertise criteria for the new board members.

**Budget Act.** The *2009-10 Budget Act* includes \$7.5 million General Fund and \$1 million in Proposition 1E bond funds for support of the Central Valley Flood Protection Board.

**Finance Letter.** The Governor has submitted a spring finance letter that would shift \$2,190,000 General Fund from the Central Valley Flood Protection Board to the DWR's Public Safety and Prevention of Damage program.

**Staff Comment.** The Central Valley Flood Protection Board was created in 2007 and received funding for the first time in the *2008-09 Budget Act*. At the time existing staff from within DWR was transferred to the Board because the Board's staffing needs were not fully known. Now some of those staff are being transferred back to DWR through the finance letter proposal.

The enabling statute for the Central Valley Flood Protection Board specified criteria that the Board members must meet to perform their duties. It is not clear if the current board members who were shifted over from the Reclamation Board meet the criteria specified for the Central Valley Flood Protection Board members. Because the Central Valley Flood Protection Board has some new functions that the Reclamation Board did not, it is appropriate for the Board members to answer questions about their decision-making rubric publicly.

**Staff Recommendation.** Staff recommends that the Subcommittee approve the finance letter. Staff also recommends that the Subcommittee reduce the Central Valley Flood Protection Board budget by \$5,310,000 General Fund.

## 3910 California 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.

**Budget Act.** The 2009-10 Budget Act includes \$257.3 million to support CIWMB in the budget year. This is an approximately 9 percent increase over the level of support in the current year. This increase is due to additional expenditures from the Tire Recycling Management Fund and Electronic Waste Recovery and Recycling Account. The board does not receive General Fund support.

<b>Summary of Expenditures</b>				
<i>(dollars in thousands)</i>	2008-09	2009-10	\$ Change	% Change
<b>Type of Expenditure</b>				
Waste Reduction and Management	\$ 238,170	\$ 262,071	\$23,901	10.0
Administration	9,927	9,935	8	0.1
<i>less distributed administration</i>	-9,927	-9,935	-8	0.1
<i>loan repayments</i>	-2,807	-4,767	-1,960	69.8
<b>Total</b>	\$ 235,363	\$ 257,304	\$21,941	9.3
<b>Funding Source</b>				
General Fund	\$ -	\$ -	\$ -	0.0
Special Funds	233,658	255,024	21,366	9.1
Bond Funds	-	-	0	0.0
<i>Budget Act Total</i>	233,658	255,024	21,366	9.1
Federal Trust Fund	200	275	75	37.5
Reimbursements	1,505	2,005	500	33.2
<b>Total</b>	\$ 235,363	\$ 257,304	\$21,941	9.3

## 1. Used Oil Recycling Program

**Background.** AB 2076, the California Oil Recycling Enhancement Act (1991, Sher) requires the California Integrated Waste Management Board (CIWMB) to administer a statewide used oil recycling program to promote and develop alternatives to the illegal disposal of used oil. The program is funded from the Used Oil Recycling Fund, which receives its funding from a \$0.16 per gallon fee paid by lubricating oil manufacturers. Industrial oil is exempt from this fee.

Since 2000, the sale of lubricant oil in California has steadily declined. The major reason for this is believed to be the larger number of miles new vehicles can travel between oil changes. In 2000-01, the Used Oil Recycling Fund revenues were about \$22 million, but in 2009-10 the fund's revenues are projected at \$16 million.

**Grant Programs.** The Act established four grant programs to promote used oil recycling infrastructure: Block, Opportunity, Non-Profit, and Research, Testing, and Demonstration. According to current statute, the CIWMB must expend on the Block grants either \$10 million or 50 percent of the Used Oil Recycling Fund balance, whichever is greater. However, the CIWMB is statutorily required to pay for other programs out of the Used Oil Recycling Fund as well. In 2009-10 the Used Oil Recycling Fund Balance is projected to be \$16 million and if the CIWMB funds both the Block grant \$10 million mandatory expenditure and the other statutorily required programs, these expenditures combined would create a deficit in the fund.

**Budget Act.** The *2009-10 Budget Act* includes budget bill language to allow CIWMB to use no less than half of the amount which remains in the Used Oil Recycling Fund after expenditures, even when this amount is less than \$10 million. Budget bill language is in effect for one year only.

**Staff Comments.** Staff understands that when local organizations are provided block grants on an annual basis to fund local oil recycling programs, some organizations do not expend appropriations in the year that they are provided, holding on to those funds for future use. In some cases, reserves held by local organizations are sufficient to sustain operations for multiple years at current levels of operation. The *2009-10 Budget Act* does not take into account how much each local organization is holding in reserves and would distribute the \$6 million in grants proportionally among all of the 250 statewide block grants, which is \$4 million less than distributed last year. As a result, the reduced grant allocation will have an unequal impact on those organizations that have reserves from prior year grants and those that do not. As a short term solution to minimize the impacts of these funding shortfalls on those organizations that do not have reserved block grant funds, staff recommends that the Subcommittee adopt trailer bill language that would require the board to prioritize block grants to those recipients that do not have reserves. Staff recommends that this language sunset after two years to provide adequate time for policy bills currently in the process to better align program revenues with expenditures. Under this proposal, the board would not be directly reverting any funding that a local agency holds from prior year block grants.

**Policy Bills.** Currently, there are two bills moving through the policy process that raise the oil fee to help fully fund the grant program: SB 546 (Lowenthal) and AB 507 (Chesbro).

**Staff Recommendation.** Staff recommends that the Subcommittee augment local assistance block grants by \$500,000 from the Used Oil Recycling Fund and adopt trailer bill language in concept that would authorize the CIWMB for two years to allocate block grant funding in a manner that distributes reductions equitably among all grantee operations. In order to minimize impacts on local grantees, this allocation method could consider the amounts of prior year block grants that local organizations are holding in reserves as available resources for grantees to use in their operations during 2009-10 and 2010-11.

## 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.

**Budget Act.** The 2009-10 Budget Act includes \$197.8 million to support the DTSC in 2009-10. This is almost the same as the estimated expenditures in the current year.

<b>Summary of Expenditures</b>				
<i>(dollars in thousands)</i>	2008-09	2009-10	\$ Change	% Change
<b>Type of Expenditure</b>				
Site Mitigation and Brownfields Reuse	\$ 110,470	\$ 111,060	\$590	0.5
Hazardous Waste Management	70,014	65,141	-4,873	-6.9
Science, Pollution Prevention, and Technology	14,858	19,715	4,857	32.7
State as Certified Unified Program Agency	1,647	1,964	317	19.3
Capital Outlay	2,656	-	-2,656	-100.0
Administration	33,149	33,198	49	0.2
<i>less distributed administration</i>	<i>-33,149</i>	<i>-33,198</i>	<i>-49</i>	<i>0.0</i>
<b>Total</b>	<b>\$ 199,645</b>	<b>\$ 197,880</b>	<b>-\$1,765</b>	<b>-0.9</b>
<b>Funding Source</b>				
General Fund	\$ 25,540	\$ 22,275	-\$3,265	-12.8
Special Funds	131,281	129,666	-1,615	-1.2
<i>Budget Act Total</i>	<i>156,821</i>	<i>151,941</i>	<i>-4,880</i>	<i>-3.1</i>
Federal Trust Fund	27,391	32,983	5,592	20.4
Reimbursements	12,433	12,869	436	3.5
Stringfellow Insurance Proceeds Account	3,000	87	-2,913	-97.1
<b>Total</b>	<b>\$ 199,645</b>	<b>\$ 197,880</b>	<b>-\$1,765</b>	<b>-0.9</b>



## 1. Realignment of Funding for TSCA and HWCA Program Activities

**Background.** The Department of Toxic Substances Control (DTSC) is primarily funded by two special funds: the Toxic Substances Control Account (TSCA) and the Hazardous Waste Control Account (HWCA). The HWCA revenues come from fees paid by hazardous waste generators, transporters, and disposers. The major revenue sources of TSCA are the environmental fee, which is a broad-based assessment on all businesses handling hazardous materials with 50 or more employees, and cost recovery from parties responsible for hazardous waste substance releases.

**TSCA Fee.** TSCA is funded primarily from an environmental fee on companies with more than 50 employees who "use, generate, store, or conduct activities in this state related to hazardous materials". The fee is has a sliding scale depending upon the size of company. The fee schedule is set in the Health and Safety Code 25205.6. The fee schedule is as follows:

1. Two hundred dollars (\$200) for those organizations with 50 to 74 employees.
2. Three hundred fifty dollars (\$350) for those organizations with 75 to 99 employees.
3. Seven hundred dollars (\$700) for those organizations with 100 to 249 employees.
4. One thousand five hundred dollars (\$1,500) for those organizations with 250 to 499 employees.
5. Two thousand eight hundred dollars (\$2,800) for those organizations with 500 to 999 employees.
6. Nine thousand five hundred dollars (\$9,500) for those organizations with 1,000 or more employees.

**Budget Act.** The *2009-10 Budget Act* includes an on-going shift of \$4,795,000 from the Hazardous Waste Control Account to the Toxic Substances Control Account to cover activities related to the regulation and enforcement of toxic substances in products. However, this funding shift cannot be implemented by the Department of Finance because the accompanying trailer bill language is not part of the *2009-10 Budget Act*.

**Trailer Bill Language.** This funding shift requires trailer bill language. The trailer bill language authorizes the TSCA to pay for the department's activities related to pollution prevention and related technology development. Also, the trailer bill language authorizes the use of TSCA for implementation of programs related to the Human and Ecological Risk Division, to the Environmental Chemistry Laboratory, and to the Office of Pollution Prevention and Technology Development.

**Staff Comment.** The department has stated that this fund shift would not result in a change in the fees collected. The trailer bill language was not approved as a part of the February 2009 budget package.

**Staff Recommendation.** Staff recommends that the Subcommittee adopt the Governor's proposed trailer bill language and adopt trailer bill language to raise the TSCA fee by 15 percent. The increased revenue from the fee increase will be used to replace General Fund in the department's base budget.

## SUBCOMMITTEE NO. 2

## Outcomes

S. Joseph Simitian, Chair  
John J. Benoit  
Alan Lowenthal



Thursday, May 14, 2009  
9:30 a.m. or upon adjournment of session  
Room 2040

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### Resources—Environmental Protection—Energy—Transportation

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## Vote-Only Calendar

### Spring Finance Letters

	Department	Proposal	2009-10 Amount (000)
1	Secretary for Natural Resources	California River Parkways: Extend liquidation period for \$29.9 million in Proposition 50 bond fund grants to June 30, 2011.	\$29,900
2	Secretary for Natural Resources	Strategic Growth Council: Two permanent positions to support the Strategic Growth Council funded from Proposition 84 bond funds.	\$146
3	Secretary for CalEPA	Unified Program Data System: One position and additional funds from the Unified Program Account for a local government web-based inspection and enforcement reporting system.	\$219
5	Tahoe Conservancy	Environmental Improvement Program: Extend the liquidation period for various Proposition 12 bond funded local assistance grants and capital outlay projects until June 30, 2011.	LA: \$6,203 CO: \$1,031
6	California Conservation Corps	Capital Outlay Reappropriation: The working drawings and construction for the Tahoe Base Center Relocation Project.	\$10,432
7	Department of Conservation	Land Resource Protection Program: Technical adjustments to reflect decreasing Williamson Act revenues.	-\$882
8	Department of Conservation	Information Technology Infrastructure Lifecycle Support: Fixes to security of DOC's network computing infrastructure.	\$132
9	Boating and Waterways	Imperial Beach Restoration Project: Provide funding from Harbors and Watercraft Revolving Fund for the City of Imperial Beach Silver Strand Shore Protection Project.	\$4,200
10	CalFire	California Emergency Management Agency Coordinator: Additional reimbursement authority to provide dispatch services for CalEMA's Emergency Command Center.	\$155
11	CalFire	Mobile Command Center Prototype: Increased reimbursement authority to receive a grant from CalEMA for the construction of a prototype Mobile Communications Center.	\$1,350
12	CalFire	Fuels Treatment: Federal grant funds for fuels treatment projects in San Bernardino, Riverside, and San Diego counties.	\$3,261
13	CalFire	Bond Funds Liquidation Extension: Extend liquidation period until June 30, 2011 on various Proposition 12, 40, and 50 bond funds.	\$3,728
14	CalFire	Capital Outlay Reappropriations: Reappropriate and extend the liquidation period for 41 capital outlay projects. Acquisitions would be extended until June 30, 2012; Construction would be extended until June 30, 2014; and all others would be extended until June 30, 2011.	
15	Fish and Game	Facilities Health and Safety Compliance: Funds to enter into a lease on a new facility, since the current facility is too small for the current staff and out of compliance with ADA requirements.	\$741
16	Fish and Game	Bond Fund Realignment: Technical changed to reduce bond funds that expired in 2008-09 but were accidentally left in the 2009-10 Budget.	-\$600

	<b>Department</b>	<b>Proposal</b>	<b>2009-10 Amount (000)</b>
17	Fish and Game	Delta Fish Agreement: Increase reimbursements to implement environmental restoration work to offset direct fish losses resulting from pumping in the Delta.	\$1,000
18	Fish and Game	Ecosystem Water Quality: Increase reimbursements to address low levels of dissolved oxygen and methyl mercury in the Delta.	\$7,596
19	Fish and Game	Technical Budget Adjustments: An intra-schedule transfer of funds to reflect spending for local assistance out of the appropriate budget program.	\$0
20	Wildlife Conservation Board	Wetland and Riparian Habitat Conservation Projects: Revert General Fund that was never encumbered.	-\$1,535
21	Wildlife Conservation Board	Reappropriation and Extension of Liquidation for Various Funds: Habitat Conservation Fund capital outlay and Wildlife Restoration Fund Public Access Program.	\$33,024
22	State Coastal Conservancy	Increase Reimbursement Authority: This increase will allow the Coastal Conservancy to receive matching funds from local and non-profit project partners. Current reimbursement authority is \$1.8 million.	\$6,200
23	State Coastal Conservancy	Proposition 50 Bond Funds: Revert unused Proposition 50 funds and appropriate those same funds for the Conservancy's support budget.	\$500
24	State Coastal Conservancy	Technical Budget Adjustments: Proposition 84 Santa Ana River Parkway Program technical adjustment to keep the section of the bond reserved for this program from being overallocated.	
25	Parks and Recreation	Technical Adjustments: Reappropriations to the public safety dispatch system in the following amounts: \$3,074,000 GF; \$876,000 Off-Highway Vehicle Trust Fund; and \$5.6 million OHV Fund grants.	\$9,550
26	Parks and Recreation	Technical Adjustments: Baseline reductions to remove one-time costs. \$1,420,000 GF and \$333,000 OHV	-\$1,753
27	Parks and Recreation	Extension of Liquidation for various Proposition 12 bond funds for state support and local assistance projects.	
28	Parks and Recreation	Proposition 12 Funding for Local Park Grants: Proposition 12 stated that eight years after the original appropriation funds for local assistance projects would revert. Due to the bond freeze, many projects were unable to liquidate in a timely manner. This appropriation would allow those previously started projects one year to complete.	\$39,795
29	Parks and Recreation	Capital Outlay Reappropriations: Reappropriated 44 capital outlay projects.	
30	San Joaquin River Conservancy	Fund shift of \$54,000 from in-house property management to contract management of the Conservancy's lands. Due to the large area covered by the Conservancy's responsibility area, travel costs and travel time make it prohibitive for one person to effectively manage the lands. The Conservancy intends to employ other state agencies and non-profits in the management activities.	\$0

	Department	Proposal	2009-10 Amount (000)
31	Sierra Nevada Conservancy	Extension of Liquidation: Proposition 84 funded local assistance grants for two additional years.	
32	Integrated Waste Management Board	Education and Environment Initiative: Increase federal funding for training teachers in the EEI curriculum.	\$26
33	Integrated Waste Management Board	Education and Environment Initiative: Increase reimbursement authority for curriculum development.	\$1,000 total \$250 in 2009-10
34	Integrated Waste Management Board	National Environmental Information Exchange Network: Federal funds toward California's participation in an environmental data network.	\$100

**Staff Recommendation:** Staff recommends that the Subcommittee approve the 34 spring finance letters listed in the chart.

**Action:** Approved as budgeted 33 finance letter items shown in chart above

**Vote:** 3-0

**Substitute Motion** by Senator Benoit on item #4 in chart:

	Department	Proposal	2009-10 Amount (000)
4	Secretary for CalEPA	Unified Program Electronic Reporting: Six positions and contract funds to support the integration of previously developed applications and the development of technical interfaces with 118 local agencies. This activity is in response to AB 2286 (Feuer, 2008) which requires a Unified Hazardous Materials and Hazardous Waste Regulatory Management Program electronic information management system by January 1, 2010.	\$2,513

**Action:** Approved as budgeted finance letter for Unified Program Electronic Reporting

**Vote:** 2-1 (Benoit)

## 3340 California Conservation Corps

### 1. Local Corp Bond Funding Reappropriation

**Background.** There are twelve local conservation corps in California. They provide workforce training and education to youth at the local level. In the *2008-09 Budget Act*, the Legislature provided \$23 million in bond funds for the local corps. The budget act was passed in August 2008, providing less than a full fiscal year to expend the funds. Then, in December 2008, the

Pooled Money Investment Board froze bond funds. That action halted the ability of the local corps to continue their projects.

