Senator Lois Wolk, Chair
Senator Jim Nielsen
Senator Fran Pavley

Thursday, April 23, 2015
9:30 a.m. or Upon Adjournment of Session
Hearing Room 112

Consultant: Catherine Freeman

Departments Proposed for Vote-Only

Departments Proposed for Discussion

Resources—Environmental Protection—Energy—Transportation

ITEMS PROPOSED FOR VOTE ONLY

Staff Comment: Staff recommends approval of the vote-only items. These include technical budget adjustments requested through April Finance Letters.

3100 California Science Center and Exposition Park

1. **African American Museum.** Request for$176,000 ($115,000 one-time), from the Exposition Park Improvement Fund, to improve energy and water use efficiency, and to increase museum safety and security.

2. **Exposition Park Public Safety Staffing Augmentation.** Request for $1.4 million (Exposition Park Improvement Fund), to continue management of the Department of Public Safety by the California Highway Patrol.

3110 Tahoe Regional Planning Agency

3. **Invasive Species Program.** Request for $375,000 (Harbors and Watercraft Revolving Fund) to continue a bi-state invasive species boat inspection program at Lake Tahoe.

(Multiple departments) Secretary for Natural Resources

4. **Negative Bond Allocation Adjustments.** The Secretary requests technical reversions, item elimination and technical adjustments for the Secretary for Natural Resources, Tahoe Conservancy, State Coastal Conservancy, Santa Monica Mountains Conservancy, Sierra Nevada Conservancy to avoid negative bond allocation balances.

3460 Colorado River Board

5. **Reimbursement Increase.** The Colorado River Board requests $166,000 (reimbursement authority), to support program growth, rent obligations, and travel costs. Reimbursements are paid by local agencies that are members of the board.

3940 State Water Resources Control Board

6. **Negative Bond Allocation Adjustments.** The State Water Resources Control Board requests a technical bond allocation adjustment to reduce Item 3940-101-6029 by $7.4 million to avoid negative bond allocation balances.

VOTE (Items 1-6):

State Conservancies

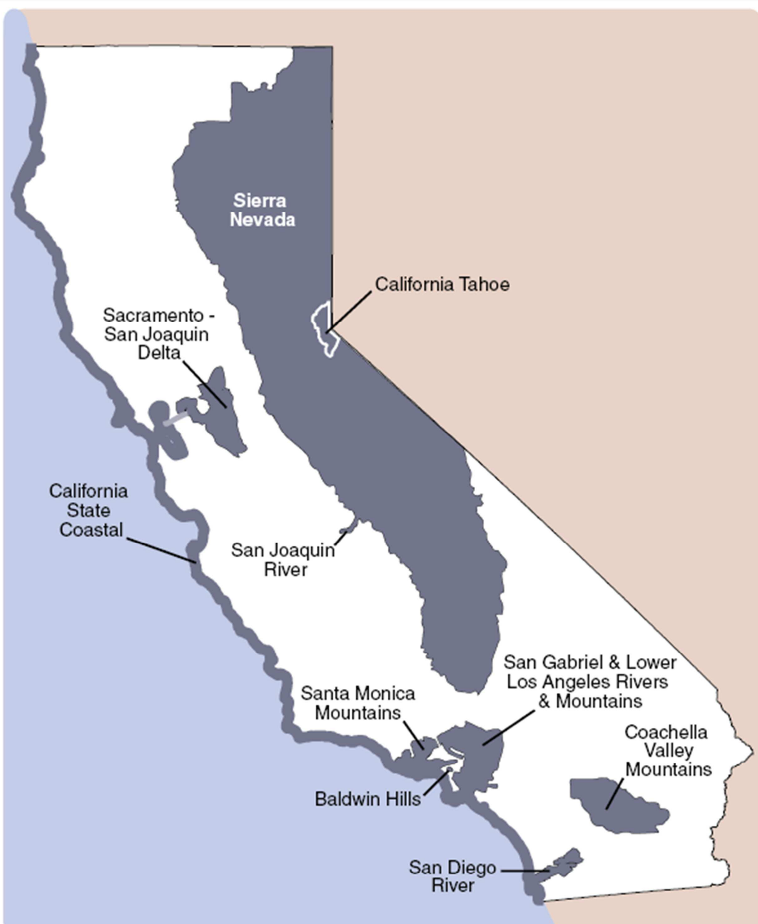
The Secretary for Natural Resources oversees ten state conservancies and a variety of special programs. In general, these conservancies and programs provide the state with land acquisition, land management, ecosystem restoration services, and visitor services.

1. Proposition 1

Background. The passage of Proposition 1 in 2014 continues the use of bond funds as the primary source of state funding for water–related programs. Specifically, the proposition provides a total of $7.5 billion in general obligation bonds for various programs. Of this total, $425 million is redirected from unsold bonds that voters previously approved for water and other environmental purposes.

Figure 2

State Conservancies



The bond provides $1.5 billion for various projects intended to protect and restore watersheds and other habitat throughout the state. This funding could be used to restore bodies of water that support native, threatened, or endangered species of fish and wildlife; purchase land for watershed conservation purposes; reduce the risk of wildfires in watersheds; and purchase water to support wildlife. These funds include: $328 million for ten state conservancies and the Ocean Protection Council, as well as $100 million for the LA River, with multiple conservancies eligible for funding. The funding is described in the figure on page four.

Figure courtesy of the Legislative Analyst's Office (2015).

Process for Selecting Projects. Projects funded under Proposition 1 would generally be selected on a competitive basis. The measure specifies a process for administering departments to follow when developing guidelines for competitive grants. For example, Proposition 1 requires that such guidelines include monitoring and reporting requirements and be posted on the website of the California Natural Resources Agency (CNRA). Administering departments must hold three public meetings before finalizing their grant guidelines. Upon adoption, copies of the guidelines must be sent to the Legislature. In some cases, such as projects implemented directly by state departments, a competitive grant process is not required.

Types of Projects Eligible for Bond Funds. The measure provides direction on the types of projects that are eligible for bond funding. In many cases, the eligible uses are broad enough to encompass a wide variety of projects. For instance, the funding for watershed protection and restoration can go to a broad range of projects as long as they provide multiple benefits (such as improved water quality and habitat health) consistent with statewide priorities. Under the measure, the Legislature can provide state departments with additional direction on what types of projects or programs could be chosen (whether through a competitive or other process) through statute. However, the measure states that the Legislature cannot allocate funding to specific projects. Instead, state departments will choose the projects. In addition, the measure specifically prohibits funding a canal or tunnel to move water around the Delta.

Budget Proposal. The Governor's budget includes $84 million and 13 positions for ten state conservancies and for the Ocean Protection Council to conduct restoration and habitat conservation work. Potential projects include the acquisition and restoration of tidal wetlands, implementation of the Lake Tahoe Environmental Improvement Program, and completion of components of the San Joaquin River restoration. The budget also includes $19 million for the San Gabriel and Santa Monica Mountains Conservancies to implement restoration projects along the Los Angeles River and its tributaries. The figure on the next page shows the allocation to each conservancy.

Staff Comments. Staff concurs with the request for funding. However, questions have been raised about the bond language specifying how funding from the conservancies will be allocated. The bond allows for a competitive process for projects. Concerns have been raised about (1) the ability of conservancies to assist project proponents with the development of projects—a common practice among conservancies which may not be possible in a competitive process; and, (2) the ability of conservancies to direct acquisitions on behalf of the state. The bond allows the Legislature to provide direction to conservancies and the Natural Resources Agency should the need arise. Staff recommends the subcommittee consider trailer bill language providing guidance to the conservancies on the allowable use of bond funds.

Proposition 1 Proposals for Conservancy Restoration Projects
(Dollars in Millions)

		Proposed in 2015–16	
	Bond Allocation	Amount	Percent of Total
State Coastal Conservancy	$101	$15	15%
Delta Conservancy	50	10	20
Ocean Protection Council	30	10	32
San Gabriel Conservancy	30	10	34
Santa Monica Mountains Conservancy	30	4	14
Sierra Nevada Conservancy	25	10	41
San Diego River Conservancy	17	3	18
California Tahoe Conservancy	15	14	94
Baldwin Hills Conservancy	10	2	21
Coachella Valley Mountains Conservancy	10	3	25
San Joaquin River Conservancy	10	3	28
Totals	**$328**	**$84**	**26%**

Questions for the Administration.

- How will the Administration address concerns that conservancies may not be able to provide assistance to project proponents within competitive grant programs?
- Are conservancies able to continue their land acquisition programs with the Proposition 1 funding?

Staff Recommendation: Approve funding as proposed. Adopt trailer bill language allowing conservancies to:

(1) directly acquire land or any interests therein for purposes of the bond and directly restore publically owned land through competitive processes; and

(2) provide technical assistance to potential grantees in rural or underserved communities to improve the quality and cost-effectiveness of their proposals.

Vote:

3640 Wildlife Conservation Board

The Wildlife Conservation Board (WCB) protects, restores and enhances California's natural resources for wildlife, and for the public's use and enjoyment, in partnership with conservation groups, government agencies and the people of California.

Governor's Budget. The Governor's budget proposes $46.5 million for support of the board, mainly for new programs authorized by the passage of Proposition 1 in November 2014.

EXPENDITURES BY FUND (in thousands)

Fund	Actual 2013-14	Estimated 2014-15	Proposed 2015-16
Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Fund	$495	$-	$-
California Environmental License Plate Fund	262	288	329
Habitat Conservation Fund	18,579	338	338
Wildlife Restoration Fund	1,988	1,893	1,827
Reimbursements	105	110	110
California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund	4,194	758	759
Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002	7,781	686	687
Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Fund of 2006	20,294	792	792
Water Quality, Supply, and Infrastructure Improvement Fund of 2014	-	-	41,691
	$53,698	**$4,865**	**$46,533**

Items Proposed for Vote-Only

1. **Technical Adjustment.** The Governor's budget requests a decrease of $387,000 to correct the annual transfer to the Habitat Conservation Fund in order to meet the required amount authorized by law.

2. **Habitat Conservation Fund Transfers and Reappropriations.** The budget requests $795,000 to provide for the transfer of unliquidated balances of funds that reverted from prior transfers to the Habitat Conservation Fund. This includes a technical reappropriation.

3. **Wildlife Restoration Fund—Minor Capital Outlay.** The budget proposes $1 million (Wildlife Restoration Fund) to continue the board’s public access program according to schedule.

4. **Proposition 12 Reappropriation.** The budget requests a $1.5 million reappropriation from Proposition 12 unencumbered bond funds to continue activities authorized by the bond, including restoration, protection of habitat or habitat corridors, and implementation of Natural Communities Conservation Plans.

Staff Recommendation: Approve Items 1-4.

Vote:

Items Proposed for Discussion

2. Proposition 1 Bond Funds

Background. The passage of Proposition 1 continues the use of bond funds as the primary source of state funding for water–related programs. Specifically, the proposition provides a total of $7.5 billion in general obligation bonds for various programs. Of this total, $425 million is redirected from unsold bonds that voters previously approved for water and other environmental purposes.

The bond provides $200 million to the WCB to increase the amount of water flowing in rivers and streams (such as by buying water).

Budget Proposal. The budget provides $39 million and 4.5 positions (two limited–term) for the WCB to implement a program aimed at increasing stream flow. Activities could include purchasing long–term water transfers (at least 20 years) to reserve them for instream flows, implementing irrigation efficiency improvements that allow additional water to be left instream, and wetland restoration projects.

LAO Assessment: The LAO provides this assessment of the bond allocations that are germane to the WCB allocation:

> **Defining Private and Public Benefits.** Most activities in the economy result in private benefits paid for by private entities, such as the purchase of goods and services. Private benefits can also include activities required to meet legal obligations, such as regulatory requirements. This is because meeting these requirements enables entities to perform other activities (such as building a desired project) that provide a direct private benefit to the regulated entity.
>
> However, as discussed earlier, Proposition 1 intends that the investment of public funds result in the greatest public benefit. A public benefit is generally thought of as something that does not have clear private beneficiaries, or where it is too difficult to identify and charge the direct beneficiaries for the good or service. For example, protecting habitat for fish and wildlife generally provides public benefits because it is not feasible to allocate the costs of that activity to direct beneficiaries.
>
> A given activity rarely results in only private or public benefits. This is because many programs and projects provide both private and public benefits simultaneously. For example, a given water storage project provides private benefits to the people receiving the water and also provides public benefits because it reduces flood risk for a downstream city. In addition, the extent to which an activity has public or private benefits depends on the specific circumstances. For example, when a dam releases water, that activity may have private benefits at some times (such as when the water is needed to meet regulatory requirements), but public benefits at other times (such as when the water released is above and beyond regulatory requirements to provide additional benefits for fish species).