**2008-09 Budget Act.** The *2008-09 Budget Act* provided \$23 million in Proposition 84 bond funding for the local conservation corps. The funding had a liquidation period of one year only.

**Staff Recommendation.** Staff recommends that the Subcommittee reappropriate the \$23 million in Proposition 84 bond funds to the local conservation corps to allow them to complete projects begun during the 2008-09 fiscal year.

**Action:** Reappropriated \$23 million in Proposition 84 bond funds for the local conservation corps

**Vote:** 3-0

## 2. Funding Youth Employment

**Background.** The California Conservation Corps (CCC) 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 related to environmental conservation, fire protection, and emergency services. Some activities traditionally associated with the Corps are tree planting, stream clearance, and trail building. The Corps also develops and provides funding for 12 community conservation corps.

**Staff Comment.** At a time of high unemployment in California, it is more important than ever to provide young people with educational opportunities and employment. Proposition 84 bond funds exist that can be used to employ in public works projects youth that may otherwise be reliant on social services.

**Staff Recommendation.** Staff recommends that the Subcommittee appropriate \$7 million in Proposition 84 bond funds for the CCC and \$8 million in Proposition 84 bond funds for the local conservation corps to increase youth employment and education. Staff recommends that the Subcommittee approve budget bill language directing the use of these funds to include education and employment of foster youth. Staff also recommends that the Subcommittee approve budget bill language to make these funds available until June 30, 2011.

**Action:** \$7 million in Proposition 84 bond fund for CCC; \$6.7 million in Proposition 84 bond funds for local conservation corps; and staff recommended budget bill language with the clarification that the funding is intended to include the education and employment of foster youth, but is not limited to foster youth.

**Vote:** 2-1 (Benoit)

## 3540 Department of Forestry and Fire Protection

### 3. Arson and Bomb Unit

**Background.** Each year approximately 160,000 pounds of illegal fireworks are seized in California. Due to environmental and safety reasons, existing statute requires that the State Fire Marshal dispose of seized illegal fireworks. The cost of safely disposing of the illegal fireworks is approximately \$6 per pound. To cover the cost of illegal firework disposal, SB 839 (Calderon, 2007) established the State Fire Marshal Fireworks and Enforcement Fund to receive 65 percent of penalties from the possession of illegal fireworks “to enforce, prosecute, dispose of, and manage dangerous fireworks and to educate public safety agencies in the proper handling and management of dangerous fireworks.”

**Governor’s Budget.** The Governor’s Budget proposed \$285,000 from the Fireworks and Enforcement Fund for two new positions to establish an Arson and Bomb Unit within the State Fire Marshal. The Unit would conduct enforcement and disposal of illegal fireworks.

**Budget Act.** The *2009-10 Budget Act* does not include any funds for the arson and bomb unit.

**Staff Recommendation.** Staff recommends that the Subcommittee approve the budget proposal. This proposal is significantly scaled back from the 2008-09 proposal that was rejected. Due to concerns over the handling of explosives and clean air concerns, trained personnel must handle the disposal of large quantities of fireworks. The funding comes from a dedicated source for fireworks disposal.

**Action:** Approve as budgeted

**Vote:** 2-1 (Benoit)

### 4. Lease-Revenue Bond Funded Capital Outlay Proposals

**Background.** All lease-revenue bond funded capital outlay proposals were pulled from the 2009-10 Budget Act without prejudice. The concerns over lease-revenue proposals were two-fold: (1) lease-revenue bond funded projects must have all phases of the project approved, removing legislative control over decisions on the project prior to the completion of plans; and (2) long-term debt service of the state.

**Governor’s Budget.** The Governor’s Budget proposed \$290,344,000 in lease-revenue bond funded projects. These projects were:

1. El Dorado Fire Station: service warehouse – replace facility. This project includes construction of a 16-bed barracks and mess hall; 5-bay auto shop with a welding bay, service center/warehouse with Self Contained Breathing Apparatus component and generator/pump/storage building with generator. \$26,375,000

2. Cuesta Conservation Camp – relocate facility. This project would relocate the Cuesta Conservation Camp and the Unite Mobile Equipment Maintenance Facility to another location within the same state-owned Camp San Luis Obispo property. \$70,238,000
3. Parlin Fork Conservation Camp – replace facility. This project would replace a conservation camp with: a new administrative building; standard 14-bed barracks/mess hall; warehouse; physical training building; 4-bay utility garage; auto and welding shop; generator/pump/storage building; and various inmate use buildings. \$53,544,000
4. Soquel Fire Station – replace facility. This project would construct an 8-bed barracks/mess hall; 2-bay apparatus building; and a generator/pump/storage building with an emergency generator. \$10,599,000
5. Gabilan Conservation Camp. This project would construct a 14-bed officer’s quarters, an 8-bed officer’s quarters for Department of Corrections staff, a vehicle wash rack and a fire cache trailer cover. \$21,865,000
6. Potrero Fire Station – replace facility. This project would construct a new standard 2-engine fire station with a 14-bed barracks/mess hall; 3-bay apparatus building, a battalion chief’s office and a generator/pump/storage building with an emergency generator. \$10,389,000
7. Tuolumne-Calaveras Service Center – relocate facility. This project would relocate and construct a 10,000 sq ft service center (warehouse with office space); an administrative office building; a physical training building; an emergency command center; a fuel dispensing system; and a generator/pump building with an emergency generator. \$24,655,000
8. Butte Unit – replace facility. This project would include demolition of existing buildings and the construction of a 20-bed barracks/mess hall, 3-bay apparatus building; an administrative office building; 5-bay auto shop, 2-bay dozer shed, covered vehicle wash rack, a physical fitness building, service center/warehouse, a maintenance building, and a generator/storage building. \$30,692,000
9. Cayucos Fire Station – replace facility. This project would include demolition of existing structures and construction of an 8-bed barracks, 2-bay apparatus building and a generator/storage building with an emergency generator. \$9,678,000
10. Felton Fire Station – replace facility. This project would include demolition of existing buildings and construction of a 12-bed barracks, 2-bay apparatus building, a dozer shed, an administrative office building, a dispatch area, two generator/pump/storage buildings, and a physical training building. \$25,100,000
11. Parkfield Fire Station – replace facility. This project would include construction of an 8-bed barracks/mess hall, a 2-bay apparatus building, a generator/pump/storage building, fuel facilities, vehicle wash pad, underground utilities, propane system, septic system, a new well, a new water treatment system, a security fence, and landscaping. \$7,209,000

**Budget Act.** The *2009-10 Budget Act* does not include funds for CalFire capital outlay proposals. The funds for capital outlay projects were removed without prejudice.

**Staff Recommendation.** Staff recommends that the Subcommittee approve the lease-revenue funded CalFire capital outlay projects in the following amounts:



1. El Dorado Fire Station: \$26,376,000
2. Cuesta Conservation Camp: \$70,239,000
3. Parlin Fork Conservation Camp: \$53,545,000
4. Soquel Fire Station: \$10,600,000
5. Gabilan Conservation Camp: \$21,866,000
6. Potrero Fire Station: \$10,390,000
7. Tuolumne-Calaveras Service Center: \$24,656,000
8. Butte Unit: \$30,693,000
9. Cayucos Fire Station: \$9,679,000
10. Felton Fire Station: \$25,101,000
11. Parkfield Fire Station: \$7,210,000

**Action:** Approved staff recommendation

**Vote:** 3-0

## 5. Air Resources Board Regulations on Diesel Equipment

**Air Resources Board Regulations.** In January 2007, the Air Resources Board (ARB) adopted regulations for “On-Road Heavy-Duty Diesel-Fueled Public Fleets”. This regulation requires all state agencies and local governments to retrofit 60 percent of their diesel vehicles to reduce identified diesel particulate matter in the exhaust by 75 percent by 2010. If 60 percent of the fleet is not retrofitted, the state agency may face penalties of \$1,000 to \$10,000 per day of non-compliance.

**ABxx 8.** In February 2009, legislation was passed that extended the compliance period for the Air Resources Board regulations.

**Governor’s Budget.** The Governor’s Budget proposed \$2,762,000 in General Fund for CalFire to retrofit 45 off-road heavy-duty diesel vehicles to meet new ARB clean air regulations. The compliance is towards the following regulations:

1. *In-Use On-Road Regulations for Public Fleets* – CalFire has 59 vehicles that meet this criteria. Sixty percent of these vehicles must be retrofitted by December 31, 2009. It will cost approximately \$20,000 to retrofit each vehicle, for a total of \$1,180,000.
2. *In-Use Off-Road Regulations for Diesel Vehicles* – CalFire has 145 off-road vehicles that have to comply with this regulation to reduce NOX and Particulate Matter pollution. The total cost of retrofitting this fleet is \$2,900,000 over five years, or \$580,000 annually.
3. *Portable Equipment Registration Program (PERP)* – This program monitors the movement of heavy-duty equipment between air districts. In order to move a piece of heavy-duty equipment from one air district to another, CalFire will need a permit. CalFire has 126 pieces of such equipment, 89 of which are too old to quality and must be replaced with a cost of \$2,406,000. After replacement, these pieces still have to be registered if transported. The total registration fee for all CalFire equipment under the PERP program is \$79,400 annually.

**Budget Act.** The 2009-10 Budget Act includes no funds for this item.

**ABxx 8.** AB 8 of the Second Extraordinary Session of 2009-10 extended the implementation deadline for the ARB regulation on Off-Road Diesel Vehicles. This extension allows until 2011 instead of the original 2010 for 20 percent of the fleet to be retrofitted.

**Staff Comment.** Due to ABxx 8, CalFire does not have to retrofit any of its in-use off-road diesel vehicles during 2009-10. The ARB regulations for in-use on-road public fleets requires 60 percent of the fleet retrofitted by December 31, 2009. CalFire has 59 in-use on-road diesel vehicles, of which 36 would have to be retrofitted during the 2009-10 fiscal year for a cost of \$720,000. CalFire will still have to meet the portable equipment registration program requirements.

**Staff Recommendation.** Staff recommends that the Subcommittee approve \$2,762,000 in one-time funding from Air Quality Improvement Fund for these diesel retrofits. Staff also recommends trailer bill language allowing for the one-time expenditure of these funds from the Air Quality Improvement Fund.

**Action:** Approved \$2,762,000 in one-time funding from the Alternative and Renewable Fuel and Vehicles Technology Fund, with trailer bill language allowing for the one-time expenditure of the funds from the Fund.

**Vote:** 2-1 (Benoit)

## 3600 Department of Fish and Game

### 6. Renewable Energy Regulatory Action Team

**Background.** Current statute requires that California's energy use consist of a minimum of 20 percent renewable energy by 2010. The Governor's Executive Order S-14-08 expanded the required use of renewable energy to 33 percent of energy use by 2020. The Public Utilities Commission has estimated that in 2008 renewable energy made up 13.7 percent of all energy sales in California. To reach the goal of 20 percent, more renewable power facilities must be constructed, and those facilities must have transmission lines to deliver power to distribution centers. There are a number of environmental permits and concerns overseen by the Department of Fish and Game (DFG) that apply when new power facilities and transmission lines are constructed. These include incidental take permits, the California Environmental Quality Act, and endangered species habitat concerns.

**Renewable Energy Conservation Planning Program.** The Department of Fish and Game's Renewable Energy Conservation Planning Program (RECPP) will focus on providing permit and technical assistance to expedite siting and construction of renewable energy projects. The RECPP will also work on including the Renewable Portfolio Standard into the Natural

Communities Conservation Plan process. This program is anticipated to run for the next 15-20 years as increasing amounts of renewable energy are constructed in California.

**Governor's Budget.** The Governor's Budget proposes \$3,057,000 from reimbursements for 22 temporary two-year positions to establish a Renewable Energy Action Team and a Renewable Energy Conservation Planning Program. The reimbursement for 2009-10 comes from:

- \$1,498,897 from the Energy Commission
- \$1,558,103 from the Wildlife Conservation Board Proposition 84 bond funds

The reimbursement for 2010-11 comes from:

- \$749,489 from the Energy Commission
- \$1,498,897 from the Wildlife Conservation Board Proposition 84 bond funds
- \$1,528,500 from energy generators

**Budget Act.** The *2009-10 Budget Act* does not include funds for this purpose.

**Staff Comment.** This item was held open while the corresponding items for the Energy Commission and the Public Utilities Commission (PUC) were debated. The Subcommittee indicated that more time was needed to discuss the policy implications of the 33 percent renewable portfolio standard by sending the corresponding proposals for both the Energy Commission and the PUC to Conference.

**Staff Recommendation.** Staff recommends that the Subcommittee reject this proposal in order to have more time in Conference to debate the state's approach to the 33 percent RPS standard.

**Action:** Rejected proposal

**Vote:** 3-0

## 7. Ecosystem Restoration Program Implementation NCCP

**NCCP.** The objective of the Natural Communities Conservation Plan (NCCP) is to conserve natural communities at the ecosystem scale while accommodating compatible land use. The NCCP is a plan for the conservation of natural communities that takes an ecosystem approach and encourages cooperation between private and government interests. The plan identifies and provides for the regional or area-wide protection and perpetuation of plants, animals, and their habitats, while allowing compatible land use and economic activity. Proposition 84 includes a set-aside of \$20 million for the development of NCCPs.

**BDCP.** The Bay Delta Conservation Plan (BDCP) is intended to create a stable regulatory framework to help conserve at-risk native species and natural communities in the Delta. The BDCP will implement a program for restoring and managing habitats within the Bay-Delta, along with improving the design and operation of the State Water Project and the Central Valley Project. The BDCP is intended to provide coordinated and standardized mitigation measures for

the various federal and state environmental requirements, such as the Habitat Conservation Plan and the NCCP.

**Governor's Budget.** The Governor's budget requested \$8,914,000 in Proposition 84 bond funds for the NCCP for the CALFED Bay-Delta Program. Funds would be used for conservation actions, baseline surveys, data analysis, peer review, habitat mapping and other activities necessary for development of the Bay-Delta Conservation Plan.

**Budget Act.** The *2009-10 Budget Act* includes no funds for this proposal.

**Staff Recommendation.** Staff recommends that the Subcommittee approve the proposal with the following budget bill language:

Of the funds appropriated in this item, \$8,900,000 shall be used exclusively to develop a natural communities conservation plan for the Sacramento San Joaquin Bay Delta pursuant to Chapter 10 (commencing with Section 2800) of the Fish and Game Code.

**Action:** Approved with the budget bill language listed in the staff recommendation

**Vote:** 3-0

## 8. Diesel Vehicle Retrofit Program

**Background.** In January 2007, the Air Resources Board (ARB) adopted regulations for "On-Road Heavy-Duty Diesel-Fueled Public Fleets". This regulation requires all state agencies and local governments to retrofit 60 percent of their diesel vehicles by December 31, 2009 to reduce identified diesel particulate matter in the exhaust. If 60 percent of the fleet is not retrofitted, the state agency may face penalties of \$1,000 to \$10,000 per day of non-compliance.

**Fish and Game Fleet.** The Department of Fish and Game (DFG) has 75 vehicles that are considered on-road heavy-duty diesel vehicles. These vehicles are used for fish planning, stream-bed restoration, habitat maintenance, and other department activities. DFG estimates that it will cost \$900,000, or \$20,000 per vehicle, to retrofit 45 vehicles and reach regulation compliance by 2010.

**Governor's Budget.** The Governor's Budget proposes \$900,000 from various funding sources for the clean-air retrofits of 45 department on-road heavy-duty diesel vehicles. The funding sources are:

- \$405,000 from the General Fund
- \$270,000 from the Fish and Game Preservation Fund
- \$63,000 from the California Environmental License Plate Fund
- \$63,000 from the Oil Spill Preservation and Administration Fund
- \$54,000 from Reimbursements
- \$45,000 from the Hatcheries and Inland Fisheries Fund

**Staff Recommendation.** Staff recommends that the Subcommittee approve \$900,000 in one-time funding from Air Quality Improvement Fund for these diesel retrofits. Staff also recommends trailer bill language allowing for the one-time expenditure of these funds from the Air Quality Improvement Fund.

**Action:** Approved \$900,000 in one-time funds from the Alternative and Renewable Fuel and Vehicles Technology Fund, with trailer bill language allowing for the one-time expenditure of the funds from the Fund.

**Vote:** 2-1 (Benoit)

## 9. Quagga Mussel

**Background.** The Quagga Mussel is a highly invasive freshwater mussel that is capable of devastating aquatic ecosystems and impacting water infrastructure. The Quagga Mussel is related to the Zebra Mussel and can reproduce at very rapid rates. It has spread throughout the eastern United States, and is known for hindering water for domestic, municipal, industrial, and agricultural purposes by clogging pipes and other water delivery infrastructure. The Quagga Mussel was discovered in California on January 17, 2007. The Quagga Mussel was found in Lake Mead, Lake Havasu, and on the Metropolitan Water District intake pumps.

DFG has expressed concern that the species could cause potentially wide-spread damage to drinking water pumping systems and other related infrastructure. Early estimates indicate that the establishment of this species in California waters can result in costs to the state of at least \$70 million in infrastructure costs and \$40 million in annual maintenance. The Quagga Mussel is spread by boats that are moved from one body of water to another.