Funding State–Level Public Benefits. In our view, state funds should only be used to support those activities that provide state–level public benefits. State–level public benefits provide value to the people of California as a whole, rather than specific local or regional communities, and thus should be paid for by the state. For example, it is more appropriate for the state to fund restoration at sites of statewide interest (such as Lake Tahoe) than a local park. In many cases, the same activity can have both state–level and local– or federal–public benefits. For example, restoring habitat to protect fish species that are legally protected by both the state and federal governments would provide both state– and federal–level public benefits. In such cases, state funds should only be used for the portion of the project that provides the state–level benefit, and other levels of government should provide funds for the portion of projects that benefit them directly. We note that the bond prioritizes projects that leverage non–state funding sources, such as local and federal funds.

Generating More Benefits Than Would Otherwise Occur. An important consideration when spending Proposition 1 funds is ensuring that the benefits of the funded projects are "additional." This means that the projects provide benefits above what would have been achieved in the absence of state spending and that such benefits would not be provided by private parties or other levels of government. For example, if a water district already has plans to evaluate its pipes for leaks to reduce their water loss, the state should not use its limited funds to support that activity.

Limiting Bond Funds to Projects With Long–Term Benefits. As a general principle, general obligation bonds should be used for the construction and acquisition of capital improvements as well as associated planning costs. Directing bond funds on long–term capital improvements ensures that bond spending provides benefits over many years. It also ensures that funded projects have a lifespan that is consistent with the repayment schedule for the bonds that fund them, so that future taxpayers do not bear the cost of projects that do not benefit them. Generally, projects that provide shorter–term benefits or that are small–scale and routine in nature are more appropriately funded through ongoing, pay–as–you–go funding sources rather than long–term bonds.

Staff Comments. Staff concurs with the request for funding. How the WCB decides to allocate funding for instream flows will be critical as the drought continues. Staff has concerns about the rising price of water, the long-term nature of the public benefit for water transfers, and the need for transparency as these instream flows are allocated.

Questions for the Administration.

- What will be the process for allocation of the instream flow funding?

- Will the Administration's approach consider long-term benefits to the state and, if so, what are these benefits and how far out will the board be looking?

- Given the drought, it is possible that the board will be evaluating proposals that include inflated pricing? If so, how will the board address these concerns?

Staff Recommendation: Approve budget item as proposed.

Vote:

3360 California Energy Commission

The Energy Resources Conservation and Development Commission (commonly referred to as the California Energy Commission or CEC) is responsible for forecasting energy supply and demand; developing and implementing energy conservation measures; conducting energy-related research and development programs; and siting major power plants.

Governor's Budget. The Governor's budget includes $423 million (no General Fund) for support of the CEC, a decrease of approximately $363 million, due primarily to the phasing down of the Public Interest Energy Research (PIER) Program and the Renewable Resources Trust Fund (RRTF), and the one-time allocation of funds to the Electric Program Investment Charge.

EXPENDITURES BY PROGRAM (in thousands)

Program	Actual 2013-14	Estimated 2014-15	Proposed 2015-16
Regulatory and Planning	$35,150	$40,723	$40,829
Energy Resources Conservation	32,912	74,532	55,727
Development	174,042	670,860	326,617
Administration	19,925	25,528	25,594
Total Expenditures (All Programs)	**$242,104**	**$786,115**	**$423,173**

EXPENDITURES BY FUND (in thousands)

Fund	Actual 2013-14	Estimated 2014-15	Proposed 2015-16
State Energy Conservation Assistance Account	$8,702	$39,629	$20,573
Motor Vehicle Account, State Transportation Fund	141	140	141
Public Interest Research, Development, and Demonstration Fund	5,962	4,774	1,290
Renewable Resource Trust Fund	35,864	35,551	34,700
Energy Resources Programs Account	59,339	82,008	83,896
Local Government Geothermal Resources Revolving Subaccount, Geothermal Resources Development Account	309	7,708	4,010
Petroleum Violation Escrow Account	1,617	2,168	1,985
Federal Trust Fund	3,390	10,972	10,961
Reimbursements	18	1,500	3,700
Energy Facility License and Compliance Fund	1,145	3,446	3,471
Natural Gas Subaccount, Public Interest Research, Development, and Demonstration Fund	20,776	45,019	24,000
Alternative and Renewable Fuel and Vehicle Technology Fund	101,163	172,856	109,056
Electric Program Investment Charge Fund	5,291	373,889	128,484
Clean and Renewable Energy Business Financing Revolving Loan Fund	-1,613	6,455	-3,094
Total Expenditures (All Funds)	**$242,104**	**$786,115**	**$423,173**

Items Proposed for Vote-Only

1. **Vulnerability of Fueling Infrastructure for the Transportation Sector to Climate Change.** The Governor's budget requests one two-year limited-term position and $1,800,000 in one-time Petroleum Violation Escrow Account (PVEA) funding, for a total request of $1,985,000 to support an evaluation of the vulnerability of the fuel infrastructure for the transportation sector (e.g., refineries, pipelines, marine terminals, underground storage tanks, and fueling stations) to climate change impacts.

2. **Public Goods Charge Ramp-Down.** The budget requests the reduction of 25 positions and $2,324,000 from the Public Interest Research, Development, and Demonstration Fund (PIER), and the Renewable Resource Trust Fund (RRTF), through the Public Goods Charge (PGC) for the Renewable Energy Program and the Public Interest Energy Research Program (PIER). This proposal is in response to the sunset of the authority to collect the Public Goods Charge on January 1, 2012. As a result, the PGC program is undergoing a multi-year phased staff reduction.

3. **Trailer Bill Language to Shift Unspent ARRA Funds to the Department Of General Services.** The Governor requests fund transfer authority (TBL) to move unspent and under-utilized American Reinvestment and Recovery Act (ARRA) funds to the DGS Energy Efficient State Property Revolving Loan Fund. The funds were originally allocated to the Clean Energy Business Financing Program (CEBFP) and CEC revolving loan program. The CEBFP conducted one loan cycle but has no plans to conduct a second loan cycle. Similarly, ECAA conducted one loan cycle with the ARRA funds but has no plans to conduct a second loan cycle. The Energy Commission believes these funds could be better utilized for energy efficiency retrofits in state buildings. The DGS revolving loan program is oversubscribed and these funds would accelerate energy efficiency retrofits in state buildings throughout the state.

4. **Increase Alternative and Renewable Fuel and Vehicle Technology Programs Staff Resources.** The Governor's budget requests baseline authority for 15 permanent positions and $2,061,000 from the Alternative and Renewable Fuel and Vehicle Technology Fund (ARFVT), to support the Alternative and Renewable Fuel and Vehicle Technology Program (ARFVTP) and the Zero Emission Vehicle (ZEV) Action Plan.

5. **Outreach and Education for Building Energy Efficiency Standards.** The budget requests $241,000 (Energy Resources Programs Account), and two positions, to provide outreach, education, and training to building industry professionals, governmental agencies, utilities, and local building departments and officials for the energy standards, which will occur on three-year cycles.

Staff Recommendation: Approve items 1-5.

Vote:

Items Proposed for Discussion

1. Siting Fee Authority to Power Plant Certifications

Background. The Energy Commission is responsible for the certification of thermal power plants 50 megawatts and larger, including all project-related facilities, in California. The certification process consists of reviewing engineering design and evaluating the environmental impacts of power plant projects under a certified regulatory program to ensure that projects meet all engineering and environmental regulatory requirements and mitigate significant impacts.

Currently, two fees fund the majority of the siting program. The first is the certification fee, which requires an application fee of $250,000, plus $500 per megawatt of gross generating capacity of the proposed facility. This fee is capped at $750,000. The second is the compliance fee, which requires an owner of a certified project pay an annual fee of $25,000, adjusted annually for inflation, to cover the commission's post-certification process.

The existing siting fees are highly variable, depending on the number of amendments submitted, their complexity, the level of controversy, and the cooperation of the project owners. The commission's fees have not been able to keep up with the amendment process, and thus funding has fallen to the Energy Resources Program Account (ERPA), which is funded generally by ratepayers.

Budget Proposal. The Governor proposes to create statutory fee authority to reimburse the Energy Commission for costs associated with processing petitions to amend power plant certifications. The fee would not change the existing certification fee. The Governor's proposal would add a fee of $5,000 for amendments to applications, plus actual cost recovery for the commission's work, capped at $750,000.

Questions for the Administration.

- What kinds of amendments are driving the need for this fee and how do they impact the commission's work?

Staff Recommendation: Approve as proposed.

Vote:

2. Energy Conservation Assistance Account (ECAA) Program Support

Background. The Energy Commission's existing ECAA program is a revolving loan fund which provides low-interest rate loans to local governments, special districts, public schools, universities, and public institutions (including hospitals) for the installation of cost-effective energy efficiency and renewable energy projects. The existing ECAA program limits loans to $3,000,000 per applicant. Under ECAA statute, 10 percent of the funds can be used for grants of technical assistance such as energy audits.

Since the program's inception in 1979, through June 2014, the Energy Commission has loaned more than $327 million to over 800 recipients. ECAA continues to be a program in high demand by public agencies and currently offers three sub-fund programs: Standard ECAA, ECAA-Ed (education) and ECAA-GHGRF (greenhouse gas reduction fund). Standard ECAA is currently oversubscribed. Applications for Standard ECAA are placed on a wait list and eligible project funds are loaned as the Energy Commission receives repayments two times per year.

In 2013-14, SB 73 (Committee on Budget and Fiscal Review), Chapter 29, Statutes of 2013, gave the Energy Commission the responsibility to lead the development and implementation of the statutorily-defined program for energy efficiency and clean energy generation projects for over 2,000 K-12 school districts, county offices of education, charter schools, and state special schools, known as local educational agencies (LEAs).

SB 73 also allocated $28 million in fiscal year 2013-14 to the Energy Commission's existing ECAA program, a self-sustaining revolving loan fund that provides zero or low-percentage interest rate loans for energy projects. LEAs and community college districts (CCDs) are eligible for loans and technical assistance funded by the Clean Energy Jobs Fund (Proposition 39), through the ECAA-Ed subaccount. The Governor's budget for 2014-15 allocated an additional $28 million to ECAA-Education subaccount from the Clean Energy Jobs Fund. The ECAA-Ed subaccount loans fund the installation of energy efficient measures such as lighting, heating, ventilating and air conditioning (HVAC) systems, controls, motors, and energy generation projects. Financing is structured so loans are repaid from energy cost savings.

The 2014-15 budget act authorizes the transfer of $20 million from the Greenhouse Gas Reduction Fund (GGRF) to fund ECAA loans.

Budget Proposal. The Governor's budget requests baseline authority for $1,485,000 and six permanent and five limited-term positions (Energy Conservation and Assistance Account [ECAA]) to support the ECAA program. This proposed budget change would provide positions to support the additional work which comes to the ECAA program as a result of an additional $56 million from the California Clean Energy Jobs Fund for K-12 and community college districts, and $20 million from the GHGRF specifically for state-owned buildings, University of California, and California state University campuses. The $76 million in funds will be for zero percent and low-percentage interest rate loans for building retrofits and provide grants for services via technical assistance contractor grants.

Staff Comments. Staff concurs with the request for funding.

Questions for the Administration.

- What would be the impact of expanding the use of all ECAA funds to both state, and non-state, public agencies?

- Would funding from Proposition 39 or the Greenhouse Gas Emission Reduction Fund be appropriate to share the costs of administrating the program?

Staff Recommendation: Approve budget item as proposed.

Vote:

3. International Relations Senior Advisor on Greenhouse Gas Emission Reduction

Governor's 2014-15 Proposal. The Air Resources Board, in the 2014-15 May Revision, requested six positions and $1.1 million to accommodate increased workload associated with working with other jurisdictions, such as Brazil, Canada, Chile, China, Costa Rica, Kazakhstan, Mexico, New Zealand, South Korea, South Africa, Turkey, the European Union, and other Pacific states, on air quality and climate change activities. The LAO recommended rejection of this proposal, both because the funding would not be appropriate to the activities proposed (nexus to fee-payers) and the board did not provide a clear workload justification for the six positions requested.

The subcommittee rejected the proposal. During final negotiations with the Governor, three positions were approved for this purpose.

Spring Finance Letter Budget Proposal. The Governor requests one position and $133,000 from the Energy Resources Program Account (ERPA, ratepayer funds) to "coordinate work with other jurisdictions, including but not limited to, China, Israel, Japan, and Mexico." According to the request, because of the significant greenhouse gas emissions from the transportation and energy sectors, California must engage with other nations and sub-nations jurisdictions to achieve the state's climate goals and drive international commitments on climate change at the 21st Conference of the Parties in Paris, France, in November and December 2015.

Staff Comments. Staff continues to have concerns with the use of state employees, paid for by ratepayers, being used to engage other international jurisdictions without specific authority from the Legislature. This proposal, too, is confusing. In discussions with the Energy Commission, they assert that this position will be used to engage Mexico as they develop energy projects that could integrate with California's power grid. They did not discuss greenhouse gas reductions but rather the need for a coordinated approach to energy development. The proposal submitted to the Legislature is specific to greenhouse gas reduction programs.