**AB 1683.** AB 1683 (Wolk, 2007) requires DFG to develop Quagga Mussel control and eradication plans, as well as assist water agencies in the development and implementation of their plans of control and eradication if the Quagga is discovered in their systems. Also, AB 1863 required DFG to inspect waters and water facilities in the state for Quagga Mussel presence. If Quagga or Zebra mussels are found in a local water body, AB 1683 requires local agencies that operate a water supply system to prepare a plan to control Quagga and Zebra mussels.

**Local Governments.** In January 2008, zebra mussels were found in San Justo Reservoir in San Benito County. Zebra mussels have never before been found in California. By state law, the local water agency is required to develop a plan for controlling the mussel infestation. In response to the San Justo Reservoir infestation, the county and local water district cooperated with nearby counties to develop a regional approach to an inspection program, including a computerized tracking system, for five counties in the Bay Area (Santa Clara, Contra Costa, Alameda, Monterey, and San Benito). This regional inspection-based approach is unique to this coalition.

**Staff Recommendation.** Staff recommends that the Subcommittee appropriate \$250,000 from the Harbors and Watercraft Fund for two years to the Bay Area multi-county response effort as a pilot project.

**Action:** \$250,000 per year from the Harbors and Watercraft Fund for two years to the Bay Area multi-county response effort as a pilot project.

**Vote:** 3-0

## 3790 Department of Parks and Recreation

### 10. Diesel Regulation Compliance

**Background.** In January 2007, the Air Resources Board (ARB) adopted regulations for “On-Road Heavy-Duty Diesel-Fueled Public Fleets”. This regulation requires all state agencies and local governments to retrofit 60 percent of their diesel vehicles by December 31, 2009, to reduce identified diesel particulate matter in the exhaust. If 60 percent of the fleet is not retrofitted, the state agency may face penalties of \$1,000 to \$10,000 per day of non-compliance. The Department of Parks and Recreation has 129 vehicles that fall under the on-road heavy-duty diesel regulations.

**Budget Act.** The *2009-10 Budget Act* includes no funds for this item.

**Governor’s Budget.** The Governor’s January 10 Budget proposed \$1,635,000 General Fund for retrofits of the department’s heavy-duty diesel vehicles.

**Staff Recommendation.** Staff recommends that the Subcommittee approve \$1,635,000 in one-time funding from Air Quality Improvement Fund for these diesel retrofits. Staff also recommends trailer bill language allowing for the one-time expenditure of these funds from the Air Quality Improvement Fund.

**Action:** Approved \$1,635,000 in one-time funding from the Alternative and Renewable Fuel and Vehicles Technology Fund, with trailer bill language allowing for the one-time expenditure of the funds from the Fund.

**Vote:** 2-1 (Benoit)

### 11. Parks Concession Contracts

**Concession Contracts.** Pursuant to Public Resources Code 5080.2, the Legislature must approve Department of Park and Recreation concession contracts. For the 2009-10 fiscal year there are six concession agreements that require legislative approval.

1. Ferry Service from San Francisco to Angel Island
2. Hollister Hills State Vehicular Recreation Area — Park Store Concession
3. Oceano Dunes State Vehicular Recreation Area — Camp Trailer Rental Service
4. Santa Monica State Beach — Food Service Concession Stand
5. California Citrus State Historic Park – Wealthy Grower’s Mansion Concession
6. Old Town San Diego State Historic Park – Franklin House Concession

**Supplemental Report Language.** Supplemental Report Language (SRL) describing the contacts should be included in the final Supplemental Report Language as part of the *2009-10 Budget Act*. Proposed language:

Item 3790-001-0001 --- Department of Parks and Recreation:

Concession Contracts. Pursuant to Public Resources Code Section 5080.20, the following concession proposals are approved as described below:

- a. Angel Island State Park – Ferry Service Concession. The department may bid a new concession contract to provide ferry service transportation exclusively between San Francisco and Angel Island State Park.

The proposed provisions of the new concession contract include a term of up to ten years; annual rent will be the greater of a guaranteed flat rate or a percentage of annual gross receipts. Proposers will be required to bid a minimum annual rent of up to \$50,000 or up to 15 percent of monthly gross receipts whichever is greater, and commit up to 2 percent monthly gross receipts for dock maintenance.

It is anticipated that the new concession contract will be implemented during the fall of 2009.

- b. Hollister Hills State Vehicular Recreation Area – Park Store Concession. The department may bid a new concession contract to operate, and maintain a park store concession with food service with Hollister Hills State Vehicular Recreation Area.

The proposed provisions of the new concession contract include a contract term of up to 10 years to maintain and operate a park store to sell sundry items, food, motorcycle parts and provide repair services. The new contract may consider the inclusion of rental equipment services. Annual rent to the State will be the greater of a guaranteed flat rate or a percentage of gross receipts. Proposers will be required to bid a minimum annual rent of up to \$48,000 or up to 8 percent of gross receipts whichever is greater. The contract will also include up to \$60,000 in capital improvements to the structure.

It is anticipated that the new concession contract will be implemented during the winter of 2010.

- c. Oceano Dunes State Vehicular Recreation Area -- Camp Trailer Rental Service Concession. The department may bid a new concession contract to provide for camping

trailer rental services for park visitors camping at Oceano Dunes State Vehicular Recreation Area.

The proposed provisions of the new contract will include a term of up to 10 years; annual rent will be the greater of a guaranteed flat rate or a percentage of monthly gross receipts. Proposers will be required to bid a minimum annual rent of up to \$36,000 or up to 10 percent of monthly gross receipts whichever is greater.

It is anticipated that the new contract will be implemented during the winter of 2010.

- d. Santa Monica State Beach --- Food Service Concession. The department may authorize the City of Santa Monica, under their current operating agreement with the Department of Parks and Recreation, to solicit proposals from the public for a contract to operate a food service concession on Santa Monica State Beach.

The proposed provisions of the new contract include a contract term of up to 10 years. Annual rent will be the greater of a guaranteed flat rate or a percentage of gross receipts. Proposers will be required to bid a minimum of up to \$75,000 per year or up to 15 percent of gross receipts, whichever is greater. In addition, limited one-time capital improvements to the facility of up to \$20,000 may be a consideration.

It is anticipated that a new concession contract will be issued during the summer of 2009.

- e. California Citrus State Historic Park --- Wealthy Grower's Mansion Concession. The department may bid a new concession contract to plan, design, permit, and construct a historic replica of a wealthy grower's mansion and to operate and maintain this facility as a visitor serving concession.

The proposed provisions of the new concession contract will provide visitor services, which may include overnight lodging, food service, retail sales, and event and conference space. The provisions include a contract term of up to 50 years and a minimum annual rental requirement will be based on the results of a feasibility study to be completed in the summer of 2009, and a capital investment of \$3 million for construction of the historic lodge.

It is anticipated that the new concession contract will be implemented during the winter of 2010.

- f. Old Town San Diego State Historic Park --- Franklin House Concession. The department may bid a new concession contract to plan, design, permit, and construct a historic replica of the Franklin House and to operate and maintain the facility as a visitor serving concession.



The proposed provisions of the new concession contract will provide a variety of services, including overnight lodging, food service, and retail sales. The contract term will be up to 50 years. It is anticipated that the newly created concession contract will include a minimum rental bid requirement based on the results of a feasibility study to be completed in the summer of 2009, and a capital improvement investment of approximately \$6.5 million.

It is anticipated that the new concession contract will be implemented during the winter of 2010.

**Staff Recommendation.** Staff recommends that the Subcommittee adopt Supplemental Report Language describing the scope of the concession contracts.

**Action:** Adopted Supplemental Report Language

**Vote:** 3-0

## 3850 Coachella Valley Mountains Conservancy

### 12. Opportunity Land Acquisitions

**Proposition 84.** California voters in November 2006 passed Proposition 84, the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Act of 2006, which provides \$5.388 billion in general obligation bonds for environmental and resource purposes. The Proposition 84 bond language allocated funds to the state's conservancies in order to guarantee land acquisitions and environmental restoration projects. Coachella Valley Mountains Conservancy was allocated \$36 million through Proposition 84.

**Budget Act.** The *2009-10 Budget Act* included Proposition 84 bond funds for many of the state's conservancies. However, the *2009-10 Budget Act* includes no bond funds for Coachella Valley Mountains Conservancy to make land purchase grants.

**Land Value Appraisals.** The Coachella Valley Mountains Conservancy's bond funds request was initially denied by the Department of Finance due to the conservancy not seeking third party verification of the property value appraisals for land purchased. However, the conservancy has now adopted regulations requiring that the conservancy and all its grantees always seek a third party independent review of the property value appraisals prior to purchasing land. As this administrative problem has been corrected, it is no longer a reason for holding back the conservancy's bond funding.

**Staff Recommendation.** Staff recommends that the Subcommittee appropriate \$6 million in Proposition 84 bond funds, as well as \$343,000 in Proposition 12 funds and \$456,000 in Proposition 40 funds, to the Coachella Valley Mountains Conservancy for land acquisition.

**Action:** Approved the staff recommendation

**Vote:** 3-0

## 3910 California Integrated Waste Management Board

### 13. Greenhouse Gas Reductions from Solid Waste

**Background.** On June 21, 2007, the Air Resources Board adopted the *Landfill Methane Capture Strategy* as a discrete action measure.

**Proposal.** With these funds, CIWMB would:

- Analyze the economic costs and benefits of solid waste and recycling programs, in support of AB 32 Scoping Plan measures and subsequent implementation. This will provide a basis for determining the best implementation mechanism for each measure, such as market-based, regulatory, or carbon-trading systems. (1 PY)
- Increase recycling from the commercial sector, by evaluating model commercial recycling ordinances and assisting the business sector and local jurisdictions in developing and implementing commercial recycling ordinances. This would also entail assisting businesses, local government, and the waste industry in utilizing a commercial diversion software tool to evaluate costs and savings and calculate reductions in greenhouse gas emissions associated with solid waste activities. (2 PY)
- Partner with the Air Resources Board, California Climate Action Registry (CCAR), and the International Council for Local Environmental Initiatives in developing solid waste management protocols and providing education and outreach to affected stakeholders. These protocols will assist local governments in measuring and reporting greenhouse gas emissions. (1 PY)
- Conduct research to evaluate greenhouse gas emissions associated with product development, manufacturing, use, and disposal. This would entail developing strategies such as economic incentives, improved environmental impact calculators for products, environmental performance standards and labeling, and public outreach. It also would entail identifying data gaps, potential regulations, and potential legislative action. (\$300,000 in contract funds)
- Conduct research on reducing N<sub>2</sub>O emissions at composting facilities. This would include analysis of compost feedstock characteristics and operations parameters to determine their impact on N<sub>2</sub>O emissions. CIWMB would use the study results to assist organics handling businesses, CCAR, and other entities in the development related protocols and operational best management practices to reduce greenhouse gas emissions. (\$500,000 in contract funds)
- Reduce Vehicle Miles Traveled (VMT) through the optimization of solid waste and recycling routes. This would entail assisting key stakeholders and local jurisdictions with evaluation and implementation of optimization schemes to reduce VMT associated with transportation of solid waste and recycling materials. (1 PY)

**Budget Act.** The 2009-10 Budget Act includes \$1,312,000 from redirected funds, including six positions and \$800,000 in contract funds, for implementing programs that minimize methane emissions from landfills including increased source reduction and recycling, developing viable and sustainable markets to divert materials from landfills, and encouraging new technologies. This proposal also includes \$501,000 for 2010-11. The funds for both 2009-10 and 2010-11 will come from a redirection of the Waste Characterization Study funds.

**Staff Comments.** The Air Resources Board (ARB) is the regulatory agency for AB 32 implementation, and it is unclear to staff why another agency needs resources to implement ARB's regulations.

Some of the expenses do not seem fully justified. For example, the proposal requests two positions to increase recycling from the commercial sector. It seems that this task should already be underway as part of the CIWMB's core mission.

In addition, staff thinks that the one position to reduce the vehicle miles traveled by commercial sector vehicles is not justified. Since there is no carbon fee added on to the cost of recycling, commercial sector recyclers will most likely continue to use the lowest cost service rather than the recycling service with the least carbon output.

**Staff Recommendation.** Staff recommends that the Subcommittee reject the proposal.

**Action:** Approved as budgeted with Supplemental Report Language requiring the department to report by March 1, 2010 on how the activities for which the funds are being utilized and the achievements made in those activities.

**Vote:** 2-1 (Benoit)

## 3930 Department of Pesticide Regulation

### 14. Volatile Organic Compounds

**Volatile Organic Compounds.** Fumigant pesticides emit volatile organic compounds (VOC) that contribute to smog. In California's central valley approximately six percent of the smog is caused by pesticides. VOCs contribute to the formation of ground-level ozone, which is harmful to human health and vegetation when present at high enough concentrations. The federal Clean Air Act requires each state to submit a State Implementation Plan (SIP) for achieving and maintaining federal ambient air quality standards, including the standard for ozone. Nonattainment areas (NAAs) are regions in California that do not meet either federal or state ambient air quality standards. California has five nonattainment areas: San Joaquin Valley, Sacramento Metro, South Coast, Southeast Desert, and Ventura.

**State Implementation Plan.** The 1994 SIP was developed by the Air Resources Board and approved by the USEPA as a plan for addressing air quality in California. The 1994 SIP specified that California would reduce fumigant pesticide VOC emissions by 12 percent below the 1991 levels. Currently, the USEPA is reviewing the updated 2007 SIP that would change the reduction in VOC from percentages to tons of emissions. The 2007 SIP keeps the reduction level the same and only changes how that reduction is measured.

**Lawsuits.** In 2006, a federal judge ruled that the Department of Pesticide Regulation (DPR) ignored clean air laws for pesticides. The lawsuit said DPR failed to apply clean air rules to pesticides, dating back to 1997. The judge ordered the department to write regulations that would cut fumigant pesticide emissions in the Central Valley by 20 percent from 1991 levels.

As a response to that court ruling, DPR wrote regulation to reduce fumigant pesticide VOC emissions by 20 percent from 1991 levels. Those regulations were approved by the Office of Administrative Law on January 25, 2008, and were placed into effect.

In August 2008, the Ninth Circuit Court of Appeals in San Francisco overturned the findings of the federal judge. As a result of the Appeals Court victory, the Department of Pesticide Control is now finalizing new regulations that call for a smaller decrease - a 12 percent cut from 1990 levels.

**Past Budget Action.** In the *2008-09 Budget Act*, DPR received \$2.6 million and 11 positions to implement VOC regulations. These positions were an increase in staffing due to the additional workload created by a 20 percent reduction in VOCs from the 1991 levels.

**Staff Comments.** The department has been provided with the staff and funding to implement a 20 percent reduction in VOCs from the 1991 levels. Also, the department already finalized the more stringent VOC regulations. Thus, there is no need to relax standards that protect human and environmental health.

**Staff Recommendation.** Staff recommends that the Subcommittee adopt trailer bill language requiring the department to implement 20 percent fumigant pesticide VOC reduction regulations.

**Action:** Adopted trailer bill language requiring the department to implement 20 percent fumigant pesticide VOC reduction regulations.

**Vote:** 2-1 (Benoit)

## Discussion Items

### 0540 Secretary for Natural Resources

#### 1. Environmental License Plate Fund Fee Increase

**ELPF.** The Environmental License Plate Fund (ELPF) provides support to numerous conservancies and departments within the Resources Agency. The ELPF has a structural imbalance. Without a fee increase, and keeping expenditures constant the 2009-10 fiscal year expenditures would exceed available resources by \$7 million.

**Trailer Bill.** The trailer bill language would raise the environmental license plate fee by \$4 per plate. The new fee would be \$34 for renewals and \$44 for new plates.

**Budget Act.** The *2009-10 Budget Act* does not include trailer bill authorizing the ELPF fee increase. The Budget Act does provide decreased funding to departments and conservancies from the ELPF by \$4,720,000, but this decrease would be even more dramatic without the fee increase.

- Secretary for Natural Resources – Reduction to out of state travel and equipment replacement program: -\$50,000
- California Conservation Corps – Reduction to administration: -\$300,000
- CalFire – Environmental Protection Program field coordinator reduction (-\$15,000); Fire and Resource Assessment Program resource management strategies design (-\$30,000): Total reduction of -\$45,000
- Department of Fish and Game – Fund shift of \$3 million to the Fish and Game Preservation fund for wardens: -\$3 million
- State Coastal Conservancy – Reduction to Ocean Protection Council research on algal blooms: -\$257,000
- Santa Monica Mountains Conservancy – Reduction to consultant contracts for project planning and implementation: -\$50,000
- Sierra Nevada Conservancy – Reduction to interagency agreements: -\$500,000
- Department of Water Resources – Reduction in work on the Trinity River Restoration Program: -\$60,000
- CalEPA, Department of Pesticide Regulation – Fund shift of \$458,000 with the Department of Pesticide Regulation Fund

**Staff Recommendation.** Staff recommends that the Subcommittee approve the approve trailer bill language increasing the environmental license plate fee by \$8 per plate and to direct half of this increase to the Department of Fish and Game for wardens.

**Action:** Adopted trailer bill language to raise the ELPF fee by \$8 per plate and to direct half of the increase to the Department of Fish and Game for wardens.