Questions for the Administration.

- Has the Energy Commission considered utilizing the positions the Legislature already approved to the ARB for this purpose?

- Will the positions be used for greenhouse gas emission reduction negotiations, energy delivery negotiations, power plant siting in other countries, or climate negotiations with Mexico, China, Israel, or Japan, as the proposal indicates? Which state agency will be represented at the Conference of the Parties in Paris?

Staff Recommendation: Reject proposal. Require the Air Resources Board to allow the Energy Commission to utilize one of the three positions approved in 2014 in order to accomplish this task.

Vote:

8660 California Public Utilities Commission

The California Public Utilities Commission (CPUC) is responsible for the regulation of privately-owned "public utilities," such as gas, electric, telephone, and railroad corporations, as well as certain video providers and passenger and household goods carriers. The CPUC's primary objective is to ensure adequate facilities and services for the public at equitable and reasonable rates. The CPUC also promotes energy conservation through its various regulatory decisions.

Governor's Budget. The Governor's budget proposes $1.5 billion and 1,091 positions to support the CPUC in the budget year. This is an increase of 21 positions and $192 million from the current year, mainly due to the implementation of universal lifeline programs.

EXPENDITURES BY PROGRAM (in thousands)

Program	Actual 2013-14	Estimated 2014-15	Proposed 2015-16
Regulation of Utilities	$646,035	$750,603	$746,178
Universal Service Telephone Programs	432,364	524,767	721,405
Regulation of Transportation	24,144	27,406	27,459
Office of Ratepayer Advocates	24,903	29,282	29,400
Administration	30,887	44,055	44,315
Total Expenditures (All Programs)	**$1,127,446**	**$1,332,058**	**$1,524,442**

EXPENDITURES BY FUND (in thousands)

Fund	Actual 2013-14	Estimated 2014-15	Proposed 2015-16
State Highway Account, State Transportation Fund	$3,940	$4,220	$4,249
Public Transportation Account, State Transportation Fund	5,578	6,303	5,993
Transportation Rate Fund	2,825	2,965	2,991
Public Utilities Commission Transportation Reimbursement Account	11,801	13,918	14,226
Public Utilities Commission Utilities Reimbursement Account	88,559	98,459	96,448
California High-Cost Fund-A Administrative Committee Fund	34,474	39,329	43,264
California High-Cost Fund-B Administrative Committee Fund	20,577	22,233	22,388
Universal Lifeline Telephone Service Trust Administrative Committee Fund	191,862	202,646	344,799
Deaf and Disabled Telecommunications Program Administrative Committee Fund	51,932	55,063	64,418
California Teleconnect Fund Administrative Committee Fund	89,759	107,612	148,272
Federal Trust Fund	4,806	5,864	4,950
Reimbursements	29,263	63,544	62,044
Gas Consumption Surcharge Fund	523,407	585,736	585,736
Public Utilities Commission Ratepayer Advocate Account	24,903	26,282	26,400
California Advanced Services Fund	43,760	97,884	98,264
Total Expenditures (All Funds)	**$1,127,446**	**$1,332,058**	**$1,524,442**

Items Proposed for Vote-Only (Adopted Legislation)

1. **SB 1371 Gas Leakage Abatement.** The budget proposes $550,000 from the Public Utilities Commission Reimbursement Account (PURA) and three limited-term positions and one permanent position to implement SB 1371 (Leno), Chapter 525, Statutes of 2014, which relates to procedures governing the leak management of gas pipeline facilities. This proposal would support one two-year limited term administrative law judge, one two-year limited-term administrative law judge support staff, one two-year limited-term public utilities counsel IV, and one ongoing senior utilities engineer-specialist, and related travel and operating costs, to perform activities pertaining to adopting rules and procedures governing the leak management of gas pipeline facilities.

2. **SB 699 Electrical Security Grid.** The budget proposes $551,000 from the PURA for three limited term positions and one permanent position to implement SB 699 (Hill), Chapter 550, Statutes of 2014. SB 699 directed the CPUC to develop rules and procedures to assess security measures at electric companies and develop baseline standards. This proposal would support one, one-year limited-term administrative law judge, one, one-year limited term administrative law judge support staff, one, one-year limited term staff counsel, and one ongoing senior utilities engineer-specialist, and related travel and operating costs to perform activities pertaining to adopting rules to address physical grid security.

3. **SB 611 Modified Limousine Regulation.** The budget proposes $227,000 from the Public Utilities Transportation Reimbursement Account (PUTRA) for three, two-year limited-term positions to implement SB 611 (Hill), Chapter 860 (Statutes of 2014). SB 611 directed the CPUC to survey 12,000 limousine carriers and annually develop a list of modified limousines and transmit to the California Highway Patrol (CHP). This proposal would support two, two-year limited term positions to survey 12,000 carriers, annually develop a list of modified limousines and transmit the list to the CHP, and prepare decals and one, two-year limited-term position to assist the CPUC's formal process to implement SB 611, update the relevant General Orders, paper application forms, online documentation, database entries, training staff on new procedures, and communicating with carriers about the new requirements.

4. **Office of Ratepayer Advocates Rate Design Analysts.** The budget requests $184,235 (PURA), and two positions, to accommodate expanded workload related to AB 327 (Perea), Chapter 611, Statutes of 2013, and AB 217 (Bradford), Chapter 609, Statutes of 2013, which mandated significant changes to investor-owned electric utility programs for distributed energy resources, electric rate design, and the California Solar Initiative program.

5. **AB 1717 Mobile Prepaid Fee Collection.** The budget requests $2.1 million (multiple funds), and eight positions, to implement AB 1717 (Perea), Chapter 885, Statutes of 2014. AB 1717 establishes a new statewide retail point-of-sale mechanism for collecting taxes and fees from prepaid wireless consumers, in conjunction with the Board of Equalization.

6. **SB 1414 Demand Response.** The budget request $486,000 (PURA) and four limited-term positions to implement SB 1414 (Wolk), Chapter 627, Statutes of 2014. SB 1414 requires the commission to develop and implement consumer protection rules for residential customers who participate in demand response programs.

7. **AB 2362 Electric System Modeling.** The budget requests $600,000 (reimbursements) to implement AB 2362 (Dahle), Chapter 610, Statutes of 2014. AB 2363 requires the commission to collect reimbursements for consulting services to develop an integration cost methodology for determining expenses resulting from integrating and operating eligible renewable energy resources in utility electric supply portfolios.