**Vote:** 2-1 (Benoit)

## 2. CALFED Science Program

**Background.** CALFED provides a science research grant for projects that provide scientific information related to water project operations, water quality, ecosystem restoration, and prevention and management of invasive species. The primary purpose of the CALFED Science Program is to implement programs and projects to articulate, test, refine, and improve the scientific understanding of all aspects of the Bay-Delta and its watershed areas. The Science Program aims to reduce the scientific uncertainties in the planning and implementation of CALFED Bay-Delta Program actions.

To award the science grants, the CALFED Science Program and the CALFED Agencies first determine the critical scientific information needs to help guide management decisions. These needs are then used to develop the Proposal Solicitation Package. The proposals undergo a technical review by two separate committees. Once the grant has been approved, the Science Program staff works with the researcher and contract staff to develop a contract that includes information on the statement of work, schedules, deliverables, presentations, and final products.

**Finance Letter.** The Governor's spring finance letter requests the following:

1. An appropriation of \$2,899,000 in Proposition 50 bond funds and provisional budget bill language to have five years to encumber those funds. The requested amount comes from previously reverted Proposition 50 bond funds.
2. Extend Budget Act of 2008-09 provisional budget bill language for CALFED Proposition 50 funds from three years (expires June 30, 2011) to five years (expires June 30, 2013).
3. New five-year encumbrance period provisional budget bill language for the CALFED \$8 million reimbursement authority for an interagency agreement with Department of Water Resources in the Budget Act of 2009-10. The funds are from Proposition 84.

**Staff Comment.** The Legislature is currently considering various policy alternatives for how the Delta should be governed. These policy process discussions could change how funds related to environmental restoration, science, and other CALFED activities are spent in the future. Thus the policy process should inform the appropriation of these funds.

In the last five years the longest encumbrance period given to CALFED science funds has been three years. A shorter encumbrance period would allow the Legislature to redirect funds if it decided to change the structure of the program. Staff does not support extending the encumbrance or liquidation period for funds that are not expiring at the end of the current fiscal year. Also, if these science funds take five years to produce completed research, they are unlikely to provide research to inform the current debate of the Delta's future.

**Staff Recommendation.** Staff recommends that the Subcommittee:

1. Approve \$1,500,000 in Proposition 50 bond fund with a three-year encumbrance period.

2. Approve provisional language providing a three-year encumbrance period for the CALFED \$8 million reimbursement authority for an interagency agreement with the Department of Water Resources.
3. Approve trailer bill language requiring all approved science grants to be posted on the CALFED website.
4. Reject all funding for the CALFED Bay-Delta Program in the Secretary for Natural Resources that does not relate to the Science Program.

**Action:** The Subcommittee approved:

1. \$1,500,000 in Proposition 50 bond fund with a three-year encumbrance period.
2. Provisional language providing a three-year encumbrance period for the CALFED \$8 million reimbursement authority for an interagency agreement with the Department of Water Resources.
3. Trailer bill language requiring all approved science grants to be posted on the CALFED website.
4. Budget bill language to transfer CALFED funds to a new organization.
5. Budget bill language that states what the CALFED funds will be used for in 2009-10.

**Vote:** 3-0

### 3. New River Project

**New River.** The New River flows from the Colorado River into the Salton Sea, a distance of about 73 miles. The river flows from Mexico to the United States, with about 60 miles of river located within California. The New River is polluted by agricultural drainage, treated sewage and raw sewage, and industrial waste.

**Sanitation Project.** The New River Sanitation Improvement Project will be constructed on the United States side of the U.S.-Mexico border. The project includes a headworks to lift trash out of the river as it enters the United States. The project also includes a diversion structure to send design flood river flows directly into the culverts and direct normal flows into the bar screen. The project will also include a monitoring station.

Before construction on the project can begin, the project development and planning phase must be completed. The planning phase includes preliminary site assessments (including hydrogeological investigation and surveying/mapping) and preparation of the supporting studies, including the California Environmental Quality Act (CEQA) documents.

**Federal Funds.** This project received a \$4 million federal grant recently. If matching funds are not provided, the federal funds will soon revert and the state will lose an opportunity to clean up an impaired water body.

**Staff Recommendation.** Staff recommends that the Subcommittee appropriate \$800,000 in bond funds from Proposition 84 Section 75050(d).

**Action:** Approved budget bill language that designates \$800,000 of the River Parkways local assistance funding for the New River project.

**Vote:** 3-0

## 3600 Department of Fish and Game

### 1. Anadromous Fish Management

**Background.** The Department of Fish and Game (DFG) Anadromous fish management has three components: the Coastal Salmonid Monitoring Plan, the Coho Recovery Plan Implementation, and Coastal Steelhead and Chinook Recovery.

*Coastal Salmonid Monitoring Plan.* The State of California does not have in place a coast-wide program to monitor the status and trend of salmon and steelhead populations. The DFG and the National Marine Fisheries Service (NMFS) have partnered on the development of the California Coastal Salmonid Monitoring Plan to monitor Anadromous fishes on the entire coast of California. The emphasis of the plan is to gather the data needed to manage fishing and hatcheries, and to de-list the federal and state-listed species.

*Coho Recovery Plan Implementation.* Coho salmon are listed as either threatened or endangered in California, depending on the river. The DFG adopted a Coho Recovery Strategy in 2004 that sets forth detailed actions to recover the species to the point of de-listing. The funding provided for the 2009-10 fiscal year will support projects through a direct grant program, managed by existing Fisheries Restoration Grant Program staff.

*Coastal Steelhead and Chinook Recovery.* The DFG approved a Steelhead Restoration and Management Plan in 1996, but until 2008-09 no funding was provided for the implementation of this plan. Nearly all salmon and steelhead runs on the coast are now listed as threatened or endangered.

**2008-09 Budget Act.** The *2008-09 Budget Act* included \$10,856,000 from Proposition 84 bond funds for grant funds and eight permanent and six temporary positions for Anadromous fish management.

**Budget Act.** The *2009-10 Budget Act* includes \$9,734,000 from Proposition 84 bond funds for Anadromous fish management. This includes Coastal Salmonid Monitoring Plan



implementation, Coho Recovery Plan implementation, and Coastal Steelhead and Chinook recovery. No new positions were included in the *2009-10 Budget Act*.

Specifically, with these funds DFG will:

- Provide grants for fisheries restoration activities.
- Provide infrastructure in the Fisheries Branch and Regions to provide the bases for future plan implementation.
- Inform state and federal regulatory and environmental documentation needs.
- Provide a guide to the implementation of recovery plans.
- Assist other monitoring efforts in coastal watersheds by establishing a sampling matrix and guidelines for annual probabilistic surveys.
- Establish a joint Department/NMFS policy oversight and management team.

**Staff Comment.** The department's salmon recovery efforts are hindered by a multitude of factors, including destruction of streambeds during suction dredge gold mining and logging activities.

The DFG provides permits for suction dredge activities. The Alameda County Superior Court has ordered DFG to complete a CEQA review of suction dredging impact on salmon. The CEQA review was supposed to be completed by June 2008. In the *2008-09 Budget Act* the department received \$1.5 million General Fund to complete the CEQA review. Since the court has found suction dredging to have impact on salmon, it is advisable to halt suction dredging until the extent of that impact is understood.

Forestry practices can have an impact on salmon through factors such as stream temperatures. Forests can be managed in ways that are beneficial to salmon. Fish and Game Code Section 2112 requires the development of regulations for species for which a recovery plan has been approved. Though the Coho salmon has an approved recovery plan, the Fish and Game Commission and the Board of Forestry have not yet adopted permanent regulations for Coho salmon. For the last nine years, salmon have been regulated under temporary rules that require permitting only when a "take" of salmon occurs.

**Staff Recommendation.** Staff recommends that the Subcommittee approve the proposal and adopt trailer bill language that would:

1. Ban suction dredging in salmon habitat until one year after the updated CEQA document is approved.
2. Direct the Fish and Game Commission and the Board of Forestry to adopt permanent rules on salmon. The Board of Forestry should adopt regulations that implement the Coho recovery plan and that are not dependent on a finding that an application for a timber harvest plan permit will result in the take of Coho salmon.

**Action:** Approved trailer bill language

**Vote:** 3-0

## 2. Ecosystem Restoration Program

**ERP Background.** The Ecosystem Restoration Program (ERP) is a part of the CALFED Record of Decision on how to fix the Sacramento-San Joaquin Bay Delta. The Bay-Delta provides the drinking water to two-thirds of Californians. The ERP was designed to:

- Improve the ecological health of the San Francisco Bay and Sacramento-San Joaquin Delta.
- Achieve recovery of at-risk species in the Delta, Suisun Marsh, and San Francisco Bay and in the watershed above the estuary.
- Restore ecological processes associated with water conveyance, environmental productivity, water quality, and floodplains.

**Budget Act.** The *2009-10 Budget Act* includes \$22,022,000 in Proposition 84 bond funds for the Ecosystem Restoration Program.

**Proposal.** With these funds, the department intends to pursue the Stage 2 Conservation Strategy of the Ecosystem Restoration Program. This stage would adaptively address current scientific research, monitoring, results, and changing conditions identified regarding climate change, levee fragility, and increased water quality and demand.

**Staff Comment.** These funds are to fulfill the CALFED Record of Decision (ROD) environmental restoration goals. With the Bay-Delta Blue Ribbon Commission the state is moving away from the ROD and reconsidering the Delta restoration priorities. A proposal in the Department of Water Resources' budget to fund an alternative Delta conveyance water facility raises questions as to: (1) how such an alternative conveyance facility will impact the Delta ecosystem and (2) how effective the ERP is in relation to the ecological changes such an alternative conveyance system may bring to the Delta.

**LAO Recommendation.** The LAO recommends that the Legislature reject the budget proposal for new ecosystem restoration projects until the Legislature has had an opportunity to consider the long-term uses and configurations of the Delta as both an ecosystem and a water supply system. The result of those deliberations may be significant changes to the way in which the state uses the Delta. The LAO thinks it would be premature to fund restoration projects before those decisions are made, since fundamental changes to the Delta may make the proposed projects unsustainable in the long term.

**Staff Recommendation.** Staff recommends that the Subcommittee reject the budget proposal. This item will move to Conference so the department can provide a list of the projects to the Committee and a discussion can be had about the role of these projects in the future of the Delta.

**Action:** Rejected proposal

**Vote:** 3-0

## 3860 Department of Water Resources

### 1. Central Valley Flood Protection Board

**Statute.** Legislation was enacted in 2007 (AB 5 and SB 17) that renamed the Reclamation Board the Central Valley Flood Protection Board (Board). The Board is required to act independently of the Department of Water Resources and continue to exercise all of its powers, duties, purposes, responsibilities, and jurisdiction. Furthermore, AB 162 (Wolk, 2007) requires the Board to review revised safety elements of local governments' general plans prior to the adoption of the amended safety element.

**Board Membership.** With the enabling statute the membership of the Board increased from seven to nine members, seven being appointed by the Governor and subject to Senate confirmation, and two members serving as non-voting ex officio members. The statute stated that the old Reclamation Board members would continue to serve on the Board until the Governor appoints new board members. The statute specified subject-area expertise criteria for the new board members.

**Budget Act.** The *2009-10 Budget Act* includes \$7.5 million General Fund and \$1 million in Proposition 1E bond funds for support of the Central Valley Flood Protection Board.

**Finance Letter.** The Governor has submitted a spring finance letter that would shift \$2,190,000 General Fund from the Central Valley Flood Protection Board to the DWR's Public Safety and Prevention of Damage program.

**Staff Comment.** The Central Valley Flood Protection Board was created in 2007 and received funding for the first time in the *2008-09 Budget Act*. At the time existing staff from within DWR was transferred to the Board because the Board's staffing needs were not fully known. Now some of those staff are being transferred back to DWR through the finance letter proposal.

The enabling statute for the Central Valley Flood Protection Board specified criteria that the Board members must meet to perform their duties. It is not clear if the current board members who were shifted over from the Reclamation Board meet the criteria specified for the Central Valley Flood Protection Board members. Because the Central Valley Flood Protection Board has some new functions that the Reclamation Board did not, it is appropriate for the Board members to answer questions about their decision-making rubric publicly.

**Staff Recommendation.** Staff recommends that the Subcommittee approve the finance letter. Staff also recommends that the Subcommittee reduce the Central Valley Flood Protection Board budget by \$5,310,000 General Fund.

**Action:** Approved the finance letter and reduced the CVFPB budget by \$1,000 General Fund.

**Vote:** 3-0

## 3910 California Integrated Waste Management Board

### 1. Used Oil Recycling Program

**Background.** AB 2076, the California Oil Recycling Enhancement Act (1991, Sher) requires the California Integrated Waste Management Board (CIWMB) to administer a statewide used oil recycling program to promote and develop alternatives to the illegal disposal of used oil. The program is funded from the Used Oil Recycling Fund, which receives its funding from a \$0.16 per gallon fee paid by lubricating oil manufacturers. Industrial oil is exempt from this fee.

Since 2000, the sale of lubricant oil in California has steadily declined. The major reason for this is believed to be the larger number of miles new vehicles can travel between oil changes. In 2000-01, the Used Oil Recycling Fund revenues were about \$22 million, but in 2009-10 the fund's revenues are projected at \$16 million.

**Grant Programs.** The Act established four grant programs to promote used oil recycling infrastructure: Block, Opportunity, Non-Profit, and Research, Testing, and Demonstration. According to current statute, the CIWMB must expend on the Block grants either \$10 million or 50 percent of the Used Oil Recycling Fund balance, whichever is greater. However, the CIWMB is statutorily required to pay for other programs out of the Used Oil Recycling Fund as well. In 2009-10 the Used Oil Recycling Fund Balance is projected to be \$16 million and if the CIWMB funds both the Block grant \$10 million mandatory expenditure and the other statutorily required programs, these expenditures combined would create a deficit in the fund.

**Budget Act.** The *2009-10 Budget Act* includes budget bill language to allow CIWMB to use no less than half of the amount which remains in the Used Oil Recycling Fund after expenditures, even when this amount is less than \$10 million. Budget bill language is in effect for one year only.

**Staff Comments.** Staff understands that when local organizations are provided block grants on an annual basis to fund local oil recycling programs, some organizations do not expend appropriations in the year that they are provided, holding on to those funds for future use. In some cases, reserves held by local organizations are sufficient to sustain operations for multiple years at current levels of operation. The *2009-10 Budget Act* does not take into account how much each local organization is holding in reserves and would distribute the \$6 million in grants proportionally among all of the 250 statewide block grants, which is \$4 million less than distributed last year. As a result, the reduced grant allocation will have an unequal impact on those organizations that have reserves from prior year grants and those that do not. As a short term solution to minimize the impacts of these funding shortfalls on those organizations that do not have reserved block grant funds, staff recommends that the Subcommittee adopt trailer bill language that would require the board to prioritize block grants to those recipients that do not have reserves. Staff recommends that this language sunset after two years to provide adequate time for policy bills currently in the process to better align program revenues with expenditures. Under this proposal, the board would not be directly reverting any funding that a local agency holds from prior year block grants.

**Policy Bills.** Currently, there are two bills moving through the policy process that raise the oil fee to help fully fund the grant program: SB 546 (Lowenthal) and AB 507 (Chesbro).

**Staff Recommendation.** Staff recommends that the Subcommittee augment local assistance block grants by \$500,000 from the Used Oil Recycling Fund and adopt trailer bill language in concept that would authorize the CIWMB for two years to allocate block grant funding in a manner that distributes reductions equitably among all grantee operations. In order to minimize impacts on local grantees, this allocation method could consider the amounts of prior year block grants that local organizations are holding in reserves as available resources for grantees to use in their operations during 2009-10 and 2010-11.

**Action:** Augmented local assistance block grants by \$500,000 from the Used Oil Recycling Fund for one year only. Adopted trailer bill language that allows the fund balance to drop below \$1 million and that authorizes the CIWMB for two years to allocate block grant funding in a manner that distributes reductions equitably among all grantee operations. In order to minimize impacts on local grantees, this allocation method can consider the amounts of prior year block grants that local organizations are holding in reserves as available resources for grantees to use in their operations during 2009-10 and 2010-11.

**Vote:** 2-1 (Benoit)

## 3960 Department of Toxic Substances Control

### 1. Realignment of Funding for TSCA and HWCA Program Activities

**Background.** The Department of Toxic Substances Control (DTSC) is primarily funded by two special funds: the Toxic Substances Control Account (TSCA) and the Hazardous Waste Control Account (HWCA). The HWCA revenues come from fees paid by hazardous waste generators, transporters, and disposers. The major revenue sources of TSCA are the environmental fee, which is a broad-based assessment on all businesses handling hazardous materials with 50 or more employees, and cost recovery from parties responsible for hazardous waste substance releases.

**TSCA Fee.** TSCA is funded primarily from an environmental fee on companies with more than 50 employees who "use, generate, store, or conduct activities in this state related to hazardous materials". The fee is has a sliding scale depending upon the size of company. The fee schedule is set in the Health and Safety Code 25205.6. The fee schedule is as follows:

1. Two hundred dollars (\$200) for those organizations with 50 to 74 employees.

2. Three hundred fifty dollars (\$350) for those organizations with 75 to 99 employees.
3. Seven hundred dollars (\$700) for those organizations with 100 to 249 employees.
4. One thousand five hundred dollars (\$1,500) for those organizations with 250 to 499 employees.
5. Two thousand eight hundred dollars (\$2,800) for those organizations with 500 to 999 employees.
6. Nine thousand five hundred dollars (\$9,500) for those organizations with 1,000 or more employees.

**Budget Act.** The *2009-10 Budget Act* includes an on-going shift of \$4,795,000 from the Hazardous Waste Control Account to the Toxic Substances Control Account to cover activities related to the regulation and enforcement of toxic substances in products. However, this funding shift cannot be implemented by the Department of Finance because the accompanying trailer bill language is not part of the *2009-10 Budget Act*.

**Trailer Bill Language.** This funding shift requires trailer bill language. The trailer bill language authorizes the TSCA to pay for the department's activities related to pollution prevention and related technology development. Also, the trailer bill language authorizes the use of TSCA for implementation of programs related to the Human and Ecological Risk Division, to the Environmental Chemistry Laboratory, and to the Office of Pollution Prevention and Technology Development.

**Staff Comment.** The department has stated that this fund shift would not result in a change in the fees collected. The trailer bill language was not approved as a part of the February 2009 budget package.

**Staff Recommendation.** Staff recommends that the Subcommittee adopt the Governor's proposed trailer bill language and adopt trailer bill language to raise the TSCA fee by 15 percent. The increased revenue from the fee increase will be used to replace General Fund in the department's base budget.

**Action:** Approved the Governor's trailer bill language and adopted trailer bill language to increase the TSCA fee by 15 percent, as well as allowing the use of those fees for functions currently funded by General Fund (excluding Stringfellow and BKK). The intent of the fee increase is to replace baseline General Fund for the department.

**Vote:** 2-1 (Benoit)

# SUBCOMMITTEE NO. 2

# Agenda

S. Joseph Simitian, Chair  
John Benoit  
Alan Lowenthal



**Day: Thursday May 14, 2009**  
**Time: 9:30 am or upon adjournment of session**  
**Room: Rose Ann Vuich Hearing Room (2040)**

**Consultant: Brian Annis**

## Transportation

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Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling 916-324-9335. Requests should be made one week in advance whenever possible.

## **2660 Department of Transportation**

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

### **Issue proposed for Discussion / Vote**

(see next page for issue)



**1. Caltrans Section 26.00 Violations (Staff Issue).** Staff has discovered, and Caltrans confirms, that the department has been shifting funds among programs scheduled in the budget act without Section 26.00 reporting. Scheduling in the budget act is binding on department expenditures, but budget Control Section 26.00 does allow funding shifts among scheduled items with 30-day legislative reporting. Caltrans calls its process “cross-allocation” and indicates it promotes effective management when the type of work to be performed by a division and related to that divisions’ primary function, is better performed by experts in another division. For example, the 2008 Budget Act scheduled \$1.9 billion for Highway Transportation – Capital Outlay Support (COS), and \$77 million for Highway Transportation – Legal; however, Caltrans “cross-allocated” \$16.7 million and 101 positions from COS to legal. This practice results in a second set of books for Caltrans, with the public documents indicating a legal budget of \$78 million and 172 positions, but in reality, Caltrans cross-allocated to achieve a real budget of \$94 million and 273 positions for legal.

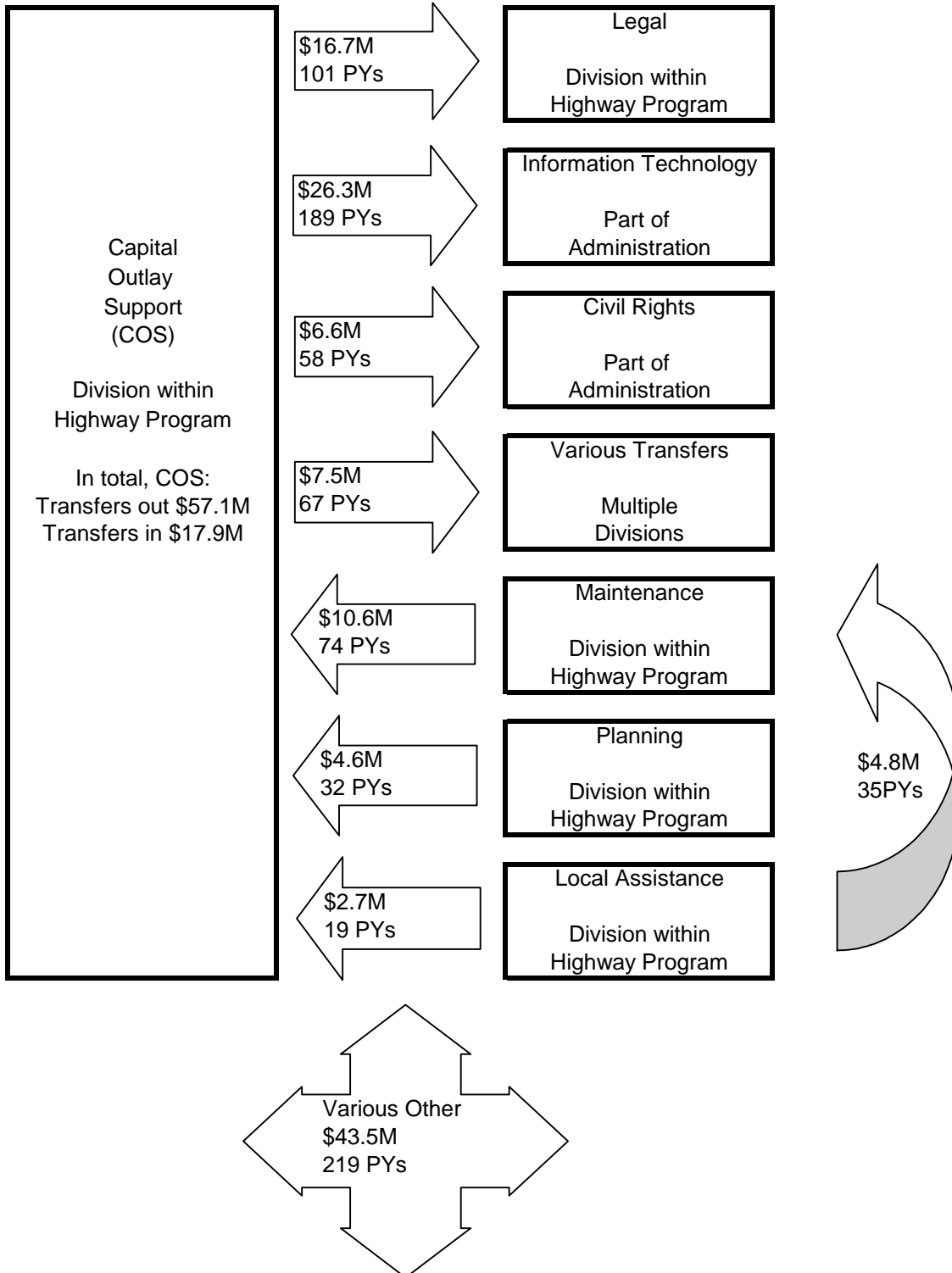
**Bottom-line legal issue.** While the management efficiency of the Caltrans “cross-allocation” practice can be discussed, the bottom-line is that no legal authority exists for the Administration to shift funds in this manner without notification to the Legislature. Staff is unable to find any statutory or State Administration Manual (SAM) definition or authority for the practice Caltrans calls “cross allocation” and the Administration has not provided any reference for legal authority.

**Special Concern for the Capital Outlay Support Budget.** The Caltrans Highway Transportation – Capital Outlay Support Program is uniquely budgeted because statute requires the department to zero-base the COS budget annually based on project workload – the Administration submits a May Revision letter each year to accomplish this adjustment. To get the best aggregate workload, based on Caltrans assessment of individual highway and road projects, the letter comes late in the budget process – in May. Due to the May timeframe and the complexity of the project-by-project workload, the LAO and legislative staff basically accept Caltrans workload numbers without detailed review. Cross allocation of funding and positions out of COS suggest Caltrans might be asking for Engineers and Engineer Techs, and then shifting that funding for Attorneys and other non-engineer work. The final expenditures may be justifiable, but the methodology and lack of transparency raise major concerns.

**Special Concern for the Maintenance Budget.** During the 2006 budget process, Caltrans proposed to shift funding and staffing for major *maintenance* contracts (including state worker design and oversight) from the Maintenance Division to the COS Division and SHOPP *rehabilitation* program. The Legislature rejected this request and kept the major maintenance funding in the Maintenance Division. This was done to maintain transparency for maintenance expenditures (because major maintenance was not consolidated into the SHOPP budget item) and to avoid a bigger COS May Finance Letter and the time constraints and data issues inherent in the May COS letter. The cross-appropriation information from Caltrans suggests the

department ignored this legislative direction and shifted \$10.6 million and 74 positions from Maintenance to COS on its second set of books.

**Detail on Caltrans “cross-allocations” for 2008-09**



**Cross Allocation Chart:** The chart on the prior page shows the “cross allocations” or shifts among divisions scheduled in the 2008 Budget Act. Staff excluded three Caltrans shifts from the chart: (1) Grant Anticipation Revenue Vehicles (or GARVEE) bond payments are scheduled in COS, but shifted to Administration for payment – this suggests a technical correction is needed, but GARVEE debt is elsewhere displayed in the Governor’s budget, so there is not a transparency concern; (2) Audits – centralized auditors are typically funded by the function they audit as they move within a department – so this shift does not raise concerns; and (3) statewide shifts such as positions shifted to the Director’s Office, the Secretary for BT&H Agency, and the Governor’s Office – while these funding shifts may raise other transparency concerns, they are statewide issues beyond the scope of this issue.

**Staff Comment:** Caltrans has not been able to suggest a legal justification for “cross allocations” so the department should suggest a fix. The amounts shifted without legislative reporting are substantial – more that \$123 million and 794 positions in 2008-09. This amount is over five percent of the Caltrans state operations budget. Among the options to fix this problem are the following:

1. Adjust the Budget Act scheduling to the anticipated expenditures of funds by each division (a Section 26.00 could later be submitted if additional adjustments are needed).
2. Add provisional language to the Budget Act to allow Caltrans to shift a defined amount of funding between divisions without legislative reporting.

Caltrans will provide a zero-based May Revision Finance Letter on its Capital Outlay Support workload for 2009-10. This letter should be an accurate representation of the *engineering-related* workload (both state worker and contractors) and correctly adjust for any positions shifts in the past for attorneys or other non-engineering work. Discussion of this issue was deferred to a future hearing at the request of Caltrans. In the interim, Caltrans will present detail to legislative staff and the LAO on the department’s proposed remedy.

**Staff Recommendation:** Does Caltrans have a workable solution that provides legal integrity and transparency? Option 1 under staff comments would seem the more viable option. However, the subcommittee should also consider adoption of reporting language that provides the Legislature information to continue following-up on this issue. The Legislative Analyst can assist in developing the reporting language.

<p><b>Action:</b></p>
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## **2665 High-Speed Rail Authority**

The California High-Speed Rail Authority (HSRA or Authority) was created by Chapter 796, Statutes of 1996, to direct development and implementation of inter-city high-speed rail service that is fully coordinated with other public transportation services. The cost to build the initial phase (from San Francisco to Anaheim) is currently estimated by the HSRA to cost \$34 billion (in 2008 dollars) – this includes a contingency, calculated at 30 percent of construction costs, as well as an allowance for environmental impact mitigation, calculated at three percent of construction costs.

**January Budget:** The January Governor's Budget included funding of \$125.2 million for the HSRA (all High-Speed Passenger Train Bond Fund). The 2009 Budget Act (SB 1XXX) reduced the HSRA budget down to base staff funding of \$1.8 million, without prejudice to the merit of the request, to allow for a thorough subcommittee review of the budget. Since the Safe, Reliable High-Speed Train Bond Act for the 21<sup>st</sup> Century (Proposition 1A) was approved by voters in November 2008, the HSRA has \$9 billion in bonding authority to begin implementation of the system. This transition from a small-budget study organization to a multi-billion dollar engineering and construction entity requires additional discussion with regard to the structure of the Authority and management and implementation of the high-speed rail project.

**April Finance Letters:** The Administration additionally submitted April 1 Finance Letters to augment the HSRA budget by \$14 million for additional contract costs, bringing the total request for 2009-10 to \$139.2 million.

**March 17, 2009 Senate Transportation and Housing Committee Hearing:** On March 17, 2009, the Senate Transportation and Housing Committee held an informational hearing with a focus on the Legislative Analyst's Office's analysis of the HSRA's proposed \$125.4 million budget for 2009-2010, and state government's response to the \$8 billion provided for high-speed rail by the federal stimulus program, the American Recovery and Reinvestment Act of 2009.

**Pooled Money Investment Account (PMIA) loans:** Since the March 17 policy committee hearing, the State Treasurer has been successful in selling general obligation bonds and the HSRA has received a PMIA loan to pay contract expenses in 2008-09.

### **Issue Proposed for Discussion:**

- 1. Implementation of a Transportation Mega-Project.** As was alluded to in the introduction, the HSRA is tasked with quickly transforming itself from a small-budget study organization into a multi-billion dollar engineering and construction entity. This challenge is compounded by the fact that the high-speed rail project is a mega-project like the San-Francisco Oakland Bay Bridge or the "Big Dig" in Boston – these projects have few peers in scope and complexity. Mega projects often experience large cost escalations and schedule delays. With this great challenge in mind, the

Legislature has explored different structural models to increase the chances of successful implementation. Last year’s SB 53 (Chapter 612, Statutes of 2008, Ducheny) requires the California Research Bureau to analyze the state’s rail management structure and report recommendations by May 1, 2009. Other bills in the current legislative session look at consolidation of rail functions at Caltrans and the HSRA, and other project implementation and oversight issues.

**Administration’s Implementation Plan:** The Administration is not proposing any government reorganization in the area of rail. In terms of implementation of the high-speed system, the Administration proposes to contract for engineering and design, and then contract with other consultants for oversight of those original contracts. The rationale for this model is that the Authority should avoid developing a large permanent organizational staff because the project is a one-time endeavor, requires highly specialized skills, and will require limited ongoing support. On the basis of this approach to project management, the HSRA is relying upon outside consultants to provide both technical and managerial services. The counter to this argument is that this model is the historic information-technology (IT) model that has often been unsuccessful. In fact, the Administration is currently proposing an IT reorganization that would in-source oversight of state IT projects to the Office of the Chief Information Office (OCIO).

The Business Plan suggests the HSRA will be completing the preliminary engineering and environmental review over the next three years, after which right-of-way acquisition and construction will commence. However, the federal stimulus funds may accelerate the start of right-of-way acquisition.

**Administration’s Funding and Timeline:** The following two tables show the Authority’s anticipated funding sources and timeline for implementation:



\* HSRA graphic



\* HSRA graphic from Business Plan

**Issue raised by the LAO:** The Legislative Analyst raised several concerns with the HSRA Business Plan, which was required by statute and released in November 2008. The LAO indicates that the report includes, to some degree, each of the statutorily required elements, the information provided is very general and does not provide specifics that are included in the typical business plans. The LAO lists details absent from the Business Plan in the table below and recommends that the Authority expand on its Business Plan to include the missing detail (see table below).

The LAO recommends:

- (1) that the Legislature withhold budget funding for 2009-10, until the additional information is provided;
- (2) that the Legislature require the authority to adopt project selection and evaluation criteria to ensure that bond funds are used efficiently and that they deliver projects with immediate mobility benefits; and
- (3) that the Legislature enacts legislation directing the authority to provide an annual report to the Legislature at the time the Authority submits its annual budget.

**LAO Report: Business Plan Fails to Provide Many Details**

Statutory Requirements	Sample of Missing Details
Description of the anticipated system	What are the expected service levels? What is the assumed train capacity?
Forecast of patronage, operation & capital costs	How are ridership estimates projected?  What is the operating break-even point? How will costs be distributed by segment route?
Estimate of necessary federal, state, and local funds	How would funds be secured?  What level of confidence is there for receiving each type of funding?
Proposed construction timeline for each segment	What is the proposed schedule, by segment, for completing design/environmental clearance? For beginning/completing construction
Discussion of risks and mitigation strategies	How would each type of risk impact the project? What specific mitigation strategies are planned to be deployed?

Source: Legislative Analyst's Office

**Staff Comment:** The HSRA should address the issues in this agenda item. The issues include:

- What department structure and project oversight model maximize the chances for successful implementation?
- What missing details cited by the LAO have since been provided by the HSRA? What is the HSRA response to each of the individual concerns raised by the LAO in the above table?
- What functions should the HSRA add internally as the project ramps up? For example, HSRA does not currently have an accounting section – that function is performed by the California Highway Patrol under an inter-agency agreement.

**Staff Recommendation:** Approve requested funding, \$139.2 million, for HSRA activities and that construction or further implementation shall only be achieved through subsequent statute. In addition, adopt budget bill language as follows:

(1) requires that one-half of the funding is available for only those activities necessary to begin preliminary engineering and environmental review; and

(2) requires the second-half of the funding be made available after January 1, 2010 after submittal of a revised and expanded Business Plan to the Joint Legislative Budget Committee, that among other things addresses at a minimum: (1) a community outreach component; (2) further system details, such as route selection and anticipated service levels; (2) a thorough discussion describing the steps being pursued to secure financing; (3) a working timeline with specific, achievable milestones; and (4) what strategies the authority would pursue to mitigate different risks and threats.