8. **AB 2672 San Joaquin Valley.** The budget requests $950,000 (PURA), and three limited-term positions to implement AB 2672 (Perea), Chapter 616, Statutes of 2014. AB 2672 requires the commission to initiate a proceeding, identify disadvantaged communities in the San Joaquin Valley, identify potential funding sources to extend natural gas pipelines to these communities, increase electrical rate subsidies, and consider alternatives to increase access to affordable energy in the San Joaquin Valley.

Administration Proposals (Workload)

9. **Office of Ratepayer Advocates (ORA) Utility Safety Engineers.** The budget requests $383,782 (PURA) and three positions to analyze existing, expanded, and anticipated utility safety-related programs and expenditures.

10. **Energy Crisis Litigation—Extension of Liquidation.** The budget requests a two-year extension of the liquidation period for continued assistance by outside legal counsel and economic consultants, as well as expert witness in litigation by the CPUC before the Federal Energy Regulatory Commission, which seeks refunds of several billion dollars for overcharges during the 2000-2001 energy crisis.

11. **Deaf and Disabled Telecommunications Program.** The budget requests $1.5 million from the DDTP Administrative Committee Fund to address increased costs to administer the program due to projected increases in expenses related to contracts and personal services, and equipment purchases. One of the DDTP major contracts provides contact center, distribution center, and tracking system services (Equipment Processing Center – EPC). The current contract started in July 2010, and is set to expire at the end of the 2014-15 fiscal year and a new contract is anticipated to be in place at the start of 2015-16. The new EPC contract to provide the services described above is expected to exceed the value of the existing contract. This projection was based on analysis of historical contract expenses, projection of future program growth, and estimate of future labor costs.

12. **California Teleconnect Fund.** The budget requests an incremental increase to the appropriation for the California Teleconnect Fund (CTF) of $40.5 million to ensure adequate funding for increased claims in light of external factors, such as the education initiatives set forth in the 2014 budget and changes in the E-rate program, the federal schools and libraries counterpart to the CTF program, as well as for general program growth.

13. **California High-Cost Fund-A Program.** The Governor requests an incremental increase to the appropriation for California High-Cost Fund-A (CHCF-A) of $3.9 million to ensure adequate funding for increased claims in light of forecast increases to basic service telephone rates and the resulting subsidy claims that are paid by the fund. Resolution T-17400 adopted a 2014 forecast of $37.8 million in local assistance payments to CHCF-A recipient (small ILECs). For proposed budget, local assistance payments to recipient small ILECs are forecasted to increase by $3.9 million.

Staff Recommendation: Approve Items 1-13.

Vote:

Items Proposed for Discussion

1. Baseline Budget Oversight—Audits, Reports and Zero-Based Budgets

Background. The Senate and Assembly budget subcommittees have, over the past three years, focused attention on the ability of the CPUC to ensure fair and reasonable energy rates, while fulfilling its statutory mandates. To this end, the subcommittees collaborated with policy committees, the Joint Legislative Audit Committee, and the Office of State Audits and Evaluations (OSAE), to investigate the CPUC's internal management. Certain of these endeavors are highlighted below.

- On January 10, 2013, the Department of Finance OSAE released its performance audit of the CPUC budget process. The audit identified significant weaknesses with CPUC's budget operations that negatively affect the commission's ability to prepare and present reliable and accurate budget information.

- The chairs of the respective Assembly and Senate budget subcommittees and the respective Assembly and Senate committees with jurisdiction over energy and telecommunications, wrote a letter to the Joint Legislative Audit Committee recommending further audits of the CPUC's external auditing functions. Specifically, the question of balancing accounts and monitoring of the Investor-Owned Utility funds was questioned. A key finding of the audit, released in 2014, found that, "the commission's current process for reviewing balancing accounts does not adequately protect ratepayers from unreasonable rate increases."

- Legislature, as part of the 2013 budget act, required the CPUC to conduct a zero-based budget (ZBB) exercise for its programs, by January 10, 2015. CPUC has been working with the Department of Finance to ensure that this exercise is conducted in a meaningful way that will advance the internal budgeting functions at the CPUC.

Nearly every audit identified, "significant weaknesses," within the program or function identified during the audit. The most recent audit, published by the State Auditor on April 9 of this year, focused on consumer complaint data, and found that:

- "Despite pervasive weaknesses in general controls that the commission has over its information systems, the commission repeatedly misrepresented its information security plan to the Department of Technology in its annual certifications."

An internal audit, contracted by the CPUC and released in February 2015, found:

- "Frequent management changes, shifting priorities, and reactive responses to internal and external recommendations post-San Bruno led to a loss of focus, lack of clear direction, loss of trust in leadership, and unacceptable work backlogs

In its review of the Governor's budget, the Legislative Analyst's Office (LAO) published its analysis of the ZBB, and found "the CPUC report is not a ZBB," and specifically stating:

Report Lacks Analysis of Activities and Resources. Based on our understanding of the various types of ZBBs, the CPUC report is not a ZBB. As discussed above, a common goal of most ZBBs is to encourage government agencies to analyze their existing resources in an effort to determine whether resources could be deployed in a more efficient and cost–effective manner. While the report includes a description of current activities and resources, it lacks a comprehensive analysis of these activities and resources. The report does not provide an analysis of the minimum level of funding needed to achieve current service levels or an analysis of the degree to which having higher or lower funding levels would affect the amount or quality of services provided. Without such an analysis, the report provides relatively little information to inform the Legislature about potential changes to the level or distribution of resources provided to CPUC.

Basis for CPUC Findings Is Unclear. In the few instances where the CPUC concludes that existing resources are either adequate or inadequate, the basis for these findings is unclear. For example, the CPUC found that the number of staff working on ratemaking activities was too low and determined that resources needed to be shifted from other activities. However, the CPUC does not provide an analysis of the minimum amount of staff time needed to perform different ratemaking activities and, therefore, it is still unclear whether the current level of staffing for these activities is appropriate. Furthermore, to address the perceived staffing shortfall, the CPUC shifted resources from other program areas where it determined that resources could be spared without negative impacts on program outcomes. It is unclear how CPUC determined that such a shift would have no negative impact on program outcomes.