**Action:**

## 2720 California Highway Patrol

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

### Issues Proposed for Vote Only:

- 1. Enhanced Radio System (April Finance Letter).** The Administration requests \$2.7 million to provide authority for the working drawings phase for replacing "Towers and Vaults" for the Enhanced Radio System. Funding was already approved for the Preliminary Plans phase for these projects, and funding for the Working Drawings phase is typically not included until the following year. These projects, however, are primarily located at high-elevations which are snowbound throughout the winter. In order to minimize the effect of seasonal delays, some of these projects will need to begin prior to the end of the fiscal year. This proposal will specifically replace existing telecommunications infrastructure at 15 specified sites with new telecommunications towers and vaults. These are necessary to achieve additional space required to accommodate equipment needed for the larger radio system upgrade.

**Background:** The budget includes \$99.2 million for the 2009-10 cost of upgrading the CHP's public safety radio system. In 2006-07, the Legislature approved this five-year project that has total costs of about \$500 million. The project will enhance radio interoperability with other public safety agencies and provide additional radio channels for tactical and emergency operations. The project involves new radio transmission equipment at CHP facilities, remote towers, and CHP vehicles – it does not include the dispatch equipment which is the subject of a 2009-10 BCP. As part of project approval, the Legislature required annual project reporting for the life of the project - due annually each March 1.

**Staff Comment:** The CHP should update the Subcommittee on the radio project. The March 1 report was emailed to Committee staff on March 24.

**Staff Recommendation:** Approve the Finance Letter.

**Action:**



- 2. Motorcycle Safety (April Finance Letter).** The Administration requests \$253,000 (plus an additional augmentation of \$340,000 in 2010-11) to accommodate an unforeseen increase in the demand for motorcycle safety training throughout the state. Since 1986 the CHP has provided the motorcycle safety training program for those required to complete it. Law requires every applicant for an original motorcycle operator's license who is under the age of 21 to complete this training. The CHP contracts with a private operator who has 124 training sites throughout California.

**Background/Detail:** This program is funded through a \$2 fee assessed on all initial and recurring motorcycle registrations. The Current allocation for this program was intended to serve 60,666 students. In 2007, 62,208 students were served, and 2008 is estimated to have served 66,000 students. These funds are specifically for the purpose of this program and the increase in motorcycle registrations supports the need to serve more students.

**Staff Comment:** The Motorcycle Safety Program is fully funded by motorcycle riders and it seems reasonable that total training cost would increase with the number of motorcycle riders.

**Staff Recommendation:** Approve the Finance Letter.

**Action:**

### 3. Officer Staffing Augmentation (BCP #18).

**Background:** In the January Budget, the Governor requested \$34.9 million (\$36.6 million ongoing) to add 165 uniformed positions, and 8 Automotive Technician positions in 2009-10 (an additional 75 uniformed positions would be added in 2010-11 for a total increase of 240 Patrol Officers). In 2006-07 and 2007-08, the Legislature approved a staffing increase of 471 positions (360 Officers, 32 uniformed managerial, and 79 non-uniformed support staff). Last year, the CHP requested another 120 Officer positions. An LAO analysis suggested the CHP would be unable to fill any of the positions in 2008-09 due to a high level of existing vacancies and constraints on the size of academy classes. The Legislature approved the 120 positions, but moved establishment to 2009-10 – these 120 positions are included in this year's BCP. Full funding for this year's BCP was included in the 2009 Budget Act (SB 1XXX).

**Detail on past budget action:** The need for additional CHP officers was discussed in several CHP reports and LAO analyses at the time the growth in staff began several years ago. Additional staffing was deemed particularly necessary in CHP divisions that had seen large increases in vehicle registrations and highway travel. One measure considered was the growth of vehicle collisions between 2000 and 2004. While various statistics indicated a need to grow the size of the CHP, the CHP budget requests have been made on a year-to-year basis and no overall plan was presented or approved by the Legislature. With past increases and staffing increases requested in this BCP, the number of field Officers would grow from 6,133 in 2006-07, to 6,493 in 2008-09, and to 6,733 in 2010-11. The CHP indicates it allocates new Officers in the field using the following considerations:

- Those commands experiencing the highest percentage of fatal collisions in recent years.
- Those commands requiring additional staff to operate on a 24/7 basis.
- Those commands located in regions experiencing the greatest percentage of growth in terms of population, registered vehicles, and registered drivers.

**Detail on Traffic Safety:** The following statistics are from the California Office of Traffic Safety:

- In 2006, 4,195 people died and 277,373 people were injured in California traffic collisions. This compares to 4,649 deaths (350,068 injuries) in 1991 and 3,730 deaths (303,023 injuries) in 2000.
- California's 2006 Mileage Death Rate (MDR) - fatalities per 100 million miles traveled (100 Million VMT) is 1.28, much lower than the national MDR of 1.41. Of the five largest states in terms of total traffic fatalities, (CA, FL, TX, GA, & NC), California has the lowest rate. This compares to a MDR of 1.8 in 1991 and 1.22 in 2000.

The statistics generally indicate that traffic safety improved throughout the 1990s, but that the trends started to reverse at the beginning of this decade. The CHP is one factor of many in reducing traffic deaths and injuries. Other factors to consider

are speed limits, vehicle collision-safety equipment (air bags), guard-rails and other roadside safety features, etc.

**Detail on 2008-09 Fee Increase:** Last year the Administration proposed, and the Legislature approved, an \$11 motor vehicle registration fee increase and a new late-payment penalty to fund the cost of CHP Officers and other needs. Existing law already included a \$10 fee for CHP Officers and this fee was increased to \$21 dollars. The penalties for late registration vary by lateness, but were essentially doubled. The fee/penalty increase was estimated to raise annual revenue by \$490 million. The Administration proposed the fee increases as necessary to fund the cost of Officers and related support, such as the new radio system. No out-year increase in the number of Officers was agreed to when the fee was approved.

**LAO Recommendation:** The Legislative Analyst recommends the Legislature maintain the 120 Officer positions previously approved for 2009-10 during last year's budget process, but reject the additional staff requested of 120 Officers and 8 Automotive Technicians. This would result in 480 new officers added since the staff growth began in 2006-07. The LAO notes two concerns: (1) the budget request does not account for staggered hiring over the fiscal year, and over-budgets 2009-10 cost by \$13 million; and (2) the additional 120 positions are not justified because they do not tie the augmentation to a level of service, such as Officers in proportion to licensed drivers. In total, the LAO recommends a reduction of \$22 million and new supplemental report language requiring the CHP to report by January 10, 2010, on the current baseline level of patrol services and the level of service it intends to achieve with recent and any future position requests.

**Revised Administration Request:** The Administration recalculated the budget request and indicates that it can be reduced by \$4.3 million in 2009-10 to better-account for the staggered hiring over the fiscal year.

**Additional Budget Reduction:** Another technical budget issue, is that the request does not account for attrition at the CHP Academy when the cost of cadets training is calculated.

**Staff Comment:** This issue was discussed at the March 26 Subcommittee #2 hearing and left open. Since then, Legislative staff, the LAO, and the Administration have reached a consensus recommendation on the appropriate reduction to account for staggered hiring and CHP Academy attrition. That reduction is \$10.6 million, which is also the reduction adopted by the Assembly.

**Staff Recommendation:** Approve the request minus \$10.6 million to accurately budget for staggered hiring and cadet attrition.

**Action:**

# SUBCOMMITTEE NO. 2

# Agenda

S. Joseph Simitian, Chair  
John Benoit  
Alan Lowenthal



**Day: Wednesday, May 20, 2009**  
**Time: 9:30 am**  
**Room: Rose Ann Vuich Hearing Room (2040)**  
**Consultant: Brian Annis**

## Transportation

2740 Department of Motor Vehicles.....

**Note on the 2009-10 Budget Process:** On February 19, 2009, the Legislature approved the 2009-10 Budget Act (SB 1XXX). However, certain items were withheld from the budget, without prejudice, pending a more thorough discussion in the budget subcommittees. Items withheld generally met one or more of the following criteria: (1) were rejected in a prior budget year; (2) have substantial policy implications – for example, information technology or the state's bond capacity; or (3) represent a new program or expansion. Additionally, there are numerous pieces of trailer bill language proposed by the Administration that were not adopted and that require further consideration. The issues in this agenda are these aforementioned issues along with other issues of interest to the Subcommittee.

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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.

## 2740 Department of Motor Vehicles

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

**Governor's Budget:** The Governor proposes total expenditures of \$963.0 million (no General Fund) and 8,493.1 positions, an increase of \$2.7 million and an increase of 217 positions.

**Activity:** (in millions):

Activity	2008-09	2009-10
Vehicle/vessel identification and compliance	\$547	\$536
Driver licensing and personal identification	246	258
Driver Safety	117	118
Occupational Lic. And Investigative Services	49	48
New Motor Vehicle Board	2	2
Administration (distributed)	(107)	(107)
<b>TOTAL</b>	<b>\$960</b>	<b>\$963</b>

**Major Funding Sources** (in millions):

Fund Source or Account	2008-09	2009-10
Motor Vehicle Account (MVA)	\$619	\$887
Motor Vehicle License Fee Account (MVLFA)*	268	0
Reimbursements	15	15
State Highway Account (SHA)	51	52
Federal funds	2	2
Other special funds (no General Funds)	5	7
<b>TOTAL</b>	<b>\$960</b>	<b>\$963</b>

\* Proposal to shift MVLFA to local law enforcement was rejected, instead a new 0.15 VLF tax was approved.

**Adopted 2009-10 Framework Budget (SB 1XXX):** In the adopted framework 2009-10 budget, the Legislature removed funding for the following items "without prejudice for further subcommittee discussion":

- Driver License / Identification Card (DL/ID) Contract (Budget Change Proposal (BCP) #1): \$11.0 million and 16.0 positions in 2009-10 and \$8.1 million ongoing.
- Real ID Act Material Compliance (BCP #3): \$4.2 million and 45.1 positions in 2009-10 and \$3.7 million ongoing [*this BCP has since been withdrawn by DOF*].
- Trailer bill language increasing DL and ID fees by \$3 to fund the above two items.
- Capital outlay funding for new or reconfiguration of existing field-office facilities: \$20.4 million.

## **General Background on Federal REAL ID Act**

**Background:** On May 11, 2005, President Bush signed H.R. 1268, which includes the Real ID Act of 2005. In 2006, the DMV estimated that implementation of Real ID would cost the State \$500 million to \$750 million. Final regulations from the federal government on the implementation of Real ID were released on January 11, 2008, and delayed full implementation of the Act. Last year, the DMV updated Subcommittee #4 on the final regulations and re-estimated costs over eight years to implement Real ID at \$143 million for “material compliance” and \$303 million for “full compliance.” The primary difference between material and full compliance is that with full compliance, DMV is fully integrated with new national “pointer” databases of birth records and DL/ID cards. DMV has previously testified that it does not have the authority to fully implement the Real ID Act without legislative approval and statutory change.

**Detail on Prior State Action:** In 2006-07 the Administration submitted, and the Legislature approved, \$18.8 million for information technology (IT) improvements and planning activities to improve DMV’s customer service and data collection – the Department indicated these IT projects were related to Real ID. The Legislature approved the funding and added budget bill language specifying that the funding did not implement Real ID for California, but rather improved efficiencies at the DMV to facilitate implementation at a later date, should enacting legislation be approved. In 2007-08, no budget changes were requested related to Real ID. In 2008-09, the Administration submitted a May Finance Letter requesting authority to spend \$6.5 million in federal grant funds related to Real ID that DMV had applied for. Since no implementing Real ID legislation had been proposed or approved, the request was denied. DMV ended up with a \$3.2 million federal grant (instead of the hoped-for \$6.5 million); however, the grant has multi-year availability and DMV now anticipates a 2010-11 budget request to spend the funds. This year, to date, the DMV has submitted two Budget Change Proposals fully or partially related to the implementation of Real ID, but has not forwarded to the Legislature any statutory change to implement the Act.

**Final Federal Real ID Regulations:** The final regulations differed in significant ways from the draft regulations. Most significantly, States have until 2017, instead of 2013, to implement the Real ID Act for all license and ID card holders. The final regulations allow states to apply to delay initiation of Real ID (i.e., begin the issuance of materially-compliant ID cards) from May 2008 to January 1, 2010 – DMV indicates it has already applied for, and received approval of, this extension. As a condition of receiving a second extension for “full compliance” to May 2011, States must show progress in working toward “material compliance.”

**Material Compliance versus Full Compliance:** The DMV indicates that it already meets several criteria of material compliance (such as capturing a digital picture and verifying legal presence in the United States through the Department of Homeland Security [DHS] database) but the department would additionally have to do the

following to meet all criteria for material compliance: require applicant documentation to establish residence address, marking materially compliant cards with a DHS-approved marking; issuing one-year limited-term DL/ID cards when the legal presence document says "Duration of Stay" or has no expiration date; and marking non-compliant cards. DMV believes they would be able to mark non-Real-ID-compliant cards as "California Compliant," but that that marking would have to be approved by the DHS. With budget requests in BCP #1 and BCP #3, the Administration proposes to meet most of the 18 components of material compliance by January 1, 2010. However, the following components would remain unmet under the current Administration proposal: (1) the card would not have the "Real ID compliant" marking and require an amendment to the DL/ID Card contract to mark the Real ID compliant card; (2) California has not made any commitment to Real ID full compliance at this time; and (3) legislation is required to issue two cards: a CA-compliant card and a Real ID material compliant card.

To achieve full compliance by May 11, 2011, the DMV would have to participate in national electronic verification systems that do not currently exist (verification of other states' birth certificates, U.S. passports, and out-of-state DL/ID card verifications). Full compliance requires an existing cardholder to bring in proof of their true full name, legal presence, and two documents that establish their residence address. Other key points of full compliance that California is not currently meeting are: terming Senior Citizen ID Cards to expire in eight years instead of ten; re-verifying legal presence and Social Security Number when a card is renewed or reissued; preventing individuals from holding both a Real ID driver license and a Real ID identification card at the same time; and retaining copies of all source documents.

## 1. New DL/ID Card Contract (BCP #1).

**Background:** The Governor requests \$11.0 million (Motor Vehicle Account) and 16 new positions to implement a new information technology (IT) project to produce new driver license and identification (DL/ID) cards. The cost of this new IT contract is \$63 million over a five-year period. The Administration had submitted a Control Section 11.00 request on January 14, 2009, to sign the vendor contract in the 2008-09 fiscal year; however, the Joint Legislative Budget Committee (JBLC) rejected this request indicating that the budget subcommittee process will provide an opportunity for the department to provide a fuller explanation of, and justification for, its proposal, as well as give the Legislature an opportunity to weigh the proposed contract's costs and benefits and consider the policy implications of the proposed changes. Funding for this BCP was removed from the 2009 Budget Act without prejudice to allow further legislative review. An associated \$3 increase in DL/ID fees is discussed separately – see issue #4.

**Detail on procurement:** DMV's current card contract expires on June 30, 2009. The Department indicates it can extend this contract to June 30, 2010, but that the vendor is unwilling to extend the existing contract beyond June 30, 2010, due to aging equipment that is at risk of failure. DMV did complete the Request for Proposal (RFP) procurement process, and the winning bidder, a company called L1, is also the vendor for the existing contract.

**Features of the proposed new card:** The new contract would include the use of biometric technology as part of the card issuance process. Automated biometric matching is not part of the current DMV procedure and current-law related to DMV was written prior to the advent of this technology. The new card would additionally include the new "2-D bar code" encrypted technology required by the Real ID regulations. The 2-D bar code would not include any information not printed on the front of the card and not on the existing magnetic stripe. DMV indicates the proposed contract would not include "Real ID Compliant" markings, and that they would intend to proceed with a contract amendment if Real ID is implemented. The card would not use radio frequency (RFID) technology.

**Existing Law concerning the privacy of DMV records:** The DMV indicates it is directed by both the California Vehicle Code (Sections 1808 and 1810.5) and by the federal Driver's Privacy Protection Act of 1994 (18 U.S.C. Sec. 2721). Both laws restrict the use of driver records and data, but allow law enforcement use and other specified use by government agencies. The breadth of use by law enforcement is not specifically defined with regards to biometric technology; however, DMV indicates its current technology only allows a "one-to-one" match, such as requesting the fingerprint and picture of a single individual. It seems technically feasible that the bio-metric technology in the proposed contract could be adapted to allow a "one-to-many" search by law enforcement (i.e., a match of a suspect picture or fingerprint against the totality of DMV data). The DMV indicates that it is not their intent to



implement a one-to-many search for law enforcement, but existing statute does not appear directive on this point.

**DMV's proposed use of automated biometric technology.** The DMV believes the new biometric technology will help reduce fraud. When a person applies for a card, the new photo image of the applicant will be checked against all existing photo images (one-to-many) to help identify a person who fraudulently has cards under multiple names. The fingerprint would be checked against the file fingerprint (one-to-one) and also to track the individual across multiple stations at the DMV field office (i.e., that the person who submitted the paperwork is the same person who takes the new photo). The ability to use the photo biometric matching against the existing database is uncertain – DMV indicates the technology may only adequately function with higher-quality images that the new system would capture.

**LAO Comment:** The LAO indicates that the request is not fully justified, in part because the department was unable to provide key information on the specific cost and benefits related to the proposed use of biometrics.