The basis for CPUC's finding that staffing levels for certain activities, such as energy efficiency and renewable portfolio standards, make sense in light of state public policy priorities is also unclear. First, the CPUC does not provide an analysis of the optimal level of resources needed to conduct the activities related to these programs. Second, while these activities may be state priorities, the Legislature may have other priorities that are of equal or greater priority. Without an analysis of the levels of resources needed to perform different activities, the report provides limited information that can be used to determine whether the existing resource allocations are appropriate or if an alternative level or distribution of resources could achieve greater benefits.

Criminal Probes Launched. In recent months, state and federal investigators have launched criminal investigations into the CPUC's conduct, with particular regard for management's relationships with investor-owned utilities. According to several sources, the CPUC has allegedly engaged in "judge-shopping," *quid pro quo* arrangements, and other ex-parte misconduct over several years.

The CPUC, in response, has contracted to retain a criminal attorney. Under the scope of this contract, the contracted law firm will represent the CPUC in “criminal, civil, and administrative proceedings undertaken by any federal, state, or local agency” involving “any allegations of inappropriate interactions by CPUC personnel with Pacific Gas & Electric, and any other utility, from 2009-2014 regarding the CPUC’s compliance with its rules, regulations, policies and procedures governing CPUC proceedings, including but not limited to, the assignment of Administrative Law Judges and the processing of various matters before the Commission.”

The contract, initially estimated to cost less than $100,000, has now been approved by the Department of General Services for amounts up to $5 million. According to CPUC staff, the contract could not be executed by the state’s Attorney General because they are currently investigating the CPUC for misconduct. Funding for the contract is from general ratepayer funds. When asked if this would result in a reduction to any programs, the CPUC was unclear what the impact would be on programs or funds.

This committee received communications from both the U.S. Department of Transportation and members of congress concerned that federal funding would be used for a criminal defense of the commission. The agency has confirmed that federal grant funds for the Pipeline Hazardous Materials Safety Administration may not be used for this purpose.

Budget Proposals. The budget requests approval of sixteen audit positions and $1.8 million for various audit positions within the CPUC, including fiscal auditors, internal auditors, balancing account auditors, and regulatory auditors. Most of these positions were recommended in any number of the audits conducted by internal and external entities. These represent both January budget proposals and Spring Finance letter requests.

Staff Comments. Recently, Michael Picker, president of the California Public Utilities Commission, stated, “The question may not be whether PG&E is too big to fail, but instead, ‘Is the company too big to succeed?’” Perhaps the question should be turned upon the CPUC. “Is the commission too big to succeed?”

Staff has concerns that, as seemingly every rock is overturned at the CPUC, audits and investigations find that the commission is not able to manage its basic functions of general ratemaking and public safety. At the same time, the CPUC has consistently been able to find funding for numerous extra-curricular activities such as establishing nonprofit organizations (the Legislature enacted statute to prohibit that practice after an investigation two years ago), to contract for various management structure reforms, and, most recently, contracting for outside counsel to represent the commission in the criminal investigations.

Change is very necessary at the CPUC, and there are a number of options available to the Legislature to achieve this. Specifically, the subcommittee may wish to consider the following:

- Require the Department of General Services to contract with an outside entity, at the CPUC expense, to examine the core mission of the CPUC as specified in statute, the constitutionally required activities of the CPUC, and to recommend reductions that limit the CPUC activities to only those required by law.

- Require the Administration to return with a plan to restructure the CPUC by separating telecommunications activities from energy and water ratemaking into new and separate entities, as well as relocating those transportation activities not required by ratemaking to another state agency. The plan should also identify any other activities that are more appropriately undertaken by another state agency, such as the Energy Commission or water boards.

- Require the commission to reduce its funding by a minimum of $5 million and maximum of 25 percent, in order to focus the commission’s work on only those activities with the highest priority by law.

- Require the commission to disclose to the public all requests by any state or federal investigators, in order to provide transparency.

Questions for the Commission:

1. What would be the impact of removing transportation and telecommunications activities from the CPUC?

2. The zero-based budget, while informative, does not prioritize any activities at the CPUC. What activities should the CPUC reduce in order to focus its efforts on basic ratemaking and public safety activities?

3. Why, does the CPUC need to contract for criminal representation and what specific activities are being, or will be, performed under this contract?

Staff Recommendation:

- Approve January budget audit positions.
- Reject Spring Finance Letter request (five positions for internal management process audits). Approve this amount to be allocated to the State Auditor or OSAE for further internal management audits, as necessary.
- Reduce CPUC baseline budget by $5 million.
- Require the CPUC to return funding from vacant positions annually to ratepayers, rather continue to allow the funding for these positions to be used for other purposes.

Vote:

2. Universal Lifeline Telecommunications Program

Background. In 1984, the Legislature began offering discounted and affordable basic telephone services to eligible low-income households for telephone use. In recent years, the CPUC has considered whether or not it should extend the basic lifeline services to mobile devices. According to the CPUC, new and increased subscribership for wireless service plans by California LifeLine participants is driving the discussion.

In January, 2015, wireless cell phones were incorporated into the program resulting in a 60-percent increase in claims. Based on this increase, claims are anticipated to exceed expenditure authority provided in the 2014 budget. The CPUC notified the Legislature, through the Joint Legislative Budget Committee process, of the need for an additional $96 million in expenditure authority for the current fiscal year. The fund has sufficient balance for this increase.

Budget Proposal. The 2015-16 budget proposes $142.8 million for local assistance from the Universal Lifeline Telephone Service Trust Administration Fund to address a new and increased subscribership for wireless service plans by California Lifeline participants. The additional funding would allow eligible households to subscribe to discounted, affordable, and sustainable wireless service plans that include voice, text, and Internet access.

Additionally, the commission requests that the following provision be added to the 2015-16 budget bill, for the Universal Lifeline Telephone Service Trust Administrative Committee Fund, to allow for increased flexibility in budgeting:

> *Notwithstanding any other provision of law, upon request of the Public Utilities Commission, the Department of Finance may augment the amount available for expenditure in this item to pay claims made to the Universal Lifeline Telephone Service Trust Administrative Committee Fund. The augmentation may be made no sooner than 30 days after notification in writing to the chairpersons of the committees in each house of the Legislature that consider appropriations and the Chairperson of the Joint Legislative Budget Committee. The amount of funds augmented pursuant to the authority of this provision shall be consistent with the amount approved by the Department of Finance based on its review of the amount of claims received by the Public Utilities Commission from telecommunications carriers.*

Questions for the Commission.

- What is the legislative direction, other than the 1984 initiating statutes, that directs the CPUC to increase participation to wireless communication devices?
- Will lifeline participants be able to text and access the internet? Is there statutory direction for what is included in the mobile device lifeline program?
- How many persons per household are allowed an eligible device? Could there be more than one per household?