**Staff Comment:** During the JLBC review of the Section 11.00 letter, concern was raised by privacy advocates over the use of biometric technology. In considering this budget request, the Subcommittee may want to review the specific benefit of adding biometrics to the DL/ID card contract – it is not required by Real ID. It does appear that DMV needs a new DL/ID card contract, because the existing contract would be on its third extension and the equipment is aging. However, the new contract and procedures should also be consistent with the priorities of the Legislature. The Legislature's options would include the following:

- A. Approve the funding and contract as proposed, take no further action.
- B. Approve the funding and contract as proposed, but amend statute related to privacy to specify allowable external use (outside of DMV) of the biometric matching technology.
- C. Adopt budget bill language or statutory change to prohibit biometric-matching technology as part of the DL/ID contract, and approve funding for the modified contract.

**Staff Recommendation:** Approve the contract and prohibit use of biometric technology. In addition, make the necessary technical change to the contract amount to conform to the staff recommendation (staff will reconcile this dollar amount).

<b>Action:</b>
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**2. DL/ID fee increase for Card Contract & Real ID.**

**Background:** The Governor requests a \$3 fee increase for DL/ID cards. This fee revenue would go to the Motor Vehicle Account to fund the costs associated with the proposed DL/ID contract (BCP #1) and Real ID staffing (BCP #3). DMV annually issues about 8.3 million cards, so the new fee would result in about \$25 million in annual revenue to fund the costs associated with the new card contract and Real ID. Trailer bill language to implement this fee increase was excluded from the adopted 2009 Budget Act package to allow further legislative review.

**Staff Comment:** The Legislature may want to conform action on the fee increase to the final action taken on BCPs #1 and #3. The card contract adds approximately \$1 to the current cost of the cards, and the remainder of the new revenue would be attributable to Real ID. While 2009-10 cost would fall below the new revenue, the Administration indicates ongoing cost pressure on the Motor Vehicle Account (MVA). The Administration wants the fee increase to deal with both 2009-10 costs and ongoing cost growth.

**Staff Recommendation:** Staff will reconcile with LAO/DMV/DOF for the actual amount of a fee increase necessary to conform to the action in Issue #1.

<b>Action:</b>
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### 3. Construction or Renovation of State-owned Facilities (BCP #2).

**Background:** The Administration requests \$21.6 million (special funds) in 2009-10 for eight capital outlay projects for state-owned facilities. When future construction costs are added, the total costs for these projects, in 2009-10 through completion, is \$62.6 million. Funding for this BCP was removed from the 2009 Budget Act without prejudice to allow further legislative review.

**Detail:** According to the 2008 California Infrastructure Plan, DMV occupies 98 state-owned facilities, 117 leased facilities, and shares an additional 12 facilities with other state agencies. The Administration generally submits three budget requests over multiple years to complete a State-owned capital outlay facilities project. The first step is preliminary plans, the second step is working drawings, and the third step is construction. The eight projects and phases are as follows:

- **Oakland Field Office Reconfiguration (Working Drawings and Construction):** \$155,000 is requested for working drawings and \$2.1 million is requested for construction – both in 2009-10. The Legislature previously approved \$145,000 for preliminary plans. This project is related to a 2008-09 BCP in order to consolidate the Oakland telephone service center into a new Central Valley facility. With the space opened up in the existing Oakland facility, the DMV would then reconfigure the second floor of the existing Oakland field office to house a DMV Business Service Center.
- **Fresno DMV Field Office Replacement Project (Working Drawings) –** \$1.1 million is requested for working drawings. The Legislature previously approved \$912,000 for preliminary plans. An additional \$18.9 million will be requested in the out-years to fund construction. This project will replace the existing facility at 655 West Olive Avenue that is 46 years old and is deficient in size and does not comply with current safety and accessibility codes. The DMV intends to meet a Leadership in Energy & Environmental Design (LEED) silver certification.
- **Stockton Field Office Reconfiguration (Construction Phase):** \$2.9 million is requested for 2009-10. The Legislature previously approved \$309,000 for preliminary plans and \$310,000 for working drawings. Separately, a new Stockton field office is being constructed, and this BCP converts the existing facility (at 710 North American Street) into a stand-alone driver-safety office.
- **Victorville Field Office Reconfiguration (Construction Phase):** \$3.4 million is requested for 2009-10. The Legislature previously approved \$331,000 for preliminary plans and \$308,000 for working drawings. DMV proposes to address physical infrastructure deficiencies by adding additional production terminals and expanding parking capacity.
- **San Bernardino Field Office Reconfiguration (Construction Phase):** \$2.1 million is requested for 2009-10. The Legislature previously approved \$217,000 for preliminary plans and \$198,000 for working drawings. This project

would add capacity to the existing office by shifting the current dealer vehicle registration workload to leased space and adding additional production terminals and lobby space.

- **Redding Field Office Reconfiguration (Construction Phase):** \$3.0 million is requested for 2009-10. The Legislature previously approved \$258,000 for preliminary plans and \$239,000 for working drawings. This project would add capacity to the existing office by adding additional production terminals and lobby space.
- **Fontana DMV Field Office Replacement Project (Site Acquisition and Preliminary Plans)** – \$4.0 million is requested for site acquisition and preliminary plans. Future out-year budget requests are anticipated at \$756,000 for working drawings and \$12.4 million for construction. This project will replace the existing facility in Fontana with a new building more than twice the size. The existing facility would later be converted into a DMV Business Service Center. The DMV intends to meet a Leadership in Energy & Environmental Design (LEED) silver certification.
- **Roseville DMV Field Office Replacement Project (Site Acquisition and Preliminary Plans)** – \$2.7 million is requested for site acquisition and preliminary plans. Future out-year budget requests are anticipated at \$536,000 for working drawings and \$8.5 million for construction. This project will replace the existing facility in Roseville with a new building more than twice the size. The DMV intends to meet a Leadership in Energy & Environmental Design (LEED) silver certification.

**Staff Comment:** Given the number of aging facilities and growing state population, it is understandable that in any given year, the DMV has a number of facilities projects. The DMV is minimizing costs in many cases by reconfiguring existing facilities instead of building entirely new offices.

A concern this year is the overall economic and budgetary environment. The LAO and the Administration have previously identified approximately \$70 million per year in Motor Vehicle Account revenues that are not restricted by the Constitution and could be transferred to the General Fund. The budget package approved in February did not include this transfer. However, it is possible additional budget solutions may be necessary after the May Revision revenue forecast is released.

**Staff Recommendation:** Adopt the capital outlay BCP. However, DMV should be mindful that the Legislature may have to revisit this BCP given the State's overall cash and budgetary situation.

<b>Action:</b>
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ROBERT DUTTON  
Vice Chair

## *California State Senate*

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DANIEL ALVAREZ

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THE SENATE

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### **Agenda**

#### **Subcommittee #2 Resources, Environmental Protection, Energy, and Transportation**

**November 2, 2009  
Room 4203  
Upon Call of the Chair**

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2009-10 Seventh Extraordinary Session

Hearing on SB 2 (Cogdill)  
Water Bond

#### **I. Presentations by:**

- **Senator Dave Cogdill**
- **Ms. Miriam Ingenito, Department of Finance**

#### **II. Public Comment**

##### Appendices

- A – SB 2 (7<sup>th</sup> Extraordinary Session) Summary and Spending Plan
- B – Overview of General Obligation Bonds and State Bond Debt and SB 2 (7th Extraordinary Session) Debt Service Implications and Considerations
- C – Administration's Cost Share Projections
- D – Administration's Draft Water Bond Cashflow Projection
- E – Administration's Estimated Debt Service Costs Including Water Bond

## Appendix A – SB 2 (7<sup>th</sup> Extraordinary Session) Summary and Spending Plan

SB 2 (7<sup>th</sup> Extraordinary Session, henceforth, SB 2 or “the bill”), would enact the Safe, Clean, and Reliable Drinking Water Supply Act of 2010, and send to the voters for approval at the November 2, 2010, statewide general election a \$9.4 billion bond measure. The bill would also implement a specified strategic plan relating to the sustainable management of the Sacramento-San Joaquin Delta; however, this policy change is not discussed in this document.

SB 2 proposes funding for a variety of purposes, including water supply reliability, delta sustainability, water system operational improvement, conservation and watershed protection, groundwater protection, and water recycling. The allocations are summarized in Figure 1 on page 2 and a brief summary of each is included below; however, a few general provisions of the bill are worth noting here. First, as is somewhat customary, SB 2 caps bond funds available for administrative costs at five percent of the amount awarded to a program. Similarly, the bill places a 10-percent cap on project planning and monitoring costs. Second, the bill specifies that none of the bond funds shall be used to pay for the design, construction, operation, or maintenance of Delta conveyance facilities. Third, SB 2 creates at least two bond issuance “tranches” by authorizing the sale of no more than half of the bonds (\$4.7 billion) before July 1, 2015. Finally, the bill requires non-state cost shares to match many of bond fund allocations (see Appendix C for the Administration’s estimates of local and federal cost shares).

A. **Water Supply Reliability** – The bill provides (1) \$1.1 billion for competitive grants and expenditures to improve integrated regional water management; (2) \$400 million for local conveyance projects; and (3) \$400 million for local drought relief projects.

- 1) **Integrated regional water management** funding is tied to implementation of an adopted integrated regional water management plan (except for \$200 million that is set aside for interregional projects) and requires a 50-percent local cost share unless the project is to benefit a disadvantaged or economically distressed area. The bill specifies the share of \$900 million to be allocated to each of twelve regions. Of the \$200 million set aside for interregional projects, \$50 million is to be used for recreation and fish and wildlife enhancement at State Water Project facilities.
- 2) **Local conveyance projects** must be consistent with an adopted integrated regional water management plan, must provide specified benefits (e.g., mitigate conditions of groundwater overdraft, or improve water security from drought or natural disasters), and require a 50-percent non-state cost share unless the project is to benefit a disadvantaged or economically distressed area.

**Figure 1 – Allocation of Bond Proceeds under SB 2**

<b>Purpose</b>	<b>Amount (in millions)</b>
<b>Water Supply Reliability</b>	<b>\$1,900</b>
<i>Integrated regional water management</i>	<i>(\$1,100)</i>
<i>Local regional conveyance projects</i>	<i>(\$400)</i>
<i>Local drought relief projects</i>	<i>(\$400)</i>
<b>Delta Sustainability</b>	<b>\$2,000</b>
<i>Public benefits – including water supply protection; water flow/quality</i>	<i>(\$500)</i>
<i>Delta protection, conservation, and restoration projects (no lead agency specified)</i>	<i>(\$1,500)</i>
<b>Water System Operational Improvement*</b>	<b>\$3,000</b>
<b>Conservation and Watershed Protection</b>	<b>\$1,500</b>
<i>Invasive species control (Dept of Fish &amp; Game)</i>	<i>(\$65)</i>
<i>Coastal county watersheds (State Coastal Conservancy)</i>	<i>(\$200)</i>
<i>Water for migratory birds (Wildlife Conservation Board)</i>	<i>(\$20)</i>
<i>Protection/restoration of watersheds for endangered and threatened species (Wildlife Conservation Board)</i>	<i>(\$100)</i>
<i>Various conservancies (various conservancies)</i>	<i>(\$400)</i>
<i>Forest fuel reduction (Department of Forestry &amp; Fire Protection)</i>	<i>(\$100)</i>
<i>Klamath River dam removal (Resources Agency)</i>	<i>(\$250)</i>
<i>Siskiyou County economic development (BT&amp;H Agency)</i>	<i>(\$10)</i>
<i>Waterfowl habitat (Dept of Fish &amp; Game)</i>	<i>(\$5)</i>
<i>Salmon fish passage (Resources Agency)</i>	<i>(\$60)</i>
<i>Unallocated</i>	<i>(\$290)</i>
<b>Groundwater Protection and Water Quality</b>	<b>\$500</b>
<i>Groundwater cleanup for drinking water (Dept Public Health)</i>	<i>(\$170)</i>
<i>Disadvantaged communities (Dept of Public Health)</i>	<i>(\$45)</i>
<i>Small community wastewater treatment (State Water Resources Control Board – SWRCB)</i>	<i>(\$95)</i>
<i>Stormwater management (SWRCB)</i>	<i>(\$145)</i>
<i>Ocean protection (State Coastal Conservancy)</i>	<i>(\$45)</i>
<b>Water Recycling</b>	<b>\$500</b>
<i>Water recycling projects</i>	<i>(\$250)</i>
<i>Water conservation and efficiency</i>	<i>(\$250)</i>
<b>Total</b>	<b>\$9,400</b>

\*Continuously appropriated to the California Water Commission (all other amounts subject to legislative appropriation to the Department of Water Resources (DWR) unless an alternative lead agency is identified).

- 3) **Local drought relief projects** must be consistent with an adopted integrated regional water management plan, and must include one or more of certain specified types of projects (e.g., water efficiency and conservation projects, water recycling and related infrastructure, stormwater capture, or groundwater cleanup). Additionally, projects must provide a sustainable water supply that does not contribute to groundwater overdraft or increase surface diversion, and must be capable of being operational within two years of receiving funding. Applicants that can demonstrate substantial past and current investments in conservation and local water projects are to receive funding preference; however, a 50-

percent non-state cost share is also required unless the project is to benefit a disadvantaged or economically distressed area (with no more than \$50 million eligible to be awarded to disadvantaged communities and economically distressed areas experiencing economic impacts from drought and from disruptions in delivery from the State Water Project and the federal Central Valley Project). For the purposes of this pot of funds, the bill specifies that “drought relief projects” include those that mitigate the impacts of reduction in Delta diversions.

B. **Delta Sustainability** – The bill provides (1) \$500 million for projects that provide public benefits and support Delta sustainability options; (2) \$1.5 billion for Delta protection, conservation, and restoration projects.

1) **Projects that provide public benefits and support Delta sustainability options**, include projects and supporting scientific studies and assessments that meet specified requirements (e.g. improve levee and flood control facilities; or assist in preserving economically viable and sustainable agriculture and economic activities in the Delta; or provide or improve water quality facilities and other infrastructure). Project grant awardees may include Delta counties and cities. The bill specifies that at least \$50 million is to be available for matching grants for improvements to wastewater treatment facilities upstream of the Delta to improve Delta water quality. Additionally, a project receiving funding from this pot would only be eligible for other bond funding pursuant to SB 2 to the extent that combined state funding from this pot did not exceed 50 percent of total projects costs.

2) **Delta protection, conservation, and restoration project** funds are intended to enhance the sustainability of the Delta ecosystem and, among other things, may develop and implement the Bay Delta Conservation Plan, reduce greenhouse gas emissions from exposed delta soils, or reduce the impacts of mercury contamination of the Delta and its watersheds. Funds are to be made available to, among other entities, the Sacramento-San Joaquin Delta Conservancy (subject to its establishment in other legislation).

C. **Statewide Water System Operational Improvement** – The bill continuously appropriates \$3 billion to the California Water Commission (Commission) for public benefits associated with water storage projects that: (1) improve the operation of the state water system; (2) are cost effective; and (3) provide a net improvement in ecosystem and water quality conditions. The Commission is to develop and adopt, by regulation, methods for quantification and management of “public benefits,” in consultation with DWR, the Department of Fish and Game, and the SWRCB. Eligible public benefits include, but are not limited to, ecosystem improvements such as temperature and flow



improvements, water quality improvements in the Delta or other river systems, flood control benefits, or recreational purposes.

Project selection is to be competitive and based on a public process that ranks potential projects based on the expected return-on-investment as measured by the magnitude of certain public benefits criteria, as specified. Eligible projects include: (1) surface storage projects identified in the CALFED Bay-Delta Program Record of Decision (ROD), dated August 28, 2000; (2) groundwater storage projects and groundwater contamination prevention or remediation projects that provide water storage benefits; (3) conjunctive use and reservoir reoperation projects; and (4) local and regional surface storage projects that improve the operation of water systems in the state and provide public benefits.

Other funding requirements for water system operational improvement projects include the following:

- No project may be funded that does not provide ecosystem improvements that are at least 50 percent of total public benefits.
- By January 1, 2018, a project must meet all of the following conditions to be eligible for funding: (1) all feasibility studies are complete and draft environmental documentation is available to the public; (2) the Commission finds the project is feasible and will advance certain long-term objectives in the Delta; and (3) commitments are in place for not less than 75 percent of the nonpublic benefit cost share of the project. If a project fails to meet these conditions in a timely manner because of litigation, the Commission must extend the deadline accordingly.
- Except for the costs of environmental documentation and permitting, no funds are to be made available for projects before December 15, 2012.
- Except for environmental documentation and permitting projects (mentioned above), the public benefit cost share of the project may not exceed 50 percent of total costs.

The bill also specifies that:

- A joint powers authority subject to this section of the bill shall own, govern, manage, and operate a surface storage project.
- Surface storage projects receiving funding may be made a unit of the Central Valley Project.
- Funds approved for surface water storage projects consistent with the CALFED Program ROD, dated August, 2000, may be provided to local joint powers authorities, as specified.

Finally, this chapter of the bill (addressing statewide water system operational improvements) may only be amended by voter approval or a two-thirds vote of both houses of the Legislature.

D. **Conservation and Watershed Protection** – The bill provides \$1.5 billion for watershed protection and restoration projects to be allocated to each of at least 11 different pots (as detailed below), and requires that amounts allocated to projects in certain watersheds must be used in a manner consistent with specified plans or programs associated with that watershed.

- 1) **Invasive species control** funding (\$65 million) is to be administered by the Department of Fish and Game, with \$35 million to be made available for grants to public agencies to pay for capital expenditures associated with invasive species control (e.g., chlorination facilities, habitat modifications, or monitoring equipment). The bill also specifies that the California Conservation Corps or community conservation corps are to be used for restoration and ecosystem protection projects whenever feasible.
- 2) **Coastal county watersheds** funding (\$200 million) is to be administered by the State Coastal Conservancy, with not less than \$20 million to be made available for grants to San Diego County and \$20 million for the Santa Ana River Parkway.
- 3) **Water for migratory birds** funding (\$20 million) is to be administered by the Wildlife Conservation Board (WCB)—either directly or via grants—for acquisition of water rights and the conveyance of water for the benefit of migratory birds on wildlife refuges and wildlife habitat areas (subject to applicable federal laws). The bill specifies that all costs associated with acquisition of water rights by the WCB must be paid out of the funds designated for the WCB (i.e., no other funding streams may be used to supplement the costs of acquisitions funded by this bond).
- 4) **Protection/restoration of watersheds for endangered and threatened species** funding (\$100 million) is to be administered by the WCB consistent with specified portions of the Fish and Game Code (including requirements to implement or develop a natural community conservation plan).
- 5) **Various conservancies** are to receive specified portions of a \$400 million allocation. The allotments are as follows:
  - \$75 million to the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy and the Santa Monica Mountains Conservancy (for projects in the San Gabriel and Los Angeles River watersheds subject to the San Gabriel and Los Angeles River

Watershed and Open Space Plan and/or the Los Angeles River Revitalization Master Plan)

- \$10 million to the Baldwin Hills Conservancy
- \$15 million to Santa Monica Bay watershed projects
- \$50 million to the State Coastal Conservancy (for coastal salmon restoration projects)
- \$100 million to the Lake Tahoe Conservancy (for the Lake Tahoe Environment Improvement Program)
- \$75 million to the Sierra Nevada Conservancy (for various purposes, as specified)
- \$75 million to Salton Sea restoration projects

6) **Forest fuel reduction** funding (\$100 million) is to be administered by the Department of Forestry and Fire Protection for direct expenditures or grants for fuel treatment and forest restoration projects to protect watersheds tributary to dams or reservoirs from adverse impacts of fire and erosion, to promote forest health in those watersheds, to protect life and property, to provide for climate change adaptation, and reduce total wildfire costs and losses. The funds are to be allocated as follows:

- \$67 million for technical assistance and grants to public agencies and nonprofits for the purpose of fuel treatment.
- \$25 million for technical assistance and grants and loans for fuel treatment and reforestation projects to eligible landowners, as specified, consistent with the California Forest Improvement Act of 1978.

7) **Klamath River dam removal** funding (\$250 million) is to be available if, and when, a dam removal agreement has been executed between the relevant parties, appropriate determinations have been made by California, Oregon, and the United States under the agreement, ratepayer funds required by the agreement have been authorized and provided, and all other agreement conditions have been met.

8) **Siskiyou County economic redevelopment** funding (\$10 million) is to be available, with up to an additional \$10 million available to the county upon submission of materials to the Secretary of Business, Transportation and Housing Agency demonstrating that more is necessary to offset the removal of the dams.

9) **Water fowl habitat** funding (\$5 million) is to be administered by the Department of Fish and Game for the purposes of implementing the California Waterfowl Habitat Program, the California Landowner Incentive Program, and the Permanent Wetland Easement Program.

10) **Salmon fish passage** funding (\$60 million) is to be administered by the Natural Resources Agency for specified projects authorized in the Central Valley Project Improvement Act that improve salmonid fish passage in the Sacramento River watershed.

11) The bill leaves \$290 million of the monies for conservation and watershed protection **unallocated**.

E. **Groundwater Protection and Water Quality** – The bill provides \$500 million for groundwater protection and water quality, including: (1) \$170 million for groundwater cleanup for drinking water; (2) \$45 million for safe drinking water in disadvantaged communities; (3) \$95 million for wastewater treatment in small communities; (4) \$145 million for stormwater management; and (5) \$45 million for ocean protection.

1) **Groundwater cleanup for drinking water** funding is to be administered by the Department of Public Health (DPH) for direct expenditures, grants, and loans for projects to prevent or reduce contamination of groundwater that serves as a source of drinking water. Projects are to be prioritized based on the threat posed by the contamination, the potential for it to spread, the potential of the project to enhance the local water supply reliability, and the potential of the project to increase opportunities for groundwater recharge and optimization of groundwater supplies. The bill requires the DPH give special consideration to other specified factors (e.g., the need to import water in the absence of remediation; or the degree to which the project will serve and economically disadvantaged or distressed community).

Of the \$170 million available in this section of the bill, \$130 million is to be allocated as follows:

- \$80 million to projects that meet all other requirements, but also: (1) are part of a basinwide management and remediation plan for which federal funds have been allocated; and (2) the project addresses contamination identified on lists maintained by the Department of Toxics Substances Control or the National Priorities List, as specified.
- \$50 million to the DPH for grants and direct expenditures to finance emergency and urgent actions on behalf of disadvantaged and economically distressed communities to ensure safe drinking water supplies.

2) **Safe drinking water in disadvantaged communities** funding is to be administered by DPH for grants and direct expenditures to finance emergency and urgent actions on behalf of disadvantaged communities to ensure that safe drinking water supplies are available.

- 3) **Small community wastewater treatment** funding is to be administered by the SWRCB for grants for small community wastewater treatment projects to protect water quality that meet the following criteria: (1) the project is for specified wastewater treatment infrastructure; (2) the project will service a community of no more than 20,000 people; and (3) the project meets other standards that may be established by the SWRCB.
- 4) **Stormwater management** funding is to be administered by the SWRCB for competitive grants and loans for stormwater management and water quality projects that assist in compliance with total maximum daily load implementation plans are consistent with all applicable waste discharge permits. Eligible projects include facilities and infrastructure (e.g., detention and retention basins; dry weather diversion facilities, trash filters, and screens; or treatment wetlands creation and enhancement). Competitive grants shall be considered based on the following criteria:
  - Water quality benefits
  - Cost effectiveness
  - Public health benefits

Except for disadvantaged and economically distressed communities, the projects must provide at least a 50 percent local cost share for grants funds. Finally, local public agencies and joint powers authorities are eligible recipients.

- 5) **Ocean protection** funding is to be administered by the State Coastal Conservancy for projects that meet the requirements of the California Ocean Protection Act, with funds to be allocated by the Ocean Protection Council to public agencies for projects to protect and improve water quality in areas of special biological significance.

F. **Water Recycling** – The bill provides \$500 million for water recycling, including: (1) \$250 million for water recycling and advanced treatment technology projects; and (2) \$250 million for water conservation and efficiency projects and programs.

- 1) **Water recycling** and advanced treatment technology funding is to be available for grants and loans for projects including, but not limited to, contaminant and salt removal projects, dedicated distribution infrastructure for recycled water, and groundwater recharge infrastructure related to recycled water. Projects are to be selected on a competitive basis considering specified criteria, such as water supply reliability improvement, water quality and ecosystem benefits related to decreased reliance on diversion from the Delta or instream flows, and cost effectiveness.

Not less than 40 percent of the funds are to be available for grants for advanced treatment projects that produce at least 10,000 acre feet of water per year, and projects must have at least a 50-percent local cost share (except for disadvantaged or economically distressed communities).

- 2) **Water conservation and efficiency** funding is to be available for direct expenditures, grants, and loans for urban, and agricultural projects and programs including, as specified. For urban/regional conservation projects and programs, priority is to be given for various specified reasons, including whether a conservation effort is not otherwise locally cost-effective. Grants and loans are to be awarded in a competitive process that considers as primary factors the local and statewide conservation and water use efficiency benefits of the measures proposed. Additionally, agencies that are required to implement only limited conservation requirements under specified law are not eligible for this funding.

## **Appendix B – Overview of General Obligation Bonds and State Bond Debt and SB 2 (7<sup>th</sup> Extraordinary Session) Debt Service Implications and Considerations**

**Overview.** Bond financing is a type of long-term borrowing that the state uses to raise money for various purposes. The state obtains this money by selling bonds to investors and, in exchange, agrees to repay the investors their money, with interest, according to a specified schedule. This approach is traditionally used to finance major capital outlay projects (e.g., roads, educational facilities, prisons, parks, water projects, and office buildings)—projects that generally provide services over many years, but whose up-front costs can be difficult to pay for all at once.

General obligation bonds (GO bonds) must be approved by the voters and are most often paid off from the state’s General Fund, which is largely supported by tax revenues. Because GO bonds are guaranteed by the state’s general taxing power, they provide investors with greater certainty of return on their investment, and generally require a lower interest rate, compared to other debt instruments available to the state (e.g., lease-revenue bonds or traditional revenue bonds). However, GO bond repayments are essentially the first funding priority of the General Fund and, for this reason, bonded debt service takes precedence over other spending priorities, be they education, health, social services, prisons, etc.

**SB 2 Debt Service Implications and Considerations.** The state’s cost for using bonds depends on a number of factors, including the amount sold, their interest rates, the time period over which they are repaid, and their maturity structure, but a useful rule of thumb is that each \$1 borrowed will cost the state about \$2 (assuming a bond issue carries a tax-exempt interest rate of 5 percent and level payments are made over 30 years). This cost, however, is spread over a 30-year period, so the cost after adjusting for inflation is more like \$1.30 for each \$1 borrowed. Thus, unadjusted for inflation, the \$9.4 billion bond contained in SB 2xxxxxxx (henceforth, SB 2 or “the bill”) would cost the state roughly \$18.8 billion over the next 30 years (or \$12.2 billion adjusted for inflation—that is, in “2009 dollars”), requiring annual payments in the neighborhood of \$600 million to \$675 million.

To put this in the larger context, according to the latest data from the Department of Finance (DOF), total annual debt service for the current fiscal year (2009-10) is approximately \$6 billion. This equates to a debt-service ratio (DSR) of approximately 6.7 percent—meaning that \$6.70 out of every \$100 in annual state revenue must be set aside for debt-service payments on bonds. Recognizing that there is currently over \$130 billion of outstanding bonds and authorized, unissued bonds, and making certain assumptions about their future issuance, DOF estimates that in the absence of additional bond authorizations (e.g., SB 2),

the state's DSR will continue to rise for several more years before peaking at around 9.4 percent of revenues, in fiscal year 2014-15 (see Figure 1 below).

By way of comparison, based on the cashflow projections contained in Appendix D, the DOF projects the \$9.4 billion in water bonds proposed under SB 2 would push peak DSR to about 9.5 percent in 2014-2015, a debt burden increase in that year of about 1.5 percent compared to the "allow present trends to continue" scenario. Although, assuming no other bond authorizations, the DSR would begin to decline after 2014-15, staff notes that the "present trends continuing" scenario would see a more rapid decline, whereas the DOF projections for SB 2 would result in a long-term DSR increase of around 7 percent for the remainder of the forecast period. This trend can be seen more graphically in Appendix E.

<b>Projected Infrastructure Debt-Service Ratios (DSRs)</b>					
<i>(Dollars in Millions)</i>					
	General Fund Revenues <sup>a</sup>	Authorized Debt		With SB 2xxxxxxx (Water Bond)	
		Debt Service	DSR	Additional Debt Service	DSR
2009-10	88,805	5,945	6.69%	-	6.69%
2010-11	90,656	6,877	7.59%	-	7.59%
2011-12	87,951	7,549	8.58%	4	8.59%
2012-13	95,049	8,121	8.54%	26	8.57%
2013-14	99,801	9,208	9.23%	78	9.30%
2014-15	104,791	9,825	9.38%	149	9.52%
2015-16	110,031	10,054	9.14%	228	9.34%
2016-17	115,532	10,254	8.88%	326	9.16%
2017-18	121,309	10,461	8.62%	427	8.97%
2018-19	127,374	10,239	8.04%	523	8.45%
2019-20	133,743	10,170	7.60%	607	8.06%
2020-21	140,430	9,907	7.06%	650	7.52%
2021-22	147,452	9,831	6.67%	677	7.13%
2022-23	154,824	9,862	6.37%	677	6.81%
2023-24	162,565	9,227	6.01%	677	6.43%
2024-25	170,694	9,789	5.73%	677	6.13%
2025-26	179,228	9,770	5.45%	677	5.83%
2026-27	188,190	9,455	5.02%	677	5.38%
2027-28	197,599	9,459	4.79%	677	5.13%
2028-29	207,479	9,330	4.50%	677	4.82%

<sup>a</sup> DOF projections.

The DSR is often used as a general indicator of a state's debt burden and provides a helpful perspective on the affordability of debt; however, it is important to note that there is no "right" level for the DSR. Rather, the right level depends on such things as the state's preferences for infrastructure versus other priorities, and its overall budgetary condition. The critical thing to bear in mind is that each additional dollar of debt service out of a given amount of revenues comes at the



expense of a dollar that could be allocated to some other program area. Thus, the “affordability” of more bonds has to be considered not just in terms of their marketability and the DSR, but also in terms of whether the dollar amount of debt service can be accommodated on both a near- and long-term basis within the state budget.

Appendix C – Administration’s Cost Share Projections

Proposed Water Bond  
October 2009

Funding Category	State GO Bond	Fed / Local Cost Share	Total Investment
(\$ millions)			
Chapter 6. Water Supply Reliability	\$1,900	\$7,600	\$9,500
Chapter 7. Delta Sustainability	\$2,000	\$2,000	\$4,000
Chapter 8. Statewide Water System Operational Improvement	\$3,000	\$5,000	\$8,000
Chapter 9. Conservation and Watershed Protection	\$1,500	\$1,500	\$3,000
Chapter 10. Groundwater Protection and Water Quality	\$500	\$1,500	\$2,000
Chapter 11. Water Recycling and Advanced Treatment Technology	\$500	\$2,000	\$2,500
<b>Totals</b>	<b>\$9,400</b>	<b>\$19,600</b>	<b>\$29,000</b>

## Appendix D – Administration’s Draft Water Bond Cashflow Projection

October 12, 2009

Component	Bond Issuance	FY 11-12	FY 12-13	FY 13-14	FY 14-15	FY 15-16	FY 16-17	FY 17-18	FY 18-19	FY 19-20	FY 20-21	TOTAL
\$'s in Thousands												
<b>Water Supply Reliability</b>	<b>56,875</b>	<b>105,000</b>	<b>206,875</b>	<b>235,000</b>	<b>210,000</b>	<b>160,000</b>	<b>210,000</b>	<b>210,000</b>	<b>160,000</b>	<b>70,000</b>	<b>1,250</b>	<b>1,625,000</b>
Admin		5,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	5,000	1,250	
Grants												
Water supply projects				150,000	150,000	100,000	150,000	150,000	150,000	65,000		
Local and regional conveyance			24,500	50,000	50,000	50,000	50,000	50,000				
Drought relief projects		100,000	172,375	25,000								
<b>Delta Sustainability</b>	<b>78,750</b>	<b>70,000</b>	<b>150,000</b>	<b>150,000</b>	<b>150,000</b>	<b>294,000</b>	<b>300,000</b>	<b>300,000</b>	<b>300,000</b>	<b>257,250</b>	<b>200,000</b>	<b>2,250,000</b>
Sustainability projects		20,000	50,000	50,000	50,000	100,000	100,000	100,000	100,000	57,250		
Ecosystem restoration and enhancement		50,000	100,000	100,000	100,000	194,000	200,000	200,000	200,000	200,000	200,000	
<b>Statewide Water System Operational Improvement</b>	<b>105,000</b>	<b>15,000</b>	<b>38,000</b>	<b>270,000</b>	<b>350,000</b>	<b>600,000</b>	<b>600,000</b>	<b>522,000</b>	<b>500,000</b>			<b>3,000,000</b>
<b>Conservation and Watershed Protection</b>	<b>52,500</b>	<b>20,000</b>	<b>150,000</b>	<b>157,500</b>	<b>160,000</b>	<b>160,000</b>	<b>160,000</b>	<b>160,000</b>	<b>160,000</b>	<b>160,000</b>	<b>160,000</b>	<b>1,500,000</b>
<b>Groundwater Protection and Water Quality</b>	<b>27,125</b>	<b>5,000</b>	<b>55,000</b>	<b>65,000</b>	<b>75,000</b>	<b>75,000</b>	<b>75,000</b>	<b>97,875</b>	<b>100,000</b>	<b>100,000</b>	<b>100,000</b>	<b>775,000</b>
<b>Water Recycling and Advanced Treatment Technologies</b>	<b>12,250</b>	<b>4,000</b>	<b>25,000</b>	<b>25,000</b>	<b>25,000</b>	<b>25,000</b>	<b>33,750</b>	<b>50,000</b>	<b>50,000</b>	<b>50,000</b>	<b>50,000</b>	<b>350,000</b>
	<b>332,500</b>	<b>219,000</b>	<b>624,875</b>	<b>902,500</b>	<b>970,000</b>	<b>1,314,000</b>	<b>1,378,750</b>	<b>1,339,875</b>	<b>1,270,000</b>	<b>637,250</b>	<b>511,250</b>	<b>9,500,000</b>
												<b>9,500,000</b>
	332,500				2,716,375						6,451,125	

Appendix E – Administration’s Estimated Debt Service Costs Including Water Bond