- What is the total increased funding necessary to implement the CPUC's changes to the lifeline program and what is the cost per ratepayer?

Staff Recommendation: Approve as proposed.

Vote:

3. Safety Division Requests

Background. The CPUC is charged with ensuring the safety of service from investor-owned utilities including natural gas, rail, and electric services.

Budget Proposals.

- **Risk Assessment.** The budget requests an increase of $405,000 (Public Utilities Commission Reimbursement Account [PURA]) and three positions in the Risk Assessment Unit in the Safety and Enforcement Division. The commission requests the positions to ensure that investor-owned energy utilities have adequate risk management protocols and are investing in safety. The CPUC has about 40 positions between the energy risk assessment unit and the gas safety units. The additional resources are requested in order to analyze energy utility general rate case applications for safety-related investments, track utility performance to ensure that money is not being improperly reallocated by utilities after approval. In recent years, this work, has been executed by a reimbursable consultant contract in the amount of $1.2 million, which is proposed for reduction.

- **FTA Grant Increase (Federal Trust).** The budget proposes an increase of $2.8 million (Federal Trust Fund) in federal funding from the rail fixed guide way Public Transportation Systems State Safety Oversight Formula Grant Program funding administered by the Department of Transportation. The funding will be used to ensure federal requirements are met, such as state safety oversight of rail systems that is legally and financially independent of the rail systems they oversee. The request is one-time with no positions.

Staff Comments. Staff concurs that safety and monitoring are core functions of the CPUC, and that rail safety is a key function of the CPUC.

Questions for the Commission.

- The commission's core functions are ratemaking and public safety. Why is this not currently being conducted by commission staff on a regular and ongoing basis as part of the baseline workload for the commission?

- Has the commission filled all of its recently-approved safety-related positions, including the seven rail positions?

- Is the commission prioritizing bridge inspections for those bridges near population areas?

Staff Recommendation: Approve budget items as proposed.

Vote:

4. CPUC Energy Efficiency Financing Pilot Program (CHEEF)—California Alternative Energy and Advanced Transportation Financing Authority (CAETFA) Hub

Background. On September 19, 2013, the CPUC approved a decision ordering the Investor-Owned Utilities (IOUs) to direct ratepayer funds outside the budget process for use in specific energy efficiency financing pilot programs. Prior to that, the CPUC had directed San Diego Gas and Electric Company (SDG&E), on behalf of the other IOUs, to hire an expert financing contractor to assist the IOUs in designing at least four new financing programs to address market needs for energy efficiency. The SDG&E proposal is designed to provide a pilot program to increase the flow of capital to energy efficiency projects in the state while reducing risk to investors.

Previous Legislative Actions Regarding Activities Outside the State Budget. As part of the 2013 budget, prior to the above discussed CPUC Decision and after lengthy discussions in budget committees, the Legislature restricted the CPUC's ability to start nonprofit entities without prior legislative approval. The subcommittees discussed the CPUC's activities that blur the line between budget and policy, both of which are the purview of the Legislature. Specifically, the CPUC, in its quasi-legislative capacity, has attempted to usurp the Legislature's role in future project and policy direction. The Legislature's actions in the 2013 budget were designed to curtail the direction of ratepayer funds by the CPUC to state-directed programs without prior legislative approval.

2014 Budget Proposal. The 2014 budget included reimbursement and expenditure authority of $4.4 million, over two years, to enable CAETFA to serve as the administrator of IOU ratepayer funds., pursuant to the CPUC decision discussed above. Specifically, CAETFA will act as the California Hub for Energy Efficiency Financing (CHEEF). Overall funding for the pilot program would use $65.9 million from IOU ratepayer funds (derived directly from the IOUs, not from the CPUC, thus circumventing the restrictions set by the Legislature on the CPUC). Of the $65.9 million, approximately 65 percent of the funds would go directly to residential customers and 35 ($23 million) percent would be spent by IOUs and CAETFA for administrative costs, outreach, and evaluation.

2015-16 Budget Proposals. The Governor's January budget requests increased reimbursement and expenditure authority in the amount of $1.5 million and three limited-term positions in 2015-16, and $1.9 million and seven limited-term positions in 2016-17. Funds are directed by the CPUC from investor-owned utility ratepayers directly to CAETFA. The Spring Finance Letter requests increased reimbursement and expenditure authority (from the January budget figures) of $85,000 in 2015-16 and $918,000 in 2016-17, and including two permanent positions.

Staff Comments. The proposal before the subcommittee does not request approval of the policy set forth by the CPUC but rather is the implementation of the CPUC's quasi-legislative policy decision. Staff continues to be concerned that the majority of the funding for a project under review, would not be administered through the budget, but rather would be directed outside the budget process with objectives not clearly defined in statute. In addition, CAETFA—the administrator of the state funds in this proposal, is reviewed by Budget Subcommittee No. 4 on State Administration and General Government because it is located within the Treasurer's Office.

Oversight of this program is unclear. The CPUC, having directed the program, should be the lead oversight agency. However it is not clear what monitoring and maintenance the CPUC has included in its responsibility given that no companion budget proposal has been made for review of the program. It is also unclear why the program was not started in 2014-15, as proposed in the 2014 budget.

Questions for the Commission.

- The CPUC has directed an outside program that utilizes ratepayer funds. How is this different from directing ratepayer funds to a nonprofit, a practice that was statutorily prohibited in 2013?
- How has CAETFA spent the $4.4 million allocated in the 2014 budget for this program?
- Given that the CPUC is the lead, what oversight will the CPUC conduct of the program? Will there be audits of the expenditures and if so, using what resources?
- The CAETFA is requesting permanent positions. Does the CPUC believe that this program will be permanent? In discussion with the budget subcommittees, this program was always described as temporary.
- When will be the next discussion of program funding at the CPUC? Will the Legislature be asked to determine if it wishes to continue this program prior to the CPUC renewing it?

Staff Recommendation. Staff recommends that this subcommittee request that Senate Budget Subcommittee No. 4 approve the 2015-16 and 2016-17 funding and limited-term positions, as is consistent with previous legislative actions. However, staff recommends the subcommittee request that the permanent positions be rejected and the following budget and provisional trailer bill language be adopted:

> The CPUC is prohibited from directing ratepayer funds to create programs at any state agency without prior approval of the Legislature.
>
> The CPUC will provide a report on the outcomes of the CHEEF program to the policy and fiscal committees of the Legislature prior to approving any extension of the program, as part of a CPUC budget requests.

Vote: