Senate Budget and Fiscal Review

# Subcommittee No. 2, 2014 Agendas

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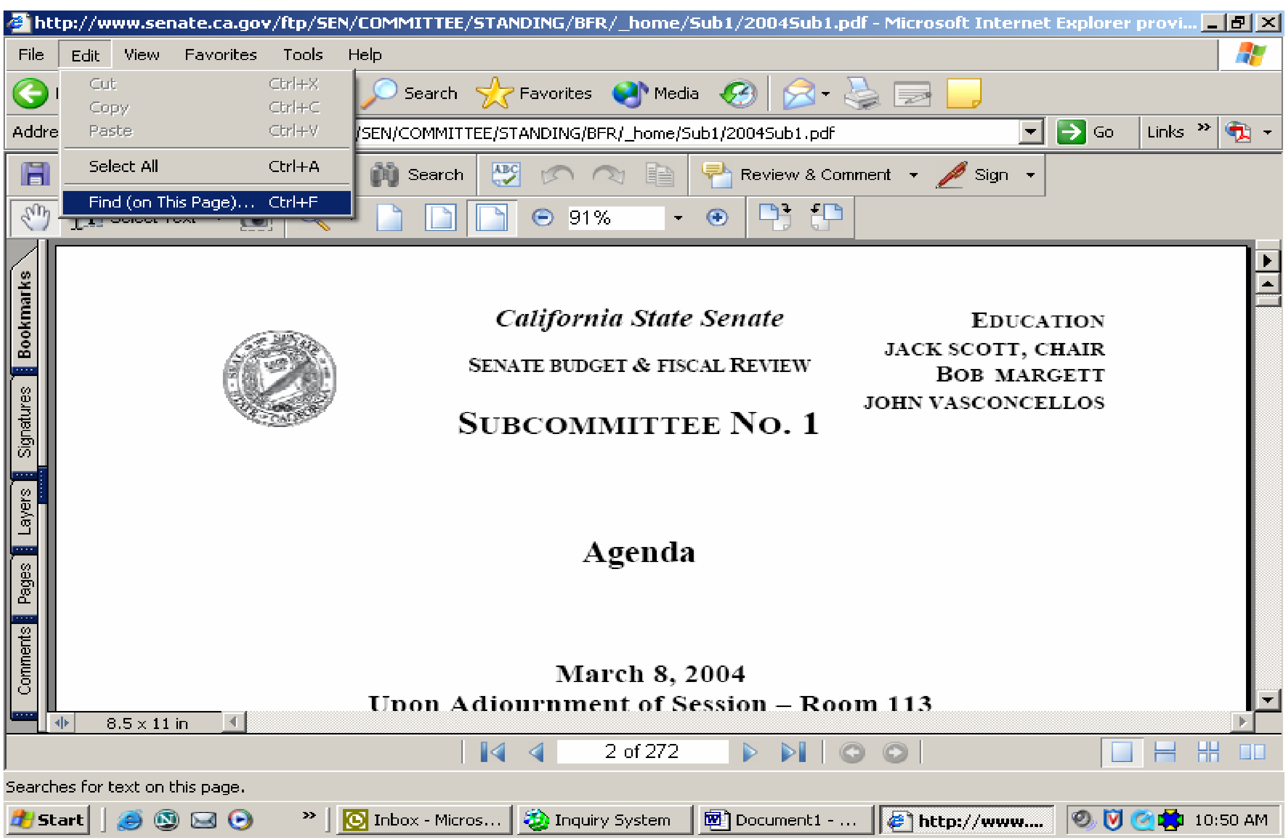

***Senate Budget and Fiscal Review—Senator Mark Leno, Chair***

**SUBCOMMITTEE NO. 2** **Agenda**

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

**Thursday, March 6, 2014**
**9:30 a.m. or Upon Adjournment of Session**
**Hearing Room 112**

**Consultant: Catherine Freeman**

## Special Presentations

1. Legislative Analyst's Office—Overview of the Governor's Budget

2. Agency Secretaries:

    - Matt Rodriquez, Secretary for Cal-EPA
    - John Laird, Secretary for Natural Resources
    - Karen Ross, California Agriculture Secretary

## Items Proposed for Vote-Only



## Items Proposed for Discussion



**Resources—Environmental Protection—Energy—Transportation**

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## *DEPARTMENTS PROPOSED FOR VOTE ONLY*

### 0555 Secretary for California Environmental Protection Agency (Cal-EPA)

1. **Cal-EPA Refinery Information Officer and Emergency Coordinator.** Request to establish a permanent position at the Office of the Secretary for Cal-EPA to coordinate Cal-EPA boards, departments, and offices' emergency preparedness and response activities related to refineries. This position would serve as liaison for the State Emergency Plan for hazardous materials response and debris management. The position would coordinate hazardous materials emergency response with local certified Unified Program Agencies (CUPAs), and federal organizations for rapid response.

**Staff Recommendation:** Approve Item 1.

# 0540 Secretary for Natural Resources

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

**Governor's Budget.** The Governor's January Budget includes $69 million to support the Secretary for Natural Resources. This is a $3 million decrease under current-year estimated expenditures primarily due to reduced bond fund expenditures and one-time expenditures in the current year.

### *Items Proposed for Vote-Only*

1. **Statewide Oversight Position Extension and Environmental Enhancement and Mitigation Fund (EEM) Position Authority.** The Governor's budget requests to extend one CEA position that provides oversight and administration for bond measures, and make permanent two limited-term positions that were funded by bond funds and are now funded by the EEM Fund. These positions are intended to provide necessary oversight for current, future, and past bond expenditures.

2. **California Cultural Historical Endowment Funding.** The Governor's budget requests to appropriate $3.4 million (Proposition 40 bond funds) for projects dedicated to cultural and historical preservation. The program is being implemented pursuant to AB 482 (Atkins), Chapter 590, Statutes of 2013 and AB 716 (Firebaugh), Chapter 112, Statutes of 2002 (The California Cultural and Historical Endowment Act).

**Staff Recommendation:** Approve Items 1-2.

***Items Proposed for Discussion***

## 1. Fourth California Climate Change Assessment

**Governor's Proposal.** The Governors' budget requests $5 million (one-time, Environmental License Plate Fund [ELPF]) and one position at the CNRA, to carry out a fourth climate change assessment. The majority of funds are proposed to be used for contracts to conduct the scientific research needed for the assessment. The assessment, similar to the three previous, would continue to generate data and information needed to support continued climate policy development, planning, and implementation efforts at the state, regional, and local level. The intent is to ensure that efforts to foster resilient communities and businesses are informed by the best available science.

The Governor's proposal also includes trailer bill language that would add the following eligibility language to the ELPF funding allocations:

- "Scientific research on the risks to California's natural resources and communities caused by the impacts of climate change."

**Environmental License Plate Fund (ELPF).** The ELPF was established to provide funding to various environmental programs at the state and local level. The amount of funding available is dependent upon the number of certain specialty license plates sold and maintained in the state. Traditionally, the fund has been allocated to natural resource programs. The main priorities of the ELPF, as designated by Public Resources Code 21190 include:

1. The control and abatement of air pollution.
2. Acquisition, preservation, and restoration of ecological reserves.
3. Environmental education, including formal school programs and informal public education programs.
4. Protection of nongame species and threatened and endangered plants and animals.
5. Protection, enhancement, and restoration of fish and wildlife habitat.
6. Purchase of real property for state and local parks.
7. Reduction or minimization of soil erosion and sediment discharge into Lake Tahoe.

In recent years, the ELPF has been used to backfill state operations expenses at state conservancies where bond funds have been exhausted. In most cases, this consists of state operations of less than $500,000. However, certain conservancies receive a greater proportion (Tahoe and Sierra Nevada) due to statutory requirements and ties to specific license plates. The coastal agencies receive funding directly from the Whale Tail license plate in another fund.

The Governor's budget allocation is adjusted yearly to accommodate funding requests from various state agencies. For example, the Governor's budget proposes that the State Lands Commission, traditionally funded with General Fund or Tidelands Oil Revenue would receive a new allocation of $133,000 from ELPF in the budget year. The CNRA has increased its funding from $2.9 million in 2012-13 to $9.4 million in the proposed budget. The two-year allocation of ELPF is displayed in the following table.

### Summary of ELPF Expenditures

(in thousands)

| **Function** | **2013-14 (Estimate)** | **2014-15 (Proposed)** |
|---|---|---|
| Department of Fish and Wildlife | $15,173 | $15,411 |
| Conservancies | 9,318 | 10,622 |
| Secretary for Natural Resources | 4,937 | 9,403 |
| Natural Resource Agency Departments | 4,167 | 4,188 |
| Tahoe Regional Planning Agency | 3,998 | 3,998 |
| Department of Parks and Recreation | 3,185 | 3,258 |
| Cal-EPA boards and Departments | 1,439 | 1,434 |
| Department of Education | 408 | 413 |
| **Total** | **$42,625** | **$48,727** |

*Some items combined for reference only.

### Staff Comments

**Should Environmental License Plate Funds (ELPF) be Used for Climate Strategy?** The Governor's proposal to spend $5 million from the ELPF for the CNRA's Climate Adaptation Assessment should be reviewed. The ELPF was designed to fund state environmental education efforts that have, to date, been funded with a variety of recycling funds and other environmental fees. The ELPF traditionally has been stretched thin, due to its use as baseline funding for the State's conservancies and various other environmental programs. In addition, the policy change to add climate change to the allowable funding uses for ELPF has not been vetted by the Legislature's policy committees.

**Is There a More Appropriate Funding Source?** The Legislature could consider using a more appropriate fund source, such as Tidelands Oil revenues or cap and trade funding, for future climate assessments. This would allow the Legislature the option to consider other purposes for the ELPF that cannot be funded by Tidelands Oil, such as conservancy projects, environmental education, and other programs.

**Do We Need Another Assessment?** This assessment proposes to explore both changes to state and local infrastructure, as well as changes that might be recommended for private industry such as agriculture and forestry. Many of these industries are well aware of changing weather patterns and, though some adaptation may be necessary, the state would not likely be the correct agent to affect these changes. The CNRA has published a 200 page report entitled, “Safeguarding California: Reducing Climate Risk.” The report provides policy guidance for state decision makers, and highlights climate risks to nine sectors in California, from agriculture to energy, and forestry to ocean ecosystems.

At the same time, other private, institutional, and nonprofit groups have provided substantial information about how and where to adapt to known climate change challenges, such as sea level rise, variable weather patterns, and overall rising temperatures. Instead of conducting further studies, the state should consider focusing its research on direct and immediate adaptation strategies that could begin to be implemented before emergencies arise. This type of discussion would be appropriate to take place with both budget and policy committees of both houses of the Legislature.

**Questions for the Office of the Secretary.** The Office of the Secretary should address the following questions in their opening statement.

<u>Use of the ELPF</u>

- To what extent is environmental education prioritized in the Governor’s overall ELPF proposal?
- What is funded under the Department of Fish and Wildlife’s proposal?
- The Delta Conservancy receives disproportionally small amounts of ELPF, even with both Administration and legislative priorities shifting to restoration of Delta functions. Why didn’t the Administration propose to increase this funding amount with ELPF?

<u>Funding the Climate Change Assessment</u>

- What other funds have been used to conduct the climate change assessments in the past?
- Why did the department select the ELPF rather than cap and trade funding, bond funds, or other funds for this year’s assessment?
- The staff analysis indicates that Tidelands Oil Revenues should be used for this type of expenditure. Would the Administration support this type of fund source if ELPF were not available?

<u>Adaptation vs. Assessment</u>

- Describe the “Safeguarding California” report and how this assessment will contribute beyond the current draft adaptation plan.
- What funding is proposed in the state budget specifically for climate adaptation?

**Staff Recommendation:** Hold Open

# 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 $1.3 billion and 1,063 positions to support the CPUC in the budget year. This is an increase of ten positions and $50 million (four percent) from the current year mainly due to the implementation of new statutory requirements for broadband access.

### *Items Proposed for Vote-Only*

1. **Extension of Liquidation Period for Outside Legal Counsel for the Energy Crisis Litigation.** The budget requests a one-year extension of the liquidation period for continued assistance by outside legal counsel and economic consultants, as well as expert witnesses in litigation by the CPUC before the Federal Energy Regulatory Commission, which seeks refunds of several billion dollars for overcharges during the 2000-01 energy crisis for California consumers.

2. **Augment Fiscal Office Accounts Receivable.** The budget requests $120,000 and two positions from various special funds to provide services related to the timely input of user fees and the assurance of sufficient cash flow within the CPUC Utilities Reimbursement Account (PURA).

3. **Variable Air Volume Controller Repair Renovations.** The budget requests a one-time budget augmentation of $2.8 million (PURA) to complete the repair/replacement of the heating, ventilation and air conditioning (HVAC) control system at the CPUC headquarters in San Francisco.

4. **Community Choice Aggregation (Implementation of Legislation).** The budget proposes $363,000 and three positions (PURA) to implement SB 790 (Leno), Chapter 599, Statutes of 2011, which requires the CPUC to develop a number of new provisions to facilitate the formation and operation of Community Choice Aggregation programs.

**Staff Recommendation:** Approve Items 1-4.

***Items Proposed for Discussion***

## 1. Public Utilities Commission Financial Audits—Information Item

**Background.** On January 10, 2013, the Department of Finance (DOF) Office of State Audits and Evaluations (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 CPUC provided the OSAE with two corrective action plans, including one on January 15, 2014, that outline the CPUC's progress toward addressing the shortcomings identified in the original report.

**Legislative Audit Request.** The chairs of the Senate Budget Subcommittee #2, Assembly Budget Subcommittee #3 and both the Assembly and Senate energy and utilities committees 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. This audit will be released the week of March 6.

**Zero-Based Budget (ZBB).** The Legislature, as part of the 2013 Budget Act, required the CPUC to conduct a 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.

Special Presentations:

- **Office of State Audits and Evaluations:** Update on performance audit of CPUC budget process.

- **Bureau of State Audits:** Results of Audit 2013-109—CPUC Balancing Accounts

**Staff Recommendation:** Information Item

## 2. CPUC Energy Efficiency Financing Pilot Program—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.** After lengthy discussions in budget committees, the Legislature, as part of the 2013 budget, 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. The CPUC, in its quasi-legislative capacity, has attempted to usurp the Legislative branch's prerogative to determine what future projects and policies make sense. The Legislature's actions were designed to curtail the direction of ratepayer funds to state-directed programs without prior legislative approval.

**Budget Proposal.** The budget requests reimbursement and expenditure authority of $4.4 million, over two years, to enable it to serve as the administrator of IOU ratepayer funds. The proposal would allow CAETFA to 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). 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.

The funding for two years would include:

- $5 million for CHEEF startup costs (CAETFA administrative and contracting costs).
- $10 million for marketing, education and outreach ($8 million at IOUs, $2 million at CAETFA).
- $28.9 million for residential credit enhancements including: $25 million for single family loan loss reserves; $2.9 million for multi-family debt service reserve fund; and, $1 million for energy financing line item charges (to Pacific Gas and Electric Company).
- $14 million for non-residential credit enhancements (small business sector).
- $8 million to the IOUs for information technology.

**Staff Comments.** The proposal before the subcommittee does not request approval of the policy set forth by the CPUC but rather is the last step before implementing the CPUC's quasi-legislative policy decision. Given the Legislature's reaction to the CPUC's establishment of programs and activities outside the legislative process last year, it would behoove the CPUC to use the legislative process, rather than bypass it, in its efforts to start new programs. Staff are equally concerned that, once again, 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 under Budget Subcommittee #4 because it is within the Treasurer's Office. There is no companion budget proposal under the CPUC's budget.

**Staff Recommendation.** Staff recommends the Budget Subcommittee #2 request that Budget Subcommittee #4 reject the budget proposal. Additionally, staff recommends the subcommittee direct the CPUC to seek legislation to specifically authorize this pilot program in statute.

## 3. Extended Staffing Support for Deaf and Disabled Telecommunications.

**Background.** The Deaf and Disabled Telecommunications Program (DDTP) is a program of the CPUC providing Californians who are deaf and disabled with equipment and relay services throughout the California Telephone Access Program and the California Relay Service, respectively. AB 136 (Beall), Chapter 404, Statutes of 2011) requires speech generating devices (SGD), accessories, and mounting systems, and specialized telecommunication equipment, including infrared telephones, speaker phones, and telephone interface devices, be funded through the program.

**Budget Proposal.** The budget proposes five, one-year limited-term positions and $455,000 (Deaf and Disabled Telecommunications Fund) to expand the DDTP Program to include speech generating devices. The commission anticipates initiating a pilot program once rules are put in place to explore and evaluate options for cost control purposes and to gain hands-on experience in public and private health insurance programs.

**Staff Comments.** The addition of SGDs to the DDTP was required by legislation in 2011. The devices have been classified by the US Department of Health and Human Services as durable medical equipment. Staff are concerned about the pace of the rollout of the program and accessibility of the devices to individuals who need them for communication.

The CPUC should update the subcommittee on its program rollout and its efforts to reach those in need of SGDs.

**Staff Recommendation.** Approve

## 4. High-Speed Rail Initiative—Electrical Infrastructure Planning and Permitting

**Background**. The California High-Speed Rail (HSR) Authority is responsible for the preparation of environmental documents required by law on the development of HRS in the state. The documents prepared at this point do not assess the electrical infrastructure needed, nor do they include a full funding plan. The CPUC has stated that it will be responsible for preparing additional environmental documents to consider the impact of the rail line on electrical infrastructure, such as new substations or transmission lines.

**Budget Proposal.** The budget proposes $1.85 million and three positions ($355,000 Public Transportation Account, State Transportation Fund and Reimbursements and $1,500 in reimbursements, mainly from utilities) to perform the required electrical system planning and permitting analyses to support the deployment of the HSR Initiative.

**Staff Comments.** There is significant uncertainty about the sources of funding needed for the overall completion of the majority of the HSR project. At this time, Proposition 1A bonds cannot be used for the project and it is uncertain when this legal hurdle will be cleared. In addition, it is unclear how much, if any, other non-state funds (such as local funds, and funds from operations and development, or private capital) have been secured.

The Governor's CPUC proposal relies mainly on funding directly from ratepayers. At this time, HSR is not a ratepayer, nor will it be for a significant amount of time. Therefore, the current funding source for the HSR electrical documentation is ratepayers who may or may not be reimbursed for their contribution to this statewide project.

The subcommittee should consider whether other funds are more appropriate for HSR electrical planning, including funding from the HSR project or federal funds. Additionally, this proposal is one of several HSR proposals before the budget committee this year, among which is a proposal to use cap and trade funding for portions of the development of HSR. These proposals will be heard in subsequent hearings.

**Staff Recommendation.** Hold Open

## 5. Implement Greenhouse Gas Revenue Return to Energy-Intensive, Trade Exposed Industries

**Background**. As part of its implementation of the state's Cap and Trade program for greenhouse gas reduction, the Air Resources Board (ARB) issues greenhouse gas (GHG) allowances, which are permits to emit GHGs into the atmosphere. In order to protect electric ratepayers from price increases, the ARB allocates free allowances to the state's electric utilities and requires them to sell those allowances, returning the revenue to ratepayers. Senate Bill 1018 (Committee on Budget and Fiscal Review), Chapter 39, Statutes of 2011, required this revenue to be provided directly to residential customers, small businesses, and companies in emission intensive, trade-exposed (EITE) industries. The allocation to EITE companies is intended to ensure that industrial production currently occurring in California does not move outside the state as a result of Cap and Trade, thus causing emissions to "leak" out of the state.

The CPUC has been developing a program to address the mitigation leakage risk, including specific formulas to determine how much allowance revenue each EITE company should receive, and to base the allocation primarily on product output. The CPUC has stated that this calculation is problematic because it has a challenging time calculating the price of output, and that it is not aware of all companies at risk of "leakage."

**Budget Proposal.** The budget requests an increase of $1 million (reimbursable authority) in 2014-15 and $500,000 per year from 2015-16 through 2021-2022 to enable the CPUC to implement the return of GHG revenue to EITE industries. The funding is proposed to allow CPUC to ensure that sensitive and confidential business information is not compromised, and to complete the study of EITE industry leakage. In the proposal, the CPUC asserts that because the state has not yet conducted a comprehensive study of industries put at risk due to cap and trade, the CPUC would like to engage researchers at the University of California to conduct a "far-ranging study" of other industries that might need financial assistance.

**Implementing Legislation.** SB 1018 states:

> *748.5. (a) Except as provided in subdivision (c), the commission shall require revenues, including any accrued interest, received by an electrical corporation as a result of the direct allocation of greenhouse gas allowances to electric utilities pursuant to subdivision (b) of Section 95890 of Title 17 of the California Code of Regulations to be credited directly to the residential, small business, and emissions-intensive trade-exposed retail customers of the electrical corporation.*
>
> *(b) Not later than January 1, 2013, the commission shall require the adoption and implementation of a customer outreach plan for each electrical corporation, including, but not limited to, such measures as notices in bills and through media outlets, for purposes of obtaining the maximum feasible public awareness of the crediting of greenhouse gas allowance revenues. Costs associated with the implementation of this plan are subject to recovery in rates pursuant to Section 454.*

**Staff Comments.** At the time of the passage of SB 1018, it was not contemplated that the return of cap and trade funds to residential, commercial and industrial entities would require over $1 million to implement the program. In addition, the idea that the CPUC must contract to conduct a far-ranging study on the impacts of cap and trade on industry was not discussed. This activity is beyond the scope of the CPUC and more in the purview of the ARB, as part of its broader discussion of "leakage" within the Cap and Trade program.

Because this proposal has raised questions of the intent of legislation, staff recommends this item be held open until the Legislature can provide guidance on the need for such a program.

**Staff Recommendation:** Hold Open

## 6. Implementation of 2013 Legislative Proposals

**Background.** During the 2013 legislative session, the following bills were passed that impact the CPUC Budget:

1. **AB 1299 (Bradford),** Chapter 507, Statutes of 2013, requires the CPUC to establish the Broadband Public Housing Account in the California Advanced Services Fund, which will provide grants and loans to publicly-supported communities for projects deploying high quality advanced broadband and for programs designed to increase broadband adoption rates by residents in these communities.

2. **SB 740 (Padilla),** Chapter 522, Statutes of 2013, supplements the existing $200 million authorized for CASF broadband infrastructure grants with an additional $90 million.

3. **AB 327 (Perea),** Chapter 611, Statutes of 2013, proposed changes to CPUC rate design, grid distribution, net energy metering, and renewable portfolio standard programs.

**Governor's Proposals.** The budget requests $38.9 million (up to $25 million in grants and loans), and 1.5 positions to implement AB 1299 and SB 740 related to the California Advanced Services Fund. The budget also proposes 11 positions and $1.5 million (PURA), including $130,000 in consultant costs, to implement AB 327.

**Staff Comments.** These proposals implement recent statute and mirror legislative analysis of the bills.

**Staff Recommendation:** Approve legislative proposals.

# 3360 Energy Resources Conservation Development Commission (California Energy Commission)

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

**Governor's Budget.** The Governor's budget includes $486 million (no General Fund) for support of the CEC, a decrease of approximately $21 million, due primarily to the phasing down of the Public Interest Energy Research (PIER) Program and the Renewable Resources Trust Fund (RRTF).

### *Items Proposed for Vote-Only*

1. **Acceptance Test Technician Certification Provider (ATTCP) Program.** The budget requests $267,000 (Energy Resources Programs Account [ERPA]), one permanent position, and one two-year limited-term position for the development, implementation of, and oversight of the program. This program would establish industry training and certification requirements to improve compliance for equipment and control installation on non-residential buildings.

2. **In-House Training Capabilities.** The budget requests one position to expand the in-house training unit. The proposal is self-funded with savings resulting from cancellation of external training contracts funded by ERPA.

3. **Ongoing Development of Utility Smart Grid Implementation Plans, Metrics, and Standards.** The budget requests $150,000, and conversion of one limited-term position to permanent, to provide ongoing technical analysis and standards coordination required by SB 17 (Padilla) Chapter 327, Statutes of 2009. This statute established goals for modernization of the electricity grid and development of a "smart grid."

4. **Geothermal Grant and Loan (GRDA) Program Liquidation Extension.** The budget requests to permanently extend the GRDA program funding liquidation period from two to four years to allow more time for projects to successfully complete project tasks and generate project products that are useful and help advance geothermal energy research and development.

5. **Public Goods Charge (PGC) Ramp-Down Plan.** The budget requests the second year of a multi-year proposal in response to the sunset of the authority to collect the PGC on January 1, 2012. Following budget actions previously taken by the Legislature, this program is undergoing a multi-year phased staff reduction. The proposal identifies the reduction of 31 positions and $4 million for the Public Interest Energy Research Program (PIER). This issue was heard and approved in this subcommittee in 2013.

**Staff Recommendation:** Approve Items 1-5.

***Items Proposed for Discussion***

## 1. Proposition 39—Implementation and Operation of the California Clean Energy Jobs Act

**Governor's Proposal.** The Governor's budget proposes $3 million and 12 permanent positions to implement and provide technical assistance for the California Clean Energy Jobs Act (CCEJA), SB 73 (Committee on Budget and Fiscal Review), Chapter 29, Statutes of 2013. The legislation provides legislative guidance for implementation of Proposition 39, the Income Tax Increase for the Multistate Business initiative, passed in 2012.

The budget proposal continues the request from current year and provides for $1.3 million in external consulting funding and $1.7 million for the baseline positions and state activities. The positions are intended to provide outreach to Local Education Agencies (LEAs) including annually evaluating and approving an estimated 1,700-2,100 energy expenditure plans that will be submitted to the CEC, as required by the enabling legislation. In addition to providing outreach to the LEAs, the CEC plans to: develop and maintain a publicly available and searchable database to track and report program metrics (energy savings, energy costs savings, greenhouse gas reductions and employment effects of project); review and evaluate energy savings project expenditure plan modifications; provide and manage low and zero-interest revolving loans to LEAs and community colleges; and, provide annual reports to the Citizens Oversight Board.

**Questions for the Commission.** In addition to a brief overview update on the status of the Proposition 39 funding at the CEC and its interactions with the LEAs, the commission should discuss the following:

- How long does the CEC anticipate this program running, given that the initial funding will be fully appropriated within five years?

- What hurdles or legislative changes are necessary to keep the program on track and have these been introduced?

**Staff Recommendation:** Approve proposal.

## 2. Implementation of the Electric Program Investment Charge (EPIC)

**Background**. In December 2011, funding for the state's Public Goods Charge (PGC) on electricity ratepayers expired. The PGC funded energy efficiency research and development and renewable energy programs. Efforts to continue the surcharge, which requires a 2/3 vote of the Legislature, failed. The charge, considered a tax for voting purposes, supported about a quarter of the total energy efficiency programs funded by the state and energy utilities.

In September 2011, the Governor sent a letter to the CPUC requesting that they take action under its quasi-legislative authority to ensure that programs, like those funded under the PGC, would be continued, but with the modifications legislators discussed during the PGC renewal deliberations. In December 2011, the CPUC initiated a rulemaking (essentially started a pathway to a new policy) to continue the programs similar to PGC, with a sole focus on the investor-owned utilities (IOUs). The commission planned a two-phased deliberation. The first phase addressed the appropriate funding levels for renewables and research and development. The second phase, currently under way, creates a detailed program.

**Previous Budget Actions.** In the 2012 Budget, the Legislature approved $1 million from the EPIC and 4.5 positions specifically to complete an investment plan for the future appropriations from this charge, established for the CPUC (and also described above). The 2013 budget approved $160 million and 55 positions from IOUs ratepayer funds for the implementation of EPIC. Trailer bill language restricted the use of funds to activities within the IOU areas and provided the authority for $25 million to be approved through the CPUC EPIC proceeding for the New Solar Homes Partnership Program.

**Budget Proposal.** The budget requests baseline authority for 26 positions to administer $172.5 million (direct ratepayer funds) in program funds for implementation of the CPUC-created EPIC program. The total request of $17 million is comprised of $3.8 million for state operations and $13.2 million for local assistance.

**Lawsuit Pending.** On May 21, 2013, one of the IOUs, Southern California Edison (SCE), sued the CPUC asserting that the CPUC's adoption of the EPIC is illegal for the following reasons: (1) CPUC's jurisdiction to regulate utilities does not extend to the establishment of a charge to fund another state agency (CEC); (2) EPIC raises revenue that is being used for broad purposes such as research and development, and is thus a tax; and, (3) EPIC involves an unlawful delegation of discretionary authority from CPUC to CEC. It is anticipated that the court will make its findings public in the next month.

**Staff Comments.** As discussed in previous years, the policy of this proposal has not been vetted in a legislative hearing, but rather through the ratemaking processes of the CPUC. While the Legislature has approved funding for this proposal in the current year, it would be prudent to withhold action in the budget until the court has rendered its decision.

**Staff Recommendation:** Hold Open pending court review.

## 3. CEC Information Technology Proposals

**Governor's Proposal.** The Governor's budget includes three separate funding proposals for information technology (IT) related projects. These include:

1. **Renewables Portfolio Standard Database Modernization Project.** The budget requests $2.2 million (Petroleum Violations Escrow Account [PVEA]) to hire a contractor to implement a new Renewable Portfolio Standards database. The new database will allow for continued database growth and functionality, and increased efficiency of business processes, without risk to data security and stability. Under this one-time IT project, a contractor will design, build, and implement the proposed new database system, as well as support and train the CEC's IT Services Branch staff on maintenance and operations for six months after implementation.

2. **Application Development and Maintenance Support.** Request for three permanent programmer analyst positions and $403,000 (Energy Resources Program Account) to support the increasing workload for software applications and databases. Currently, the IT branch has about 40 applications and databases that require support on a regular basis. There are an additional 20 databases that require support but are only addressed on an emergency basis due to lack of programmer capacity. Another ten applications and databases, including critical systems such as e-filing for power plant siting cases, will come online in the next 12 months.

3. **Building an Energy Data Infrastructure to Meet the 21st Century.** The Governor's budget proposes six tow-year limited-term positions and $790,000 (Energy Resources Program Account) to develop disaggregated energy demand forecasts purportedly needed to implement the Governor's renewable distributed generation goals and support statewide energy decisions at the CEC, CPUC and the California Independent System Operator

**Staff Comments.** The Commission's proposals all have merit but raise a question about coordination and planning efforts. In recent testimony before the Senate Rules Committee, Commissioner Carla Peterman testified that she had directed the commission staff to upgrade its public databases to be more user-friendly. The proposals before this subcommittee seek to accomplish this goal, while increasing the capability of internal CEC staff to oversee this critical function.

**Questions for the Commission.** The commission should address these questions in their opening statement:

- The CEC has over 50 databases dedicated to different activities. Is there room to consolidate some of these functions to achieve efficiency?

- Has the CEC worked with the California Technology Agency to review its overall IT functions and to attempt to streamline the IT branch?

- Are the changes requested the result of internal requests (including from the commissioners) or from statutory requirements?

- The shift from using consultants to using state employees to maintain databases may make sense in some cases. However, with 50 database applications, is it practical to have internal IT staff responsible for such a breadth of databases?

- What limitations (such as travel bans or funding for continued education) may hinder the ability of internal staff to keep up with outside consulting firms? What is the internal training budget per person and how often will they be allowed to take continuing education classes to keep up with their counterparts outside of state government?

**Staff Recommendation:** Hold Open

## 4. Vulnerability of the Fueling Infrastructure for the Transportation Sector to Climate Change

**Governor's Proposal.** The Governor's budget requests $2 million (Petroleum Violation Escrow Account) and one two-year limited-term position to support an evaluation of the vulnerability of the fuel infrastructure for the transportation sector to climate change impacts. This work is intended to contribute to the Fourth Climate Change Assessment (see page 4 of this agenda) which is planned to be released in 2017. The project is proposed to identify specific vulnerabilities of California's fuel infrastructure to both extreme weather events (flooding, fire, storms), and other climate impacts (sea level rise, coastal erosion, rising temperatures).

**Questions for the Commission.** The commission should address these questions in their opening statement:

- The state has conducted multiple studies regarding the effects of climate change all sectors of the economy. What added value will this $2 million report give us?

- The state has already determined several vulnerabilities in the energy sector related to climate change. Does the CEC have a proposal to begin to adapt to these pressures?

**Staff Comments:** The Administration's continued research into impacts of climate change is commendable. Since before 2006, and after each major climate event, the state has assessed the risk to its state-owned and privately-owned infrastructure. In few cases, however, has the state taken definitive action to dedicate financial resources to adaptation without a court mandate (for example the use of bond funding to reduce flood risk was in-part determined by a court case finding the state liable for certain levees). These changes will necessarily be controversial, however, if the state continues to determine that there are substantial risks to state and private infrastructure, changes will be needed in land use siting, planning and other activities.

**Staff Recommendation:** Hold Open

## 5. Transportation Energy Supply Forecast Analysis

**Background.** Existing statute requires the CEC to conduct assessments and forecasts of energy industry supply, production, transport, delivery, and distribution. This assessment includes demand and pricing analysis for several sectors, including transportation fuels. Specifically, the CEC is required to:

- Assess trends in transportation fuels, technologies and infrastructure supply and demand.
- Forecast statewide and regional energy demand.
- Evaluate sufficient transportation fuel supplies, technologies and infrastructure.
- Assess risk and disruptions in price shocks.
- Provide alternative fuel assessments.
- Provide recommendations to improve transportation energy use.

Assembly Bill 118 (Núñez), Chapter 750, Statutes of 2007 created the CEC's Alternative and Renewable Fuel and Vehicle Technology Program. Specifically, this program provides funding, in part, to:

- Develop and improve alternative and renewable low-carbon fuels.
- Optimize alternative and renewable fuels for existing and developing engine technologies.
- Decrease, on a full fuel cycle basis, the overall impact and carbon footprint of alternative and renewable fuels and increase sustainability.
- Expand fuel infrastructure, fueling stations, and equipment.
- Improve light-, medium-, and heavy-duty vehicle technologies.
- Expand infrastructure connected with existing fleets, public transit, and transportation corridors.

**Governor's Proposal.** The budget requests to redirect $750,000 (ERPA, mainly from electric and natural gas ratepayers) baseline contract funds to establish two new permanent positions to initiate a transportation supply and economic impact analysis framework, gather energy supply data, and initiate economic impact analysis.

**Staff Comments:** The CEC, as part of its administration of AB 118, has, in large part, conducted much of the initial research on the transportation sector as is evidenced in its AB 118 Investment Plan. However, further research may be necessary.

The funding source identified for this proposal is derived mainly from electric and natural gas ratepayers throughout the state. Funding is not proposed from existing transportation fuel fees and taxes. In addition, it is unclear to what extent this proposal utilizes existing research gathered through the implementation of AB 118 and other state transportation programs.

**Staff Recommendation:** Require the CEC to return in April with alternative funding from the transportation sector. Hold Open.

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

**Thursday, March 6, 2014**
**9:30 a.m. or Upon Adjournment of Session**
**Hearing Room 112**

**Consultant: Catherine Freeman**

# OUTCOMES

**Vote-Only**

## 0555 Secretary for California Environmental Protection Agency (Cal-EPA)

1. **Cal-EPA Refinery Information Officer and Emergency Coordinator.** Request to establish a permanent position at the Office of the Secretary for Cal-EPA to coordinate Cal-EPA boards, departments, and offices' emergency preparedness and response activities related to refineries. This position would serve as liaison for the State Emergency Plan for hazardous materials response and debris management. The position would coordinate hazardous materials emergency response with local certified Unified Program Agencies (CUPAs), and federal organizations for rapid response.

**Staff Recommendation:** Approve Item 1.

# VOTE: 3-0

# 0540 Secretary for Natural Resources

*Items Proposed for Vote-Only*

1. **Statewide Oversight Position Extension and Environmental Enhancement and Mitigation Fund (EEM) Position Authority.**

2. **California Cultural Historical Endowment Funding.**

**Staff Recommendation:** Approve Items 1-2.

## Item 1:
## VOTE: 3-0

## Item 2:
## VOTE: 2-1 (Nielsen, no)

### 1. Fourth California Climate Change Assessment

**Staff Recommendation:** Hold Open

## VOTE: Hold Open

## 8660 California Public Utilities Commission

***Items Proposed for Vote-Only***

1. **Extension of Liquidation Period for Outside Legal Counsel for the Energy Crisis Litigation.**

2. **Augment Fiscal Office Accounts Receivable.**

3. **Variable Air Volume Controller Repair Renovations.**

4. **Community Choice Aggregation (Implementation of Legislation).**

**Staff Recommendation:** Approve Items 1-4.

### Item 1:
### VOTE: 3-0

### Item 2:
### VOTE: 3-0

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

### Item 4:
### VOTE: 2-1 (Nielsen, no)

***Items Proposed for Discussion***

**1. Public Utilities Commission Financial Audits—Information Item**

**Staff Recommendation:** Information Item

## VOTE: No Action—Information Item

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

**Staff Recommendation.** Staff recommends the Budget Subcommittee #2 request that Budget Subcommittee #4 reject the budget proposal. Additionally, staff recommends the subcommittee direct the CPUC to seek legislation to specifically authorize this pilot program in statute.

## VOTE: Hold Open

**3. Extended Staffing Support for Deaf and Disabled Telecommunications.**

**Staff Recommendation. Approve**

## VOTE: 3-0

**4. High-Speed Rail Initiative—Electrical Infrastructure Planning and Permitting**

**Staff Recommendation.** Hold Open

## VOTE: Hold Open

### 5. Implement Greenhouse Gas Revenue Return to Energy-Intensive, Trade Exposed Industries

**Staff Recommendation:** Hold Open

## VOTE: Hold Open

### 6. Implementation of 2013 Legislative Proposals

1. **AB 1299 (Bradford),** Chapter 507, Statutes of 2013, requires the CPUC to establish the Broadband Public Housing Account in the California Advanced Services Fund, which will provide grants and loans to publicly-supported communities for projects deploying high quality advanced broadband and for programs designed to increase broadband adoption rates by residents in these communities.

2. **SB 740 (Padilla),** Chapter 522, Statutes of 2013, supplements the existing $200 million authorized for CASF broadband infrastructure grants with an additional $90 million.

3. **AB 327 (Perea),** Chapter 611, Statutes of 2013, proposed changes to CPUC rate design, grid distribution, net energy metering, and renewable portfolio standard programs.

**Staff Recommendation: Approve legislative proposals**.

## VOTE: 3-0

# 3360 Energy Resources Conservation Development Commission (California Energy Commission)

***Items Proposed for Vote-Only***

1. **Acceptance Test Technician Certification Provider (ATTCP) Program.**

2. **In-House Training Capabilities.**

3. **Ongoing Development of Utility Smart Grid Implementation Plans, Metrics, and Standards.**

4. **Geothermal Grant and Loan (GRDA) Program Liquidation Extension.**

5. **Public Goods Charge (PGC) Ramp-Down Plan.**

**Staff Recommendation: Approve Items 1-5.**

## Item 1:
## VOTE: 3-0

## Item 2:
## VOTE: 2-1 (Nielsen, no)

## Item 3:
## VOTE: 3-0

## Item 4:
## VOTE: 3-0

## Item 4:
## VOTE: 3-0

***Items Proposed for Discussion***

### 1. Proposition 39—Implementation and Operation of the California Clean Energy Jobs Act

**Staff Recommendation:** Approve proposal.

## VOTE: Hold Open

### 2. Implementation of the Electric Program Investment Charge (EPIC)

**Staff Recommendation:** Hold Open pending court review.

## VOTE: Hold Open

### 3. CEC Information Technology Proposals

1. **Renewables Portfolio Standard Database Modernization Project.**
2. **Application Development and Maintenance Support.**
3. **Building an Energy Data Infrastructure to Meet the 21st Century.**

**Staff Recommendation:** Hold Open

## VOTE: Hold Open

## 4. Vulnerability of the Fueling Infrastructure for the Transportation Sector to Climate Change

**Staff Recommendation:** Hold Open

# VOTE: Hold Open

## 5. Transportation Energy Supply Forecast Analysis

**Staff Recommendation:** Require the CEC to return in April with alternative funding from the transportation sector. Hold Open.

# VOTE: Hold Open

# SUBCOMMITTEE NO. 2 Agenda

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

**Thursday, March 13, 2014**
**9:30 a.m. or Upon Adjournment of Session**
**Room: 112**

**Consultant: Farra Bracht**

## Agenda

## Transportation

### OVERVIEW OF TRANSPORTATION ISSUES AND FINANCING



### INFORMATIONAL ITEMS FOR DISCUSSION



### PROPOSED VOTE-ONLY

## PROPOSED DISCUSSION / VOTE



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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 916-651-1505. Requests should be made one week in advance whenever possible.

# Overview of Transportation Issues and Financing

Legislative Analyst's Office

## Transportation Budget Summary—Selected Funding Sources

*(Dollars in Millions)*

| | Actual 2012–13 | Estimated 2013–14 | Proposed 2014–15 | Change From 2013–14 | |
|---|---|---|---|---|---|
| | | | | Amount | Percent |
| **Department of Transportation** | | | | | |
| General Fund | $83.4 | $81.4 | $83.0 | $1.7 | 2.0% |
| Special funds | 3,273.0 | 3,841.2 | 3,577.2 | –264.0 | –6.9 |
| Bond funds | 3,281.6 | 2,333.0 | 822.8 | –1,510.2 | –64.7 |
| Federal funds | 3,593.0 | 4,892.8 | 4,781.2 | –111.6 | –2.3 |
| Local funds | 1,470.9 | 1,582.2 | 1,594.2 | 12.0 | 0.8 |
| **Totals** | **$11,702.0** | **$12,730.5** | **$10,858.3** | **–$1,872.2** | **–14.7%** |
| **High–Speed Rail Authority** | | | | | |
| Bond funds | $45.0 | $48.3 | $29.3 | –$19.0 | –39.3% |
| Federal funds | 185.8 | 571.3 | 1,110.7 | 539.4 | 94.4 |
| Greenhouse Gas Reduction Fund | — | — | 250.0 | 250.0 | — |
| **Totals** | **$230.8** | **$619.7** | **$1,390.0** | **$770.4** | **124.3%** |
| **California Highway Patrol** | | | | | |
| Motor Vehicle Account | $1,703.5 | $1,845.0 | $1,852.8 | $7.8 | 0.4% |
| Other special funds | 157.5 | 165.8 | 170.7 | 4.9 | 2.9 |
| Federal funds | 17.4 | 18.9 | 19.0 | 0.1 | 0.7 |
| **Totals** | **$1,878.4** | **$2,029.7** | **$2,042.6** | **$12.8** | **0.6%** |
| **Department of Motor Vehicles** | | | | | |
| Motor Vehicle Account | $831.2 | $978.4 | $1,027.5 | $49.1 | 5.0% |
| Other special funds | 83.4 | 46.4 | 45.8 | –0.6 | –1.3 |
| Federal funds | 0.7 | 5.1 | 4.1 | –1.1 | –20.8 |
| **Totals** | **$915.4** | **$1,029.9** | **$1,077.3** | **$47.4** | **4.6%** |
| **State Transit Assistance** | | | | | |
| Public Transportation Account | $417.5 | $389.8 | $373.1 | –$16.7 | –4.3% |
| Bond funds | 752.9 | 299.0 | 823.9 | 525.0 | 175.6 |
| **Totals** | **$1,170.4** | **$688.7** | **$1,197.0** | **$508.3** | **73.8%** |

# INFORMATIONAL ITEMS PROPOSED FOR DISCUSSION

## 0521 Secretary for Transportation Agency
## 2600 California Department of Transportation

**Agency Overview:** The newly-constituted Transportation Agency has been in place since July 1, 2013. The agency includes the following: Department of Transportation (Caltrans), Department of California Highway Patrol (CHP), Department of Motor Vehicles (DMV), and Board of Pilot Commissioners for the Bays of San Francisco, San Pablo and Suisun (BOPC). In addition, the agency includes two current stand-alone entities—the High Speed Rail Authority (HSRA) and the California Transportation Commission (CTC). The agency Secretary is the Governor's cabinet member for major policy and program matters involving transportation and oversees the operations of the agency's departments and programs. The agency also administers the California Traffic Safety Program.

**Budget Summary:** The Governor's Budget proposes expenditures of $100.9 million from a combination of special funds, federal trust funds and reimbursements. Most of the resources ($96.7 million) are for the California Traffic Safety Program. Administrative costs of the agency are $4.2 million in the budget year.

**Item 1: Overall Transportation Budget and Transportation Funding Needs**
**Item 2: Caltrans Reform**

**Background:**

**Funding for Transportation**

***State Funding is Not Keeping Pace.*** State funding for transportation comes primarily from revenues derived from taxes and fees. The four main state revenue sources are: (1) state gasoline and diesel excise tax, (2) fees on cars and drivers, (3) vehicle weight fees, and (4) the sales tax on diesel fuel. Some of these state revenues, as well as federal revenues, used to support the transportation system have eroded over time as vehicles have become more fuel-efficient or use alternative energy sources not subject to state and local taxes. Thus, the base of these taxes has diminished over time and, as a result, the traditional funding sources have not kept pace with the demands of a growing population and an aging transportation system.

In addition, the state funds transportation projects with general obligation (GO) bonds. The most recent transportation bond approved by the voters—the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 (Prop 1B)—provided $19.9 billion for a variety of transportation projects. Most of this funding is already committed to projects and will be expended within the next few years as these projects are completed. Moreover, going forward, structural changes at both the federal and state levels may impact the way the state funds transportation projects.

***Funding Levels Outpace Transportation System Needs.*** Both the state's highway system and local roads are in poor condition, according to various studies. The state's highway system is ranked 47th in the nation in overall efficiency and performance, and its urban interstates are ranked as the most congested in the nation. The state ranks 49th in urban interstate pavement condition and 39th in the condition of rural arterial roads. Also, the majority of California's counties now have an average pavement condition rating that is considered at-risk, and projections indicate that by 2022, a quarter of local streets and roads will be in the failed category.

In recent years, various organizations have prepared assessments of the state's transportation system and its needs. In general, these studies have found that the needs are great and the funding to address those needs is inadequate. For example, in 2011, the California Transportation Commission Statewide Transportation System Needs Assessment found that the total cost of all system preservation, system management, and system expansion projects during the ten-year study period was nearly $538.1 billion. Of this total, about 63 percent of the costs are for rehabilitation projects and maintenance costs based on the goal of meeting accepted standards that would bring transportation facilities into a "state of good repair" within the ten-year study period. The remaining costs were for system management and expansion projects.

Recent efforts to improve Caltrans have focused on budgeting, funding, and operations. These efforts include zero-based budgeting (ZBB) reviews of numerous programs, a workgroup focused on funding, and a review of Caltrans' operations.

**Efforts to Improve Caltrans**

***Independent Review of Operations.*** As part of establishing the new California State Transportation Agency (CalSTA) on July 1, 2013, the Administration contracted with experts from the independent State Smart Transportation Initiative (SSTI) to conduct an expert review of operations within Caltrans. The SSTI has conducted reviews of state departments around the country with an eye on reform that advances environmental sustainability and equitable economic development, while maintaining high standards of governmental efficiency and transparency. The review is intended to build on recent reforms and assess weaknesses and strengths within the department to help make Caltrans more effective.

The SSTI released its report entitled "The California Department of Transportation: SSTI Assessment and Recommendations" in January 2014. The report provides a critical assessment of Caltrans' management and operations. Overall, the report found that Caltrans is significantly out of step with best practices in the transportation field and with the state's policy expectations. This is supported by the finding that Caltrans is oriented toward projects despite the need to shift its primary job to system maintenance and operations. In addition, Caltrans does not support less reliance on auto-mobility. Contributing to this are decisions to have the state vest more funding at the local level, and not thinking about how Caltrans would change to be a partner, rather than a master builder.

The report focuses on three areas for improvement: (1) how the department expresses its mission; (2) what resources are available to achieve that mission; and (3) how the department manages those resources to the greatest effect. Consistent with these, the report makes 46 specific recommendations, in 10 broad areas, as follows:

- Establish a mission, vision, and associated goals that reflect current state law and policy.
- Better match investments to policy goals expressed in statements of mission, vision, and goals.
- Take advantage of the state's new institutional structure to help drive change.
- Align resources to desired goals.
- Reform critical guidance documents and standard operating procedures.
- Strengthen strategic partnerships.
- Focus on freight.
- Communicate more effectively.
- Manage for performance.
- Foster innovation and continuing evolution.

In addition, the report makes four recommendations that it states should be completed within the next six months:

- Caltrans and CalSTA should develop mission, vision, and goal statements that are fully consistent with state planning and policy goals.

- Following the release of new mission, vision, and goal statements, Caltrans and CalSTA should use these, as well as the recommendations in this report, to organize teams to develop implementation actions and performance measures.

- Caltrans and CalSTA should work to ensure the success of CEQA reform rulemaking set up by SB 743 (Steinberg), Chapter 386, Statutes of 2013, specifically in regards to how to improve land use outcomes. SB 743 reforms how transportation-related mitigation associated with new development is measured and implemented to encourage more infill and transit-oriented development.

- Caltrans and CalSTA should modernize state transportation design guidance.

***Funding Workgroup.*** Last year's budget directed CalSTA to work with stakeholders to develop transportation funding priorities and explore long-term funding options. California Transportation Infrastructure Priorities (CTIP) participants include leaders from business, labor, local transportation agencies, state departments, metropolitan planning organizations, environmental groups, and transportation related non-profits, among others. Four subgroups were formed to examine highways, mass transit, local roads, and active transportation.

The CTIP workgroup released its report in February 2014 and offered a set of action items to achieve a vision of California's transportation future centered around the concepts of preservation, innovation, integration, reform, and funding. The report makes both short-term and long-term recommendations. The short-term recommendations are consistent with the actions proposed in the Governor's 2014 budget and include items such as using cap and trade revenues for rail modernization and appropriating the remaining Proposition 1B funds.

Longer-term recommendations are as follows:

- Support efforts to maintain and expand the availability of local funds dedicated to transportation improvements, specifically in support of the Governor's proposal to make it easier for local governments to form Infrastructure Financing Districts (IFDs).

- Explore a voluntary pilot program to study, review, and consider the viability of a mileage-based user fee in California.

- Work with the Legislature to expand the department's use of pricing and express lanes to better manage congestion and the operations of the state highway system while generating new revenues for preservation and other corridor improvements.

- Work with stakeholders to ensure that the State Transportation Improvement Program (STIP) is funding projects that meets a set of performance measures to meet the state's mobility, safety, sustainability, and economic objectives.

- Work to address the recommendations of the California Freight Advisory Committee.

***Zero-Base Budgeting Reviews.*** As part of a Governor's 2013 Executive Order, Caltrans began a multi-year efficiency review that included ZBB. To date, the department has completed ZBB reviews of the following programs: Local Assistance, Planning, Equipment, Storm Water, and Aeronautics. These efforts have resulted in program efficiencies such as position reductions and program streamlining. Also, in last year's budget, the Legislature directed the Legislative Analyst's Office (LAO) and the Department of Finance (DOF) to work together to review Caltrans' direct workload for the Capital Outlay Support (COS) Program.

In July 2014, Caltrans plans to begin ZBB reviews of the Maintenance and Legal programs. In 2015, Caltrans plans to conduct ZBB reviews of Traffic Operations, Mass Transportation/Rail, as well as a second COS review that includes indirect workload, headquarters, and a review of the results from the first COS review. Finally, reviews of the Administrative Program and Program Management are planned for January of 2016.

**Staff Comment:** The state's transportation system is facing challenges that include the lack of sustainable funding, the failure to prioritize and fund maintenance needs, and a transportation department that is focused on the state's highways, rather than transportation at large. Much work has been done recently to examine Caltrans and opportunities to reform the organization so that it can better address the state's transportation needs.

It will be important to take actions to address these challenges. Specially, in the near term (the next six months) it will be critical that the Legislature provide oversight to ensure that CalSTA and Caltrans are taking steps to implement the recommendations made by SSTI and CTIP. It will also be important for the Legislature to establish itself as a partner in Caltrans' reform efforts and identify opportunities for legislative involvement.

**Questions:**

**<u>For Agency:</u>**

1) *Please comment on the overall budget proposal for the department within the Transportation Agency and the shortfall to address funding needs.*

2) *Please provide a brief summary of the findings and recommendations of the SSTI and CTIP reports.*

3) *Please discuss how the agency plans to address the recommendations in these reports in the next six months and one year. Will there be budget changes or proposed legislation in the near future to implement these recommendations? How does the agency plan to engage the Legislature in this process?*

4) *What steps have been taken to implement the four short-term recommendations made by SSTI? Please provide a status update on the progress toward implementing each.*

5) *How do the ZBBs relate to the reform of Caltrans?*

**For Caltrans:**

1) *Given the CTIP's report's finding that the state needs a single statewide transportation system, what should be Caltrans' role in facilitating regional planning and project development/ delivery?*

2) *Do you anticipate that in the process of redefining Caltrans' role some additional responsibilities will be devolved to the counties? Are there responsibilities that Caltrans is not currently performing that it should be?*

3) *What are likely to be the net resources impacts of restructuring on Caltrans?*

4) *The SSTI report was critical of Caltrans' management. Does Caltrans currently provide management training and, if so, what is the level of resources for this training? Does Caltrans plan to modify its training and possibly increase the level of resources devoted to training in the near future to address the concerns in the SSTI report?*

5) *What is the status and what are the key elements of Caltrans' California Transportation Plan 2040, which seeks to integrate regional planning with a statewide plan?*

6) *What is the status of Caltrans' Freight Mobility Plan? What is being done within the department to ensure that freight and goods movement remain high priorities?*

**Staff Recommendation:** Informational item. Follow-up at the May Revision hearing on the status of implementation of the four recommendations and CalSTA and Caltrans' future, long-term plans to transform Caltrans from a highway department to a transportation department.

# ITEMS PROPOSED FOR VOTE ONLY

## 2660 Department of Transportation

**Department Overview:** The Department of Transportation (Caltrans) constructs, operates, and maintains a comprehensive state system of 50,000 road and highway lane miles and 12,559 state bridges, funds three intercity passenger rail routes, and provides funding for local transportation projects. 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 Equipment.

**Budget Overview:** The Governor's Budget proposed total expenditures of $10.9 billion ($83.0 million General Fund) and 19,543.5 positions. The largest sources of funds for Caltrans come from the State Highway Account, State Transportation Fund, and the Federal Trust Fund. State sources of revenue for the department are state gasoline and diesel excise taxes, the sales tax on diesel fuel, and weight fees. State sources of revenue constitute about $6.1 billion of the total available resources.

**Item 1: Continuation of ADA Infrastructure Program (BCP #3)**

The Governor's budget requests the permanent redirection of three positions and $507,413 in State Highway Account (SHA) funds from the Capital Outlay Support (COS) Program to the Traffic Operations Program, to continue to develop and implement the Americans with Disabilities Act (ADA) Infrastructure Program initiated in July 2010. The redirection from the COS Program will come from anticipated reductions due to declining workload. This request also includes $1.0 million of SHA funds for five years (through June 30, 2019) to continue existing consultant contracts, as required by the 2010 ADA lawsuit settlement agreement.

**Background:** The ADA of 1990 is a civil rights statute that prohibits discrimination against people with disabilities. In August 2006, the Californians for Disability Rights, Inc. and the California Council of the Blind filed a class action lawsuit against Caltrans in the United States District Court for the Northern District of California, claiming violations of both federal and state ADA laws as a result of Caltrans' alleged failure to install and/or maintain curbs and sidewalks to allow reasonable access for persons with disabilities.

In 2010, Caltrans reached a settlement which, among other provisions, stipulates that Caltrans will do the following:

- Allocate $1.1 billion for ADA specific projects over a thirty-year compliance period.
- Establish a 30-year program for improving facilities used by pedestrians.
- Ensure design guidance is current with federal and state accessibility guidelines.
- Comply with the grievance resolution process outlined in the settlement.

- Provide guidance on the use and design of temporary routes in work zones.
- Provide training in support of developed guidance.
- Provide annual monitoring reports of Caltrans's progress and actions.

**Staff Comment:** Caltrans is proposing the three positions to continue to implement the ADA infrastructure program. It is reasonable to propose these positions as permanent due to the longevity of the settlement agreement—30 years.

**Staff Recommendation:** Approve the permanent redirection of three positions and $507,413 in State Highway Account (SHA) funds and $1.0 million of SHA funds for five years (through June 30, 2019) to continue existing consultant contracts.

**Vote:**

**Item 2: JARC/ New Freedom Permanent Resources (BCP #17)**

The Governor's budget proposes to convert three positions and $301,000 ($274,000 in personal services and $27,000 in operating expenses) in federal funds from limited-term to permanent for the Mass Transportation Program to implement and administer Federal Transit Administration (FTA) Sections 5316 Job Access & Reverse Commute (JARC), and 5317 New Freedom (NF) projects through the existing FTA 5310 Enhanced Mobility of Seniors and Individuals with Disabilities and 5311 Formula Grants for Rural Areas programs. The three positions and $301,000 will be redirected from the Capital Outlay Support Program's State Highway Account (SHA) funds from anticipated reductions due to declining workload.

**Background.** Since 2006-07, these three positions have been re-authorized twice to continue implementation and administration of the JARC and NF projects and will expire on June 30, 2014. The federal Moving Ahead for Progress in the 21st Century (MAP 21)—the new federal transportation reauthorization bill, permanently merged JARC and NF projects and funding into the 5310 and 5311 programs. There are currently 175 open JARC and NF projects statewide. MTP anticipates approximately 50 new projects will be added this current fiscal year.

These federal programs are described below:

- The 5310 program is a capital grant funding program that delivers vehicle and equipment requests to meet the transportation needs of elderly persons and persons with disabilities in areas where public mass transportation services are otherwise inadequate.

- The 5311 program provides apportioned funding for public transit in non-urbanized areas with a population fewer than 50,000.

- The 5316 program is a capital and operations grant program that aims to improve access to transportation services for employment and employment-related activities for low-income individuals. This program was merged with the 5311 program.

- The 5317 program is a capital and operations grant program that aims to provide new public transportation services for Americans with disabilities. It will expand the transportation mobility options available to persons with disabilities beyond requirements of the Americans with Disabilities Act of 1990. This program was merged with the 5310 program.

**Staff Comment.** The JARC and NF workload is prescribed by MAP 21 and is therefore permanent, and will require permanent staff resources.

**Staff Recommendation.** Approve the three positions as permanent and the related $301,000 in federal funds.

**Vote:**

# ITEMS PROPOSED FOR DISCUSSION AND VOTE

**Item 1: Proposition 1B Capital Needs (BCP #2)**

The Governor is requesting $963.5 million in capital funding for projects in nine programs under the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 (Proposition 1B). This proposal represents a zero-based budget (ZBB) and includes the following (also shown in the table below):

- One program funded through State Transit Assistance (STA), which is the remaining amount estimated to be available for local agency projects—793.1 million.
- Projects in three programs where the project proponent expects to request an allocation of funding in 2014-15—$170.4 million.
- Five programs for which appropriation authority is requested so that project savings from past years may be utilized.

**2014-15 Proposition 1B Capital Needs Requests**

| Fund | 2013-14 Request (in thousands) |
|---|---|
| Public Transportation Modernization, Improvement and Service Enhancement Account—Local Transit | $793,100 |
| Public Transportation Modernization, Improvement and Service Enhancement Account—Intercity Rail | $159,652 |
| Local Bridge Seismic Retrofit Account | $9,991 |
| Traffic Light Synchronization Program | $748 |
| Trade Corridors Improvement Fund | $3 |
| Transportation Facilities Account | $3 |
| State Route 99 | $2 |
| Highway Railroad Crossing Safety Account | $1 |
| State Highway Operations and Protection Program | $1 |
| **Total** | **$963,501** |

**Background:** Proposition 1B was approved by the voters in 2006 and dedicates $19.9 billion over a ten-year period to fund a variety of projects, including the State Transportation Improvement Program (STIP), the State Highway Operations and Protection Program (SHOPP), congestion relief efforts, public transportation, reduction of air pollution, and improved port security. It also provides funding to local agencies for road maintenance and improvements, safety, congestion relief, and seismic safety. Of the total $19.9 billion in general obligation bond funding authorized under Proposition 1B, $12.0 billion is reserved for ten programs funded through Caltrans, and $3.6 billion is dedicated to local transit projects funded through the State Controller's Office (SCO) but administered and overseen by Caltrans, making Caltrans responsible for $15.6 billion in total.

Appropriations are made annually to those programs based on anticipated project funding needs for that year. Through June 30, 2013, approximately $9.5 billion in appropriations had been allocated by the CTC for projects through these ten programs and approximately $2.5 billion had been awarded to local agencies for local transit projects through the Public Transportation, Modernization, Improvement, and Service Enhancement Account (PTMISEA).

**Staff Comment:** This proposal would appropriate the remainder of the Proposition 1B bond funds and provide Caltrans with the flexibility to adjust the appropriation levels so that all additional available funding can be utilized. The LAO has not raised any concerns with this proposal.

**Questions:**

1) *Please describe some of the types of projects that have been funded with this program?*

2) *What will likely happen once the funding for this program is completely used up? Are there alternative funding sources for these types of projects?*

**Staff Recommendation:** Approve $963.5 million in capital funding for projects in nine programs under the Highway Safety, Traffic Reduction, Air Quality and Port Security Bond Act of 2006 (Proposition 1B).

**Vote:**

**Item 2: Proposition 1B Administrative Support (BCP #1)**

The Governor's Budget requests 42 two-year and three one-year limited-term positions ($4.4 million in personal services and $2.6 million in operating expenses) to continue administration of the Highway Safety, Traffic Reduction, Air Quality and Port Security Bond Act of 2006 (Proposition 1B). In addition, the proposal includes a request to reduce Caltrans' Administration Program by four positions and $281,000 from the State Highway Account, based on efficiencies identified.

**Background.** Administration of Proposition 1B involves duties that include: programming, allocation, and monitoring of projects; preparing, executing, and monitoring contracts; performing audits; preparing accountability reports; and preparing and reporting to control agencies, as well as numerous other tasks to implement and manage $15.6 billion in bond-funded transportation projects. All previously approved limited-term positions relating to Proposition 1B are scheduled to expire on June 30, 2014, including 57 two-year, limited-term positions established in 2012-13. This proposal represents a reduction of 12 positions from the currently authorized level of resources for Proposition 1B administration.

**Staff Comment.** Staff has no concerns with the proposal.

**Staff Recommendation.** Approve the 42 two-year and three one-year limited-term positions ($4.4 million in personal services and $2.6 million in operating expenses) and reduce Caltrans' Administration Program by four positions and $281,000 from the State Highway Account.

**Vote:**

**Item 3: Early Repayment of General Fund Loans (BCP #6)**

The Governor's Budget requests the early repayment of $337 million ($328 million plus $9 million interest) in outstanding General Fund (GF) loans to make funds immediately available for the State Highway Operation and Protection Program (SHOPP) projects and repair and replacement of Traffic Management System (TMS) elements, that will improve the safety, preservation, and operational efficiency of the highways throughout the State.

Caltrans also requests 12 positions and $1,749,000 ($1,640,000 in personal services and $109,000 in operating expenses for a three-year limited-term period to develop Project Initiation Documents (PID). These resources will be offset by a redirection from the Capital Outlay Support Program (COS) State Highway Account (SHA) resources from anticipated reductions due to declining workload.

In conjunction with this request, but as a separate distribution of early loan repayment funds, another $12.1 million will be repaid to various other transportation fund accounts that include approximately $6 million for the Bicycle Transportation Account (BTA) and $1.7 million for the Pedestrian Safety Account (PSA) associated with the Active Transportation Program (ATP); and $4.4 million for the Environmental Enhancement Program Fund (EEMP) to the California Natural Resources Agency (CNRA).

**Background and Detail.** The Budget Act of 2010 authorized loans totaling $328 million from the Highway Users Tax Account (HUTA) to the GF. To date, approximately $9 million of interest has accrued. Assembly Bill 115 (2010) extended repayments to fiscal year 2020–21.

The SHA is the main funding source for the state's highway transportation programs. The SHA's main revenue source is state excise taxes on gasoline (fuel tax). Revenues generated from excise taxes are used, in part, by the SHOPP to fund highway construction, maintenance, preservation, and improvement projects. The 2011 Statewide Transportation Needs Assessment identified a revenue shortfall for transportation infrastructure projects over a specified period, 2011-2020, due to decreased fuel consumption. The projected cost of statewide transportation system preservation, management, and expansion projects during the study period exceeded revenue projections by almost $300 billion. Based on the California Board of Equalization's fuel consumption reports, the net taxable gasoline gallons have decreased by approximately 233 million gallons from 2009-2012. This reduces the funding available for the state's transportation preservation projects and increases the probability of costly rehabilitation in the future.

The Budget Act of 2008 authorized $12.1 million in loans to the GF from various other transportation funds including the Bicycle Transportation Account (BTA), the Pedestrian Safety Account (PSA), and the Environmental Enhancement Program Fund (EEMP). These loans are currently scheduled to be repaid in FY 2016–17.

The early loan repayments and the activities they would fund are illustrated below:

**Programs and Activities Addressed by Early Loan Repayments (Dollars in Millions)**

| Program | Activity | Amount |
|---|---|---|
| SHOPP-Operations | Capital Pavement Projects | $110 |
| SHOPP-Operations | Traffic Management System | $100 |
| Highway Maintenance | HM Pavement (Class III roadways) | $27 |
| Cities and Counties | Local Transportation-Related Improvements | $100 |
| Bicycle Transportation Account | Active Transportation | $6 |
| Pedestrian Safety Account | Active Transportation | $2 |
| Natural Resources Agency | Environmental Enhancement Program | $4 |
| **Grand Total** | | **$349** |

The $237 million in funds repaid to Caltrans would be used for projects already programmed in the SHOPP. The 12 three-year limited-term positions and $1.7 million are requested to prepare projects needed to backfill the advancement of SHOPP projects. Caltrans proposes transportation system upgrade projects that would require new PIDs for programming as backfill for the advanced SHOPP projects, including additional traffic management system elements, bridge rehabilitation, culvert rehabilitation, and fish passage remediation.

The PIDS will target $232 million in new projects as follows: (1) $78 million for the Traffic Management System; (2) $73 million for Bridge Rehabilitation; and, (3) $81 million for Culverts Rehabilitation/Fish Passage Remediation. Likely delivery of these projects would be by 2017-18, if resources for planning and design were made available in the budget year.

**LAO Comment.** The LAO finds that repaying the HUTA loan early is a reasonable step that would allow the state to conduct a higher level of maintenance and repairs on the state's highways in the next several years than would otherwise be the case. However, the LAO recommends the following to help ensure the $337 million is used in the most effective manner to address the state's highway needs:

- Require Caltrans to use its IT data system for the state's roads (known as PaveM) to determine the types of projects that are most effective to fund with the $137 million proposed by the Governor for maintenance and SHOPP pavement projects. Specifically, LAO recommends that the Legislature require Caltrans to report at budget subcommittee hearings this spring on the types of projects identified by the department's PaveM system as the most cost–effective and allocate the proposed $137 million accordingly.

- Require Caltrans report at budget subcommittee hearings on the expected benefits from spending $100 million on traffic management systems compared to the benefits of allocating these funds to additional pavement repair projects.

- Consider whether some, or all, of increased funding proposed for the maintenance of local streets and roads should be directed to performing additional repairs on the state's highway system. According to the LAO, cities and counties were held harmless and received their full share of HUTA revenues when funding from the account was loaned to the General Fund.

**Staff Comment.** The early repayment of outstanding loans to Caltrans; especially for SHOPP and highway maintenance projects; has the two-fold benefit of helping: (1) to pay down the state's wall-of-debt; and, (2) allowing for critical investments in maintaining the state's infrastructure. The Governor's recent Five-Year Infrastructure Plan identified $64.6 billion in deferred maintenance costs statewide with $59 billion of these costs related to Caltrans.

The early transportation loan repayments provide funding for needed maintenance. The Legislature will want to ensure that these funds are being directed to the state's greatest maintenance needs. In addition, while the request in PIDs resources is significant, it may not be unreasonable given the recent zero-basing of the budget and depletion of the shelf of projects after the receipt of federal stimulus funds.

**Questions:**

1) *Why is more money not being committed to deferred maintenance under this proposal? For example, if all of the $237 million were directed towards pavement projects, what would be the outcome?*

2) *What exactly would be funded with investments in the Traffic Management System and how do the benefits of these investments compare to the benefits of road repairs?*

3) *How does this proposal fit with California's Five-Year Infrastructure Plan? What is the long-term plan to address deferred maintenance?*

4) *How does the department prioritize which pavement to rehabilitate?*

5) *Please respond to the Legislative Analyst's three recommendations: (1) Requiring the use of PaveM for the allocation of the $137 million for pavement repair projects; (2) the benefits of spending $100 million on traffic management system improvements, rather than pavement repair projects; and (3) directing some of the $100 million being repaid to local streets and roads to highway repair projects instead.*

6) *What ongoing level of resources would be required to sustain the department's target level of pavement condition in perpetuity?*

**Staff Recommendation.** Hold open.

**<u>Vote:</u>**

**Item 4: Devil's Slide Tunnels (BCP #8)**

The Governor's budget requests the permanent redirection of 16 positions and $1,570,000 ($1,423,000 personal services and $147,000 operating expenses) in SHA funds from the Capital Outlay Support (COS) Program to the Maintenance Program to comply with the safety operating standards for the Devil's Slide Tunnels. The redirection from the COS Program will come from anticipated reductions due to declining workload.

**Background and Detail:** State Route 1 between San Francisco and San Mateo County coastal region includes a short segment crossing Devil's Slide, an unstable ocean-facing cliff highly prone to rock falls and slippage. Since 1987, an injunction from an environmental lawsuit suspended work to develop an inland surface bypass. Public comments on the 1995 supplemental environmental report requested further consideration of a tunnel alternative, and consequently a tunnel feasibility study was authorized by the Federal Highway Administration (FHWA). The report, completed in 1996, determined a tunnel alternative to be reasonable and feasible. In November 1996, San Mateo County voters approved Measure T by 74 percent, changing the county's stated preference to construction of tunnels. Environmental documents identified the tunnel as the preferred alternative and, in September 2002, the FHWA authorized the state to proceed with the final design of the tunnel. Construction of the Devil's Slide tunnels started in January of 2007 and the tunnels opened to the travelling public in April 2013. The final cost of the project was estimated to be $439 million. The entire project was funded with federal emergency relief funds.

Caltrans must comply with standards/provisions set forth by the National Fire Protection Agency (NFPA) to enhance the tunnels' safety. One provision specifically relates to the Emergency Response Plan which requires 24/7 monitoring and control of the tunnels by a minimum of two tunnel operators at all times.

Specific operation and response actions for the tunnels are developed and deployed cooperatively by Caltrans, the California Highway Patrol, the Metropolitan Transportation Commission, and the affected local city/county and transit agencies, aimed at minimizing congestion and delays. Tunnel operators have four basic tasks with regard to incident response: incident detection; confirmation and gathering information; notification of appropriate response agencies; and response. Caltrans is currently redirecting other tunnel operators as well as mandating overtime for employees from other areas in order to comply with the NFPA mandates.

**Staff Comment.** These additional resources will help to ensure that the tunnels are monitored as required by the NFPA.

**Staff Recommendation.** Approve the permanent redirection of 16 positions and $1,570,000 in State Highway Account funds.

**Vote:**

**Item 5: Interstate 15 Express Lanes Operations (BCP #9)**

The Governor's Budget requests the permanent redirection of 10 positions and $778,000 ($686,000 for personal services and $92,000 for operating expense) in State Highway Account funds from the Capital Outlay Support (COS) Program to the Maintenance Program to support the full operation and maintenance of the 20-mile Interstate 15 (I-15) Express Lanes. The redirection from the COS Program will come from anticipated reductions due to declining workload.

**Background and Detail:** The 20-mile, four-lane I-15 Express Lanes between state route (SR) 163 and SR 78 were completed in January 2012. The express lanes were implemented in accordance with Caltrans goals of developing and expanding High Occupancy Vehicle (HOV) lane and Bus Rapid Transit (BRT) networks in San Diego County as an integral part of its congestion relief strategies. The HOV and BRT serve and benefit over 300,000 drivers, passengers, and commercial vehicles, and address the heavily peak-hour congested I-15 corridor.

The I-15 Express Lanes feature four lanes with a moveable barrier for maximum flexibility; multiple access points to the general purpose highway lanes; and direct access ramps for high-frequency BRT service. The moveable barrier concept allows the corridor to accommodate peak directional traffic demand by reconfiguring the lanes from two northbound (NB) and two southbound (SB) lanes to 3 NB and 1 SB lane, or 1 NB and 3 SB lanes.

In 2008-09, eight permanent positions and $809,000 for the operation and maintenance of the first eight-mile segment of the I-15 project was approved. This request stated that upon full completion of the project, additional resources would be required. The requested resources combined with previously approved resources will, during the weekday, reconfigure the 20-mile express lanes twice prior to peak-hour traffic demand beginning July 2014. Two separate maintenance crews would be required to perform these daily operations in coordination with Caltrans' District 11's Transportation Management Center and other support staff, including the CHP. Currently, there is only one crew.

A cooperative agreement with the San Diego Association of Governments (SANDAG) was executed providing, at maximum, a 25 percent contribution from SANDAG to help offset the cost of maintaining and operating the express lanes. The variance in the contribution is directly linked to revenues generated by toll-paying users. The contribution level, however, is contingent upon the balance of toll revenues remaining after SANDAG allocates funds to the operation and maintenance of the toll collection system, in accordance with the requirements of Section 149.1 of the Vehicle Code.

**Staff Comment:** Staff has no concerns with the proposal. However, it notes that the funding agreement with SANDAG does not specify a minimum funding amount to Caltrans. As of December 2013, SANDAG has contributed just under $850,000 towards the cost of operations and maintenance of the I-15 Express Lanes, making their current contribution about 17 percent, rather than the 25 percent specified in the agreement. Collecting additional funding for operations and maintenance of the Express Lanes would reduce state SHA expenditures, making these funds available for other purposes.

**Questions:**

1) *What are the challenges associated with ensuring that SANDAG provides its share of funding for the operations and maintenance of the I-15 Express Lanes?*

**Staff Recommendation.** Approve 10 positions and $778,000 in SHA funding.

**Vote:**

**Item 6: High-Speed Intercity Passenger Rail Grant Management (BCP #16)**

The Governor's Budget proposes to continue four positions for a three-year limited-term and $421,000 ($386,000 in personal services and $35,000 in operating expenses) to support the management and completion of capital improvement grants funded through the Federal Railroad Administration's High-Speed Intercity Passenger Rail (HSIPR) program for the improvement of intercity rail.

**Background and Detail:** The Division of Rail manages and coordinates the Amtrak California intercity rail passenger service including operations, marketing, and passenger rail equipment. The HSIPR program funds various intercity rail improvements such as double tracks, layover facilities, crossovers, station improvements; and the procurement of additional intercity passenger rail cars and locomotives. The HSIPR program is funded by the Passenger Rail Investment and Improvement Act of 2008 (PRIIA), American Recovery and Reinvestment Act of 2009 (ARRA), and the Appropriation Act of 2010.

These four positions are performing work related to the management of federally-funded projects. The positions have been focused on the work required to manage projects funded by 27 federal grants. During the requested three-year limited-term period, the Division of Rail will still have at least twelve of the contracts open and sizable work remaining for the two equipment procurement contracts. Caltrans received two Federal grants totaling $168 million for the purchase of 42 new bi-level railcars and six locomotives.

Work activities include the following:

- Joint rail car procurement with the Illinois Department of Transportation.
- Contract management and overseeing all consultant team activities.
- Project management including: adhering to technical specifications, contract language, and contractor performance criteria for rolling stock.
- Managing engineering issues.
- Monitoring the project delivery schedule.
- Managing and ensuring compliance with contracts, monitoring construction progress; preparing progress reports; and monitoring corrective action plans.
- Project closeout.

**Staff Comment.** Staff has no concerns with this proposal.

**Staff Recommendation:** Approve four positions for a three-year limited-term and $421,000 in federal funds.

**<u>Vote:</u>**

**Item 7: Aeronautics Program Zero-Based Budget and Local Airport Loan Account Transfer (BCP #18)**

The Governor's Budget proposes a zero-based budget (ZBB) for the Aeronautics Program that supports the current level of staffing of 26 positions.

In addition, Caltrans requests a one-time transfer of $4 million from the Local Airport Loan Account (LALA) to the Aeronautics Account.

Caltrans also requests a statutory change to Public Utilities Code 21602 (f) to allow for future transfers from the LALA to the Aeronautics Account, upon approval of the California Transportation Commission and the Department of Finance, as follows:

Amend Public Utilities Code 21602 (f) to read: "Notwithstanding Section 13340 of the Government Code, the money in the subaccount created by subdivision (e) is hereby continuously appropriated to Caltrans without regard to fiscal years for purposes of loans to political subdivisions for airport purposes. Upon determination by Caltrans that the balance in the subaccount exceeds projected needs, funds may be transferred to the Aeronautics Account to fund the California Aid to Airports Program with the approval of the CTC and the Department of Finance (DOF). The aeronautics funding requests will not reduce the Local Airport Loan Account below $5 million.

**Background.** The Aeronautics program promotes the development of a safe, efficient, dependable, and environmentally compatible air transportation system. The program issues permits for commercial service airports, general aviation airports and heliports, integrates aviation into statewide transportation planning, considers environmental issues related to aviation, and administers grant and loan programs. The program leverages approximately $4 million of state funds to gain $275 million in federal funding annually. The ZBB of the Aeronautics Program was developed to provide baseline workload and staff levels, as required by the Governor's Executive Order B-13-11.

The Program has two primary funding accounts: the Aeronautics Account and the LALA. The Aeronautics Account funds all personnel services, operating expenses, and the California Aid to Airports Program (CAAP). The CAAP consists of three grant programs established to fund operational safety and airport improvement projects within California's air transportation system of 245 public-use airports. The LALA account makes discretionary loans to eligible state airports for projects that enhance the ability to provide general aviation services. Currently, there are 47 active LALA loans, with $19.4 million outstanding. At the end of 2012-13, the LALA had a balance of over $16 million and is projected to have over $18 million at the end of 2013-14 from loan repayments.

Revenue for the Aeronautics program is deposited into the Aeronautics Account and is derived from an 18 cent per gallon excise tax on General Aviation (GA) gasoline and a two cent per gallon GA jet fuel tax. Prior to 2010, fuel tax revenue averaged $6.6 million per year; however, the average has declined to $5.2 million over the last three years. This is consistent with historical revenue cycles that track with the overall economy.

Caltrans does not anticipate any major impact to the LALA as a result of this request. Annual loan requests from the LALA range from $40,000 to $2.5 million per loan. The transfer of $4 million to the Aeronautics Account would not impact Caltrans' ability to fund additional loans directly from the LALA. The cash balance as of July 1, 2013, for the LALA program was over $16 million. Based on a five-year moving average with no transfer to the Aeronautics Account, the balance for the LALA Account for 2017-18 is projected to be over $36 million.

This one-time transfer will be used to fund $1 million for approximately 55 Airport Improvement Program (AIP) grants, and $3 million for 18 Acquisition and Development (A&D) grants for GA airports in California that are currently on the approved 2014 project list.

**Staff Comment.** The ZBB of the Aeronautics program found that the current staffing level of 26 positions was appropriate. In addition, transferring existing LALA funds to the Aeronautics Account will help Caltrans maximize its ability to leverage federal funds and provide necessary resources to deliver 100 percent of the approved AIP and A&D grant requests. Finally, the proposed TBL would provide on-going flexibility to transfer funds to the Aeronautics Account to fund grants for additional airport improvement projects, as needed.

**Staff Recommendation.** Approve the ZBB of the Aeronautics program. Also, approve the one-time transfer of $4 million from the LALA to the Aeronautics Account and the proposed TBL.

**<u>Vote:</u>**

**Item 8: Capital Outlay Support ZBB Program Review (BCP #19)**

A ZBB program review was conducted between Caltrans, the Department of Finance (DOF), and the Legislative Analyst's Office (LAO). Based on the review, the Administration is proposing recommendations to improve the estimating and accountability of Caltrans' Capital Outlay Support program's (COS) project-direct workload. Caltrans has agreed to implement these recommendations, as well as continuing improvement measures that were underway before the program review.

This proposal also includes trailer bill language to close a loophole that currently exists for right-of-way support and capital expenditures that exceed their allocation after the California Transportation Commission vote.

**Background and Detail.** Each May, Caltrans submits information that substantiates the COS budget. The total number of COS full-time equivalents (FTE) in all workload categories approved for 2013-14 was 10,149.

Over the last several years, questions have been raised about the staffing levels of the COS program and the information provided to support annual COS budget requests. At the request of the Legislature during the 2013-2014 budget hearings, Caltrans' COS program, DOF and the LAO, worked collaboratively from July 2013 through October 2013 to conduct a comprehensive review of the COS program's project-direct workload. The goal of the review was to increase the accountability and efficiency of the COS program, and to leverage information technology tools to achieve a transparent and standardized workload-based assessment of appropriate staffing needs.

Based on the review, the Administration has made the following recommendations:

***Provide Caltrans with more flexibility over the resource mix (state staff, cash overtime, and consultants) requested in the annual Finance Letter:***

- Finance will work with the Legislature to provide Caltrans with more flexibility over the COS resource mix (state staff, cash overtime, and consultants).

- Caltrans will develop a framework for establishing and funding "Environmental Stewardship Branches" to improve coordination with resource agencies.

- Caltrans will provide a three-year workload projection by District by function.

***Caltrans will continue to develop and implement strategies to improve its annual resource request, initial project budgets; and improve monitoring of project budgets:***

- Caltrans will develop a comprehensive strategy to improve and monitor the accuracy of initial project budgets, including:
  - Updating workload estimating data.
  - Developing a "predictive tool" for developing a range of estimates for project budgets that will be used beginning in fiscal year 2015-16.
  - Formulate and implement a policy to use the predictive tool in developing initial project budgets.
  - Feeding actual expenditures into the predictive tool.
- Caltrans will develop a comprehensive strategy to improve and monitor the accuracy of the annual request, including:
  - In conjunction with the annual Finance Letter, provide an analysis of budgeted versus expended Full Time Equivalents by district for the prior year. For the 2014-15 Finance Letter, Caltrans will do this analysis for approximately 95 projects.
  - Providing additional information including:
    - Adding columns for projects that require at least one Personnel Year and are more than three years past construction contract acceptance. The columns will provide the project end date and a comment field to explain the staffing need.
    - Earned value management metrics beginning in 2015-16.
- Complete the implementation of the Project Resourcing and Schedule Management (PRSM) IT project.
- The Administration will submit the annual Finance Letter on May 1st with the COS project workload files.

***Caltrans will continue to develop and implement strategies to improve budget accountability:***

- Caltrans will develop a framework for when Districts should consider a projectized organization like the "Corridor Director" model in use in District 11.

- Caltrans will establish change control rules for support budgets of the State Highway Operation and Protection Plan (SHOPP) program that are consistent with the State Transportation Improvement Program (STIP) and establish metrics to measure/track performance of the rules.

- Legislation is proposed to adjust county shares at the time of contract construction acceptance when right-of-way support and capital expenditures are greater than 20 percent of the allocation. Currently, right-of-way support and capital are combined into one component under SB 45 (Kopp), Chapter 622, Statutes of 1996. Costs in excess of the initial allocation come off the top of the STIP with no adjustment to county shares.

***Caltrans will continue to develop and implement strategies to improve statewide program management:***

- Caltrans will develop a centralized Project Management statewide web portal.

- Caltrans will develop a Quality Management Plan for project and annual Finance Letter data, that will take into consideration the following:

    - Project managers ensuring that all data in PRSM is up-to-date and accurate no less frequently than at the end of each month.

    - Project managers are to develop initial project budgets consistent with the predictive tool and project budget development policies, during the project initiation phase for all major COS projects.

    - District management is to establish quality control procedures to review accuracy of PRSM data, compliance with project management policies (such as monthly PRSM updates), and reasonableness of project budgets.

    - Update to statewide project budget development policy.

    - Headquarters to conduct monthly oversight of current and planned projects, including:

        - Spot auditing of PRSM data to ensure that data in the system is accurate and up-to-date.
        - Evaluate projects that appear to have a problem based on the earned value analysis.

- Perform hindsight analysis reviews of actuals vs. planned workload to increase the accuracy of estimated budgeted resources.

**Staff Comment.** Caltrans has agreed to implement the above recommendations, as well as continuing improvement measures that were underway before the COS review began. Caltrans plans to submit an annual update on the progress of these recommendations in the annual Finance Letter in fiscal years 2015-16 and 2016-17. Caltrans will submit, on May 1st, its annual finance letter for the COS program.

While the COS review was intended to be a collaborative process with the LAO, at this time we have not heard from the LAO on this item. The Administration is moving forward with these recommendations above because they were determined to be the most practical and effective solutions. In addition, the COS Finance Letter that includes the staff resources request will be heard at a subcommittee hearing after May 1.

The proposed trailer bill language is reasonable and will help to close a loophole for right of way support and capital expenditures.

**Questions:**

1) *How will the ZBB of COS help to inform any redirection of workload that Caltrans may need to implement in the future to better align resources with priorities as discussed in the SSTI report?*

2) *Please explain the proposed trailer bill language and what problem it will address.*

**Staff Recommendation:** Approve the proposed trailer bill language.

**Vote:**

**Item 9: Legal Services for the California High-Speed Rail Authority (BCP #20)**

The Governor's budget proposes the continuation of eight positions for a two-year limited term and $3,148,000 ($1,103,000 in personal services and $2,045,000 in operating expenses) in State Highway Account Reimbursement authority for services rendered on behalf of the California High-Speed Rail Authority (HSRA).

**Background.** The HSRA is planning to build, design, construct, operate, and maintain a high-speed rail system. Caltrans, in 2012, began providing legal services to HSRA using eight positions for a two-year limited-term that expires on June 30, 2014.

Due to revisions to timelines and various protracted litigation involving HSRA, the initial anticipated legal services workload has been delayed. While substantive work is ongoing, it is anticipated legal services will continue to be needed over the next two fiscal years.

Caltrans currently provides the legal services for HSRA on the following topics:

- Acquisition of right-of-way.
- Purchase of real property through negotiations or eminent domain authority.
- Represent HSRA before the Public Works Board or other appropriate governmental bodies, as necessary.
- Arrangements for the protection, relocation, or removal of conflicting facilities.
- Railroad law, including interactions with the Public Utilities Commission and the Surface Transportation Board, and assistance in negotiations with railroads for both property acquisition and crossing agreements.
- Coordination with the Department of General Services regarding the Property Acquisition Law.

**Staff Comment.** The continuation of the current limited-term positions and reimbursable authority would allow Caltrans' legal services to HSRA to continue uninterrupted. This is a cost-effective way to provide some of the legal services that HSRA needs, especially given Caltrans' expertise in this area. In addition, ongoing challenges from various interested parties, will likely result in the continued need for legal services from Caltrans. According to Caltrans, a longer term solution for ongoing legal services will be addressed in the upcoming Legal Program's ZBB process.

**Staff Recommendation.** Approve eight positions for a two-year limited-term and $3.1 million in reimbursements from HSRA.

**Vote:**

# ISSUES PROPOSED FOR DISCUSSION / VOTE

## 2600 California Transportation Commission

**Agency Overview:** The California Transportation Commission (CTC) is responsible for the programming and allocating of funds for the construction and improvements of highway, and passenger rail and transit systems throughout California. The CTC also advises and assists the Secretary of the Transportation Agency and the Legislature in formulating and evaluating policies and plans for California's transportation programs.

**Budget Overview:** The January Governor's Budget proposes expenditures of $3.6 million and 19.0 positions for the administration of the CTC (special funds), which is similar to the revised current-year level. Additionally, the budget includes $25.0 million in Clean Air and Transportation Improvement Bond Act funds (Proposition 116 of 1990) that are budgeted in the CTC and allocated to local governments.

**Item 1 Informational Only: Draft Active Transportation Program Guidelines**

**Background.** The Active Transportation Program was created by Senate Bill 99 (Budget and Fiscal Review Committee), Chapter 359, Statutes of 2013 and Assembly Bill 101 (Committee on Budget), Chapter 354, Statutes of 2013, to encourage increased use of active modes of transportation, such as biking and walking. The program combines five programs: the federal Transportation Alternatives Program, the state and federal Safe Routes to Schools programs, the state Environmental Enhancement and Mitigation Program, and the state Bicycle Transportation Account.

The ATP is funded from (1) 100 percent of the federal Transportation Alternative Program (except for federal Recreation Trail Program funds appropriated to the Department of Parks and Recreation); (2) $21 million federal Highway Safety Improvement Program funds, or other federal funds; and (3) State Highway Account funds. This is anticipated to result in about $120 million being available annually for ATP. Funds for ATP must be distributed as follows: 40 percent to metropolitan planning organizations in urban areas with populations of greater than 200,000 in proportion to their relative population; 10 percent to small urban and rural regions with populations of 200,000 or less for projects competitively awarded by the CTC; and 50 percent competitively awarded by the CTC on a statewide basis.

The goals of ATP are to:

- Increase the proportion of trips accomplished by biking and walking.
- Increase safety and mobility of nonmotorized users.
- Advance the active transportation efforts of regional agencies to achieve greenhouse gas reduction goals as established by SB 375 (Steinberg), Chapter 728, Statutes of 2008 and SB 391 (Liu), Chapter 585, Statutes of 2009.
- Enhance public health, including reduction of childhood obesity through the use of programs, including, but not limited to, projects eligible for Safe Routes to School Program Funding.
- Ensure that disadvantaged communities fully share in the benefits of the program.

- Provide a broad spectrum of projects to benefit many types of active transportation users.

The CTC administers the program and is responsible for developing the program guidelines and procedures, including project selection criteria. The CTC is required to initially adopt a two-year program of projects, with subsequent four-year programs thereafter. Subsequent programs must be adopted no later than April 1 of each odd-numbered year, however, the CTC may elect to adopt a program annually.

A draft of the guidelines was adopted by the CTC and submitted to the Joint Legislative Budget Committee for its review on February 3, 2014. The CTC intends to adopt final guidelines on March 20, 2014. Depending on the category of the program funded, projects would begin to be approved and funded by the CTC as early as late August.

**Staff Comment:** The CTC has undertaken an inclusive and comprehensive process to develop the draft guidelines. It will be important to see what types of projects are selected using the guidelines and the Legislature may wish to revisit this item in a year in order to assess the effectiveness of the guidelines in meeting the goals of SB 99.

**Questions:**

1) *Please provide a brief overview of the ATP guidelines and the process CTC used to develop them.*

2) *Please summarize the significant outstanding concerns participants in the guideline development process have raised about the proposed guidelines.*

3) *Please describe what generally happens when state-funded projects have bid-savings. Where do the savings go? What would happen if there are ATP projects that had savings?*

4) *Do you anticipate making any changes to the guidelines before they are submitted to the CTC for its approval? If so, please describe the changes.*

**Staff Recommendation:** No action required. Informational item.

**Item 2: Two Positions to Implement ATP (BCP #1)**

**Background.** The CTC requests a net-zero change of two positions to implement ATP. This would be accomplished by increasing the number of positions working on ATP implementation by two and decreasing the number of positions working on the implementation of Proposition 1B by two. The workload associated with Proposition 1B is decreasing as the funding available for this program comes to an end. The proposal would also shift funding for these two positions from various Proposition 1B funds to the State Highway Account ($107,000) and the Public Transportation Account ($178,000).

**Staff Comment.** The CTC currently has no resources dedicated to ATP. Approximately $74.5 million, or 60 percent, of the funds available for ATP will be distributed through a statewide competitive program. The CTC does not know how many applications it will receive, but as many as 700 applications may need to be reviewed for each funding cycle. Staff must also review the guidelines used by organizations to provide the remaining 40 percent of the funds available for this program. In addition to other tasks, staff will track and monitor the program.

**Questions:**

1) *Will the two positions requested be adequate to implement ATP?*

**Staff Recommendation:** Approve the two positions.

**Vote:**

# ITEMS PROPOSED FOR VOTE ONLY

## 2720 Department of California Highway Patrol

**Department Overview:** The mission of the California Highway Patrol (CHP) is to ensure the safe and efficient flow of traffic and goods on the state's highway system and county roads in unincorporated areas. The department also promotes traffic safety by inspecting commercial vehicles, as well as inspecting and certifying school buses, ambulances, and other specialized vehicles. The CHP carries out a variety of other mandated tasks related to law enforcement, including investigating vehicular theft and providing backup to local law enforcement in criminal matters.

**Budget Overview:** The Governor's Budget proposes total expenditures of $2.0 billion (no General Fund) and 11,051 funded positions, an increase of roughly $13 million from the adjusted current-year level. Since departmental programs drive the need for infrastructure investment, the department has a related capital outlay program to support this requirement.

**Item 1 Vote Only: Reimbursement Authority Augmentation (BCP #5)**

The Governor's Budget proposes a permanent budget augmentation of $3.3 million in reimbursement authority for CHP to ensure adequate authority to collect all payment for reimbursable activities. These activities include services for other state and local agencies, as well as private companies. These services include traffic enforcement in Caltrans' construction and maintenance zones, traffic enforcement during special events, and various activities such as Freeway Callbox assistance.

**Background:** Reimbursement constitutes about five percent of the funding for CHP. A review last year, found that CHP's reimbursement authority was regularly in excess of actual expenditures. Accordingly, last year, reimbursement authority for this item was reduced by $17.8 million from $112.5 million in 2012-13 to $94.7 million in the 2013-14 budget based on historical expenditures. However, the 2012-13 actual expenditures exceeded the historic average that was used to set the 2012-13 authority of $94.7 million. Reimbursements are expected to continue at a slightly greater level of $98.0 million. This proposal would thus improve the transparency of the budget by bringing CHP's reimbursement authority more closely in alignment with anticipated spending levels.

**Staff Comment:** Staff has no concerns with the proposal.

**Staff Recommendation:** Approve the request to augment CHP's reimbursement authority by $3.3 million.

**Vote:**

# ITEMS PROPOSED FOR DISCUSSION AND VOTE

## Item 1: Air Fleet Replacement (BCP #1)

The CHP has requested multi-year funding from the Motor Vehicle Account (MVA) to establish an on-going replacement program for the CHP air fleet. The proposal requests a one-time augmentation of $16 million in 2014-15; a one-time augmentation of $14 million in 2015-16 and 2016-17; and a permanent augmentation of $8 million in 2017-18 and beyond, as shown in the table below. Last year, CHP received $17 million to replace four aircraft.

**California Highway Patrol**
**Air Fleet Replacement Schedule**
**(Dollars in Millions)**

| Fiscal Year | Quantity of Aircraft | Funding |
|---|---|---|
| 2013-14 | 4 | $17 |
| 2014-15 | 4 | 16 |
| 2015-16 | 3 | 14 |
| 2016-17 | 3 | 14 |
| 2017-18 | 2 | 8 |
| 2018-19 | 2 | 8 |
| 2019-20 | 2 | 8 |
| 2020-21 | 2 | 8 |
| 2021-22 | 2 | $8 |

**Background and Detail.** The CHP's Air Operations Program (AOP) provides support for enforcement, pursuit management, hazardous material response, and inter-operable communications with allied agencies, traffic congestion relief, stolen vehicle recoveries, conducting searches, and transporting emergency medical supplies. CHP's air fleet currently consists of 15 airplanes and 15 helicopters. These were acquired using mostly federal funds, as shown below.

| Airplanes (15 total) | Funding Source |
|---|---|
| 14 | Office of Traffic Safety Grant |
| 1 | Homeland Security Grant |
| 1 | Asset Forfeiture |
| -1 | Airplane lost in accident |
| | |
| **Helicopters (15 total)** | |
| 2 | Motor Vehicle Account (MVA) |
| 1 | Military Surplus |
| 6 | Office of Traffic Safety Grant/ MVA |
| 6 | Homeland Security Grant |

Last year, the department received $17 million (MVA) to replace four of the oldest aircraft in its fleet—three helicopters and one airplane. At the time, CHP committed to conducting an overall needs assessment and providing a schedule for the replacement of its fleet.

The CHP estimated that, when department specifications are met, a helicopter will cost $4.5 million and an airplane will cost $3.5 million. The department indicates that each unit begins to experience additional maintenance issues once flight time exceeds 10,000 hours, which occurs in about ten years. At this time, the oldest airplane and helicopters in its fleet have logged nearly 15,000 hours and almost 17,000 hours, respectively. The department indicates its desire to reduce the amount of equipment ‘downtime,’ resulting from increased maintenance hours and difficulties in obtaining necessary replacement parts. It also expresses the desire to standardize its fleet. The intent of this request would be to replace aircraft as they accrue over 10,000 flight hours.

**LAO Comment.** The LAO raises four concerns with this proposal:

(1) While the report provided by CHP on its air fleet includes various information (such as each aircraft’s record of maintenance and fuel costs), the report does not provide sufficient information justifying the size of the air fleet being proposed.

(2) The Governor’s proposal “locks in” the size of the fleet at 26 aircraft in the future and that the aircraft will require replacement on a set schedule. However, it is uncertain if this size fleet would be needed in the future. There might be a need for a smaller or larger fleet size in the future for reasons such as less assistance requested by allied agencies or future aircraft lasting longer than planned.

(3) Under the Governor’s proposal, the new aircraft would be purchased with monies from the MVA, which generates its revenues primarily from driver license and vehicle registration fees. The Governor’s proposal raises the issue of whether it is appropriate for the MVA to be the sole funding source for this purpose. Under Article XIX of the State Constitution, any revenues from fees and taxes on vehicles or their use—such as driver license and vehicle registration fees—can only be used for the state administration and enforcement of laws regulating the use, operation, or regulation of vehicles used upon the public streets and highways. It is unclear whether all of the activities supported by CHP’s air fleet meet this requirement, such as patrolling the state’s electrical and water infrastructure.

(4) According to CHP, requests to assist various allied agencies (such as local law enforcement offices) increased several years ago as these agencies faced fiscal constraints during the economic downturn in operating and maintaining their own existing air fleets. Given the high cost to the state in maintaining CHP’s air fleet and that the budgets of the allied agencies may have begun to recover, the Legislature may want to consider requiring certain allied agencies to reimburse CHP for some or all of the costs it incurs in providing them with air support. The LAO also notes that requiring such reimbursements might encourage allied agencies to be more efficient and selective when requesting air support assistance from CHP.

**Staff Comment.** The CHP’s air fleet is aging and should be gradually replaced over a period of time. The CHP has provided a report that 1) describes its fleet of helicopters and airplanes, 2) provides justification for the 10,000 hour replacement guideline, and 3) provides a general replacement schedule. However, this report does not justify the size of the air fleet that is needed now and in the future. According to CHP, its goal is to have each aircraft log an average of 1,000 flight hours each year. Based on this, a fleet of 26 aircraft provides an annual total of 26,000 flight hours. However, it is unclear what the basis is for this goal and what outcomes are associated with this goal. Moreover, CHP states that the size of the fleet and locations of aircraft are based on a number of factors including, but not limited to, effective and efficient aircraft response to varied missions, response time, geography, political considerations, CHP ground unit deployments, allied agency resources, facility costs, and airport regulations. However, CHP has not provided an analysis that uses these factors to justify the size of its fleet.

It would be reasonable for such a study to be conducted in advance of additional purchases and that these purchases should be informed by the study. However, given that last year's request to conduct a similar study did not result in the desired outcomes, it is unclear if a second request would result in a better report.

In the past, CHP's fleet was funded with mostly federal funds. Given that there might be federal funds available in the future and that the actual size of the fleet CHP needs is unknown, it would be premature at this time to commit the MVA to funding the future purchase of aircraft beyond the budget year.

**Questions:**

1) *If the existing fleet is not replaced as proposed, what activities will not be done?*

2) *Please explain how you have determined that a fleet of 26 aircraft is the right size?*

3) *What is the basis for the department's goal of having each aircraft fly 1,000 flight hours each year? What outcomes are related to this goal?*

4) *Why does this request not anticipate any future federal funding?*

5) *What consideration has been given to having allied agencies reimburse CHP for air fleet-related services?*

**Staff Recommendation.** Hold open.

**Vote:**

**Item 2: Radio/Microwave Program Funding (BCP #2)**

The CHP requests a one-time budget augmentation of $5.0 million (MVA) for escalating costs of services provided by the California Office of Emergency Services, Public Safety Communications Office (PSCO) to support the CHP's radio/microwave program.

**Background.** The CHP's radio/microwave program encompasses the entire infrastructure associated with CHP's radio communications. State law requires CHP to contract with PSCO for services relating to the design, engineering, installation, and maintenance of CHP's statewide public safety communications system. The PSCO then charges CHP for this work.

With the implementation of the California Highway Patrol Enhanced Radio System (CHPERS), which was completed in 2011-12, the PSCO costs for the radio/microwave program have increased. The primary objective of CHPERS was to address CHP's deteriorating radio communications infrastructure, meet future operational needs, and meet the goal of providing interoperability at the local, state, and federal levels.

For at least the last couple of years, CHP has been able to absorb the increased PSCO costs and under this proposal CHP would continue to absorb $7 million of what it estimates is a $12 million shortfall.

**Staff Comments.** At this time, it is uncertain what the ongoing level of expenditures will be for PSCO services. It is a reasonable approach that CHP absorb the costs that it can, and request funding for the remainder.

**Questions:**

1) *What types of services does PSCO provide to CHP?*

**Staff Recommendation:** Approve, on a one-time basis a budget augmentation of $5.0 million MVA for PSCO costs.

**Vote:**

## Item 3: Radio Console Replacement Project (BCP #3)

**Radio Console Replacement Project (BCP #3).** The Governor's budget requests a one-time augmentation of $4.9 million from the MVA to replace twelve dispatch radio consoles at the Public Safety Communications Office and the CHP's Sacramento Communications Center. This would be the first year of a five-year project.

**Background.** The CHP operates 25 call centers statewide which are equipped with dispatch radio console systems to facilitate mission critical voice communications between dispatchers, CHP patrol personnel, and allied agencies. Dispatch radio consoles control, receive, and transmit radio communications with field units.

Public safety communications equipment lasts approximately 8 to 10 years and must be upgraded in its entirety to ensure compatibility. As equipment surpasses its useful life, reliability deteriorates, outages become more frequent, maintenance costs increase, and replacement parts become difficult or impossible to procure. Currently, 17 of the 25 call centers operate equipment purchased in 1993-94 and use Windows 3.11. Three centers operate equipment purchased in 1997-98 and use Windows 2000. None of these are supported by the manufacturer and are considered obsolete.

This project would ultimately replace the radio console systems at all 25 centers over a five-year period at an estimated cost of $52.7 million, as shown in the table below. The CHP is replacing 177 existing consoles plus acquiring an additional 22. This proposal would update all 25 call centers and allow for the installation of the new consoles at CHP's dispatch training facility and at the PSCO for testing, evaluation, and trouble-shooting of issues that may arise. Resources from PSCO would be needed to complete the project.

**Radio Console Project Costs**
**(Dollars in Millions)**

| Year | Equipment Cost | # of Radio Consoles | PSCO Costs | Total Cost |
|---|---:|---:|---:|---:|
| 2014-15 | $2.9 | 12 | $2.0 | $4.9 |
| 2015-16 | 10.2 | 42 | 2.1 | 12.3 |
| 2016-17 | 9.1 | 37 | 2.1 | 11.2 |
| 2017-18 | 10.2 | 64 | 2.2 | 12.3 |
| 2018-19 | 9.6 | 44 | 2.3 | 11.9 |
| **Grand Total** | **$42.1** | **199** | **$10.6** | **$52.7** |

Totals may not add due to rounding.

**Staff Comment.** Staff has no concerns with this proposal. This is the first year of a five-year project to replace the department's radio console system. This will help to ensure the system is compatible and complete.

**Staff Recommendation.** Approve a one-time augmentation of $4.9 million from the MVA to replace dispatch radio consoles.

**Vote.**

**Item 4: Integrated Database Management Systems Funding (BCP #6)**

The CHP requests a permanent budget augmentation of $894,000 from the Motor Vehicle Account for a cost increase to support the Integrated Database Management System (IDMS) which CHP uses to support several legacy applications that support key CHP business processes.

**Background and Detail:** Costs for the California of Department of Technology (CDT) to manage IDMS used to be distributed across multiple departments. However, over time, many departments have upgraded their IT systems to more current platforms leaving only two departments—CHP and the State Controller's Office—to bear the cost to maintain the platform.

Currently, CHP is in the process of acquiring a commercial, off-the-shelf solution for one component on the IDMS—the Biennial Inspection of Terminals/Management Information System Terminal Evaluation Records. This component must be off IDMS, and on a new system, by January 2015, per federal requirements. However, this will have a minimal impact on IDMS costs as historical data will still need to be maintained on the IDMS.

The CHP is working with CDT to find a solution for its data storage needs and completely migrate off the IDMS in the future. CHP should submit to CDT a business analysis by October 2014; approval is expected from CDT by January 2015. Once approved, the project will enter the Feasibility Study Report (FSR) phase with CDT. With the final approval of the FSR, CHP will seek funding for the complete replacement system; this will probably be no sooner than fiscal year 2015-16. If successful, the target date for a complete migration off the IDMS is January 2017.

**Staff Comment:** The CHP is migrating a component of its legacy systems off IDMS sooner than anticipated. This may result in small savings for CHPs' total IDMS costs as proposed in the Governor's January Budget. The DOF and CHP are re-evaluating the amount requested as a permanent augmentation and, if necessary, will provide an updated cost at the May Revision. The CHP is working with CDT to completely migrate off IDMS by January 2017.

**Questions:**

1) *This proposal has changed somewhat since January. Please describe the changes and explain why a permanent budget augmentation is still necessary?*

**Staff Recommendation:** Hold open.

**<u>Vote:</u>**

**Item 5: Statewide Advance Planning and Site Selection (BCP #1)**

The Governor's Budget calls for $1.7 million in funding (Motor Vehicle Account funds) to identify suitable parcels for replacing up to five facilities ($1.3 million) and develop studies ($400,000) for those sites. It is expected that the results of advance planning and site selection will drive future requests for site specific replacement offices.

**Background.** Working with the Department of General Services (DGS), the CHP categorized its 111 total offices according to seismic risk. Risk was based on engineering studies of risk resulting from a seismic event and expressed on a 1-7 scale, with 7 representing a condition that would necessitate immediate evacuation and 1 indicating only nugatory structural impacts. Facilities with a 5 or 6 denotation would likely be unsafe during or following a seismic event. The studies indicated that 80 of CHP facilities are of seismic level 5 and 6.

Site searches for CHP facilities have been problematic in the past due to constraints and demands. It has proven to be difficult to locate parcels of the required 3-5 acres, with appropriate freeway access, and unhindered by traffic, rail or other impediments. This has been particularly troubling in urban areas in Los Angeles, San Diego, and the San Francisco Bay Area. Acquisition of land, and subsequent construction, has often been delayed as a result of these limitations. This has been a large part of the motivation for CHP to pursue the current proposal of combining advance planning, site selection, and potential purchase.

***Build-to Suit Leases or Direct Capital Outlay.*** Field office replacements can be procured in one of a few ways. The most common ways are 'build-to-suit' leases and direct capital outlay. With the build-to-suit procurement method, CHP contracts with a private developer to construct a facility and agrees to lease the facility from the developer for a predetermined number of years. At specified times during the built-to-suit lease, CHP has the option to purchase the facility from the developer. With the direct capital outlay procurement method, DGS uses funds from the Motor Vehicle Account (MVA) to both purchase the property and contract with a private developer to design and build the CHP facility. Under direct capital outlay, the state owns the facility and does not have ongoing lease payments.

In 2012, in a letter response to a notification from DGS of its intent to execute three separate build-to-suit lease agreements on behalf of the CHP, the Chair of the Joint Legislative Budget Committee (JLBC) raised several issues, including (1) the absence of an updated CHP facilities plan that outlines its facility needs and priorities, and (2) the lack of an assessment of the relative benefits of financing projects with the build-to-suit process or capital outlay. The department, at that time, indicated that facility needs and priorities will be addressed in the 2013 Five-Year Infrastructure Plan and no systematic analysis was made available to the Legislature regarding capital outlay and build-to-suit approaches. The JLBC expressed that such an assessment is essential to ensure that the most cost–effective method is chosen when building new CHP facilities. To address this concern, supplemental report language was adopted in 2013 requiring the Department of Finance (DOF), in consultation with DGS, to report to the Legislature, by April 1, 2014, guidelines that help determine whether a proposed new facility should be procured using capital outlay or through a build-to-suit lease.

***California's Five-Year Infrastructure Plan.*** The Administration released its Five-Year Infrastructure Plan in January 2014. For CHP, the plan proposes $398 million from the MVA for the second through sixth year of the statewide field office replacement program. According to the document, the funding will be used to develop budget packages and select sites for up to 25 projects, acquire land and start design on 20 of those projects, and begin construction on 10 of those projects.

**LAO Comment.** The LAO recommends that the Legislature withhold action on the Governor's proposal pending receipt of (1) the Administration's forthcoming report on direct capital outlay and build–to–suit procurement methods and (2) a list in priority order of the area offices proposed for replacement and the criteria used to determine such prioritization.

**Staff Comment.** This proposal continues a process approved in the 2013 Budget Act to identify five CHP offices for replacement. However, the proposal does not justify why a capital outlay approach to procure the facilities is being used rather than build-to-suit. Guidelines are under development, as discussed earlier. It would be reasonable to hold this item open until those guidelines are received. Moreover, these guidelines should be used when making procurement decisions in the future.

**Questions:**

1) *Which five offices are being replaced under this proposal?*

2) *What selection criteria are being used to determine which office to replace, and in what order?*

3) *How is this request consistent with the CHP's needs identified in the five-year infrastructure plan?*

4) *How will the replacement facilities be procured and what is the rationale for this decision?*

**Staff Recommendation:** Hold open appropriation request, pending receipt of the guidelines developed by CHP and DOF for determining whether to procure a new facility using capital outlay or through a build-to-suit lease. If necessary, the CHP should revise its request to be consistent with the guidelines.

**Vote:**

# ITEMS PROPOSED FOR DISCUSSION AND VOTE

## 2740 Department of Motor Vehicles

**Department Overview:** The Department of Motor Vehicles (DMV) serves the public by providing licensing and motor vehicle-related services, as well as various revenue collection services for various state and local government programs. The DMV also issues licenses and regulates occupations and businesses related to the instruction of drivers, as well as the manufacture, transport, sale, and disposal of vehicles.

**Budget Summary:** The Governor proposes total expenditures of $1.1 billion (no General Fund) and 9,030 positions; which, is a significant increase over the level of funding and positions provided in 2013-14 largely related to the implementation of AB 60 (Alejo), Chapter 524, Statutes of 2013, discussed further below. There are no new capital outlay requests for 2014-15.

**Item 1: Funding to Implement AB 60 (BCP #1)**

The Governor's Budget proposes an increase of 822 positions and $64.7 million (Motor Vehicle Account) to implement AB 60. The Governor's budget also includes provisional language to allow DOF to augment DMV's budget item if it determines that DMV requires additional resources to implement AB 60. Under the proposed language, DOF would be required to provide notification to the JLBC at least 30 days prior to authorizing the augmentation.

**Background:** As of January 2013, the DMV had issued 27.3 million licenses/identification cards. AB 60 expanded who DMV can issue a license to and requires DMV, by January 1, 2015, to issue a driver's license to an applicant who is unable to submit satisfactory proof that their presence in the United States is authorized under federal law, if he or she meets all other qualifications for licensure and provides satisfactory proof to the department of his or her identify and California residency. AB 60 also requires DMV to develop regulations and consult with interested parties in an effort to assist the department in identifying documents that will be acceptable for purposes of providing documentation to establish identity and residency.

AB 60 is anticipated to result in approximately **1.4 million** additional people receiving drivers' licenses (DL) over the next three years. Given the direct and indirect benefits of licensure and what has happened in other states, DMV anticipates that 38 percent (538,947) of this population will apply in the last six months of 2014-15, 50 percent (709,141) in 2015-16, and 12 percent (170,194) will apply in 2016-17. The actual number of applicants could be much greater or much smaller, given that there is limited experience in other states on which to base an estimate.

The department believes that successful implementation should involve partnering with the various stakeholders, such as community-based and immigrant-rights organizations, to help prepare and educate the individuals applying for a driver's license.

As shown in the figure below, the budget proposes $64.7 million for 822 staff that will be hired by September 2014 and to establish five temporary offices in Santa Clara, Santa Barbara, Los Angeles, Orange, and San Diego counties. The exact location of these temporary offices has not been determined at this time as DMV is still working with the Department of General Services and nothing has been finalized and no leases have been signed.

The resources requested over the next three fiscal years are as follows:

**Resources Requested to Implement AB 60**
**(Dollars in Millions)**

| | 2014-15 | | 2015-16 | | 2016-17 | |
|---|---|---|---|---|---|---|
| **Expenditures** | Positions | Dollars | Positions | Dollars | Positions | Dollars |
| **Personnel Services** | 822 | $42.8 | 811 | $44.0 | 215 | $13.3 |
| **Operating Expenses and Equipment** | | $10.7 | | $6.3 | | $1.7 |
| **Start-up Costs for Temporary Offices** | | 13.8 | | 6.8 | | 2.3 |
| **Total** | **822** | **$67.4** | **811** | **$57.1** | **215** | **$17.3** |

The funding to implement AB 60 is proposed to come from the Motor Vehicle Account (MVA). The MVA receives revenues from a variety of sources including motor vehicle registration payments, driver's license and identification card fees, and revenues from other services it provides. The fee currently charged for an original DL is $33 and it costs the department a little over $100 to process a card today. On average it takes about five renewal cycles for the department to break even on the cost of issuing a new license. This proposal assumes the fee for a new DL remains at $33.

AB 60 additionally requires the DMV to develop regulations and consult with interested parties in an effort to assist the department in identifying documents that will be acceptable for purposes of providing documentation to establish identity and residency. The department is simultaneously developing both emergency and temporary regulations. It has held two pre-notice public workshops this year and will also provide the opportunity for public comment, after it releases the draft regulations. The DMV has also met with 32 consulates from 22 different countries, 13 law enforcement agencies and 12 community and labor organizations.

**Staff Comment:** It is very difficult to know if the proposed level of resources is appropriate for the potential demand. Similarly, it is difficult to know if the proposed locations of the temporary DMV field offices will be best located to adequately address the demand for licenses. However, as noted earlier, the Governor's Budget includes provisional language allowing for augmentations necessary to implement AB 60. It would be valuable for the DMV to provide an update on implementation progress later this spring.

**Questions:**

1) *What steps are you taking to ensure that you are ramping up appropriately to implement AB 60?*

2) *How did you determine where to site temporary offices? How will this address the potentially high influx of applicants for the drivers' license especially in the Central Valley?*

3) *Why are you using an appointment-only process for original driver's licenses in existing DMV field offices rather than allowing for both walk-in applicants and appointments? Why are walk-ins being allowed at the temporary offices?*

4) *At this time, when do you expect to begin accepting applications for this population?*

5) *What happens if midway through 2014-15 it is determined that there is a greater demand than anticipated for driver's licenses and additional resources are needed?*

6) *What are the major outstanding issues that need to be resolved prior to this going live?*

**Staff Recommendation:** Approve $64.7 million in MVA funds to implement AB 60 and the related provisional language.

**<u>Vote:</u>**

# SUBCOMMITTEE NO. 2 Agenda

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

**Thursday, March 13, 2014**
**9:30 a.m. or Upon Adjournment of Session**
**Room: 112**

**Consultant: Farra Bracht**

## Outcomes

## Transportation

### ITEMS PROPOSED FOR VOTE ONLY

### 2660 Department of Transportation

**Item 1: Continuation of ADA Infrastructure Program (BCP #3)**

**Staff Recommendation:** Approve the permanent redirection of three positions and $507,413 in State Highway Account (SHA) funds and $1.0 million of SHA funds for five years (through June 30, 2019) to continue existing consultant contracts.

**Vote: 3-0**

**Item 2: JARC/ New Freedom Permanent Resources (BCP #17)**

**Staff Recommendation.** Approve the three positions as permanent and the related $301,000 in federal funds.

**Vote: 3-0**

## ITEMS PROPOSED FOR DISCUSSION AND VOTE

## 2660 Department of Transportation

**Item 1: Proposition 1B Capital Needs (BCP #2)**

**Staff Recommendation:** Approve $963.5 million in capital funding for projects in nine programs under the Highway Safety, Traffic Reduction, Air Quality and Port Security Bond Act of 2006 (Proposition 1B).

**Vote: 2-0 (Jackson absent)**

**Item 2: Proposition 1B Administrative Support (BCP #1)**

**Staff Recommendation.** Approve the 42 two-year and three one-year limited-term positions ($4.4 million in personal services and $2.6 million in operating expenses) and reduce Caltrans' Administration Program by four positions and $281,000 from the State Highway Account.

**Vote: 2-0 (Jackson absent)**

**Item 3: Early Repayment of General Fund Loans (BCP #6)**

**Held open.**

**Item 4: Devil's Slide Tunnels (BCP #8)**

**Staff Recommendation.** Approve the permanent redirection of 16 positions and $1,570,000 in State Highway Account funds.

**Vote: 2-0 (Jackson absent)**

**Item 5: Interstate 15 Express Lanes Operations (BCP #9)**

**Staff Recommendation.** Approve 10 positions and $778,000 in SHA funding.

**Vote: 2-0 (Jackson absent)**

**Item 6: High-Speed Intercity Passenger Rail Grant Management (BCP #16)**

**Staff Recommendation:** Approve four positions for a three-year limited-term and $421,000 in federal funds.

**Vote: 2-0 (Jackson absent)**

**Item 7: Aeronautics Program Zero-Based Budget and Local Airport Loan Account Transfer (BCP #18)**

**Staff Recommendation.** Approve the ZBB of the Aeronautics program. Also, approve the one-time transfer of $4 million from the LALA to the Aeronautics Account and the proposed TBL.

**Vote: 2-0 (Jackson absent)**

**Item 8: Capital Outlay Support ZBB Program Review (BCP #19)**

**Staff Recommendation:** Approve the proposed trailer bill language.

**Vote: 2-0 (Jackson absent)**

**Item 9: Legal Services for the California High-Speed Rail Authority (BCP #20)**

**Held open.**

## 2600 California Transportation Commission

**Item 2: Two Positions to Implement ATP (BCP #1)**

**Held open.**

# ITEMS PROPOSED FOR VOTE ONLY

## 2720 Department of California Highway Patrol

**Item 1 Vote Only: Reimbursement Authority Augmentation (BCP #5)**

**Staff Recommendation:** Approve the request to augment CHP's reimbursement authority by $3.3 million.

**<u>Vote: 3-0</u>**

## ITEMS PROPOSED FOR DISCUSSION AND VOTE

## 2720 Department of California Highway Patrol

### Item 1: Air Fleet Replacement (BCP #1)

**Held open.**

### Item 2: Radio/Microwave Program Funding (BCP #2)

**Held open.**

### Item 3: Radio Console Replacement Project (BCP #3)

**Held open.**

### Item 4: Integrated Database Management Systems Funding (BCP #6)

**Held open.**

### Item 5: Statewide Advance Planning and Site Selection (BCP #1)

**Held open.**

## ITEMS PROPOSED FOR DISCUSSION AND VOTE

## 2740 Department of Motor Vehicles

**Item 1: Funding to Implement AB 60 (BCP #1)**

**Held open.**

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

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

**Thursday, March 20, 2014**
**9:30 a.m. or Upon Adjournment of Session**
**Hearing Room 112**

**Consultant: Catherine Freeman**

**Special Item for Consideration—Coastal Climate Adaptation**



**Items Proposed for Vote-Only**



**Items Proposed for Discussion**



**Resources—Environmental Protection—Energy—Transportation**

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## Special Item for Consideration: Coastal Climate Adaptation

## BACKGROUND:

**Sea Level Rise in California.** According to the Administration, climate change in California during the next century is expected to shift precipitation patterns, accelerate sea level rise, and increase temperatures. The country's longest continuously operating gauge of sea level, at Fort Point in San Francisco Bay, recorded a seven-inch rise in sea level over the 20th century. As has been seen throughout the country such as with Hurricane Sandy, as well as the recent "king tides" (very high tides) in Southern California, much of the developed California coast is susceptible to the impacts of sea level rise. In recent events, high tides inundated parts of the Pacific Coast Highway, Huntington Beach, and other low-lying areas of Southern California. Parts of the San Francisco Bay Area also experienced flooding, including portions of Highway One in Marin County. These very high tides are considered a good indicator of the possible impacts of sea level rise and create challenges for local planners and developers in low-lying areas.

**Administration Efforts for Climate Adaptation.** In 2008, Executive Order (EO) S-13-08 called on state agencies to develop California's first strategy to identify and prepare for expected climate impacts. The EO focused on the need to understand and improve how sea level rise projections would impact the state's coastal and low-lying areas. The EO required the California Natural Resources Agency (CNRA) to develop a Climate Adaptation Strategy with various state agencies through the established Climate Action Team. These efforts were designed to be complementary, but not duplicative, of the state's strategy for reducing greenhouse gas (GHG) emissions. The Office of Planning and Research, in conjunction with CNRA, was required to provide land-use planning guidance related to sea level rise and other climate change impacts.

The state subsequently undertook two new climate change assessments (a previous assessment, in 2006, examined the broad impacts of climate change on California's assets). The first assessment, completed in 2009, attempted to provide initial economic impacts of climate change. It concluded that preparing for climate impacts, in addition to efforts to reduce GHG emissions, could substantially reduce California's risk of economic losses and damages. The second assessment, completed in 2012, focused on vulnerability and adaptation discussed in the 2009 Climate Adaptation Strategy (described below). This assessment focused more specific types of response needs related to ground exposure, sensitivity, and natural and human systems.

As discussed at the March 6 hearing, the CNRA has published a 200 page report entitled, "Safeguarding California: Reducing Climate Risk." The report provides policy guidance for state decision makers, and highlights climate risks to nine sectors in California, from agriculture to energy, and forestry to ocean ecosystems. The plan provides a multi-sector framework for state efforts to reduce climate risk and is designed to work in conjunction with the more in-depth, sector-specific climate planning and risk reduction activities, such as addressed in the 2013 sea level rise report.

The state also published the 2103 State of California Seal-Level Rise Guidance Document which states:

> "Specifically, this document provides step-by-step guidance on how to address sea-level rise in new and updated Local Coastal Programs (LCPs) and Coastal Development Permits (CDPs) according to the policies of the California Coastal Act. LCPs and the coastal development permit process are the fundamental land use planning and regulatory governing mechanisms in the coastal zone, and it is critically important that they are based on sound science and updated policy recommendations. This document also contains guiding principles for addressing sea-level rise in the coastal zone; a description of the best available science for California on sea-level rise; specific policy guidance to effectively address coastal hazards while continuing to protect coastal resources; and, background information on adaptation measures, sea-level rise science, how to establish future local water conditions in light of sea-level rise, links to useful resources and documents from other state agencies, and Coastal Act policies relevant to sea-level rise."

**Climate Adaptation Strategy.** The California Energy Commission (CEC) has taken the lead in developing the climate assessments and adaptation strategies for the state, through use of the Public Interest Energy Research (PIER) program. The CEC and CNRA have used this research to develop an Adaptation Planning Guide (APG), a decision-making framework intended for use by local and regional stakeholders to aid in the interpretation of climate science and to develop a systematic rationale for reducing risks caused, or exacerbated, by climate change. The CEC and CNRA have also released Cal-Adapt, a web-based tool which enables city and county planners, government agencies, and the public to identify potential climate change risks in specific areas throughout California.

## MULTIPLE STATE AGENCIES INVOLVED WITH COASTAL CLIMATE ADAPTATION

In addition to the state agencies previously mentioned (CEC, CNRA and Office of Planning and Research), several other state agencies have primary roles in the assessment and planning for coastal climate adaption. Below are four primary state agencies responsible for addressing aspects of sea level rise on the coast.

**State Coastal Conservancy (SCC).** The SCC's Climate Ready program provides a focus for the state's work protecting important coastal resources and habitats from the current and future impacts of climate change. The SCC is collaborating with local partners and other agencies to reduce greenhouse gas emissions and prepare coastal communities. SB 1066 (Lieu), Chapter 611, Statutes of 2012, gave the SCC explicit authority to work with its partners on projects to address the effects of climate change on coastal resources along the coast and within the San Francisco Bay Area.

**State Coastal Conservancy Climate Ready Program.** The SCC's Climate Ready program provides a focus for SCC work, protecting coastal resources and habitats from the current and future impacts of climate change. The SCC collaborates with local partners and other agencies to reduce greenhouse gas emissions and prepare communities along the coast and within the San Francisco Bay for climate change. SB 1066 (Lieu), Chapter 611, Statutes of 2012, gave the SCC explicit authority to work with its partners on projects to address the effects of climate change on coastal resources along the coast and within the San Francisco Bay Area, including those that:

- prepare our communities for extreme weather events, sea level rise, storm surge, beach and bluff erosion, salt water intrusion, and flooding;
- address threats to coastal communities, natural resources, and infrastructure; and,
- reduce greenhouse gas emissions.

Using remaining bond funds, the SCC solicited grants for climate readiness, and though it received grant requests totaling over $13 million in the first round, but was only able to fund $1.1 million in projects. The projects ranged from Eureka to Imperial Beach and included cities, airports, conservation districts and regional nonprofits. Because bond funds are limited, it is unlikely that larger solicitations will be possible in the near future without a new funding source.

**Bay Conservation Development Commission (BCDC).** BCDC staff has taken a lead in developing an Adaptation Assistance Program (AAP) to provide information and resources to Bay Area local and regional governments to assist them in planning for, and adapting to, the impacts of a changing climate. These outreach efforts primarily focus on addressing the needs of land use planning, public works, park and open space districts, flood control districts, and wastewater authorities, as well as resource-based managers.

The AAP aims to help San Francisco Bay Area communities achieve coordinated and region-wide adaptation to climate change impacts by building capacity within local governments to assess climate change issues, and to plan for and implement adaptation strategies.

BCDC has identified five broad program components for accomplishing this objective:

- building partnerships that cut across jurisdictional boundaries, both geographic and sectoral;
- public outreach to build community and institutional support for adaptation planning;
- education to help planners and managers develop knowledge and skills for adaptation planning;
- creation of a "one-stop shop" website and information clearinghouse; and,
- development and dissemination of strategies to improve the region's resilience and adaptive capacity.

**State Lands Commission (SLC).** The SLC provides stewardship of state lands, waterways, and resources through economic development, protection, preservation, and restoration. The SLC also manages state oil and gas leases in coastal areas, including offshore oil platforms, for which it receives royalties from the sale of the produced oil.

According to the SLC, sea level rise resulting from climate change is an issue that has far reaching consequences for California, including the lands under the jurisdiction of the SLC. Lands within the SLC's jurisdiction and adjacent properties are already vulnerable to a wide range of naturally occurring events, including storms and extreme high tides. While some of these lands remain undeveloped, significant portions of California's shoreline areas have been developed, including areas either pursuant to a lease from the SLC or pursuant to authorization from local government trustees of state tide and submerged lands. The SLC has an important role to play in addressing the issue of sea level rise and assuring that those decision-makers involved in proposed and existing development on the state's Public Trust lands consider the impacts of sea level rise.

**California Coastal Commission (CCC).** The CCC is the primary state agency responsible for administering the 1976 Coastal Act. The CCC, in partnership with coastal cities and counties, plans and regulates the use of land and water in the coastal zone. Development activities, which are broadly defined by the Coastal Act to include (among other things) construction of buildings, divisions of land, and activities that change the intensity of use of land or public access to coastal waters, generally require a coastal permit from either the Coastal Commission or the local government.

Land use planning in the coastal zone, as in the rest of the state, is the primary responsibility of local governments. However, the Coastal Act imposes a number of requirements on land use in the coastal zone. Most significantly, the act requires local governments to adopt Local Coastal Programs (LCPs) to govern development of land in their jurisdictions that lie within the coastal zone.

In preparing to develop LCPs, many local governments have chosen to divide their coastal zone territory into several segments. This is done when a local government's coastal jurisdiction encompasses several distinct regions with different land use issues. A separate LCP is developed for each coastal segment. There are currently 128 coastal segments within the 76 coastal cities and counties. A LCP must contain: (1) a land use plan, and (2) zoning ordinances to implement the land use plan. In general, LCPs must be designed to ensure maximum public access to the coast, provide recreational facilities, protect the marine environment, and otherwise promote the goals and objectives of the Coastal Act.

The Coastal Commission reviews and certifies LCPs for conformity with the act. As originally passed, the act required all local governments in the coastal zone to have submitted LCPs to the CCC by January 1, 1980. However, this deadline has been extended several times, and today some jurisdictions still have not submitted LCPs to the commission.

The commission's status of LCP review includes:

- 92 LCP certified segments.
- 79 of 92 certified LCP segments (86 percent) were certified more than 20 years ago.
- 24 of 92 certified LCP segments have been comprehensively updated.

## COASTAL COMMISSION ROLE IN SEA LEVEL RISE PLANNING

**Updating Local Coastal Plans.** The CCC has maintained a steady budget over the past several years but has struggled to make progress in updating LCPs. There are many reasons for this, including: (1) funding has not been available to assist local jurisdictions in updating their coastal plans; (2) some locals are reluctant to take back coastal permitting and prefer to have the state provide this service; and, (3) recent local funding issues have, as with other areas of government, reduced their ability to do forward-thinking planning.

Sea level rise has added urgency to the issue of outdated, incomplete, and uncertified LCPs. Local planning and preparation are critical if the state is to maintain its coastal development zones and prepare for possible inundations. Creating a local plan is part of every coastal jurisdiction's responsibility, in order to determine how to preserve life and property along the California coast.

In the current year budget, the CCC received $3 million (General Fund) to update and improve LCPs relative to sea level rise. Given the number of outdated and inadequate LCPs (again, relative to sea level rise), the CCC was charged with providing locals with the funding necessary (within budget constraints) to begin to shift the CCC's role away from providing direct permitting for 36 local jurisdictions, to its intended role of an appellate function for coastal land use decisions. At the same time, the CCC was asked to provide local assistance ($1 million of the $3 million), to provide locals with funding to update their LCPs, mainly for sea level rise and climate adaptation.

## REVENUE OPTIONS FOR FUNDING COASTAL CLIMATE ADAPTATION

**Tidelands Oil Revenue.** As previously discussed, the SLC receives royalty revenues from oil extraction activities on state tidelands. SB 271 (Ducheny and Thompson), Chapter 293, Statutes of 1997, established the principle that royalty revenues received by SLC from oil extraction activities should be dedicated, in large part, to various coastal and natural resources protections that benefit the entire state. Through subsequent legislation and budget actions, the Legislation funded various programs through the Resources Trust Fund (RTF) including marine management, natural resources infrastructure, and State Parks deferred maintenance. In 2002, the budget proposed eliminating the current statutory requirements for distributing tidelands oil revenues to various special funds to fund resource activities.

As a separate issue, a lawsuit between the state and the City of Long Beach required the city to direct funds to a Tidelands-related fund, the Oil Trust Fund, per Public Resources Code §6217.8. This fund is intended to be an abandonment reserve fund, for use when the oil production comes to an end. The maximum amount to be deposited into the fund was established at $300 million, with continued funding to be deposited as Tidelands Oil revenue and (per current law), deposited into the General Fund. The Trust Fund has reached its maximum and therefore up to $2 million per month is now being deposited into Tidelands Revenue that had not been available prior to 2013.

**SB 461—An Opportunity for Improved Funding.** The Legislature, in 2013, considered SB 461 (Leno), a bill to redirect SLC Tidelands Revenue to sea level rise adaptation activities. According to the committee analyses, this bill would begin to restore the principle that tidelands revenues should be used to fund activities that benefit the environment. As an example, the bill would help state agencies encourage local governments and other entities, responsible for planning under the Coastal Act; to develop and adopt updated plans that conserve and protect coastal resources from future impacts from sea-level rise and related climate change impacts such as extreme weather events. The bill was held in Assembly Appropriations.

## GOVERNOR'S PROPOSAL:

**Coastal Commission Funding Missing.** The Governor's budget does not renew the $3 million (General Fund) funding for the CCC's local coastal plan updates. While funding was included on a one-time bases in the current year, the expectation was for this proposal to carry forward, should the need continue. With that in mind, the CCC both administered the $1 million in grants to local agencies and conducted permanent hires to the Commission's staff to keep up with workload associated with the increased turnover of LCPs.

**Fourth Climate Change Assessment Proposed, No Funding for Adaptation.** As discussed on March 6 in this subcommittee, the Governors' budget requests $5 million (one-time, Environmental License Plate Fund) and one position at the CNRA, to carry out a fourth climate change assessment. The Governor does not have an additional proposal dedicated to climate adaptation.

## ISSUES FOR LEGISLATIVE CONSIDERATION:

**Why Cease Funding for Sea Level Adaptation?** During budget hearings in 2013, and in review of the many efforts of the Administration related to climate adaptation, it became clear that the local coastal areas are not only the most vulnerable to sea level rise, but many are woefully behind in their Coastal Act-mandated local coastal plan updates. No one is more appropriate to address sea level rise than the locals themselves, as established in the Coastal Act. The statewide impact of these plans is necessarily subject to CCC review.

The Administration's efforts, to date, have focused attention on the impacts of sea level rise and the economic impacts of loss of infrastructure in coastal areas. Science has already established the trend toward sea level rise, and the impacts of recent king tides have documented the cost of such a change on local infrastructure. The lack of continued funding for the update of LCPs seems shortsighted given that $5 million would be directed to conduct further scientific studies of climate change.

The Legislature should consider re-establishing funding for the CCC, for a specific period of time, to provide locals with the funding necessary to create or update their LCPs. This funding should be temporary and fit the current model for grants to locals as established by the commission, with an emphasis on adaptation to sea level rise.

The Legislature should also consider ongoing funding to the CCC for review and update of these plans. The CCC holds a special expertise in the development of local coastal plans and works in conjunction with local agencies to ensure that their plans meet state law and standards. Without the necessary funding for this effort, LCPs will not be updated in a timely manner.

**Is it Time to Revisit Tidelands Oil Revenue Allocations?** In 1997, when the Legislature first established the principle that Tidelands Oil revenues should be allocated to natural resource and coastal activities, the royalties totaled a little over $50 million. Today, due mostly to the price of oil, these funds bring between $250 and $350 million to the General Fund annually. Since 2006, all of the Tidelands royalties have been directed to the General Fund, in part for budget balancing. The addition of funds that have been directed to the Oil Trust Fund (related to the City of Long Beach abandonment reserve fund, now capped), are now included in the Administration's revenue estimates for Tidelands Oil.

Given the need for dedicated funding for sea level rise and adaptation, the Legislature should consider appropriating funding from Tidelands Oil to natural resource and coastal-related needs. Consistent with the Administration's Climate Action Strategy, it would seem that providing a dedicated funding source for coastal preparedness would be an appropriate state strategy to deal with sea level rise. A portion could be dedicated to local infrastructure, but a second subset should be directed to protect state-owned and managed assets such as roads, highways, state parks, water systems, ports, and other critical infrastructure.

### Staff Recommendation:

1. Recommend approval of $10 million directly from Tidelands Oil Revenue to the State Coastal Conservancy as a baseline adjustment to augment the existing Climate-Ready grant program.

   Recommend trailer bill language in concept to ensure that funding is prioritized for projects that have long-term adaptation benefits.

2. Recommend restoration of General Fund to the Coastal Commission of $3 million per year for 5 years, with $1 million per year dedicated to local assistance.

### *ITEMS PROPOSED FOR VOTE ONLY—Coastal Agencies*

### 3720 California Coastal Commission

1. **Coastal and Marine Education Whale Tail License Plate Program.** The Governor's budget requests a one-time augmentation of $295,000 (California Beach and Coastal Enhancement Account and Whale Tail License Plate Account) to increase the funding for grants for coastal and marine education. This proposal is consistent with previous years where one-time funding has been available from the sale of the license plates.

### 3560 State Lands Commission (SLC)

2. **Human Resources Staffing.** The Governor's budget requests two positions to augment its current human resources department to accommodate both internal staff, as well as activities for departments who contract with SLC for administration (due to their small size). This would bring the total human resources staffing to 7.5 personnel years for 260 staff positions.

3. **Removal of Dennett Dam, A River Hazard.** The Governor's budget proposes $133,000 (Environmental License Plate Fund) to remove Dennett Dam on the Tuolumne River in Stanislaus County. The dam poses a threat to public safety and is a barrier to recreational navigation and migrating salmon. Funding is contingent upon an equal match from local participants.

**Staff Recommendation:** Approve Items 1-3.

***ITEMS PROPOSED FOR DISCUSSION—Coastal Agencies***

# 3760 State Coastal Conservancy

## 1. Office Move and Increased Rent

**Background.** The State Coastal Conservancy (SCC) has occupied space at 1330 Broadway in Oakland for over 30 years. Past year facilities operations expenditures were $433,000, for the approximately 16,000 square feet it occupies on the 11th and 13th floors of the current office space, at $2.09 per square foot. The SCC's lease is up for renewal on November 30, 2014 at $2.41 per square foot. The building at 1330 Broadway is also occupied by coastal-related nonprofits including Save the Bay, the Ocean Science Trust, The National Oceanic and Atmospheric Administration (NOAA) and the Coastal Services Center (Center).

The Elihu Harris State Building, located at 1515 Clay Street in Oakland has a vacancy on its 10th floor after the California Department of Corrections moved from this location. The lease is calculated at $3.00 per square foot. As the building is managed by Department of General Services [DGS]), this creates a gap in the state's overall lease revenues. The Coastal Conservancy, over the past three years, has worked with the Legislature and its board to develop a very streamlined financial operating strategy given the reduction of bond funds in recent years. This strategy has included careful monitoring of operating expenses and consistency in minimizing costs.

**Budget Proposal.** The DGS has made a formal request for the SCC to move into the Elihu Harris State Building. In order to accommodate this move, the SCC would require "significant and unavoidable one-time costs associated with the DGS architectural design, engineering, and construction project, as well as furniture and moving costs." Even with modest and least cost items, the physical move is estimated at $979,000 with an ongoing expense of $140,000 per year for increased rent costs. Because the SCC does not have renewable funding sources available, this move and increased rent is proposed to be funded from the General Fund. Additional increases in costs would likely need to be absorbed by the conservancy.

**Staff Comments.** The move to the Elihu Harris building may solve a problem for DGS, however, the move does not necessarily make sense for the SCC. Co-location with other federal and state ocean-related agencies is important to the mission of the SCC. Additionally, providing for increased rent does not make fiscal sense to the SCC. The state should consider other tenants more closely related to the agencies already occupying the Elihu Harris building.

It has also come to the attention of staff that SCC is not alone in its move to a state building away from long-standing collaborative and beneficial relationships. The Bay Conservation Development Commission (BCDC) was also required by DGS to move to a state building rather than to a new building with its regional planning partners.

**Staff Recommendation:** Reject Proposal. Require SCC to renew lease at 1330 Broadway. Require the administration to report on programmatic impacts of BCDC move.

# 3480 Department of Conservation

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

**Governor's Budget.** The Governor's budget includes $93.5 million and 541 positions for support of the department. This is a decrease of $31 million from previous year expenditures due mostly to reductions in bond expenditures. The budget includes an increase of $11 million in the Oil, Gas and Geothermal Administrative Fund due to the implementation of fracking legislation.

### *Items Proposed for Vote-Only*

1. **California Farmland Conservancy Program Reimbursements—High-Speed Rail.** The budget requests a four-year limited-term increase in reimbursement authority of about $5 million per year (High-Speed Rail funds), to assist the High-Speed Rail Authority by providing services to meet environmental commitments and mitigation with agricultural land conservation.

2. **Alquist-Priolo Fault Zone Funding.** The budget requests $1.4 million (Strong-Motion Instrumentation and Seismic Hazards Mapping Fund) to reinvigorate the Alquist-Priolo Earthquake Fault Zoning Act. This is a proposal to evaluate, over the next six years, the faults in California believed to be active that have not been included in previous evaluations. Trailer bill language is proposed to increase fees for this proposal from building permits at a rate of $10 to $13 per $100,000 for residential permits and $21 to $28 for non-residential permits.

### Staff Recommendation:

**Item 1:** Consistent with previous legislative actions on High-Speed Rail proposals, Hold Open item one until a final decision has been made regarding funding for the overall program.

**Item 2:** Approve.

### *Items Proposed for Discussion*

## 1. Implementation of SB 4 (Pavley)—Hydraulic Fracturing

**Background (Legislative Analyst's Office [LAO]).** Hydraulic fracturing and acid matrix stimulation are two types of well stimulation techniques used to increase the production of oil and gas. Typically, hydraulic fracturing relies on injecting a mixture of high–pressure water, sand, and chemicals deep into underground geologic formations. Acid matrix stimulation utilizes the injection of one or more acid mixtures into an underground geologic formation. Of the roughly 42,000 active wells in California, it is estimated that on average between 1,000 and 2,000 wells will likely undergo one or more of these types of well stimulation activities each year.

SB 4 (Pavley), Chapter 313, Statutes of 2013, commonly referred to as SB 4, requires the regulation of oil and gas well stimulation treatments such as hydraulic fracturing. The legislation requires, among other things, the development of regulations (which we discuss in more detail below), a permitting process, and public notification and disclosure of wells that will undergo hydraulic fracturing and acid matrix stimulation and the types of chemicals used for these processes. The legislation also states that workload associated with its implementation can be funded by the Oil, Gas, and Geothermal Administrative Fund (OGGAF). The OGGAF is funded through a fee administered by the Division of Oil, Gas, and Geothermal Resources (DOGGR) within the Department of Conservation. The fee is designed to recover the division's costs to regulate oil and gas extraction in the state. The fee is currently assessed at $0.14 per barrel of oil produced or 10,000 cubic feet of natural gas produced in the state.

Among its regulatory requirements, SB 4 requires DOGGR to adopt rules and regulations by January 2015, regarding the construction of wells and well casings, as well as the disclosure of the composition and disposal of well stimulation fluids. As part of the regulations, DOGGR must require well operators to apply for a permit prior to performing well stimulation activities, which must be posted on a publicly accessible portion of DOGGR's website. The regulations must also include provisions for random inspections by DOGGR during well stimulation activities. In addition, SB 4 requires DOGGR to provide a progress report to the Legislature by April 1, 2014.

Senate Bill 4 also requires that groundwater monitoring be performed in areas that have well stimulation activity, in order to detect if groundwater is contaminated. Specifically, the legislation requires the State Water Resources Control Board (SWRCB) to (1) provide guidance to DOGGR on the development of regulations for wells where groundwater could be affected, (2) develop criteria specifying requirements for groundwater monitoring in areas with well stimulation activities and a plan for monitoring groundwater based on those criteria by July 1, 2015, and (3) begin monitoring groundwater by January 1, 2016. Senate Bill 4 also requires well owners and operators to develop groundwater monitoring plans if they are in an area which is not monitored by SWRCB. In addition, SB 4 requires DOGGR to enter into formal agreements with multiple departments (including the Air Resources Board [ARB] and Department of Toxic Substances Control [DTSC]), in order to delineate roles and responsibilities related to its implementation.

**Budget Proposal.** The Governor's budget includes proposals in three departments for workload related to the regulation of hydraulic and acid matrix fracturing. In total, the Administration requests $20.5 million from the OGGAF and 85 positions in 2014-15. Of this total, $19.9 million and 80 positions are proposed to be ongoing. The Governor's budget reflects an increase of $23 million in OGGAF revenue, based on an assumed increase in the regulatory fee administered by DOGGR, to pay for these additional costs. At the time of this analysis, it is uncertain how such a fee increase will be assessed. Specifically, the Administration proposes adjustments for the following departments.

- **DOGGR.** The Governor's budget requests 60 permanent positions, 5 limited-term positions, and $13 million in 2014-15 ($9.2 million ongoing) for DOGGR to regulate well stimulation techniques. The bulk of these positions would be used for engineering and geological workload, such as monitoring compliance with state regulations at extraction sites.

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

- **ARB.** The Governor's budget requests six positions and $1.3 million for ARB to develop regulations to control and mitigate GHG emissions, "criteria pollutants," and toxic air contaminants resulting from well stimulation.

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

**LAO Analysis and Recommendation (DOGGR).** The Governor's proposals raise several issues for legislative consideration. First, as indicated above, while SB 4 states that monies from the OGGAF can be used for costs associated with the implementation of the bill, the Administration has not yet determined how the fee increase will be assessed. The Administration is currently considering two options, either (1) increasing the per barrel fee on all production in the state, or (2) assessing a fee increase just on those wells that undergo well stimulation. This is a policy choice on which SB 4 was silent, and there are trade–offs with each option. On the one hand, assessing the fee on all in-state production would spread the costs over many more parties, thus reducing the fee burden associated with regulating any single well. However, this would mean charging some oil producers for the costs associated with the regulation of an activity in which they are not engaged. On the other hand, if the fee increase were levied solely on those entities that are using well stimulation, it would be more expensive for those producers. Based on the cost proposals from the Administration, we estimate that if the fee were only charged to those entities performing well stimulation each year, the average cost would be around $10,000 to $20,000 per well, though the exact amount paid by any individual driller or operator might vary depending on the number of wells which undergo well stimulation.

**"Approve DOGGR Request."** The Governor's request for additional positions for DOGGR to implement SB 4 is justified on a workload basis. We therefore recommend that the Legislature approve 60 permanent positions, 5 limited-term positions, and $13 million in 2014-15 ($9.2 million ongoing) to regulate well stimulation techniques.

**Staff Comments.** Staff concurs with the need to approve position authority for the evaluation and enforcement of well stimulation practices. The department has determined that a per-barrel fee is the most effective method of funding for SB 4. The department should be prepared to discuss how it came to this conclusion and how the fee will be implemented. The department should also be prepared to discuss the trailer bill and any changes that have been proposed either by legislative staff or the Administration.

**Staff Recommendation:**

1. Approve DOGGR request for positions and baseline appropriation.
2. Hold open SWRCB and ARB proposals to be heard under their respective departments.
3. Hold open the trailer bill language until a final draft is complete with input from policy staff.

# 3540 Department of Forestry and Fire Protection (CalFIRE)

The California Department of Forestry and Fire Protection's (CalFIRE) mission is to serve and safeguard the people and protect the property and resources of California. CalFIRE provides all hazard emergency - fire, medical, rescue and disaster - response to the public. The Department provides resources management and wild land fire protection services covering over 31 million acres of the dtate. It operates 228 fire stations and, on average, responds to over 5,600 wildfires annually. The department also performs the functions of a local fire department through reimbursement agreements with local governments. The state contracts to provide fire protection and prevention services in six local areas.

**Governor's Budget.** The Governor's budget includes $1.4 billion ($777 million General Fund) and 6,962 positions for support of the department. This is an increase of $158 million from previous year expenditures. The budget includes an increase of $63 million (General Fund) mainly for adjustments in the state versus federal responsibility areas as well as personnel and workers compensation package amendments.

### *Items Proposed for Vote-Only*

1. **Public Records Act Request Compliance.** The budget requests $416,000 in permanent funding and two positions (SRA Fund) for additional finance and legal staff to coordinate and respond to a significant increase in the number of Public Records Act requests.

2. **Fire Safety, Fire Retardants, and Building Insulation (Implementation of AB 127 [Skinner]).** The budget requests $253,000 (Building Standards Administration Special Revolving Fund) in one-time funding to implement AB 127 (Skinner), Chapter 579, Statutes of 2013, related to flammability standards for building insulation materials, including whether the standards for some materials require the use of chemical retardants.

3. **Capital Outlay: Badger Forest Fire Station—Replace Facility.** The budget requests a supplemental appropriation of $1.2 million (Public Buildings Construction Fund) to replace the one-engine Badger Forest Fire Station.

4. **Capital Outlay: South Operations Area Headquarters—Relocate Facility.** The budget requests $4 million (Public Buildings Operation Fund) to relocate the South Operations Headquarters to the March Air Reserve Base.

**Staff Recommendation:** Approve Items 1-4.

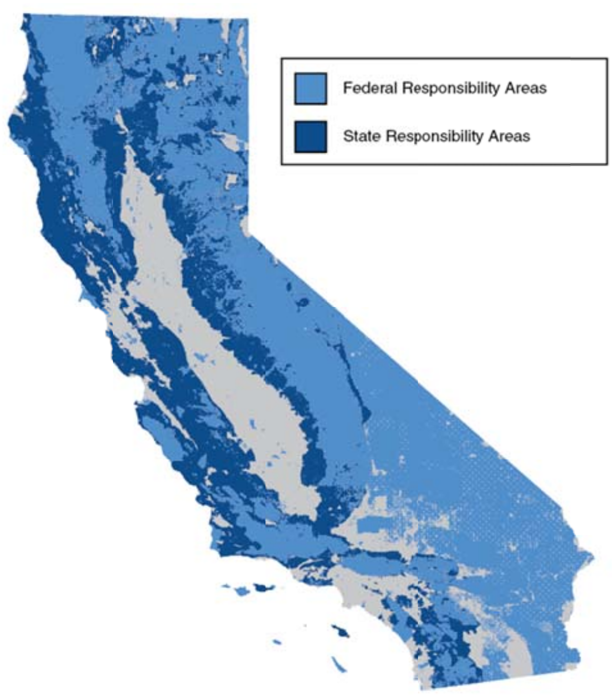
***Items Proposed for Discussion***

## 1. State Responsibility Area (SRA) Protection Area Adjustment

**Background (Legislative Analyst's Office [LAO]).** Fire protection efforts in California's wild lands involve firefighting resources at the state, federal, and local levels. The responsibilities for each level of government are set forth in law and policy directives. However, these responsibilities and the geographic areas of protection often overlap among governments. In order to reduce overlap and maximize the use of resources across jurisdictions, firefighting agencies generally rely on a complex series of agreements that result in a multiagency wildland fire protection system. As shown in Figure 12, state or federal agencies have primary responsibility for providing wildland fire protection for 79 million acres—almost 80 percent of all land—in California. Specifically, the state is currently responsible for wildland fire protection on approximately 31 million acres of wild lands (generally privately owned). Federal Responsibility Areas (FRA) are comprised of 48 million acres of land owned and administered by various federal agencies including the United States Forest Service (USFS), the Bureau of Land Management, the National Park Service, the Fish and Wildlife Service, and the Bureau of Indian Affairs.

Figure 12

State and Federal Responsibility Areas for Wildland Fire Protection




Source: LAO, 2013

Since the 1930s, state and federal agencies have entered into agreements that provide for interagency cooperation between these two levels of government. As part of this agreement, CalFIRE and its federal counterparts have determined in which areas it is most efficient for the state and federal governments to have resource protection responsibility. This includes, in some areas, CalFIRE having fire protection responsibilities of FRAs, while in other areas, the federal government has fire protection responsibilities in SRAs. Approximately four million acres of SRA are protected by the USFS for wildland fire prevention and suppression, and CalFIRE protects a similar amount of federal land. Once responsibility for protecting lands is determined, the agency accepting responsibility for the protection of that land assumes full financial responsibility for any firefighting costs associated with it. In addition, the agreement provides that each agency, to the extent possible, will fight fires consistent with the approach of the other agency had it been the one responsible.

Following the 2007 Angora Fire near Lake Tahoe, the agreement between CalFIRE and its federal counterparts was reexamined, and a statewide review by CalFIRE and USFS determined that the USFS could no longer adequately protect some SRAs it had previously covered. This determination was based on the following factors: (1) a large number of homes in wildland areas, (2) the likelihood of high–intensity wildfires, and (3) high property and resource values. In particular, the review identified areas around the Lake Tahoe basin, Idyllwild (Riverside County), and Big Bear Lake (San Bernardino County) as areas in which USFS could no longer offer adequate protection. CalFIRE and USFS reached a new agreement in 2013 that transfers primary fire protection responsibility in these SRAs to CalFIRE. Consequently, the state resumed primary protection responsibility for 92,000 acres of high-risk, high-value SRA in 2013. For the past year, CalFIRE has utilized existing resources from other areas in order to cover these additional areas of responsibility.

**Budget Proposal.** The Governor's budget proposes ongoing funding of $14.2 million to support 62.5 permanent positions, in order to expand CalFIRE's fire protection in the areas around Lake Tahoe, Idyllwild, and Big Bear Lake. This includes (1) $13.6 million from the General Fund to support 59.5 positions for fire suppression, and (2) $670,000 from the SRA Fire Prevention Fund to support three positions for fire prevention activities within the SRAs. These resources will provide staffing for seven fire stations and one helitack base in these areas.

**LAO Analysis and Recommendation.** The LAO has analyzed this proposal and provides the following analysis and recommendations:

> **Proposed Expansions Likely to Have Additional Costs.** The Administration's budget request is for the additional positions and operating costs necessary to provide fire prevention and protection services in these areas. The request, however, does not identify CalFIRE's long-term facility needs in these areas or the potential costs for purchase or construction of new facilities.
>
> **More Changes to Interagency Agreement Likely.** Since the interagency agreement between CalFIRE and federal agencies was first established in the 1930s, the nature of the SRA and FRA have changed significantly. For instance, housing development has increased in many areas of SRA. Additionally, the responsibilities of CalFIRE and federal agencies have shifted. For example, CalFIRE is now required to provide certain fire prevention services to all inhabitants in SRA since those residents pay the SRA fee.

The USFS, on the other hand, does not have the authority to conduct the same level of fire prevention activities as CalFIRE. In addition, the USFS and CalFIRE have different fire suppression and fire fuel management policies. The current interagency agreement with the federal government is set to expire in 2018. Based on our conversations with CalFIRE, as SRA land continues to be developed and fire suppression costs rise, federal agencies will want to shift more SRA fire protection responsibility to the state. This would result in additional costs to the state.

**LAO Recommendations.** It is consistent with CalFIRE's mission to protect these three areas to California's fire protection standards, and the proposal would provide the level of resources necessary for sufficient staffing according to the department's methodology. Therefore, we recommend that the Legislature approve the Governor's proposal. However, the Legislature should request additional information to understand the full magnitude regarding the fiscal impact of these changes, as well as potential changes in the future. Specifically, we further recommend that the Legislature require CalFIRE to report at budget hearings on the expected capital outlay costs associated with the proposal. In addition, we recommend that the Legislature adopt budget trailer legislation requiring CalFIRE to report on other areas of SRA currently protected by federal agencies that are most likely to be transferred back to CalFIRE responsibility in the future. This report to the Legislature should be completed prior to renewing the interagency agreement. The report should identify the reasons why those areas are most likely to be shifted back to CalFIRE, the operational and capital costs associated with CalFIRE management of those areas, and any policy alternatives the state could consider other than taking back full responsibility (such as sharing of resources and facilities or different reimbursement policies).

**Staff Comments.** Staff concurs with the LAO analysis. The department should address the LAO concerns in its opening statement including future costs of the proposal and capital outlay estimates.

**Staff Recommendation:**

1. Approve Governor's Proposal.
2. Adopt supplemental reporting language requiring the department to report to the Legislature prior to negotiation of future state versus federal responsibility area adjustments in order to determine if budget legislative representation is advisable at these meetings. Request the LAO draft this language in conjunction with the department.

***Items Proposed for Discussion***

## 2. Fireworks Disposal and Management

**Background (Legislative Analyst's Office [LAO]).** Under state law, the Office of the State Fire Marshal (OSFM) within CalFIRE is responsible for the management and disposal of seized illegal fireworks. Fireworks may be declared illegal by federal, state, or local governments. Federal regulations designate some types of fireworks as illegal to be sold in the U.S. State law allows only certain fireworks legal under federal law—those designated as "safe and sane" by the OSFM—to be sold in California. Many local jurisdictions in California choose to ban the sale or use of any fireworks within their borders. Consequently, illegal fireworks seized by law enforcement agencies include those that are illegally made in or transported into the U.S., as well as fireworks that are legally purchased in one jurisdiction (including parts of California, in some cases) and brought into another jurisdiction where they are illegal.

Possession of illegal fireworks in California is usually a misdemeanor and is punishable by penalties ranging from $500 to $50,000, as well as possible incarceration, with the size of the penalty depending on the quantity of fireworks. Law enforcement agencies, such as the California Highway Patrol and local police, are authorized to seize illegal fireworks. Local fire departments may also accept drop-offs of illegal fireworks. Once the fireworks are seized, state statute requires the OSFM to properly dispose of them. Because seized fireworks are considered hazardous waste and are explosive, proper disposal can be dangerous, labor intensive, and costly. Many of the fireworks must be shipped to an out-of-state disposal site, at a cost of roughly $10 per pound. Fireworks that cannot be shipped because they are unpackaged or unstable are incinerated at a cost of about $30,000 annually. The OSFM estimates that around 100,000 pounds of illegal fireworks are collected annually, and that it would cost approximately $600,000 if the state were to dispose of all collected fireworks in the state each year.

Chapter 563, Statutes of 2007 (SB 839, Calderon), increased the penalty amounts to the levels described above in order to fund the disposal of seized fireworks. However, the revenue generated from these penalties has never been sufficient to cover more than a small fraction of the program's costs. The most penalty revenue collected in any given year was around $30,000, and in some years, it has been as little as a few thousand dollars. It is unclear why the penalty revenue collected is so low. According to OSFM, the lack of ongoing funding for proper disposal has caused a backlog of illegal fireworks needing proper disposal. The OSFM estimated that there was a backlog of 250,000 pounds of fireworks as of August 2013. In 2012, a working group made up of various stakeholders was convened to address the issues surrounding seized illegal fireworks, including funding for disposal. However, the group did not issue a formal proposal. The Legislature approved one-time funding of $500,000 from the General Fund in the current year to help address the backlog.

**Budget Proposal.** The Governor's budget proposes $1.5 million in one-time funding from the Toxic Substances Control Account (TSCA) to properly dispose of the current backlog of seized fireworks. (The TSCA is used primarily by the Department of Toxic Substances Control [DTSC] for responses to hazardous waste releases and is funded mostly by a tax on businesses in industries that use, generate, or store hazardous materials or that use products manufactured with those materials.) The Governor also proposes to establish a 1.5 percent assessment on legal safe and sane fireworks sold in California to cover the ongoing costs of fireworks disposal. The Administration estimates that the proposed assessment will generate $1.2 million annually when fully implemented. Assessment revenues will be deposited into the existing Fire Marshall's Fireworks Enforcement and Disposal Fund to cover staffing and operation costs of the program.

**LAO Analysis and Recommendation.** The LAO has analyzed this proposal and provides the following:

> **New Assessment Has Trade–offs.** We find that the new assessment proposed by the Administration should raise more than a sufficient amount of revenue to address the ongoing costs of the program. In addition, the proposed assessment avoids the need to use other state resources—such as the General Fund or another special fund—on an ongoing basis. However, the structure of the assessment means that people purchasing fireworks legally would be required to pay the costs associated with the actions of those who break the law by purchasing or transporting illegal fireworks. Moreover, the assessment does not impose a cost on those who break the law and whose actions drive state costs. In addition, we note that the administration's proposed assessment is estimated to generate much more revenue—$1.2 million—than estimated annual program costs—about $600,000. While there is some uncertainty surrounding the revenue estimates because of limited data, this assessment could result in twice as much revenue as the program costs on an annual basis.
>
> **Other Funding Options Also Have Trade–Offs**. In reviewing this proposal, we identified several alternative options for funding fireworks disposal.

- **TSCA.** The Legislature could consider providing ongoing funding from TSCA. The Governor proposes using TSCA for one-time funding to address the existing backlog of seized fireworks, and we find it to be an appropriate use of this fund. Additionally, TSCA currently has a large reserve, projected at $37 million—or 82 percent of revenues and transfers—in 2014-15. This financing mechanism avoids imposing an assessment on legal fireworks sales, and does not use money from the General Fund. However, creating additional ongoing commitments from TSCA would compete with current activities paid for by the fund. For example, TSCA is currently used to fund many other activities whose costs are projected to increase in the future, such as the cleanup of hazardous waste sites and the Safer Consumer Products program. Committing ongoing TSCA funding for fireworks disposal may reduce the state's ability to perform these other activities in the future.

- **General Fund.** To the extent that the Legislature determines that fireworks disposal has a benefit to the entire state, the General Fund is an appropriate funding option. This financing mechanism avoids an assessment on legal fireworks sales and does not place a financial burden on any special funds. However, it does divert resources from the General Fund on an ongoing basis, an option that the Legislature rejected in 2013-14. Notably, the General Fund is used to fund some costs associated with illegal activities, such as illegal drug lab cleanups.

- **Local Governments—Share in Disposal Costs.** Local law enforcement agencies and residents benefit from the OSFM's disposal of fireworks through reduced fire and safety risk. Moreover, local decisions—such as a county fireworks ban that increases the number of fireworks considered to be illegal—drive some of the OSFM's costs. Therefore, a cost-sharing arrangement between state and local governments may be appropriate. This could be achieved, for example, by (1) requiring local governments to pay OSFM for a share of disposal costs, or (2) removing the statutory requirement that OSFM be responsible for the disposal of all seized fireworks, thereby leaving the responsibility and cost with local governments. Both options avoid an assessment on legal fireworks and do not divert state resources from special funds. However, they may both be considered state-reimbursable mandates. When the state mandates that a local government provide a new program or higher level of service, the California Constitution often requires the state to reimburse the local government. Since the state currently provides seized fireworks disposal, shifting the responsibilities or costs back to local governments could require a higher level of local service and therefore be a state-reimbursable mandate. Reimbursable mandates are paid from the General Fund. Therefore, if these actions were determined to be reimbursable mandates, this option could be costly to the General Fund. Moreover, the Legislature would have less oversight of the program and control of the costs than if the program was operated by the state.

- **Selling or Returning Fireworks to Manufacturers.** One option the working group convened in 2012 considered was to allow enforcement agencies to sell or give fireworks that are illegal in California but legal in other parts of the U.S. back to manufacturers and retailers. Under this type of approach, fireworks companies would remove the fireworks from California and cover their costs by reselling the fireworks where they are legal. The benefit of this approach would be to reduce the cost of disposal, as well as generate some revenue that could be used, for example, to cover costs of disposing of fireworks illegal in the U.S. On the other hand, this approach would put government agencies in the position of selling illegal materials, and once resold, much of this material could end up back in California.

**LAO Recommendation.** We find that the Administration's effort to develop a permanent funding source for fireworks disposal is a reasonable one. The Governor's proposed approach provides one option, and there are others—as we discussed above—that could be considered. Each option, however, has trade-offs. In determining which financing mechanism is most consistent with current legislative priorities, the Legislature will need to make a policy decision about where it wants the costs of disposal to be borne. If the Legislature chooses to adopt the Governor's proposal, we recommend lowering the assessment rate to one percent. This is enough to cover the estimated costs of the program and account for the uncertainty in this new revenue stream.

**Staff Comments.** Staff concurs with the LAO analysis.

**Staff Recommendation:**

1. Approve Governor's proposal.
2. Reduce assessment to one percent.
3. Adopt supplemental reporting language requiring the department to report back bi-annually on the implementation of this fee, the amount of fireworks reduced, and the need for further assessment reductions. Request the LAO draft this language.

# 3790 Department of Parks and Recreation

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

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

**Governor's Budget.** The Governor's budget includes $544 million for state operations and bond expenditures, a decrease of $110 million from the 2013-14 budget. The decreases are mainly related to a reduction in bond expenditures.

### *Items Proposed for Vote-Only*

1. **Proposition 84 Support Programs.** Consistent with previous years, the budget requests various reversions of appropriation authority, and new appropriations from Proposition 84 bond funds to provide continued project support for the department's Proposition 84 Multi-Year Plan.

**Staff Recommendation:** Approve Item 1.

***Items Proposed for Discussion***

## 1. Empire Mine State Historic Park—Ongoing Park Remediation

**Background.** The Empire Mine State Park was a gold mine for 100 years until it closed in 1956. The state acquired the property in Grass Valley, with more than 850 acres of forested land, mine buildings, and historic properties in 1975. The state park was the subject of a series of lawsuits and cleanup and abatement orders related to the park's 367 miles of abandoned and flooded mine shafts and toxic legacy from gold mining. The rulings required the state to clean up toxic runoff from the gold mining legacy. The state has been in negotiations with the former owner over the cleanup since the orders were issued; however, according to the latest budget proposal, mediation has stalled while cleanup is still required. The park has cost the state $36 million over the past six years due to toxic runoff from the mining operation conducted there over 50 years ago. This year's budget includes another significant General Fund allocation to this park.

**Empire Mine State Park Funding 2007-08 to 2014-15**
**(dollars in millions)**

| | 2008-09 | 2009-10 | 2010-11 | 2011-12 | 2012-13 | 2013-14 | 2014-15 |
|---|---|---|---|---|---|---|---|
| General Fund, Bond Funds and Special Funds | $5.2 | $5.8 | $4.1 | $11.6 | $4.6 | $5.2 | $4.9 |
| **Total (all funds)** | | | | | | | **$42 million** |

**Budget Proposal.** The Governor's budget requests $4.95 million (General Fund) for continued evaluation, analysis, and implementation of remedial actions at Empire Mine State Historic Park critical to protect both public health and safety, as well as protection of natural and cultural resources at the park.

**Staff Comments.** The case of Empire Mine is cause for continued frustration over the state of the State Parks budget. In terms of the annual budget, little progress has been made in efforts to reduce the cost of this state park. The arguments that the department is "close to a settlement" or "close to an agreement" with the responsible parties have been make consistently and yearly since 2009. Staff can only anticipate that the state now has the ongoing obligation of about $5 million per year in perpetuity to run this state park. Staffing and administration alone cost the state $2.2 million.

**Staff Recommendation:** Staff recommends approval of the proposal in order to comply with permits and orders by regulatory agencies. Staff also recommends the department explore options to transfer or sell the property to a willing seller with the proviso that the park remain in public hands.

## 2. Deferred Maintenance Proposal (State Parks and CalFIRE)

**Background (LAO).** Many state departments own and operate their own facilities and other types of infrastructure. Within the resources and environmental protection program area, Department of Parks and Recreation (DPR) and CalFIRE have large amounts of property and physical assets. As shown in the figure below, this includes thousands of miles of trails and tens of thousands of campsites and other facilities spread over 1.6 million acres of park land, as well as nearly 300 fire stations, camps, and bases used to combat forest fires.

**Department of Parks and Recreation and CalFIRE Key Assets Maintained**

| Holdings | Quantity |
|---|---|
| **Department of Parks and Recreation** | |
| Museum objects, archaeological specimens, and archival documents | More than 6,000,000 |
| Acres of land | 1,600,000 |
| Campsites | 14,421 |
| Archeological sites | 10,271 |
| Picnic sites | 7,647 |
| Miles of non-motorized trails | 4,456 |
| Historic buildings | 3,375 |
| Overnight non-camping facilities | 709 |
| Park units | 280 |
| **Department of Forestry and Fire Protection (CalFIRE)** | |
| Fire stations | 228 |
| Communications tower and vault sites | 112 |
| Lookouts | 66 |
| Conservation camps | 39 |
| Air and helitack bases | 22 |

It is the responsibility of departments to maintain their infrastructure. Maintenance needs are driven by the number, age, types, and uses of a department’s infrastructure. The maintenance needs for DPR and CalFIRE are significant because they have a large quantity of diverse assets, and many of their facilities were built a long time ago. For example, roughly three-fourths of CalFIRE’s facilities were built prior to 1950. In addition, many facilities were not designed for the amount and type of use required of them today. For example, the older park units operated by DPR were designed for far fewer visitors when they were constructed. Additionally, today’s parks accommodate recreational vehicles and many more group campers than the number for which they were designed. This contributes to deterioration and damage of many park properties and facilities, thereby necessitating more frequent repairs and modifications.

Frequently, preventive and routine facility maintenance does not occur as scheduled. When this happens, it is referred to as "deferred maintenance." This typically happens due to a lack of funding or resources, the diversion of maintenance funding to other priorities, and growth in maintenance costs. If maintenance is routinely delayed, a backlog of deferred maintenance forms and grows. Deferred maintenance is problematic because when repairs to key building and infrastructure components are delayed, facilities can eventually require more expensive investments, such as emergency repairs (when systems break down), capital improvements (such as major rehabilitation), or replacement. Some facilities that are particularly overdue for repairs can even create liabilities for the state. As a result, while deferring annual maintenance avoids expenses in the short run, it often results in substantial costs in the long run.

**Budget Proposal.** The Governor's budget for 2014-15 proposes a total of $43 million (one-time) from the General Fund for deferred maintenance in the natural resources program area. Specifically, the budget includes $40 million for DPR and $3 million for CalFIRE. By comparison, DPR estimates a $1.2 billion backlog of deferred maintenance and CalFIRE estimates a backlog of $27 million. (We note that the DPR estimated backlog in this report differs from that in the Governor's infrastructure plan and reflects an updated estimate from the department.) Neither department has identified the specific deferred maintenance projects they would complete with these additional funds. Instead, the Governor proposes budget control language requiring that the Administration report to the Joint Legislative Budget Committee the list of deferred maintenance projects (DPR, CalFIRE, and other state departments) that will be funded 30 days prior to the allocation of funds. (We note that the Department of Fish and Wildlife [DFW] and the California Conservation Corps also expressed a deferred maintenance need of $15 million and $1 million, respectively. However, the Governor's proposal does not include deferred maintenance funding for these departments.)

**LAO Recommendation.** The LAO offers the following recommendations:

- **Direct Department to Report on Funding Priorities.** We recommend that the Legislature adopt the Governor's proposal, which provides some one-time funding for the most critical deferred maintenance projects. Additionally, we recommend that the Legislature require CalFIRE and DPR to report at budget subcommittee hearings this spring on the list of projects that they plan to fund and how they would prioritize competing maintenance needs. This would better enable the Legislature to ensure that the priorities identified by the departments align with legislative priorities. For example, the Legislature has sought opportunities for revenue enhancement at state parks in recent years and might prefer to prioritize DPR projects that could increase the amount of park fees collected.

- **Develop Longer-Term Approach to Fixing DPR's Facility Maintenance Problems**. The Administration's decision to address deferred maintenance is commendable. However, as discussed earlier, the state currently does not have a strategy for eliminating the remaining deferred maintenance backlog or a plan to resolve the underlying problem by ensuring that departments are completing necessary routine and preventive maintenance on an ongoing basis. Addressing these issues is challenging, but longer-term planning can reduce future facilities costs and protect valuable state resources. The DPR currently has one of the largest identified deferred maintenance backlogs in the state, and it has been building for many years. Due to these factors, this department might serve as a useful “test case” in how the state can develop a long-term maintenance plan for departments. We recommend that the Legislature request that the administration report at budget hearings on what approach the state might take to develop such a plan. Ultimately, given the scale of the problem and the potential budget implications, it might make sense for there to be a collaborative approach involving not only DPR, but also the Department of Finance (DOF), our office, and other legislative staff.

In order to assist the Legislature and Administration in identifying longer-term solutions to DPR’s deferred maintenance problem, the state could analyze various factors including: DPR’s annual maintenance budget and expenditures, how it tracks maintenance and calculates maintenance need, actual maintenance performed, and the causes of the ongoing backlog. The analysis might also consider whether it makes sense to provide guidelines to the departments on how to classify and track maintenance. The approach could determine the appropriate level of ongoing maintenance funding to maintain facilities at a reasonable level, and tie the estimates to industry benchmarks to the extent possible. While it is difficult to estimate a standard maintenance cost for some park assets given the wide variety of holdings, there are industry standards available for some park infrastructure, such as average maintenance cost per mile of trail or per campsite. Based on this information, it might be possible to develop a more specific plan to address the deferred maintenance backlog for legislative review.

**Staff Comments.** Staff concurs with the LAO analysis. Given the current lack of information from the department on deferred maintenance parks proposals, and the forthcoming Parks Forward Initiative results, it is incumbent upon the Legislature to provide oversight to the department on deferred maintenance.

In addition to using Parks as a “test case” for allocation of deferred maintenance, the Legislature should require the department to produce, by April 30, 2014, the list of deferred maintenance projects it intends to pursue so that the Legislature can consider these in conjunction with other capital outlay proposals brought forth by the department.

**Staff Recommendation:** Hold Open. Require the department to submit, in writing, a prioritized list of deferred maintenance projects that are intended to be funded with this $40 million by April 30, 2014.

## 3. State Parks and Recreation Fund Increase

**Background.** The 2011 Budget Act included a permanent $22 million General Fund reduction to state parks. Initially, this budget reduction was anticipated to result in the closure of 70 state parks. However, excess funds were identified in the State Parks and Recreation Fund, and legislation was enacted to utilize these funds to keep parks open. The one-time funds provided in the legislation will expire at the end of 2013-14.

**Parks Forward Initiative.** Parks Forward is a public and private collaborative initiative designed to the analyze and update the California State Park system. Over the course of 18 months, an independent commission made up of experts, advocates, and thought-leaders is conducting a wholesale assessment of the park system. This independent process is designed to address the financial, operational, and cultural challenges facing State Parks to ensure the system's long-term viability. In the fall of 2014, the Parks Forward Commission will adopt a long-term plan for a State Park system that meets the needs of all Californians, now and in the future.

**Budget Proposal.** The budget requests a one-time increase of $14 million (State Parks and Recreation Fund [SPRF]) to continue the existing serve levels throughout the state parks system. The department anticipates this revenue from both the legislatively-mandated revenue generation program and a fund balance in SPRF.

**Staff Comments.** Staff concurs with the necessity of this one-time proposal given that the Parks Forward Initiative has not yet completed its work. Staff anticipates that during next year's budget discussions, the department will provide a more robust and long-term plan for maintaining the system that incorporates any number of possibilities including: (1) transfer of state properties to local or other public ownership; (2) strategic reduction of deferred and ongoing maintenance costs; and, (3) plans for future modification of the system in order to maintain fiscal prudence while providing a high quality product to the public.

**Staff Recommendation:** Approve proposal.

## 4. Parks Capital Outlay, Off-Highway, and Bond-Funded Proposals

**Background.** The DPR annually submits proposals for capital outlay, State Vehicular Area projects, and other bond-funded projects within the state system. In the past, the majority of capital and physical infrastructure projects were funded with bond funds and special funds (including Off-Highway Vehicle Trust Fund and the Harbors and Watercraft Fund). In the future, as bond funds are reduced, it is likely the Legislature will see fewer bond-funded projects.

### Projects and Programs Proposed for Vote-Only:

| Park | Proposal | Fund Source | Amount (in thousands) |
|---|---|---|---|
| **1. State Vehicular Recreation Areas (SVRAs)** | | | |
| Hungry Valley | Quail Canyon Special Event Area | OHVTF | $612 |
| Hungry Valley | Vehicle Wash Station | OHVTF | $1,064 |
| Onyx Properties | Enforcement and Conservation | OHVTF | $1,490 |
| Hollister Hills | Trails Project | OHVTF | $879 |
| Carnegie | Vehicle Wash Station | OHVTF | $1,368 |
| Prairie City | Barton Ranch Acquisition | OHVTF | $3,500 |
| Oceano Dunes | Visitor Center and Equipment Storage | OHVTF | $6,104 |
| Oceano Dunes | Pismo SB Sediment Track-Out | OHVTF | $80 |
| Various (Statewide) | OHV Minor Projects | OHVTF | $765 |
| | | | |
| **2. State Park Development Program and Other Bond Funds** | | | |
| Old Town San Diego | Building Demolition and Immediate Public Use Facilities | Prop 84 | $7,643 |
| San Elijo State Beach | Replace Main Lifeguard Tower | Prop 12 | $5,014 |
| El Capitan State Beach | New Lifeguard Operations Facility | Prop 84 | $723 |
| MacKerricher | Replace Water Treatment System | Prop 84 | $541 |
| Local Assistance | 1988 Bond Settlement—Tijuana River | Other | $2,100 |
| Local Assistance | Ongoing Funding Programs | Various | $56,500 |
| | | | |
| **3. Boating and Waterways** | | | |
| Angel Island | East Garrison Mooring Field | HWCF | $31 |
| Bidwell-Sacramento River | Irvine Finch Ramp Repair and Extension | HWCF | $78 |
| McArthur-Burney Falls | Ramp and Boarding Float Replacement | HWCF | $45 |
| Various (Statewide) | Statewide Minor Capital Outlay Projects | HWCF | $2,788 |

OHVTF: Off-Highway Vehicle Trust Fund
FF: Federal Funds

**Staff Recommendation:** Staff recommends approval of the vote-only items.

### *Capital Outlay Proposals for Discussion*

**1. Historic Bridgeport Covered Bridge.** The budget proposes $318,092 (federal funds) for the first phase of deferred maintenance at the South Yuba River State Park, Historic Bridgeport Covered Bridge. The bridge is the world's longest single span historic bridget and has spanned the South Yuba River at the park for over 150 years. This project is proposed to rehabilitate and restore the bridge in order to prevent it from collapsing into the river so that it can be reopened for the visiting public.

The estimated total cost of the project is $1.3 million. Given the availability of funding, the department should be prepared to discuss: (1) why this project was not given priority over other local assistance projects, and (2) where this fits into the deferred maintenance list given that the bridge is a public safety hazard.

**2. Oceano Dunes Le Grande Acquisition.** The budget proposes $5 million in one-time costs to purchase 584 acres of land in San Luis Obispo County (County). Currently the parcels are leased from the county by the department and operated as part of Oceano Dunes SVRA. The land is used for off-highway vehicle (OHV) recreation and other beach- and dune-related recreational uses. County-owned land represents 38 percent of the land open to motorized recreation within the park. A long-term lease expired in June 2008, and the current lease between the county and the department is month-to-month.

In 2007, the State Coastal Commission sent a letter to the county stating, among other things, the following regarding the County's local coastal plan, the land update certification (LUP) and inclusion of the property in question in that plan, and the sale of the property to the department:

> "It is the Coastal Commission staff's opinion that (the property in question) was intentionally included within the certified LUP to reflect the long-term objectives shared by the County and the commission for this sensitive dune habitat area, which included phasing out of the northern access route for OHV use and restricting OHV use on County-owned land."
>
> "We (the Commission staff) support the conclusions of the County planning staff that the sale would result in the continuation of a use that is inconsistent with the land use designations established by the certified LCP."

The department should be prepared to discuss whether the county LCP has been updated and certified to include the acquisition of the property with the intention to continue use of the land for OHV activities. The department should also be ready to discuss how it has worked with the county and the commission to address local concerns regarding the entrances to the park, and alternatives provided to both public agencies.

**3. Fort Ord Dunes—New Campground and Beach Access.** The budget proposes $19.2 million (Proposition 84 bond funds) to develop initial permanent public facilities, including camping and day use beach access, at the Fort Ord Dunes State Park in Monterey County. Up to 110 new campsites, approximately one half with full utility hook-ups for recreational vehicles, will be constructed along with appurtenant improvements, operations facilities, and a beach access trail with restrooms and parking.

This project is projected to increase the support budget of the department due to the expensive nature of campgrounds which includes housekeeping, maintenance, administration, and public safety services. The department's calculations for revenue anticipate that the campground will be filled to capacity on most days year round. Annual ongoing costs for the park are anticipated at $1.1 million per year. Annual revenues are anticipated at $1.3 million.

Staff are concerned with the close nature of revenue and expenditure forecasts given the directive of the Legislature to produce revenue-generating activities at State Parks. With limited Proposition 84 bond funds, the department should address how it would enhance this proposal to provide a better ratio of revenue to expenditure.

**Staff Recommendation:** Staff recommends the following actions:

1. Approve Bridgeport Covered Bridge. Approve $1 million (Prop 84) to fund estimated construction costs and to begin immediate repairs to this facility.

2. Hold Open Oceano Dunes Le Grande Acquisition and Fort Ord Dunes for further review.

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

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

**Thursday, March 20, 2014**
**9:30 a.m. or Upon Adjournment of Session**
**Hearing Room 112**

**Consultant: Catherine Freeman**

# OUTCOMES

## Special Item for Consideration—Coastal Climate Adaptation



## Items Proposed for Vote-Only



## tems Proposed for Discussion



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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 916-651-1505. Requests should be made one week in advance whenever possible.

## Special Item for Consideration: Coastal Climate Adaptation

**PAGE 8**

**Staff Recommendation:**

1. Recommend approval of $10 million directly from Tidelands Oil Revenue to the State Coastal Conservancy as a baseline adjustment to augment the existing Climate-Ready grant program.

   Recommend trailer bill language in concept to ensure that funding is prioritized for projects that have long-term adaptation benefits.

2. Recommend restoration of General Fund to the Coastal Commission of $3 million per year for 5 years~~, with $1 million per year dedicated to local assistance~~.

## Recommendations 1 & 2 as stated above:

## **Vote: 2-1** (Nielsen, no)

***ITEMS PROPOSED FOR VOTE ONLY—Coastal Agencies***

**PAGE 9**

**3720 California Coastal Commission**

1. **Coastal and Marine Education Whale Tail License Plate Program.**

**3560 State Lands Commission (SLC)**

2. **Human Resources Staffing.**

3. **Removal of Dennett Dam, A River Hazard.**

**Staff Recommendation:** Approve Items 1-3.

Page 10

## Items 1-3:

## VOTE: 3-0

***ITEMS PROPOSED FOR DISCUSSION—Coastal Agencies***

# 3760 State Coastal Conservancy

## 1. Office Move and Increased Rent

**Page 10**

**Staff Recommendation:** Reject Proposal. Require SCC to renew lease at 1330 Broadway. Require the administration to report on programmatic impacts of BCDC move.

## HOLD OPEN
## Department and DGS to provide updated cost estimates for move.

# 3480 Department of Conservation

**<u>Page 11</u>**

***Items Proposed for Vote-Only***

1. **California Farmland Conservancy Program Reimbursements—High-Speed Rail.** conservation.

2. **Alquist-Priolo Fault Zone Funding.**

**Staff Recommendation:**

**Item 1:** Consistent with previous legislative actions on High-Speed Rail proposals, Hold Open item one until a final decision has been made regarding funding for the overall program.

**Item 2:** Approve.

## Item 1:
## HOLD OPEN

## Item 2:
## VOTE: 2-1 (Nielsen, no)

***Items Proposed for Discussion***

**1. Implementation of SB 4 (Pavley)—Hydraulic Fracturing**

**Page 14**

**Staff Recommendation:**

1. Approve DOGGR request for positions and baseline appropriation.
2. Hold open SWRCB and ARB proposals to be heard under their respective departments.
3. Hold open the trailer bill language until a final draft is released and can be evaluated by both budget and policy staff.

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

# 3540 Department of Forestry and Fire Protection (CalFIRE)

**Page 15**

***Items Proposed for Vote-Only***

1. **Public Records Act Request Compliance.**
2. **Fire Safety, Fire Retardants, and Building Insulation (Implementation of AB 127 [Skinner]).**
3. **Capital Outlay: Badger Forest Fire Station—Replace Facility.**
4. **Capital Outlay: South Operations Area Headquarters—Relocate Facility.**

**Staff Recommendation:** Approve Items 1-4.

Page 15

**Items 1 &2:**
**VOTE: 2-1** (Nielsen, no)

**Items 3 & 4:**
**VOTE: 3-0**

***Items Proposed for Discussion***

**1. State Responsibility Area (SRA) Protection Area Adjustment**

**Page 18**

**Staff Recommendation:**

1. Approve Governor's Proposal.
2. Adopt supplemental reporting language requiring the department to report to the Legislature prior to negotiation of future state versus federal responsibility area adjustments in order to determine if budget legislative representation is advisable at these meetings. Request the LAO draft this language in conjunction with the department.

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## Item 1: Approve Governor's Proposal (General Fund $13.6m)
## VOTE: 3-0

## Item 2: Approve Governor's Proposal (SRA Fund $670,000)
## VOTE: 2-1 (Nielsen, no)

1. **Department is directed to work with staff to include Vegetation Management Program budget bill language similar to previous year.**
2. **Department is directed to come up with a proposal to allow local contract counties to use state funding for capital outlay projects.**

## Recommendation 2 (SRL):
## VOTE: 2-1 (Nielsen, no)

### Motion to reduce the CalFIRE budget by $1,000.
## VOTE: 3-0

3. **Department is requested to share the results of the cost-benefit analysis for the replacement of the aviation fleet.**

***Items Proposed for Discussion***

**2. Fireworks Disposal and Management**

**Page 22**

**Staff Recommendation:**

1. Approve Governor's Proposal.
2. ~~Reduce assessment to one percent.~~
3. Adopt supplemental reporting language requiring the department to report back bi-annually on the implementation of this fee, the amount of fireworks reduced, and the need for further assessment reductions. Request the LAO draft this language.

## Motion to approve Governor's proposal (at 1.5%) and adopt supplemental reporting language:

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

## Department requested to return at May Revision with its response to TNT Fireworks proposed amendments to the trailer bill language.

# 3790 Department of Parks and Recreation

**<u>Page 23</u>**

***Items Proposed for Vote-Only***

1. **Proposition 84 Support Programs.**

**Staff Recommendation:** Approve Item 1.

## VOTE: 3-0

***Items Proposed for Discussion***

## 1. Empire Mine State Historic Park—Ongoing Park Remediation

**<u>Page 24</u>**

**Staff Recommendation:** Staff recommends approval of the proposal in order to comply with permits and orders by regulatory agencies. Staff also recommends the department explore options to transfer or sell the property to a willing seller with the proviso that the park remain in public hands.

# VOTE: 3-0

## 2. Deferred Maintenance Proposal (State Parks and CalFIRE)

**Page 27**

**Staff Recommendation:** Hold Open. Require the department to submit, in writing, a prioritized list of deferred maintenance projects that are intended to be funded with this $40 million by April 30, 2014.

## VOTE: 3-0 (Staff Recommendation)

## 3. State Parks and Recreation Fund Increase

**Page 28**

**Staff Recommendation:** Approve proposal.

# VOTE: 3-0

## 4. Parks Capital Outlay, Off-Highway, and Bond-Funded Proposals

**Page 29**

**Projects and Programs Proposed for Vote-Only:**

| Park | Proposal | Fund Source | Amount (in thousands) |
|---|---|---|---|
| **1. State Vehicular Recreation Areas (SVRAs)** | | | |
| Hungry Valley | Quail Canyon Special Event Area | OHVTF | $612 |
| Hungry Valley | Vehicle Wash Station | OHVTF | $1,064 |
| Onyx Properties | Enforcement and Conservation | OHVTF | $1,490 |
| Hollister Hills | Trails Project | OHVTF | $879 |
| Carnegie | Vehicle Wash Station | OHVTF | $1,368 |
| Prairie City | Barton Ranch Acquisition | OHVTF | $3,500 |
| Oceano Dunes | Visitor Center and Equipment Storage | OHVTF | $6,104 |
| Oceano Dunes | Pismo SB Sediment Track-Out | OHVTF | $80 |
| Various (Statewide) | OHV Minor Projects | OHVTF | $765 |
| | | | |
| **2. State Park Development Program and Other Bond Funds** | | | |
| Old Town San Diego | Building Demolition and Immediate Public Use Facilities | Prop 84 | $7,643 |
| San Elijo State Beach | Replace Main Lifeguard Tower | Prop 12 | $5,014 |
| El Capitan State Beach | New Lifeguard Operations Facility | Prop 84 | $723 |
| MacKerricher | Replace Water Treatment System | Prop 84 | $541 |
| Local Assistance | 1988 Bond Settlement—Tijuana River | Other | $2,100 |
| Local Assistance | Ongoing Funding Programs | Various | $56,500 |
| | | | |
| **3. Boating and Waterways** | | | |
| Angel Island | East Garrison Mooring Field | HWCF | $31 |
| Bidwell-Sacramento River | Irvine Finch Ramp Repair and Extension | HWCF | $78 |
| McArthur-Burney Falls | Ramp and Boarding Float Replacement | HWCF | $45 |
| Various (Statewide) | Statewide Minor Capital Outlay Projects | HWCF | $2,788 |

OHVTF: Off-Highway Vehicle Trust Fund
FF: Federal Funds

# VOTE: 3-0

# Department requested to work with staff and Senator Hueso's office on the Calexico Park damage from recent earthquake.

***Capital Outlay Proposals for Discussion***

**Page 30**

**Historic Bridgeport Covered Bridge.**

**Oceano Dunes Le Grande Acquisition.**

**Fort Ord Dunes—New Campground and Beach Access.**

**Staff Recommendation:** Staff recommends the following actions:

1. Approve Vote-Only Parks proposals.
2. Approve Bridgeport Covered Bridge. Approve $1 million (Prop 84) to fund estimated construction costs and to begin immediate repairs to this facility.
3. Hold Open Oceano Dunes Le Grande Acquisition and Fort Ord Dunes for further review.

**VOTE:** 2-0 (Jackson)

# SUBCOMMITTEE NO. 2 Agenda

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

**Thursday, March 27, 2014**
**9:30 a.m. or Upon Adjournment of Session**
**Room: 112**

**Consultant: Farra Bracht**

## Agenda

## Part A: Transportation

### PROPOSED VOTE-ONLY

# ITEMS PROPOSED FOR VOTE-ONLY

### (ALL VOTE-ONLY ITEMS WERE PREVIOUSLY HEARD ON MARCH 13, 2014)

## 2600 California Transportation Commission

**Agency Overview:** The California Transportation Commission (CTC) is responsible for the programming and allocating of funds for the construction and improvements of highway, and passenger rail and transit systems throughout California. The CTC also advises and assists the Secretary of the Transportation Agency and the Legislature in formulating and evaluating policies and plans for California's transportation programs.

**Budget Overview:** The January Governor's Budget proposes expenditures of $3.6 million and 19.0 positions for the administration of the CTC (special funds), which is similar to the revised current-year level. Additionally, the budget includes $25.0 million in Clean Air and Transportation Improvement Bond Act funds (Proposition 116 of 1990) that are budgeted in the CTC and allocated to local governments.

**Item 1: Two Positions to Implement ATP (BCP #1)**

**Background.** The CTC requests a net-zero change of two positions to implement ATP. This would be accomplished by increasing the number of positions working on ATP implementation by two and decreasing the number of positions working on the implementation of Proposition 1B by two. The workload associated with Proposition 1B is decreasing as the funding available for this program comes to an end. The proposal would also shift funding for these two positions from various Proposition 1B funds to the State Highway Account ($107,000) and the Public Transportation Account ($178,000).

**Staff Comment.** The CTC currently has no resources dedicated to ATP. Approximately $74.5 million, or 60 percent, of the funds available for ATP will be distributed through a statewide competitive program. The CTC does not know how many applications it will receive, but as many as 700 applications may need to be reviewed for each funding cycle. Staff must also review the guidelines used by organizations to provide the remaining 40 percent of the funds available for this program. In addition to other tasks, staff will track and monitor the program.

**Staff Recommendation:** Approve the two positions.

**<u>Vote:</u>**

## 2720 Department of California Highway Patrol

**Department Overview:** The mission of the California Highway Patrol (CHP) is to ensure the safe and efficient flow of traffic and goods on the state's highway system and county roads in unincorporated areas. The department also promotes traffic safety by inspecting commercial vehicles, as well as inspecting and certifying school buses, ambulances, and other specialized vehicles. The CHP carries out a variety of other mandated tasks related to law enforcement, including investigating vehicular theft and providing backup to local law enforcement in criminal matters.

**Budget Overview:** The Governor's Budget proposes total expenditures of $2.0 billion (no General Fund) and 11,051 funded positions, an increase of roughly $13 million from the adjusted current-year level. Since departmental programs drive the need for infrastructure investment, the department has a related capital outlay program to support this requirement.

**Item 1: Radio/Microwave Program Funding (BCP #2)**

The CHP requests a one-time budget augmentation of $5.0 million (MVA) for escalating costs of services provided by the California Office of Emergency Services, Public Safety Communications Office (PSCO) to support the CHP's radio/microwave program.

**Background.** The CHP's radio/microwave program encompasses the entire infrastructure associated with CHP's radio communications. State law requires CHP to contract with PSCO for services relating to the design, engineering, installation, and maintenance of CHP's statewide public safety communications system. The PSCO then charges CHP for this work.

With the implementation of the California Highway Patrol Enhanced Radio System (CHPERS), which was completed in 2011-12, the PSCO costs for the radio/microwave program have increased. The primary objective of CHPERS was to address CHP's deteriorating radio communications infrastructure, meet future operational needs, and meet the goal of providing interoperability at the local, state, and federal levels.

For at least the last couple of years, CHP has been able to absorb the increased PSCO costs and under this proposal CHP would continue to absorb $7 million of what it estimates is a $12 million shortfall.

**Staff Comments.** At this time, it is uncertain what the ongoing level of expenditures will be for PSCO services. It is a reasonable approach that CHP absorb the costs that it can, and request funding for the remainder.

**Staff Recommendation:** Approve, on a one-time basis, a budget augmentation of $5.0 million from the Motor Vehicle Account for PSCO costs.

**Vote:**

**Item 2: Radio Console Replacement Project (BCP #3)**

**Radio Console Replacement Project (BCP #3).** The Governor's budget requests a one-time augmentation of $4.9 million from the MVA to replace twelve dispatch radio consoles at the Public Safety Communications Office and the CHP's Sacramento Communications Center. This would be the first year of a five-year project.

**Background.** The CHP operates 25 call centers statewide which are equipped with dispatch radio console systems to facilitate mission critical voice communications between dispatchers, CHP patrol personnel, and allied agencies. Dispatch radio consoles control, receive, and transmit radio communications with field units.

Public safety communications equipment lasts approximately 8 to 10 years and must be upgraded in its entirety to ensure compatibility. As equipment surpasses its useful life, reliability deteriorates, outages become more frequent, maintenance costs increase, and replacement parts become difficult or impossible to procure. Currently, 17 of the 25 call centers operate equipment purchased in 1993-94 and use Windows 3.11. Three centers operate equipment purchased in 1997-98 and use Windows 2000. None of these are supported by the manufacturer and are considered obsolete.

This project would ultimately replace the radio console systems at all 25 centers over a five-year period at an estimated cost of $52.7 million, as shown in the table below. The CHP is replacing 177 existing consoles plus acquiring an additional 22. This proposal would update all 25 call centers and allow for the installation of the new consoles at CHP's dispatch training facility and at the PSCO for testing, evaluation, and trouble-shooting of issues that may arise. Resources from PSCO would be needed to complete the project.

**Radio Console Project Costs**
**(Dollars in Millions)**

| Year | Equipment Cost | # of Radio Consoles | PSCO Costs | Total Cost |
|---|---:|---:|---:|---:|
| 2014-15 | $2.9 | 12 | $2.0 | $4.9 |
| 2015-16 | 10.2 | 42 | 2.1 | 12.3 |
| 2016-17 | 9.1 | 37 | 2.1 | 11.2 |
| 2017-18 | 10.2 | 64 | 2.2 | 12.3 |
| 2018-19 | 9.6 | 44 | 2.3 | 11.9 |
| **Grand Total** | **$42.1** | **199** | **$10.6** | **$52.7** |

Totals may not add due to rounding.

**Staff Comment.** Staff has no concerns with this proposal.

**Staff Recommendation.** Approve a one-time augmentation of $4.9 million from the Motor Vehicle Account to replace dispatch radio consoles.

**Vote.**

**Item 3: Integrated Database Management Systems Funding (BCP #6)**

The CHP requests a permanent budget augmentation of $894,000 from the Motor Vehicle Account for a cost increase to support the Integrated Database Management System (IDMS) which CHP uses to support several legacy applications that support key CHP business processes.

**Background and Detail:** Costs for the California of Department of Technology (CDT) to manage IDMS used to be distributed across multiple departments. However, over time, many departments have upgraded their IT systems to more current platforms leaving only two departments—CHP and the State Controller's Office—to bear the cost to maintain the platform.

Currently, CHP is in the process of acquiring a commercial, off-the-shelf solution for one component on the IDMS—the Biennial Inspection of Terminals/Management Information System Terminal Evaluation Records. This component must be off IDMS, and on a new system, by January 2015, per federal requirements. However, this will have a minimal impact on IDMS costs as historical data will still need to be maintained on the IDMS.

The CHP is working with CDT to find a solution for its data storage needs and completely migrate off the IDMS in the future. CHP should submit to CDT a business analysis by October 2014; approval is expected from CDT by January 2015. Once approved, the project will enter the Feasibility Study Report (FSR) phase with CDT. With the final approval of the FSR, CHP will seek funding for the complete replacement system; this will probably be no sooner than fiscal year 2015-16. If successful, the target date for a complete migration off the IDMS is January 2017.

**Staff Comment:** The CHP is migrating a component of its legacy systems off IDMS sooner than anticipated. This may result in small savings for CHPs' total IDMS costs as proposed in the Governor's January Budget. The DOF and CHP are re-evaluating the amount requested as a permanent augmentation and, if necessary, will provide an updated cost at the May Revision. The CHP is working with CDT to completely migrate off IDMS by January 2017.

**Staff Recommendation:** Approve, on a one-time basis, a budget augmentation of $894,000 from the Motor Vehicle Account for IDMS costs.

**Vote:**

## 2740 Department of Motor Vehicles

**Department Overview:** The Department of Motor Vehicles (DMV) serves the public by providing licensing and motor vehicle-related services, as well as various revenue collection services for various state and local government programs. The DMV also issues licenses and regulates occupations and businesses related to the instruction of drivers, as well as the manufacture, transport, sale, and disposal of vehicles.

**Budget Summary:** The Governor proposes total expenditures of $1.1 billion (no General Fund) and 9,030 positions; which, is a significant increase over the level of funding and positions provided in 2013-14 largely related to the implementation of AB 60 (Alejo), Chapter 524, Statutes of 2013, discussed further below. There are no new capital outlay requests for 2014-15.

**Item 1: Funding to Implement AB 60 (BCP #1)**

The Governor's Budget proposes an increase of 822 positions and $67.4 million (Motor Vehicle Account) to implement AB 60. The Governor's budget also includes provisional language to allow DOF to augment DMV's budget item if it determines that DMV requires additional resources to implement AB 60. Under the proposed language, DOF would be required to provide notification to the JLBC at least 30 days prior to authorizing the augmentation.

**Background:** As of January 2013, the DMV had issued 27.3 million licenses/identification cards. AB 60 expanded who DMV can issue a license to and requires DMV, by January 1, 2015, to issue a driver's license to an applicant who is unable to submit satisfactory proof that their presence in the United States is authorized under federal law, if he or she meets all other qualifications for licensure and provides satisfactory proof to the department of his or her identify and California residency. AB 60 also requires DMV to develop regulations and consult with interested parties in an effort to assist the department in identifying documents that will be acceptable for purposes of providing documentation to establish identity and residency.

AB 60 is anticipated to result in approximately **1.4 million** additional people receiving drivers' licenses (DL) over the next three years. Given the direct and indirect benefits of licensure and what has happened in other states, DMV anticipates that 38 percent (538,947) of this population will apply in the last six months of 2014-15, 50 percent (709,141) in 2015-16, and 12 percent (170,194) will apply in 2016-17. The actual number of applicants could be much greater or much smaller, given that there is limited experience in other states on which to base an estimate.

The department believes that successful implementation should involve partnering with the various stakeholders, such as community-based and immigrant-rights organizations, to help prepare and educate the individuals applying for a driver's license.

As shown in the figure below, the budget proposes $67.4 million for 822 staff that will be hired by September 2014 and to establish five temporary offices in Santa Clara, Santa Barbara, Los Angeles, Orange, and San Diego counties. The exact location of these temporary offices has not been determined at this time as DMV is still working with the Department of General Services and nothing has been finalized and no leases have been signed.

**Resources Requested to Implement AB 60**
**(Dollars in Millions)**

| | 2014-15 | | 2015-16 | | 2016-17 | |
|---|---|---|---|---|---|---|
| **Expenditures** | Positions | Dollars | Positions | Dollars | Positions | Dollars |
| **Personnel Services** | 822 | $42.8 | 811 | $44.0 | 215 | $13.3 |
| **Operating Expenses and Equipment** | | $10.7 | | $6.3 | | $1.7 |
| **Start-up Costs for Temporary Offices** | | 13.8 | | 6.8 | | 2.3 |
| **Total** | **822** | **$67.4** | **811** | **$57.1** | **215** | **$17.3** |

The funding to implement AB 60 is proposed to come from the Motor Vehicle Account (MVA). The MVA receives revenues from a variety of sources including motor vehicle registration payments, driver's license and identification card fees, and revenues from other services it provides. The fee currently charged for an original DL is $33 and it costs the department a little over $100 to process a card today. On average it takes about five renewal cycles for the department to break even on the cost of issuing a new license. This proposal assumes the fee for a new DL remains at $33.

AB 60 additionally requires the DMV to develop regulations and consult with interested parties in an effort to assist the department in identifying documents that will be acceptable for purposes of providing documentation to establish identity and residency. The department is simultaneously developing both emergency and temporary regulations. It has held two pre-notice public workshops this year and will also provide the opportunity for public comment, after it releases the draft regulations. The DMV has also met with 32 consulates from 22 different countries, 13 law enforcement agencies and 12 community and labor organizations.

**Staff Comment:** It is very difficult to know if the proposed level of resources is appropriate for the potential demand. Similarly, it is difficult to know if the proposed locations of the temporary DMV field offices will be best located to adequately address the demand for licenses. However, as noted earlier, the Governor's Budget includes provisional language allowing for augmentations necessary to implement AB 60. It would be valuable for the DMV to provide an update on implementation progress later this spring.

**Staff Recommendation:** Approve $67.4 million in Motor Vehicle Account funds to implement AB 60 and the related provisional language.

**Vote:**

*Senate Budget and Fiscal Review— Mark Leno, Chair*

# SUBCOMMITTEE NO. 2 Agenda

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

**Thursday, March 27, 2014**
**9:30 a.m. or Upon Adjournment of Session**
**Room: 112**

**Consultant: Farra Bracht**

## Agenda

## Part A: Transportation

### OUTCOMES

### 2600 California Transportation Commission

**Item 1: Two Positions to Implement ATP (BCP #1)**

**Staff Recommendation:** Approve the two positions.

**Vote: 2-0 (Nielsen abstained)**

### 2720 Department of California Highway Patrol

**Item 1: Radio/Microwave Program Funding (BCP #2)**

**Staff Recommendation:** Approve, on a one-time basis, a budget augmentation of $5.0 million from the Motor Vehicle Account for PSCO costs.

**Vote: 3-0**

**Item 2: Radio Console Replacement Project (BCP #3)**

**Staff Recommendation.** Approve a one-time augmentation of $4.9 million from the Motor Vehicle Account to replace dispatch radio consoles.

**Vote: 3-0**

**Item 3: Integrated Database Management Systems Funding (BCP #6)**

**Staff Recommendation:** Approve, on a one-time basis, a budget augmentation of $894,000 from the Motor Vehicle Account for IDMS costs.

**Vote: 3-0**

## 2740 Department of Motor Vehicles

**Item 1: Funding to Implement AB 60 (BCP #1)**

**Staff Recommendation:** Approve $67.4 million in Motor Vehicle Account funds to implement AB 60 and the related provisional language.

**Vote: 2-1 (Nielsen-no)**

***Senate Budget and Fiscal Review—Senator Mark Leno, Chair***

**SUBCOMMITTEE NO. 2** **Agenda**

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

**Thursday, March 27, 2014**
**9:30 a.m.**
**Hearing Room 112**

**Consultant: Catherine Freeman**

## PART B

**Items Proposed for Discussion**





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

# 3885 Delta Stewardship Council

The mission of the Delta Stewardship Council (Council), through a seven-member board, is to achieve the state's goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Sacramento-San Joaquin Delta (Delta) ecosystem. The Council will develop and implement a strategy to appropriately engage participation by federal and state agencies with responsibilities in the Delta and develop a scientific program to manage the Delta through the Delta Science Program and the Delta Independent Science Board. The Delta Stewardship Council is the successor to the California Bay-Delta Authority and CALFED Bay-Delta Program

**Governor's Budget.** The Governor's budget includes $17 million ($9.7 million General Fund) for support of the Delta Stewardship Council. This reflects a decrease of $5 million from reimbursements and other funds (mainly for one-time activities) and an increase of $3 million General Fund.

### ***Item Proposed for Discussion***

### Delta Plan Implementation

**Background.** The 2009 Delta Reform Act established the Council to develop, adopt, and implement the Delta Plan, an enforceable, comprehensive, long-term plan to guide state and local actions to further the state's goals for the Delta. The plan was unanimously adopted in May 2013, followed by a Delta Science Plan adopted in fall of 2013. The plan was made enforceable on September 1, 2013.

**Budget Proposal.** The budget requests the conversion of six limited term positions to permanent, and 12 new positions. Overall staffing of the agency is proposed to be 67 positions. The budget requests a baseline increase of $5.8 million ($3.2 million General Fund, $2 million bond funds and $600,000 from other state departments). The State Water Resources Control Board and Department of Water Resources have committed to supporting the Council through interagency agreements totaling $600,000.

**Staff Comments.** Staff concurs with the proposal. The Council should: (1) update the subcommittee on the recent adoption of the Delta Plan and how this plan will be used in conjunction with other current delta activities, including the Bay Delta Conservation Plan and the State Water Project delta tunnels; (2) its relationship with the now-independent Delta Vision Foundation and any influence that foundation may have on the day-to-day activities of the Council; and, (3) discuss its added value to the continuing development of water conveyance by the state through the Delta.

**Staff Recommendation:** Approve.

# 3875 Sacramento-San Joaquin Delta Conservancy

The mission of the Sacramento-San Joaquin Delta Conservancy is to support efforts that advance both environmental protection and the economic well-being of Delta residents in a complementary manner. The conservancy's activities include: protecting and enhancing habitat and habitat restoration; protecting and preserving Delta agriculture and working landscapes; providing increased opportunities for tourism and recreation; and, promoting Delta legacy communities and economic vitality in the Delta. The conservancy acts as the primary state agency to implement ecosystem restoration in the Delta.

**Governor's Budget.** The Governor's budget includes $1.7 million and eight positions for support of the department. This is a decrease of $103,000 (mainly federal funds) and an increase of one position.

***Item Proposed for Discussion***

### Delta Plan Implementation

**Background.** The Legislature created the Sacramento-San Joaquin Delta Conservancy (Conservancy) as a primary state agency for ecosystem restoration and economic development in the Delta. The Delta Conservancy was established by the Delta Reform Act of 2009, SB 1 (Simitian), Chapter 5, Statues of 2009, which also made significant changes to the structure of various state agencies and redefined roles that they play in the Delta. Specifically, the legislation created two new agencies, the Delta Stewardship Council and the Conservancy using the former CALFED Bay-Delta Program. These two agencies, along with the Delta Protection Commission, were tasked with different, yet interrelated and complementary roles in the recovery of the Delta.

**Budget Proposal.** The budget requests one position (costs to be absorbed) to support the implementation of the Delta Plan near-term actions in the priority areas defined by the plan, and to assist in securing additional funding from a variety of sources.

The budget proposal includes two alternative analyses that purportedly increase the effectiveness of the Conservancy in its mission. The first would propose $2.5 million and two positions for implementation of the Delta Plan near-term actions and efforts. The second would increase funding to allow for management of greenhouse gas emission reduction wetlands management. The alternatives do not include a designated funding source and were not recommended by the Administration.

**Staff Comments.** Staff concurs with the need for the position. Given the discussion in this subcommittee on March 6 regarding the distribution of Environmental License Plate Fund, staff suggests holding this item open for further evaluation. The subcommittee may also wish to consider the policy discussion of what the role of the Conservancy may be should a water bond not include funding for the Conservancy.

**Staff Recommendation:** Hold Open.

# 3860 Department of Water Resources

The Department of Water Resources (DWR) protects and manages California's water resources. In this capacity, the department maintains the State Water Resources Development System, including the State Water Project (SWP). The department also maintains public safety and prevents damage through flood control operations, supervision of dams, and water projects.

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).

**Governor's Budget.** The Governor's budget includes $3.5 billion (including infrastructure expenditures) and 3,469 positions for support of DWR. The proposed budget represents an overall decrease of $357 million mainly due to decreased appropriations for bond funds.

***Items Proposed for Vote-Only***

1. **DWR Implementation of the Delta Stewardship Council's Delta Plan.** The budget requests $153,000 (Proposition 50 bond funds) to facilitate the department's work associated with the implementation of the Delta Plan. This proposal is consistent with the Delta Stewardship Council's request (see page 2).

2. **Climate-Change Portion of the Multi-Benefit Planning and Feasibility Studies (Years 5-6).** The budget requests $1.2 million in reversion and new appropriations from Proposition 84 to continue the previously-approved Climate Change Evaluation and Adaptation Program.

3. **CERES Environmental License Plate Fund (ELPF) Position Redirection.** The budget proposes three positions for the California Environmental Resources Evaluation System (CERES) program and a transfer of $380,000 in ELPF to provide environmental and scientific data and technology services and support.

4. **Delta Water Quality Improvement Program (State Operations).** The budget proposes a reversion of $1.8 million Proposition 84 state operations to establish an annual appropriation of $250,000 for administration of local assistance grants for projects that reduce Delta salinity or other pollutants at agricultural and drinking water intakes.

**Staff Recommendation:** Approve Items 1-4.

***Items Proposed for Discussion***

## 1. Water Action Plan and Drought Bill Update

**Background (Legislative Analyst's Office [LAO]).** In January 2014, the Administration released the water action plan, which identifies the state's main water-related challenges. These include uncertain or scarce water supplies, declining groundwater supplies, poor water quality, declining native fish species, flood risk, and climate change. The water action plan lays out more than 60 activities—categorized under ten broad goals—to begin addressing those challenges. Figure 5 lists some of those activities. Nearly all of the activities in the water action plan have been recommended in numerous plans and reports issued in recent years by various state departments. These other plans and reports vary in terms of (1) their specific objectives, (2) which agency would be responsible for implementation, (3) the geographic area covered, and (4) the duration of the activities. When compiling the water action plan, the Administration asked departments to identify activities in those documents that they consider to be achievable in the next five years.

**Figure 5**
**Water Action Plan Includes Activities Intended to Meet Numerous Goals**

| Goal | Example of Activity |
|---|---|
| Make conservation a California way of life | Provide funding for conservation and efficiency |
| Increase regional self-reliance and IWM across all levels of government | Increase use of recycled water |
| Achieve co-equal goals for the Delta | Restore Delta aquatic and intertidal habitat |
| Protect and restore important ecosystems | Bring salmon back to the San Joaquin River |
| Manage and prepare for dry periods | Revise reservoir operations to respond to extreme conditions |
| Expand water storage capacity and improve groundwater management | Increase statewide groundwater replenishment |
| Provide safe water for all communities | Consolidate drinking water and water quality agencies |
| Increase flood protection | Improve access to emergency funds |
| Increase operational and regulatory efficiency | Improve and clarify coordination of state Bay-Delta actions |
| Identify sustainable and integrated financing opportunities | Develop water financing strategy |

IWM = Integrated Water Management

**Governor's Budget.** As shown in Figure 6, the Governor's budget for 2014-15 proposes $621 million (mostly bond funding) to begin implementing some aspects of the water action plan. The Administration indicates that for the first year of water action plan implementation, it selected expenditures that it considered (1) actionable, (2) affordable, (3) supported by local agencies, (4) necessary to achieve implementation of the plan within five years, and (5) necessary for other activities in the plan to proceed. Below, are the most significant budget proposals identified by the LAO.

## Budget Proposal for Water Action Plan Addresses Multiple Water Issues

*(In Millions)*

| Activity | Department | Amount | Fund Source |
|---|---|---|---|
| IRWM grants | DWR | $473 | Proposition 84 bond |
| Flood protection | DWR | 77 | Proposition 1E bond |
| Wetlands and watersheds restoration | DFW | 30 | Cap-and-trade auction revenues |
| Water quality grants for disadvantaged communities | SWRCB | 11 | Various special funds |
| State Water Project energy efficiency | DWR | 10 | Cap-and-trade auction revenues |
| Water use efficiency project grants | DWR | 10 | Cap-and-trade auction revenues |
| Groundwater monitoring and management | SWRCB, DWR | 8 | General Fund, Waste Discharge Permit Fund |
| Drinking Water Program transfer[a] | SWRCB | 2 | Propositions 50 and 84 bonds |
| Salton Sea restoration maintenance | DFW | —[b] | Salton Sea Restoration Fund |
| **Total** | | **$621** | |

[a] Included in Water Action Plan but proposed separately in budget.

[b] Proposal totals $400,000.

IRWM = Integrated Regional Water Management; DWR = Department of Water Resources; DFW = Department of Fish and Wildlife; and SWRCB = State Water Resources Control Board.

**Integrated Regional Water Management (IRWM).** The budget proposes $473 million in one-time bond funds for the IRWM program, which provides grants for water stakeholders within the same region to collaborate on projects that meet multiple water goals, such as improved quality, increased supply, and ecosystem restoration.

**Flood Protection.** The budget proposes $77 million in one-time bond funds for flood control planning and projects. Of this amount, $26 million is for improvements to Folsom Dam and $12 million is for the construction of a facility that would enhance DWR's ability to respond to flood emergencies in the Sacramento-San Joaquin Delta (the Delta).

**GHG Emission Reductions.** The budget proposes $50 million in cap-and-trade auction revenues for projects intended to reduce GHG emissions and provide water-related co-benefits, such as improved ecosystems. The proposals include:

- **Ecosystem Restoration.** The budget includes $30 million and 17 positions for DFW to restore wetlands and other watersheds in order to improve the ability of those lands to capture and store carbon from the atmosphere.

- **Water-Energy Efficiency.** The budget includes $20 million for DWR for projects that would save energy and reduce water use, including $10 million for upgrades to State Water Project (SWP) generators to increase hydroelectric generation and $10 million for grants to local agencies to reduce energy consumption associated with water use.

- **Groundwater Monitoring and Management.** The budget proposes a total of $7.8 million for groundwater monitoring and management activities. The specific activities include:

  a. **Overdraft Management.** The budget includes $1.9 million (General Fund) for ten positions at SWRCB to identify basins that are in danger of suffering permanent damage due to overdraft, which occurs when water withdrawals consistently exceed the water entering the basin. These positions would also develop management plans for those basins in which local agencies do not address the overdraft condition. The proposed funding would support management of one basin at the requested level of resources. The Administration intends to propose budget trailer legislation to grant SWRCB the authority to develop these management plans.

  b. **Groundwater Elevation Monitoring.** The budget includes $2.9 million from the General Fund for DWR to (1) meet a statutory requirement that the department monitor groundwater elevation in basins where no local agency performs such monitoring, and (2) develop an information technology (IT) system so that individuals who drill wells can submit well records online.

  c. **Groundwater Quality Monitoring.** The budget includes $3 million from the Waste Discharge Permit Fund for SWRCB to monitor the water quality of groundwater used for public water supplies. This proposal would continue an existing monitoring program that was previously supported by bond funds.

- **Transfer of Drinking Water Regulation to SWRCB.** The budget proposes to transfer drinking water regulation and financial assistance responsibilities from Department of Public Health to SWRCB. The budget includes a one-time increase of $1.8 million for moving and IT costs. This proposal is budget-neutral on an ongoing basis.

**LAO Analysis.** The LAO finds that the Governor's proposal generally offers the Legislature a reasonable blueprint for addressing many of the state's water challenges. Specifically, the LAO states:

- **Generally Consistent With Legislative Priorities.** Many of the activities in the water action plan were derived from legislatively mandated plans or reports or were developed in response to legislative priorities.

- **Makes Reasonable Assumptions About Activities to Be Completed.** In addition, it appears that progress could be made on all activities in the plan in the next five years.

- **Budget Proposals Provide Useful Starting Point**. The specific activities proposed in the Governor's budget for 2014-15 also appear to be generally reasonable first steps in implementing the water action plan. The proposals have merit because they would take steps to address some of the state's water challenges.

- **Several Budget Proposals Initiate Positive Policy Changes.** The Governor's groundwater proposals appear to be consistent with recommendations that we have made in the past on groundwater management. Unlike most other western states, California currently does not monitor or permit groundwater use at the state level. In past reports, we have recommended that the Legislature establish "active management areas"—defined geographic areas where specific rules are established to govern the withdrawal and use of groundwater—in circumstances where the highest potential for groundwater overdraft exists. The proposal for SWRCB to identify and potentially regulate over-drafted basins could align with this recommendation. We note that the effectiveness of this proposal would depend on (1) the specific authority granted to the board, and (2) the availability of adequate groundwater quality and supply data to identify over-drafted basins.

### LAO Recommendations

- **Administration Should Provide Implementation Strategy With 2015-16 Budget**. The Administration indicates that it is developing a strategy for implementing the remainder of the water action plan. We recommend the Legislature direct the Administration to provide that implementation strategy no later than the release of the Governor's proposed budget for 2015-16. This strategy should include a schedule of activities that the Administration proposes for each of the next four budget years, the estimated costs of those activities, and the expected funding source. Having such a strategy would allow the Legislature to better understand how the goals of the water action plan will be achieved and at what cost. The Legislature could then determine whether the strategy is consistent with its water priorities for the state.

- **Administration Should Report at Budget Hearings on Future Bond Funding for Water Action Plan Activities.** In addition, as noted above, the Legislature is currently considering potential changes to the water bond scheduled for the November 2014 ballot. In order to ensure that the Legislature is able to make a fully informed decision as it considers those changes, the Administration should report at budget subcommittee hearings this spring on the degree to which the bond currently scheduled for the ballot would fund specific aspects of the water action plan. The Administration could also identify any changes it would recommend to align the funding included in the water bond with the activities proposed in the water action plan.

## Drought Package

On March 1, the Governor signed SB 103 and SB 104 (Budget and Fiscal Review Committee), Chapters 2 and 3, Statutes of 2014. Many of the Governor's January budget proposals were included in the drought package. These bills provided a total of $680 million for: (1) infrastructure investments to improve water supply; (2) emergency drinking water, water supply, and water quality; (3) housing, employment, and emergency services for drought-stricken communities; (4) water and energy efficiency for urban and agricultural communities; (5) sustainable groundwater management; and, (6) water education, fish and wildlife, and fire fuel reduction.

The overall purpose of the drought package is to speed up actions to address the state's water shortage. The state is experiencing an historical drought year, the driest on record in some regions. Add that to the prior years' lower than average rainfall and it is clear that the Legislature's actions were necessary to infuse funding for immediate drought-relief.

**Staff Comments.** As the LAO discussed, the Governor's proposal is a good step towards implementing legislative direction of the recent years, and goes further with the drought package to address both long-term water needs and current drought-related issues. The LAO also provides good guidance for follow-up with the budget subcommittees on oversight of the Administration's implementation strategies.

The department should present its Water Action Plan and be prepared to address the following:
- How does the drought package advance the water action plan?
- How expeditiously will the department administer the IRWM funding now that the drought package has passed?
- How will the department address water supply issues that don't fit neatly into the specific categories of funding that were set up prior to the drought interties or water intake modifications at dams?
- Would the department have any issues with the LAO recommendations?

**Budget Proposals.** The following proposals are consistent with the drought package for the budget:

1. **Statewide Groundwater Elevation Monitoring Program.** Consistent with actions taken in the SB 103 (Budget and Fiscal Review Committee), Chapter 2, Statutes of 2014, the Governor's budget requests $13.8 million (General Fund) in multi-year funding to support continued implementation of the program. This is a technical adjustment to continue the funding in the budget year.

**Recommendation:** (1) Approve Item 1. (2) Approve LAO recommendation to require the department to provide an implementation strategy with the 2015-16 budget. The LAO should draft supplemental reporting language to this effect.

## 2. Water Use Efficiency Program

**Background.** Throughout the past decade, California voters and the Legislature have passed several measures designed to provide funding for water conservation, water recycling, desalination and water demand reduction. The DWR has been one of three primary departments providing funding for local projects along with the State Water Resources Control Board and Department of Public Health.

Funding for water use efficiency projects has been allocated through several grant solicitations. At this time, many projects have been completed under budget, and the department is able to allocate more funding to water use efficiency. Both Proposition 84 and Proposition 50 have available funding for this purpose.

**Governor's Budget.** The Governor proposes a three-year appropriation of $5 million (Propositions 50 and 84) for water conservation activities, water recycling, water desalination, and water demand evaluation in support of the California Water Plan. In addition, the budget requests $400,000 (Proposition 50) for desalination grants.

**Staff Comments.** This request represents a continuation of activities funded in prior years. The department should be prepared to discuss how these grants will be allocated in conjunction with funding provided in the recent drought legislative package.

**Recommendation:** Approve.

## 3. Agricultural Drainage Water in the San Joaquin River

**Background.** The San Joaquin River is listed as an impaired water body, in part due to high loads of boron and salt, with a significant portion originating from agricultural subsurface drainage coming from the west side of the San Joaquin Valley. Subsurface drainage systems are designed to remove water from land without percolation to the groundwater table. More common in the upper midwest where excessive rains can damage crops, and high water tables are common, this practice is also present in parts of the Central Valley. The drainage programs in California are designed to remove excess salt from the soil which can accumulate in areas where the groundwater table is shallow.

The drainage system was largely designed for federal water contractors. Salinity problems increased from the 1940s to the late 1960s when Congress authorized a drainage system as part of a federal project. This resulted in the construction of an 85-mile canal that discharged into the Kesterson Reservoir in the southern part of the San Joaquin Valley. The discovery of bird deformities due to high concentrations of selenium from agricultural drainage water lead to the shutdown of the reservoir and a portion of the drains. The subsurface drainage systems have remained in place and drain to local waters including the San Joaquin River.

Currently, the Mud and Salt Sloughs are tributaries of the San Joaquin River and contribute approximately 85 percent of the selenium load, 65 percent of the boron load, and 45 percent of the salt load carried by the river. Seasonal drainage from 90,000 acres of wetlands in the Grassland Water District and state and federal refuges also contribute to the salt load.

**Governor's Budget.** The Governor requests $37 million for local assistance and $930,000 for program administration (Proposition 84) for implementing projects that reduce or eliminate discharges of subsurface drainage water from the west side of the San Joaquin Valley for the purpose of improving water quality in the San Joaquin River and the Delta.

**Staff Comments.** This proposal is consistent with previous year efforts to reduce salt loads in the Delta. The department should discuss how this proposal will be used in conjunction with ground water programs to create a long-term solution to the agricultural subsurface drainage problem. In previous years, these programs have worked in isolation given complications of groundwater law and federal/state funding priorities.

Staff are concerned the proposal lacks the cohesiveness to provide a long-term and sustainable fix to the farming community. The proposal has merit but needs to be completed in a way that requires long-term groundwater and surface water interactions to be improved. The department should also address how much of a contribution the federal government will be making to reducing the impacts of the drainage system and why managed wetlands are increasing, rather than decreasing, the salt load.

**Recommendation:** Hold Open.

## 4. DWR Workplace Safety Program

**Background.** The DWR was created in 1956 to plan, design, construct, and oversee the building of the State Water Project (SWP). Today, the department oversees the SWP, as well as many other water-supply related projects statewide. In February 2007, two DWR employees were lost in a fatal diving accident at the SWP's Dos Amigos Pumping Plant at the San Luis Field Division. The department has reported other serious and close calls, mainly at SWP facilities.

In 2011, the department began implementing a comprehensive safety system in order to minimize the risks to employees, contractors, cooperating agencies, and for the visiting public at DWR-maintained facilities. Safety assessments were provided for every DWR location and a final report was released in February 2013, with recommendations to establish a DWR Safety Office.

**Governor's Budget.** The Governor requests $3.9 million from various funds (including SWP) to support 23 new positions for establishing and implementing the comprehensive safety system and to reduce accidents and injuries at all department locations statewide.

**Staff Comments.** Staff concurs with the need for this proposal. The department should discuss how this proposal will be incorporated into the long-term contracts currently being developed with the SWP contractors, and how it plans to report its progress to the Legislature and contractors.

**Recommendation:** Approve.

# 3600 Department of Fish and Wildlife

The Department of Fish and Wildlife (DFW), formerly the Department of Fish and Game, 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 DFW in its activities and regulates fishing and hunting. The DFW currently manages about 850,000 acres including ecological reserves, wildlife management areas, hatcheries, and public access areas throughout the state.

**Governor's Budget.** The Governor's budget includes $403 million and 2,616 positions for DFW. Decreases in federal and other special funds are the results of a concerted effort to re-align reimbursements and annual funding with historical expenditures and current revenues. Reductions in bond expenditures are the result of the near-depletion of available bond funds. Increases in funding are due to a proposal to expand the oil pollution program to enhance inland oil spill prevention activities.

### *Items Proposed for Vote-Only*

1. **Fisheries Restoration Grant Program Database.** The budget requests two positions (Federal Trust Fund) to operate and maintain the Fisheries Restoration Grant Program database.

2. **Land Management Agreement Review and Tracking.** The budget requests $34,000 (Wildlife Restoration Fund and Federal Trust Fund), and one position, to develop and implement a comprehensive process to review and track leases for management of department lands.

3. **Interagency Ecological Program Management Support.** The budget requests two positions (reimbursements and Federal Trust Fund) to address the increased demands for reporting and tracking of obligations and objectives associated with biological opinions and water rights decisions.

4. **Santa Rosa Plateau Ecological Reserve Manager.** The budget requests one position (reimbursements) to assess the resource impacts from activities on the reserve.

5. **Minor Capital Outlay.** The budget proposes the following minor capital outlay projects: (1) $210,000 (Hatcheries and Inland Fisheries Fund) for power lines and utilities at Darrah Springs; and, (2) $405,000 for overhead electrical system replacement at Fish Springs Hatchery.

**Staff Recommendation:** Approve Items 1-5.

***Items Proposed for Discussion***

## 1. Marijuana-Related Enforcement

**Background.** California produces more marijuana from outdoor grows (crops planted) than any other state. There are two basic ways marijuana is grown in the state. The first is illegal cartel use of public lands to grow marijuana. The second is the legal cultivation of marijuana on private lands pursuant to Proposition 215 (1996). The impacts of growing marijuana on both public and private lands are well documented. The department estimates that private land marijuana cultivation has grown so much on the North Coast that Coho salmon, a state and federally-listed species, may go extinct in the near future if this problem is not immediately addressed. The State Water Resources Control Boards (SWRCB) have observed significant land clearing activities resulting in sediment discharges to many high-value surface waters in the north state, nutrient loading from fertilizers, and stream diversions that result in dangerously low water levels.

Whether on public or private land, the impact from marijuana cultivation is substantial. The DFW has conducted approximately 249 marijuana eradication and reclamation missions. These missions have led to the arrest of 228 illegal marijuana growers, seizure of 72 firearms and over 5,000 pounds of marijuana. The state has collected approximately 66,000 pounds of trash, 332,000 feet of poly pipe, 14,000 pounds of fertilizer, 113 containers of common pesticides, herbicides, and rodenticides, 15 hazmat containers, and removed 105 man-made dams from waterways feeding illegal grows. Costs to reclaim damaged lands and remediate impacts range from $2,000 to $14,000 per acre on public land and as high as $30,000 to $50,000 per acre on private land.

**Budget Proposal.** The DFW budget requests $1.5 million ($500,000 General Fund, $500,900 Timber Regulation and Forest Restoration Fund, and $500,000 Waste Discharge Permit Fund (WDPF) and seven positions. The SWRCB budget requests $1.8 million (WDPF) and 11 positions to implement a task force and a priority-driven approach to address the natural resources damage. The DFW proposes shifting $500,000 from the general enforcement budget to the marijuana task force and backfilling those funds with Fish and Game Preservation Fund.

**Staff Comments.** Staff concurs with the need to implement an immediate strategy to reduce the impacts of marijuana cultivation. The department should be prepared to introduce the proposal and to address the following questions:

- Will this proposal result in immediate increases in law enforcement for marijuana cultivation?
- Is the department and/or Department of Food and Agriculture considering enforcing current agriculture-related permitting regulations that would address the cultivation of marijuana on private land? With the added security needed for permitting agencies, is the Administration considering adding a fee to allow regulators law enforcement detail when inspecting these sites?

**Staff Recommendation:** Approve proposal. Adopt supplemental reporting language requiring the Administration to report back at budget hearings next year on its recommendations to require “215” growers to comply with regular permitting, and any needs for regulation changes to allow on law enforcement to accompany regulators for site visits.

## 2. Statewide Oil Pollution Program (Marine and Inland)

**Background (Legislative Analyst's Office [LAO]).** The Office of Spill Prevention and Response (OSPR) within DFW is responsible for preventing, preparing for, and responding to oil spills. The OSPR activities include reviewing oil spill contingency plans, performing inspections and investigations, tracking spills, and directing spill response and cleanup efforts. The OSPR has statutory authority to regulate prevention of marine spills (through activities such as reviewing oil spill contingency plans and conducting drills). That authority, however, does not extend to inland prevention activities. Statute further designates OSPR as the primary agency responsible for responding to both inland and marine spills. Currently, OSPR responds to only about half of inland spills because of funding limitations. The 2013-14 budget included $44 million to support OSPR activities, including 190 positions.

The OSPR is principally funded by the Oil Spill Prevention Administrative Fund (OSPAF), which is supported by a fee of 6.5 cents on each barrel of oil brought into California over marine waters. (The State Lands Commission also receives some funding from OSPAF.) This fee is currently collected by the Board of Equalization from marine terminals and marine pipeline operators. The fee generates approximately $38 million in revenues annually. In the current fiscal year, the state is projected to spend $43 million from OSPAF, resulting in a structural deficit of about $5 million. Under current law, the OSPAF fee will decrease to 5 cents on January 1, 2015.

In addition, the department supports a statewide system of facilities throughout the state, called the Oiled Wildlife Care Network (OWCN), to rapidly respond to and treat wildlife that have been affected by an oil spill. The OWCN is operated by the University of California but receives $2 million in support annually from DFW, using interest from the Oil Spill Response Trust Fund (OSRTF). However, the interest from the OSRTF is no longer sufficient to fund OWCN as a result of a loan made to the General Fund and low interest rates.

**Budget Proposal.** The Governor proposes statutory changes to maintain the OSPAF fee at 6.5 cents per barrel on an ongoing basis, as well as expand the fee to all oil entering California refineries, including oil transported by rail and pipelines. The Administration projects that the proposed fee increase would increase revenues by $6.6 million in 2014-15 ($12.3 million annually when fully implemented) compared to current-year revenues. The Governor's budget for 2014-15 proposes to increase ongoing spending by $8.7 million, as follows:

- $6.2 million and 38 permanent positions to support the proposed expansion of OSPR's activities, to include inland prevention activities, as well as allow the office to respond to all inland spills. According to the Administration, the proposed expansion is necessary because the amount of oil transported over land (by rail or pipeline) is expected to significantly increase in coming years.

- $2.5 million to support the OWCN and change the program's fund source from the OSRTF to the OSPAF. The proposed amount reflects an increase of $500,000 for the program relative to the current-year funding level.

The LAO notes that even with the fee increase, expenditures from OSPAF are projected to exceed revenues in 2014-15 by $7.1 million. While a fund surplus has been able to offset the structural deficit in past years, the projected fund balance would decrease to only $1.8 million (four percent of the total estimated revenue) in 2014-15 under the proposal. Thus, a relatively small difference between actual and estimated revenues in 2014-15 could put the fund into deficit. In future years, the department proposes to use some of the increased revenue to address the structural shortfall in OSPAF.

**LAO Analysis: Fee Structure Not Tied to Spill Risk.** One approach to apportioning the costs of a regulatory program is to charge regulated entities in proportion to the potential harm they impose on public resources (such as the environment). In the case of OSPR's oil prevention and response programs, the potential harm is the risk associated with an oil spill. Currently, the OSPAF fee is charged to marine vessels and facilities based on the amount of oil they transport and, thus, only accounts for one aspect of oil spill risk. Other aspects of risk include the likelihood that a spill will happen (which can vary based on how the oil is transported), the type and chemical makeup of the oil, and the vulnerability of the ecosystem where the spill occurs. For example, an oil spill of a given size may have greater environmental consequences if it occurs in a smaller water body or in an ecosystem with high numbers of endangered species. Thus, the proposed fee structure is unlikely to charge regulated entities in proportion to the potential risk they pose.

**LAO Recommendation.** The LAO offers the following analysis and recommendation:

> Given the potential environmental damage that can be caused by inland spills, as well as the projected increase in inland oil transportation, we find that the intent of expanding prevention activities to land is reasonable. Thus, we recommend that the Legislature approve the Administration's proposal to expand the OSPAF fee to all oil entering California refineries to ensure that parties that transport oil inland (and therefore pose a spill risk) pay for some prevention and readiness activities.
>
> As noted above, a flat fee per barrel does not fully capture all factors that affect spill risk. Thus, we recommend the Legislature amend the proposed budget trailer legislation to direct the department to develop a risk-based fee structure to cover the costs of its combined inland and marine oil spill prevention program. We also recommend that the legislation authorize the department to charge the fees to generate total revenue up to the amount authorized for oil spill prevention and response in the annual state budget.
>
> In developing this structure, the department should consider several factors, including: (1) which factors are most important for determining oil spill risk, including how oil spills affect different ecosystems; (2) how often the fee should be adjusted to account for changing risk; and (3) how to ensure that the fee structure is not administratively burdensome. Charging fees based on relative oil spill risk could help ensure that the state is reducing risk effectively, as well as helping to ensure that regulated entities are bearing an appropriate share of the costs of the program.

> In addition, as noted above, this proposal would significantly reduce the balance in OSPAF, putting it at risk of a deficit. Thus, we recommend the Legislature fund the requested positions for OSPR's activities for a half year, resulting in a reduction of the appropriation by $1.6 million in 2014-15. Based on current revenue estimates, this would result in a fund balance of eight percent. We further recommend that the Legislature approve the requested funding for OWCN from OSPAF.

**Staff Comments.** Staff concurs with the need to approve position authority for the evaluation and enforcement of well stimulation practices. The department should address its proposal to increase the per-barrel fee to $0.065, and how this fits with a risk-based approach. However, the trailer bill language is still being reviewed by legislative staff and should be held open.

**Staff Recommendation:**

1. Approve budget proposal.
2. Hold trailer bill language open to work with the department and Senate and Assembly policy and budget staff to determine final trailer bill language.

## 3. Payment In Lieu of Taxes (PILT)

**Background.** Existing law requires the Department of Fish and Wildlife, when income is derived directly from real property acquired and operated by the state as a wildlife management area, as defined, to pay annually to the county in which the property is located, an amount equal to the county taxes levied upon the property at the time title to the property was transferred to the state, and any assessments levied upon the property by any irrigation, drainage, or reclamation district.

According to the department, this amount is estimated at $2 million per year. The payments have been suspended for approximately 10 years, resulting in a balance of about $20 million in payments owed to cities and counties. The Governor's budget does not include a proposal for PILT.

**Legislation Introduced.** SB 1410 (Wolk and Nielsen) was introduced on February 21, 2014, to appropriate $19 million from the General Fund to the department to make payments to counties for outstanding obligations. The bill would also appropriate $2 million annually, beginning in 2014-15, from the General Fund to the department to continue to make payments to counties.

**Staff Comments.** Staff are concerned about the possible accumulation of debt regarding the PILT properties. The department should be prepared to address the following:

- What is the current amount owed to counties for PILT?
- What would be the ongoing amount owed to cities and counties for an annual appropriation?
- What reason is given for not funding PILT in the budget and is there a plan to reimburse cities and counties in future budgets?

**Staff Recommendation:** Hold Open

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

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

**Thursday, March 27, 2014**
**9:30 a.m.**
**Hearing Room 112**

**Consultant: Catherine Freeman**

## PART B
# OUTCOMES

**Items Proposed for Discussion**



**Resources—Environmental Protection—Energy—Transportation**

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

## 3885 Delta Stewardship Council

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***Item Proposed for Discussion***

**Delta Plan Implementation**

**Staff Recommendation:** Approve.

## Vote: 2-1 (Nielsen, no)

## 3875 Sacramento-San Joaquin Delta Conservancy

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***Item Proposed for Discussion***

**Delta Plan Implementation**

**Staff Recommendation:** Hold Open.

## Vote: Did not discuss.

## 3860 Department of Water Resources

Page 4

***Items Proposed for Vote-Only***

1. **DWR Implementation of the Delta Stewardship Council's Delta Plan.** The budget requests $153,000 (Proposition 50 bond funds) to facilitate the department's work associated with the implementation of the Delta Plan. This proposal is consistent with the Delta Stewardship Council's request (see page 2).

2. **Climate-Change Portion of the Multi-Benefit Planning and Feasibility Studies (Years 5-6).** The budget requests $1.2 million in reversion and new appropriations from Proposition 84 to continue the previously-approved Climate Change Evaluation and Adaptation Program.

3. **CERES Environmental License Plate Fund (ELPF) Position Redirection.** The budget proposes three positions for the California Environmental Resources Evaluation System (CERES) program and a transfer of $380,000 in ELPF to provide environmental and scientific data and technology services and support.

4. **Delta Water Quality Improvement Program (State Operations).** The budget proposes a reversion of $1.8 million Proposition 84 state operations to establish an annual appropriation of $250,000 for administration of local assistance grants for projects that reduce Delta salinity or other pollutants at agricultural and drinking water intakes.

**Staff Recommendation:** Approve Items 1-4.

## Item1-3: 2-1 (Nielsen, no)

## Item 4: 3-0

***Items Proposed for Discussion***

## 1. Water Action Plan and Drought Bill Update

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**Budget Proposals.** The following proposals are consistent with the drought package for the budget:

1. **Statewide Groundwater Elevation Monitoring Program.** Consistent with actions taken in the SB 103 (Budget and Fiscal Review Committee), Chapter 2, Statutes of 2014, the Governor's budget requests $13.8 million (General Fund) in multi-year funding to support continued implementation of the program. This is a technical adjustment to continue the funding in the budget year.

**Recommendation:** (1) Approve Item 1. (2) Approve LAO recommendation to require the department to provide an implementation strategy with the 2015-16 budget. The LAO should draft supplemental reporting language to this effect.

## Item1: 1-2 (Nielsen, no)

## Item 2: 3-0

The subcommittee required the Administration to respond to Senator Jackson's request for information on a specific water issue at Lake Cachuma.

## Water Use Efficiency Program

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**Recommendation:** Approve.

## Vote: 2-1 (Nielsen, no)

### Agricultural Drainage Water in the San Joaquin River

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**Recommendation:** Hold Open.

## Vote: Hold Open

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### DWR Workplace Safety Program

Page 12

**Recommendation:** Approve.

## Vote: 3-0

# 3600 Department of Fish and Wildlife

***Items Proposed for Vote-Only***

1. **Fisheries Restoration Grant Program Database.** The budget requests two positions (Federal Trust Fund) to operate and maintain the Fisheries Restoration Grant Program database.

2. **Land Management Agreement Review and Tracking.** The budget requests $34,000 (Wildlife Restoration Fund and Federal Trust Fund), and one position, to develop and implement a comprehensive process to review and track leases for management of department lands.

3. **Interagency Ecological Program Management Support.** The budget requests two positions (reimbursements and Federal Trust Fund) to address the increased demands for reporting and tracking of obligations and objectives associated with biological opinions and water rights decisions.

4. **Santa Rosa Plateau Ecological Reserve Manager.** The budget requests one position (reimbursements) to assess the resource impacts from activities on the reserve.

5. **Minor Capital Outlay.** The budget proposes the following minor capital outlay projects: (1) $210,000 (Hatcheries and Inland Fisheries Fund) for power lines and utilities at Darrah Springs; and, (2) $405,000 for overhead electrical system replacement at Fish Springs Hatchery.

**Staff Recommendation:** Approve Items 1-5.

## Items 1, 3: 2-1 (Nielsen, no)

## Item 2, 4, 5: 3-0

***Items Proposed for Discussion***

**1. Marijuana-Related Enforcement**

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**Staff Recommendation:** Approve proposal. Adopt supplemental reporting language requiring the Administration to report back at budget hearings next year on its recommendations to require "215" growers to comply with regular permitting, and any needs for regulation changes to allow on law enforcement to accompany regulators for site visits.

## Vote: Hold Open

This item will be heard in conjunction with the State Water Resources Control Board, California Department of Food and Agriculture, and other agencies on **April 24** at the regularly scheduled hearing.

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**2. Statewide Oil Pollution Program (Marine and Inland)**

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**Staff Recommendation:**

1. Approve budget proposal.
2. Hold trailer bill language open to work with the department and Senate and Assembly policy and budget staff to determine final trailer bill language.

## Vote: Hold Open

## 3. Payment In Lieu of Taxes (PILT)

**Staff Recommendation:** Hold Open

## Vote: Hold Open

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

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

**Thursday, April 3, 2014**
**9:30 a.m. or Upon Adjournment of Session**
**Hearing Room 112**

**Consultants: Farra Bracht and Catherine Freeman**

# PART A

# CAP AND TRADE PROPOSAL

## Transportation and Sustainable Communities



## Energy Efficiency and Clean Energy Programs



## Natural Resources and Waste Reduction





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

# Background and Issues to Consider

The goal of the state's climate plan is to reduce Greenhouse Gas (GHG) emissions to 1990 levels by the end of this decade. The Cap and Trade program, a key element in this Administration's plan to achieve these goals, sets a statewide limit on the sources of greenhouse gases and establishes a financial incentive for long-term investments in cleaner fuels and more efficient energy use. The Cap and Trade program places a "cap" on aggregate GHG emissions from entities responsible for roughly 85 percent of the state's GHG emissions. To implement the Cap and Trade program, the Air Resources Board (ARB) allocates a certain number of carbon allowances equal to the cap. Each allowance equals one ton of carbon dioxide equivalent. The ARB provides some allowances for free, while making others available for purchase at auctions. Once the allowances have been allocated, entities can then "trade" (buy and sell on the open market); in order to obtain enough to cover their total emissions for a given period of time. As part of its program, the ARB will give free allowances to the state's large industrial emitters, as well as the state's electric utilities, in order to reduce the economic impact of the Cap and Trade program.

The ARB has conducted five auctions since November 2012 of GHG emission allowances as part of the market-based compliance mechanism. These auctions resulted in approximately $532 million in proceeds to the state. The state plans to conduct quarterly auctions in 2014 and estimates roughly $550 million in revenues from those auctions.

Subsequent to the passage of AB 32, (Núñez and Pavley), Chapter 488, Statutes of 2006 the Legislature passed several bills related to the reduction of GHGs. These bills have provided guidance to the Administration as it continues to develop expenditure plans for auction proceeds. In addition, the Administration has issued several executive orders that, though not law, have also provided input into the development of the expenditure plan.

**Drought Package—Including GHG Proposals.** On March 1 of this year, the Governor signed SB 103 and SB 104 (Budget and Fiscal Review Committee), Chapters 2 and 3, Statutes of 2014. Many of the Governor's January water-related budget proposals were included in the drought package. The package included two proposals funded by cap and trade auction revenues:

- **Water-Energy Efficiency Programs (Department of Water Resources).** The drought package accelerates the Governor's proposed allocation of $20 million annually, for two years, to support a new water-energy grant program and state water efficiency projects. The package also includes an additional $10 million for local assistance for water use efficiency.

- **Agriculture Water Efficiency Programs (Department of Food and Agriculture).** The drought package includes $10 million for agricultural water efficiency projects that reduce greenhouse gas emissions.

**Select Statutory and Executive Guidance for Cap and Trade Expenditures**

| Statute | Summary |
|---|---|
| Global Warming Solutions Act 2006, Chapter 488<br>Statutes of 2006<br>AB 32 (Núñez and Pavley) | • Established the goal to reduce greenhouse gas emissions to 1990 levels by 2020. |
| Chapter 830<br>Statutes of 2012<br>SB 535 (de León) | • Requires 10 percent of cap and trade proceeds be invested within the most impacted and disadvantaged communities.<br>• Requires 25 percent of auction proceeds to benefit impacted and disadvantaged communities. |
| Chapter 807<br>Statutes of 2012<br>AB 1532 (Pérez) | • Required the Administration to develop a three-year investment plan for auction proceeds. |
| Chapter 728<br>Statutes of 2008<br>SB 375 (Steinberg) | • Directs the Air Resources Board to set regional GHG reduction targets and guides sustainable community strategies. |
| Chapter 39<br>Statutes of 2012<br>SB 1018 (Committee on Budget) | • Provides guidance for collection and allocation of auction funds.<br>• Requires state agencies to provide up-front information on GHG emission reductions prior to expenditure for any proposed auction-revenue funded program.<br>• |

| Executive Order | Summary |
|---|---|
| Executive Order B-18-12 (2012) | • Requires state agencies to reduce GHG emissions by 10 percent by 2015 and 20 percent by 2020. |
| Executive Order B-16-12 (2012) | • Establishes targets for zero-emission vehicles in the state.<br>• Establishes a GHG emission reduction target of 80 percent less than 1990 levels in the transportation sector by 2050. |

## GOVERNOR'S PROPOSAL:

**Cap and Trade Expenditure Proposal.** The Governor's January budget proposes to spend $850 million from cap and trade auction revenue in 2014-15. Proposals (summarized below) range from water efficiency to rail modernization. The majority of funding is directed to state agencies for both direct state projects and local assistance grant programs.

**Summary of Governor's Cap and Trade Expenditure Proposal for 2014-15**

| Department | Activity | Amount (millions) |
|---|---|---|
| High-Speed Rail Authority | High-speed rail planning, land acquisition and construction | $250 |
| Air Resources Board | Low-emission vehicle rebates and incentives for low emission vehicles | 200 |
| Strategic Growth Council | Transit oriented development grants (Sustainable Communities) | 100 |
| Community Services and Development Department | Grants for weatherization and solar installation including the Low-Income Home Energy Assistance Program | 80 |
| Caltrans | Intercity rail grants | 50 |
| Department of Forestry and Fire Protection | Fire prevention and urban forestry | 50 |
| Department of Fish and Wildlife | Wetlands restoration (state and local assistance) | 30 |
| Department of Resources Recycling and Recovery | Waste diversion | 30 |
| Department of General Services | Energy efficiency upgrades in state buildings | 20 |
| Department of Food and Agriculture | Reducing agricultural waste | 20 |
| Department of Water Resources | Water use efficiency | 20 |
| **Totals** | | **$850 million*** |

Source: Legislative Analyst's Office, 2014

* This proposal was increased by $20 million (for a total of $870 million) with the acceleration of the DWR water efficiency projects (previously scheduled over two years), and the addition of the $10 million agricultural water efficiency program.

## ISSUES TO CONSIDER:

**Achieving Greenhouse Gas Emission Reductions.** According to the Legislative Analyst's Office (LAO), in order to minimize the economic impact of cap and trade, it is important that auction revenues be invested in a way that maximizes GHG emission reductions. Maximizing emission reductions (specifically in the capped sectors) reduces competition for allowances, thereby putting downward pressure on the price of allowances. This, in turn, reduces the overall cost for covered entities to comply with AB 32 and the potential negative economic impacts of the program on consumers, businesses, and ratepayers. It is, however, unclear to what extent the complement of activities proposed by the Governor would maximize GHG emission reductions. For example, a GHG emission analysis completed by the High-Speed Rail Authority (HSRA) indicates that once the high-speed rail system is operational in 2022, it would contribute a relatively minor amount of GHG emission reductions to the state. Moreover, the construction of the project would actually produce additional emissions (though HSRA will try to offset these emissions). Despite these findings, roughly 30 percent of the funding in the Governor's proposal goes to the high-speed rail project and at this time it is unknown how much in future cap and trade revenues the Administration seeks to commit to the project because the proposed trailer bill language has not been made public. Compared to a different mix of investments that could be made with the cap and trade revenue, the Governor's proposal is unlikely to maximize GHG emission reductions. Therefore, the Legislature will need to consider the most effective use of the cap and trade auction revenue.

**Legal Considerations for GHG Reductions and the 2020 Deadline.** The LAO advises that the Legislature will also want to consider the potential legal risks associated with some of the activities that the Governor proposes to fund with cap and trade auction revenue. Based on an opinion that the LAO received from Legislative Counsel, the revenues generated from ARB's cap and trade auctions are considered "mitigation fee" revenues. Thus, the use of these revenues is subject to certain legal criteria. Specifically, the LAO advises that their use is subject to the so-called Sinclair nexus test. This test requires that a clear nexus must exist between an activity for which a mitigation fee is used and the adverse effects related to the activity on which that fee is levied. Given this legal requirement, the Administration's proposal to fund activities (such as high-speed rail) could be legally risky. While the high-speed rail project could eventually help reduce GHG emissions somewhat in the very long run, it would not help achieve AB 32's primary goal of reducing GHG emissions by 2020. This issue is discussed further in the Transportation section of this agenda.

**High-Speed Rail or More Funding for Other Rail Projects?** While the high-speed rail project may help the state to address future transportation needs, the project does little to achieve the goals of AB 32 and reducing GHG emissions by 2020. In fact, the construction of the project will increase GHG emissions in the near-term. In addition, at this time, given various lawsuits and a lack of identified future funding for the project, the likelihood of the completion of an operational section of the project is uncertain.

Given these concerns, the Legislature may wish to modify the budget request of $300 million ($250 million for high-speed rail and $50 million for rail modernization) for rail projects and provide a greater amount of funding for the Rail Modification Grant program. Grants to intercity, commuter, and urban rail operators are more likely to result in projects that can be completed in the near-term, reduce GHG emissions, and reduce congestion and improve mobility in the state. If more funding were provided for rail modernization projects, the Legislature may wish to require that the competitive grant process considers the amount of GHG reductions the project would achieve, as criteria for awarding grants. The Legislature may also wish to adopt legislation to help ensure that the program guidelines equally consider projects beyond system integration and allow for grants to fund projects, such as the electrification of rail systems or purchase of new equipment, which emits fewer GHGs.

**What Should be the Mix of State Versus Local Natural Resources Programs?** The three natural resources proposals (wetland restoration, water efficiency, and fire prevention) all include a mix of state projects and local assistance, mainly in the form of grants. For example, the water efficiency funding would be split 50-50 between grants to locals for water efficiency projects and a single state-owned State Water Project facility upgrade. Similarly, the forestry proposal includes $24.2 million for local assistance over two years and $75.8 million for state operations for the same time period. The wetlands restoration proposal includes about $4-5 million per year for state operations and about $25 million per year for local assistance. At the local level, there are few funding sources dedicated directly for GHG emission reductions, though efficiency is always a part of local project administration. The state also has several state conservancies dedicated to specific land and wetland restoration that are designed to have a more concerted state-local focus; however, these conservancies were not included in the proposal. The Legislature should consider these natural resources proposals individually to determine whether it agrees with the state-local funding mix proposed. Without clear metrics, it is difficult to determine whether the state or locals will achieve the greater amount of GHG emission reductions before 2020.

## TRANSPORTATION AND SUSTAINABLE COMMUNITIES PROPOSALS

### Greenhouse Gas Emissions Reductions through Rail Modernization—High-Speed Train System (COBCP#1)

**Budget Proposal**
**Item 2665: High-Speed Rail Authority (HSRA).** The budget includes $250 million for the state high-speed rail project. Funding will support construction of the initial operating section (IOS). This includes $58.6 million to continue environmental planning of the Phase 1 project extending from the San Francisco Bay Area to Los Angeles/Anaheim, and $191.4 million for right-of-way acquisition and construction of the approximately 130-miles of the first construction segment extending from Madera to near Bakersfield.

In addition, proposed trailer bill language would, beginning in 2015-16, appropriate 33 percent of annual cap and trade proceeds to the HSRA to construct the initial operating segment. The trailer bill language would also make available to HSRA, beginning in 2015-16, the $400 million that was loaned from the Greenhouse Gas Reduction Fund to the General Fund in the Budget Act of 2013 for work on the IOS.

The proposal anticipates a reduction of 4.3 million metric tons of carbon dioxide (CO2) equivalents by 2030, after Phase 1 of the project is completed and high-speed rail is fully operational. An additional one million CO2 annually is anticipated thereafter. The proposal does not specify a GHG reduction target for the 2020 deadline.

**Background and Detail.** The Legislature has appropriated approximately $5.9 billion ($2.7 billion in Proposition 1A funds and $3.3 billion federal funds) for the high-speed rail project to begin development, right-of-way acquisition, and construction of high-speed rail. However, Proposition 1A funding has not been available for expenditure because the State Treasurer's Office will not sell Proposition 1A bonds until legal uncertainties regarding the project are resolved through a "validation action" that was filed on the recommendation of the Attorney General. In the meantime, federal funds are being used for the project. However, state funds are required as a matching component to utilize the federal grant funds. The proposed $250 million, in the budget year, would be used to match federal funds.

The IOS of high-speed rail is expected to be completed by 2022, as shown in the table below. The IOS would extend 300 miles from Merced to the San Fernando Valley. Phase 1 of the high-speed rail system is planned to provide service between San Francisco and Los Angeles/Anaheim by 2028. The second phase of the system would expand service to Sacramento and San Diego.

**High-Speed Rail Implementation Schedule (Phase 1)**

| Section | Length | Endpoints | Estimated Completion |
|---|---|---|---|
| Initial Operating Section | 300 miles | Merced to San Fernando Valley | 2022 |
| Bay to Basin | 410 miles | San Jose and Merced to San Fernando Valley | 2026 |
| Phase 1 | 520 miles | San Francisco to Los Angeles | 2028 |

***Funding to Complete the IOS Has Not Been Identified.*** According to HSRA's 2014 draft business plan, the HSRA estimates it will cost $31.2 billion to construct the IOS. As mentioned earlier, about $5.9 billion has been appropriated for the first construction segment and $4.2 billion in Proposition 1A funds remain available to partially fund the construction of the remainder of the IOS. However, the sources of $20.9 billion in funding needed to complete the IOS have not been identified, as shown below. The Governor's budget proposes a continuous appropriation from the state's Cap and Trade program as a potential funding source, as discussed earlier. The shortfall of funding needed to construct the entire Phase 1 of the project is even greater.

**Sources of Funding to Complete the Initial Operating Segment**
**(In Millions)**

| Source | Amount |
|---|---|
| ***Appropriated Funds*** | |
| Proposition 1A | $2,684 |
| Federal Grants | $3,316 |
| ***Committed Funds*** | |
| Proposition 1A | $4,240 |
| **Total Available Funding** | **$10,240** |
| Total Estimated IOS Cost | $31,174 |
| **Funding Shortfall** | **-$20,934** |

According to the HSRA's draft 2014 business plan, annual expenditures of $4 billion to $5 billion are expected once construction of the IOS is fully underway, as shown below.

**Estimated Annual Capital Costs of Initial Operating Segment**
**(In Millions)**

| Year | Amount |
|---|---|
| 2013 | $212 |
| 2014 | 751 |
| 2015 | 4,003 |
| 2016 | 4,008 |
| 2017 | 4,229 |
| 2018 | 5,481 |
| 2019 | 5,049 |
| 2020 | 4,732 |
| 2021 | 2,708 |
| **Total** | **$31,173** |

**LAO Comments.** The LAO finds that (1) using cap-and-trade auction revenues for high-speed rail may not maximize GHG reductions, and (2) it is unclear how much cap-and-trade revenue will actually be available for high-speed rail in the future.

- ***Using Cap-and-Trade Auction Revenues for High-Speed Rail May Not Maximize GHG Reductions.*** As the LAO discussed in its recent report, The 2014-15 Budget: Cap-and-Trade Auction Revenue Expenditure Plan, in order to minimize the negative economic impact of cap-and-trade, it is important that auction revenues be invested in a way that maximizes GHG emission reductions for a given level of spending. It is unclear the extent to which using such revenues to support high-speed rail will maximize GHG emission reductions. First, the high-speed rail project would not contribute significant GHG reductions before 2020. This is because, as mentioned above, plans for the high-speed rail system indicate that the first phase of the project will not be operational until 2022. Second, the construction of the project would actually generate GHG emissions of 30,000 metric tons over the next several years. (The HSRA plans to offset these emissions with an urban forestry program that proposes to plant thousands of trees in the Central Valley.) The LAO also notes that HSRA's GHG emission estimates for construction do not include emissions associated with the production of construction materials, which suggests that the amount of emission requiring mitigation could be much higher than currently planned.

- ***Unclear How Much Cap-and-Trade Funding Will Support High-Speed Rail in Future.*** Although the Administration proposes to use revenue from the state's cap-and-trade program to help address the $21 billion shortfall, it is unclear how much cap and trade auction revenue will actually be allocated to high-speed rail in 2015-16, and beyond to complete the IOS under the Governor's plan. As indicated above, the Governor is proposing that beginning in 2015-16, 33 percent of all state auction revenues be continuously appropriated to HSRA. At this time, however, the Administration has not provided an estimate of projected cap-and-trade auction revenues. Moreover, it is unclear for how long the Administration expects there to be cap-and-trade auctions and the availability of revenue resulting from such auctions.

The absence of a detailed plan projecting the estimated amount of cap-and-trade auction revenue that would be appropriated to HSRA by year is problematic for two reasons. First, it makes it difficult for the Legislature to determine if such revenues, along with available federal funds and Proposition 1A bond funds, would be sufficient to fund the expected costs per year to complete the IOS. To the extent that there would not be sufficient revenues in a given year, the Legislature would need to identify alternative funding sources, likely from other state resources. Second, the absence of projected cap-and-trade auction revenues also makes it difficult for the Legislature to weigh the relative trade-offs of dedicating a fixed percentage of cap-and-trade auction revenues to high-speed rail each year (without further legislative action) versus allocating the funds on an annual basis to other programs intended to reduce GHG emissions, including programs that the Legislature deems to be of higher priority and could maximize GHG reductions in a more cost-effective manner. This is because it is uncertain whether there would be a sufficient amount of funding available under the Governor's proposal to support such programs.

**Staff Comments.** There is significant uncertainty about the sources of funding needed for the completion of the majority of the high-speed rail project. At this time, Proposition 1A bonds cannot be used for the project and it is uncertain when this legal hurdle will be cleared. In addition, it is unclear how much, if any, other non-state funds (such as local funds, and funds from operations and development, or private capital) would be secured.

If the project continues to be a priority for the Legislature, long-term stable funding sources for the project would need to be identified. While the Administration has proposed cap and trade funds as a long-term solution, there are considerable trade-offs the Legislature must weigh. For example, using a significant amount of the available cap-and-trade funds for high-speed rail will greatly reduce the amount of funds available for projects that are more likely to reduce GHGs by 2020 or projects that are more cost-effective.

In addition, the Administration has not made it clear at this time, how the continuous appropriation of 33 percent of an unknown amount of cap-and-trade revenues would be used to provide or obtain the funding needed for the project. It is possible that these funds could be used to borrow the funding necessary to complete the project; however, such a proposal has not been made, at this time.

**Questions.**

1. How would the continuous appropriation of 33 percent of cap-and-trade auction proceeds be used to provide the amount of capital funding needed annually to complete the initial operating segment? What is the funding plan for Phase 1 of the project?

2. How does an investment in high-speed rail satisfy the goals of AB 32, in terms of reducing greenhouse gas emissions by 2020?

## Greenhouse Gas Emission Reductions through Rail Modernization Technology (BCP #11)

**Budget Proposal**

**Item 2660: Department of Transportation (Caltrans).** The Governor requests $50 million from the Greenhouse Gas Reduction Fund to support activities promoting GHG emission reductions in the transportation sector. Also, Caltrans requests four (4) permanent positions and $419,000 ($384,000 personal services and $35,000 operating expenses) to implement and administer the Rail Modernization Grant program. The four positions and funding will be offset by a redirection of State Highway Account funds from the Capital Outlay Support Program from anticipated reductions due to declining workload. The proposal does not specify a GHG reduction target for the 2020 deadline.

**Detail.** The newly-proposed Rail Modernization Grant Program (RMGP) would fund capital improvements and operational investments that would modernize California's intercity, commuter, and urban rail systems to expand and improve rail service to increase ridership, integrate rail service with the state's various rail operators, including high-speed rail, improve rail safety, and reduce greenhouse gas emissions.

Under this proposal, the Administration would provide $50 million for the RMGP. The Transportation Agency (CalSTA) would draft guidelines for the program using Caltrans staff, evaluate applications for funding, and prepare a list of projects recommended for funding. The California Transportation Commission (CTC) will approve the allocation of grant funds.

The Governor's proposed trailer bill language identifies projects eligible for RMGP funding that include, but are not limited to, the following:

- Rail capital projects, including acquisition of rail cars and locomotives.
- Intercity and commuter rail projects that improve service.
- Rail integration projects.

The CalSTA's evaluation of grant applications will consider:

- Co-benefits of projects that support implementation of sustainable communities' strategies.
- Project priorities developed through collaboration with other rail operators.

**Staff Comments.** Grants to intercity, commuter, and urban rail operators can result in projects that can be completed in the near-term, reduce GHG emissions, reduce congestion, and improve mobility in the state.

**Questions:**

1. What factors will be considered when awarding grants? Will the program try to achieve a geographic balance of projects around the state? Will factors such as (a) the applicant's availability of matching funds, (b) estimated time to project completion, and (c) GHG emission reductions, be considered?

2. What mechanisms will be used to evaluate if the grants resulted in GHG emission reductions?

3. How would the types of transit/rail projects awarded under this program differ from those that could be awarded under the Sustainable Communities program?

## Low Carbon Transportation—Air Resources Board (ARB)

**Budget Proposal**

**Item 3900: Low Carbon Transportation (Air Resources Board).** The budget proposes $200 million to expand the existing clean transportation programs that provide incentives for sustainable freight technology, zero-emission cars, low-emission cars in disadvantaged communities, and clean trucks and bus programs. The budget also proposes to spend $30 million from current-year proceeds for low-carbon transportation projects. This would reverse a $30 million loan from the Vehicle Inspection and Repair Fund approved in the current-year mainly for electric vehicle rebate programs. The proposal does not specify a GHG reduction target for the 2020 deadline.

**Background.** The ARB has existing programs designed to support low- and zero-emission vehicle technology (clean transportation programs). Priority projects include, but are not limited to:

- **Sustainable Freight Technology**. Funds to support the development and demonstration of transformational zero or near zero-emission advanced goods movement technologies near California ports, rail yards, distribution centers, airports, and freeways.
- **Zero-Emission Cars.** Funding for zero-emission and plug-in hybrid passenger vehicles (including purchase and lease incentives).
- **Low-Emission Cars in Disadvantaged Communities.** Funding to retire and replace older and higher emitting vehicles with near-zero emission vehicles in disadvantaged communities.
- **Clean Trucks and Buses.** Funding to help California fleets offset the higher up-front cost of purchasing medium- and heavy-duty hybrid and zero-emission trucks and buses.

The ARB has requested budget bill language allowing for longer encumbrance periods and liquidation periods for the funds.

**Questions:**

1. What factors will be considered when determining how much funding will be allocated to individual programs? Could any single program receive more than 50 percent of the funds proposed? Will the program try to achieve a geographic balance of projects around the state?

2. What mechanisms will be used to evaluate if the grants resulted in GHG emission reductions?

## Greenhouse Gas Emissions Reductions through Sustainable Communities Implementation (BCP#1)

**Budget Proposal**

**Item 0650: Governor's Office of Planning and Research, Strategic Growth Council**. The budget proposes $100 million ($1 million state operations and $99 million local assistance) from the Greenhouse Gas Reduction Fund, annually for two years, to establish and implement a Sustainable Communities Implementation Program. The program will support local project implementation of regional sustainable community strategy plans, compact and infill development near transit, and development which benefits disadvantaged communities. The proposal incorporates current sustainable communities and clean transportation priorities into a cohesive program, including transit and active transportation infrastructure projects.

The proposal includes shifting the Strategic Growth Council from the Natural Resources Agency to the Governor's Office of Planning and Research. The six positions staffing the Strategic Growth Council are currently funded from the administrative allocation of Proposition 84 and this funding expires at the end of 2013-14. The proposal does not specify a GHG reduction target for the 2020 deadline.

**Background and Detail.** SB 375 (Steinberg), Chapter 728, Statutes of 2008, directs regions to integrate development patterns and transportation networks in a way that achieves GHG emission reductions, while addressing housing needs, and other regional planning objectives. Each of the state's 18 metropolitan planning organizations (MPOs) must prepare a Sustainable Communities Strategy (SCS) along with its Regional Transportation Plan that demonstrates how the region will meet the GHG emission reduction targets (established by the Air Resources Board) for 2020, and 2035 through integrated land-use, housing, and transportation planning. According to the Administration, investments in land-use planning, and transportation infrastructure and operations is needed to implement the SCSs.

As specified in the Administration's proposed trailer bill language, to be eligible for funding, a project would need to do the following:

- Demonstrate that it would achieve a reduction in GHG emissions.
- Support implementation of a SCS.
- Demonstrate consistency with the state's planning priorities.

Eligible projects could include the following:

- Intermodal, affordable housing projects that support infill and compact development.
- Transit capital projects and programs supporting transit ridership.
- Active transportation capital projects.
- Transit-oriented development projects.
- Acquisition of agricultural lands.
- Planning to support implementation of a sustainable communities strategy.

**Staff Comments.** Cap-and-trade revenues could provide funding needed to implement SB 375. Without a coordinated approach to addressing land-use, housing, and transportation planning, it will be difficult to reduce the number of vehicles miles traveled by persons in the state and achieve GHG emission reductions.

**Questions:**

1. Under a competitive program operated at the state level, how would the state know which proposed projects would best implement local Sustainable Communities Strategies?

2. Alternatively, could a portion, or all, of the funding proposed here be directed to regional agencies on formula basis? What would be the advantages and disadvantages of such an approach?

# Energy Efficiency and Clean Energy Programs

## Weatherization Upgrades and Local Energy Efficiency

**Budget Proposal**.
**Item 4700: Community Services and Development Department (CSD).** The budget proposes $80 million ($75 million local assistance and $5 million state operations) to support the expansion of existing weatherization and solar programs through local service providers, combined with the federal Low-Income Home Energy Assistance Program (LIHEAP), and Weatherization Assistance Program. Services will benefit disadvantaged communities through the installation of solar photovoltaic systems, solar water heating systems, and weatherization measures. The use of energy audit tools will determine the installation of cost-effective measures such as insulation, weather stripping and caulking, water heater blankets, fixing or replacing windows, refrigerator replacement, and other specific projects.

The proposal does not specify a GHG reduction target for the 2020 deadline, but does include specific outcomes and accountability metrics for the number of homes weatherized and the number of homes receiving solar technologies.

**Background.** The CSD partners with a statewide network of more than 40 local service providers (LSPs), which include private, nonprofit, and local government organizations. The CSD traditionally allocates federal block grants for low-income programs to the LSPs for workforce development, weatherization, and energy assistance.

Federal funding declined over several years until 2009, when CSD received $186 million in American Recovery and Reinvestment Act (ARRA) federal funds. With these funds, CSD, in conjunction with its LSP partners, weatherized nearly 60,000 low-income homes. Funds from this initial allocation are nearly exhausted; however, the networks and program capacity remains.

**Questions:**

1. How will the programs administered by CSD be similar to, or different from, the ARRA funded weatherization and LIHEAP programs? Will the program try to achieve a geographic balance of projects around the state?

2. What mechanisms will be used to evaluate if the grants provided resulted in GHG emission reductions?

## Green State Buildings

**Budget Proposal**
**Item 7760: Department of General Services (DGS).** The budget proposes $20 million to support the expansion of existing energy efficiency programs to reduce GHGs and energy usage in state buildings. The department will use the existing distributed generation, energy retrofit, and zero-net energy building design programs to allocate funding. The proposal also includes the establishment of a state-funded revolving loan fund for energy efficiency retrofit projects in the future.

The proposal includes metrics for installation of megawatts (MW) of clean energy (solar and wind, for example) and for the conversion of buildings to zero net energy, but does not specify a GHG reduction target for 2020.

**Background.** The DGS provides a variety of green and sustainable services to state agencies and serves as the "business manager" for the departments and entities under the executive branch. The department implements energy-related programs under the Governor's Green Building Action Plan, including:

- Programs to promote the use of zero-net energy building design.
- Energy efficiency retrofit programs.
- Reduction in grid-based energy purchases by at least 20 percent by 2018.
- Increased use of on-site power generation, including solar photovoltaic, solar-thermal, wind power generation, and clean backup power supplies.
- Financing and project delivery systems including revolving loan funds and other financing solutions for state buildings and facilities.

**Questions:**

1. Can any of these funds be used for local public buildings not owned by the state? Is there a similar need at the local level?

2. To date, what are the net energy reductions and greenhouse gas emission reductions provided by the Governor's Green Building Action Plan?

3. Could these funds be used to retrofit major state energy users such as the State Water Project?

## Natural Resources and Waste Reduction

### Wetland Restoration

**Budget Proposal.**
**Item 3600: Department of Fish and Wildlife (DFW)**. The budget proposes $30 million ($4.2 million state operations, $25.8 million local assistance) for wetland restoration. Projects include: (1) planning and implementation of Sacramento-San Joaquin Delta and coastal restoration projects that integrate GHG reduction, flood protection, habitat restoration, and climate change readiness; (2) planning and implementation of mountain meadows restoration in the Cascade and Sierra Nevada mountain ranges including groundwater storage, stream flow stability, water supply and habitat restoration; and, (3) planning and implementation of wetland restoration and water efficiency projects on state-owned and administered lands.

These projects will provide the state a dedicated program for integrating wetland restoration for fish and wildlife with water supply improvement and carbon sequestration. This proposal does not include a specific GHG reduction target, but does include metrics for measurement of reduction of GHGs through carbon update, measured in carbon per acre.

**Background.** The DFW currently manages or participates in several wetland-related programs, including:

- **Wetland Habitat Program.** Wetland habitat preservation and enhancement are accomplished primarily through technical and financial assistance, participation on key wetland steering committees such as the Central Valley Joint Venture, and the authoring and distribution of current wetland management information.
- **Natural Communities Conservation Plans and Habitat Conservation Planning.** In addition to consulting with locals on natural area planning, the department coordinates habitat acquisition associated with plans, local assistance grants for conservation planning and implementation, conservation and mitigation banking, and voluntary integrated resource management plans. This includes activities within the Sacramento-San Joaquin River Deltas and the Bay-Delta Conservation Plan.

**Questions:**

1. How will the department prioritize the use of wetlands and working lands that result in permanent and enforceable commitments to improved habitat and watershed function?

2. How will the department fund ongoing maintenance of lands restored with these funds?

3. A number of recent purchases by state conservancies have major wetland restoration components, such as the South Bay Salt Ponds. How will the department prioritize these often-expensive projects? Will there be a geographic distribution component to the funding?

4. Will state conservancies be eligible for funding?

## Forest Management and Fire Prevention

**Budget Proposal**

**Item 3450: Department of Forestry and Fire Protection (CalFIRE).** The budget proposes $50 million per year, for two years ($25.8 million state operations and $24.2 million local assistance in year one, $50 million in state operations in year two) to support existing and expanded programs at CalFIRE. These include:

(1) urban and community forestry local assistance grants;
(2) demonstration state forests and cooperative wildland research, mainly at state forest facilities;
(3) fuel reduction through CalFIRE's vegetation management program, which are designed to reduce wildland fire threat through a cost-sharing program with landowners that focuses on a combination of treatment types;
(4) reforestation services under the authority of the state nurseries and reforestation studies statutory guidance;
(5) funding for the forest legacy program to invest in forestlands to prevent future conversion to non-forest use; and,
(6) continued implementation of the forest practice program and forest pest control programs.

This proposal does not include a specified GHG reduction target but does include a plan to develop GHG reduction metrics prior to implementation.

**Questions:**

1. How will the department prioritize the use of working forest conservation easements that result in permanent and enforceable commitments to improved habitat and watershed function?

2. The department has a dedicated funding source for fuel reduction statewide on all State-Responsibility Area (SRA) lands (SRA fee). The SRA fee has a healthy fund-balance that the department has not proposed to use this budget year. Why would the highest priority for the cap-and-trade funds be for additional fuel reduction activities that can be funded by the SRA fee, rather than other forest priorities?

3. How will the department handle monitoring and enforcement without additional cost to the state? Would the department use third-party land trusts?

4. Did the Administration consider funding the Wildlife Conservation Board's Forest Program which is the state's expert in conservation easements, particularly those that cross department boundaries, and that includes a Legislative Advisory Committee for ongoing legislative oversight?

## Waste Reduction, Recycling, and Composting

**Budget Proposal:**
**Item 3970: Department of Resources Recycling and Recovery (CalRecycle).**
The budget proposes $30 million annually, for two years, to support the expansion of existing recycling programs designed to reduce methane emissions at landfills and reduce further GHG in upstream management and manufacturing processes. The majority of funding ($20 million per year) will be used for grants and loans for in-state development of infrastructure to process organic materials and recyclable commodities into new value-added products. An additional $10 million per year will be used to establish a new GHG revolving loan fund to provide financial assistance through low-interest loans for recycling market development zones.

This proposal includes metrics for measurement of GHG reduction and a specific target of 1-2 million metric tons of GHG reduction by the end of 2014-15.

**Background.** Significant GHG reduction can be achieved by redirecting organic materials from landfills to composting and anaerobic digestion. Similar significant emission reductions can be obtained by substituting recyclable commodities for virgin materials in manufacturing processes, to produce recycled-content products. The department has co-developed six technical papers and an implementation plan through the ARB's 2013 Scoping Plan Update. The current draft of the waste sector plan acknowledges that meeting waste reduction and greenhouse gas emission reduction goals will require adjustments in waste streams.

**Questions:**

1. How does this proposal meet the state's 75 percent recycling goal?

2. The department recently released a major reform to the beverage container recycling program which will impact the glass industry. Has the department considered using some portion of cap-and-trade funds as incentive payments to encourage more recycled glass and to modernize current glass-manufacturing plants to reduce GHGs?

3. With two to five loans per year, and repayment beginning immediately, how long does the department need to "seed" the revolving loan in order to make it a permanent source of funding?

## Emission Reductions through Agriculture

**Budget Proposal:**
**Item 8570: Department of Food and Agriculture (CDFA).**
The budget proposes $20 million to support the development and implementation of three specific programs at CDFA: (1) $12 million for a dairy digester research and development program to facilitate the design and construction of dairy digester systems; (2) nitrogen research and management program to fund research and technical assistance on reducing nitrous oxide emissions, nitrification inhibitors, water and nitrogen movement in the environment, and evaluation of water and nitrogen management practices; and, (3) an alternative and renewable fuels program to develop fuel quality specifications and standards for renewable and zero emission fuels, such as biofuels produced from dairy digesters and other agricultural waste.

This proposal anticipates the reduction of between 15,000 and 21,600 metric tons of $CO_2$ through the dairy digester program. The other programs do not specify a GHG reduction target but do include metrics for such measurement. This proposal includes metrics for measurement of GHG reduction and a specific target of 1-2 million metric tons of GHG reduction by the end of 2014-15.

**Background.** According to the department, methane emitted from dairy operations is approximately 21 times more potent than carbon dioxide as a greenhouse gas. Dairy digesters capture methane gas at dairy farms and convert it into energy in the form of electricity or fuel. Despite having the largest number of dairies of any state, there are only 15 dairy digesters in operation in California. New York, with fewer dairies and less land, has 22 digesters.

**Questions:**

1. As discussed on page two, the recent drought package includes $10 million for agricultural water efficiency projects that reduce greenhouse gas emissions. What is the difference in GHG reduction capacity of the agriculture sector between the proposals described above and water use efficiency throughout the agriculture sector?

2. The department’s proposal is focused largely on three aspects of agriculture, most of which have co-benefits related to biofuels. What other areas of agriculture did the department explore as it came up with its proposal and what are the relative GHG reduction amounts and co-benefits from those sectors?

3. Will the use of dairy digesters have any impact on water quality? If so, what?

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

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

**Thursday, April 3, 2014**
**9:30 a.m. or Upon Adjournment of Session**
**Hearing Room 112**

**Consultants: Farra Bracht**

# PART B

## PROPOSED DISCUSSION



**Resources—Environmental Protection—Energy—Transportation**

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

## 2665 High-Speed Rail Authority

**Department Overview:** The California High-Speed Rail Authority (HSRA) is responsible for directing the development and implementation of an intercity high-speed rail service that would be fully coordinated with other public transportation services. In November 2008, the voters approved Proposition 1A—the Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century—which allows the state to sell up to $9.95 billion in general obligation bonds to partially fund the development (such as planning and environmental review) and construction of a high-speed rail system.

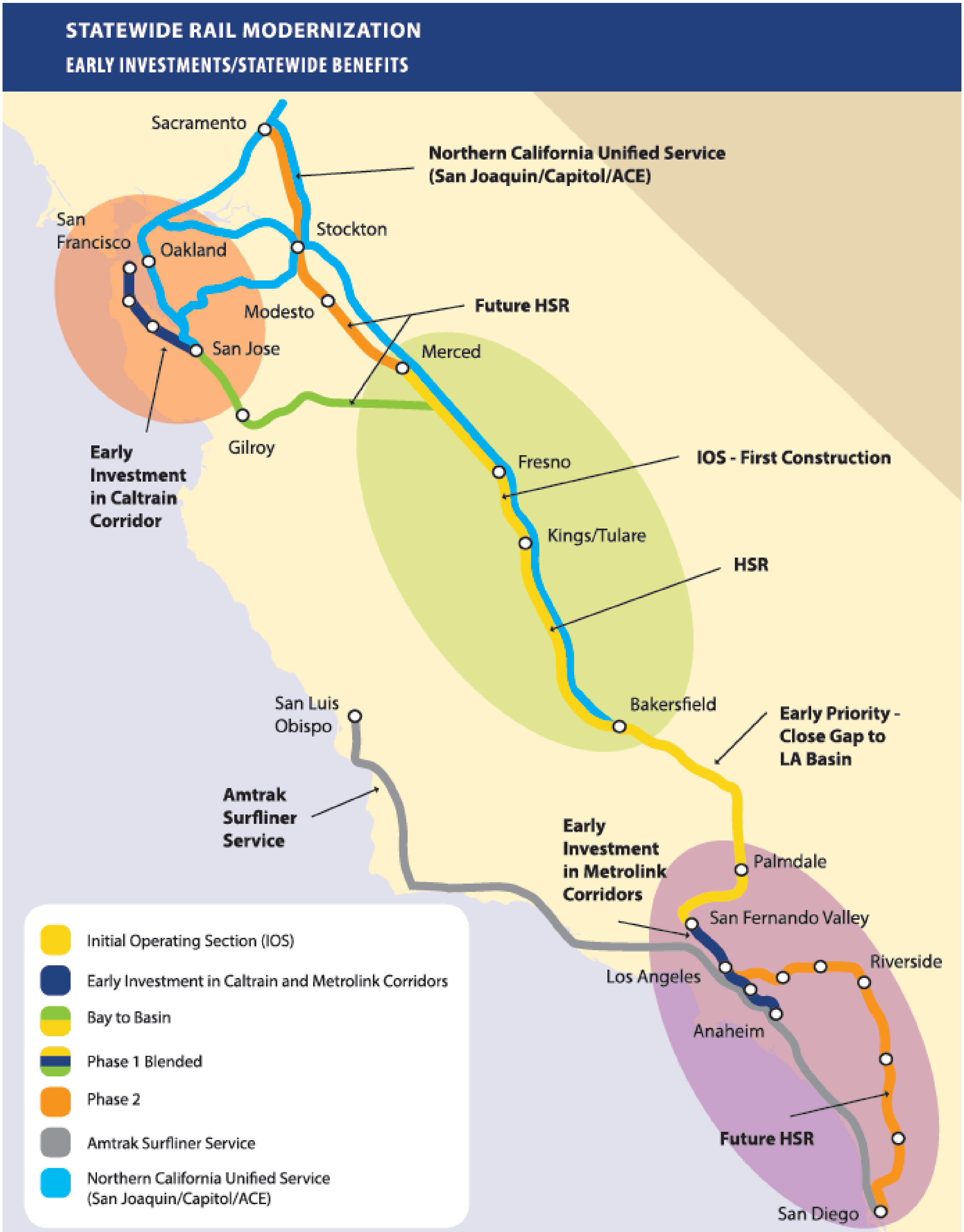
HSRA is led by a Chief Executive Officer, and governed by a nine-member board, five of whom are appointed by the Governor, two by the Senate Committee on Rules, and two by the Speaker of the Assembly. It currently has 177 authorized staff positions. The size of the department has more than tripled since 2012-13 and, as a result, has 60 vacancies that it is in the process of filling.

**Budget Summary:** The Governor's budget proposes a total of $1.4 billion to HSRA for the high-speed rail project in 2014-15. Of this amount, $250 million is from cap-and-trade auction revenue and $1.1 billion in federal funds. This is a funding increase of $770 million from the 2013-14 level. Most of the funding proposed for the budget year would be for the construction of high-speed rail.

**Background:** Under Proposition 1A, approximately $9.9 billion in general obligation bond funding is authorized for the project. Of this amount, $9.0 billion is for the high-speed rail system and $950 million to improve the connectivity of existing passenger rail systems with high-speed rail. Up to $450 million of the $9.0 billion is available for general administration and up to $675 million is available for initial construction activities, such as environmental studies and preliminary engineering; no match is required for this $1.1 billion. The remaining $8 billion is available for construction; however, a non-bond match of at least 50 percent is required for each corridor or segment. Since the approval of Proposition 1A, HSRA has been awarded $3.5 billion in federal funds from the Federal Railroad Administration (FRA). These federal funds require a substantial state match and $2.3 billion of these funds must be spent by September 30, 2017.

The bond act specifies certain characteristics for the design of the system, including electrified trains capable of sustaining speeds of no less than 200 miles per hour and capacity to achieve travel times between San Francisco and Los Angeles Union Station of two hours, 40 minutes.

The anticipated route of high-speed rail, including early investments in the Caltrain corridor in Northern California and in the Metrolink corridors in Southern California, is shown in the following figure.




Source: High-Speed Rail Authority

The Legislature has appropriated approximately $5.9 billion ($2.7 billion in Proposition 1A funds and $3.3 billion federal funds) for the high-speed rail project to begin development, right-of-way acquisition, and construction of the 130-mile Central Valley segment from Madera to just north of Bakersfield. However, Proposition 1A funding has not been available for expenditure because the State Treasurer's Office will not sell Proposition 1A bonds until legal uncertainties regarding the project are resolved through a "validation action" that was filed on the recommendation of the Attorney General. In the meantime, federal funds are being used for the project, and a loan of $26.2 million from the Public Transportation Account (PTA) was made in 2013-14 to provide short-term funding for the cost of state operations.

In an effort to better ensure that the federal funds ($2.3 billion) are spent by 2017, the HSRA and FRA negotiated an amendment to their existing grant agreement in 2012. Rather than having state funds match federal dollars as initially agreed upon, the amendment provides for a "tapered match" in which the FRA would reimburse the HSRA for up to 100 percent of project costs at the beginning of the project. This agreement provides sufficient federal funds for the initial construction of the project, particularly those costs that were planned to be funded with Proposition 1A funds.

## Items Proposed for Discussion (Informational Only)

### Item 1: Update on High-Speed Rail Project Construction, Environmental Clearances, and Expenditures

***Construction to Start in Central Valley in 2014.*** A notice to proceed was issued for construction package 1 (CP 1), a 29-mile stretch between Madera and Fresno, in October 2013, for an amount up to $78 million. This project is approaching final design. Appraisals have been completed for 317 of the 381 parcels needed for CP 1 and first offers have been made on 156 parcels, as of March 1, 2014. Other work currently being done in this area includes finalizing permits from partner agencies, working with Caltrans to realign portions of State Route 99, and continuing to pursue environmental clearances on a preferred alternative alignment for the Central Valley Wye. According to HSRA, it is on schedule to complete the first construction section by 2018.

Work is also being done on other segments in preparation for future construction. For example, for the 60-mile Fresno to Bakersfield segment, five teams qualified to submit formal design-build proposals in 2014. In addition, alignment alternatives are being explored for the Bakersfield to Palmdale segment.

***Work on Obtaining Environmental Clearances Continues.*** Obtaining environmental clearances in the requisite time necessary is important in order to avoid delays to construction. However, as can be seen in the table below, HSRA continues to experience delays partially due to review periods taking longer than anticipated. After some delays, the Fresno to Bakersfield draft environmental impact statement continues to move towards certification. This action will allow HSRA to begin negotiations with impacted land owners for property acquisition, purchase real property, and subsequently award design-build contracts.

**Projected Dates for Environmental Review Process Completion**

| Section | Record of Decision | Complete Construction |
|---|---|---|
| Merced-Fresno | June 2012 (COMPLETED) | 2018 |
| Fresno-Bakersfield | December 2012<br><br>Spring 2014 (REVISED) | 2018 |
| San Francisco-San Jose | December 2014<br><br>Summer 2017 (REVISED) | 2028 |
| San Jose-Merced | December 2013<br><br>Fall 2016 (REVISED) | 2026 |
| Bakersfield-Palmdale | February 2014<br><br>Fall 2015 (REVISED) | 2021 |
| Palmdale-Los Angeles | October 2013<br><br>Summer 2015 (REVISED) | 2028 |
| Los Angeles-Anaheim | December 2014<br><br>Spring 2016 (REVISED) | TBD |
| Merced-Sacramento (Phase 2) | TBD | TBD |
| Los Angeles-San Diego (Phase 2) | TBD | TBD |

***Expenditures to Increase Significantly in Budget Year.*** High-speed rail expenditures are expected to increase by $770 million to $1.4 billion in 2014-15, as shown below. Most of this increase is for capital outlay expenditures for the initial operating segment. By the end of 2013-14, HSRA estimates it will have spent about $1.2 billion on capital outlay and administrative expenditures combined. This amount includes $1.1 billion for capital outlay expenditures and $116 million on administration or project support costs.

**High-Speed Rail Authority Expenditures**
**(In Millions)**

| | 2010-11 | 2011-12 | 2012-13 | 2013-14 | 2014-15 |
|---|---|---|---|---|---|
| **State Operations** | | | | | |
| Various fund sources | $56.6 | $14.7 | $17.8 | $26.4 | $29.3 |
| **Local Assistance** | | | | | |
| Federal funds | | | | | 32.0 |
| **Capital Outlay** | | | | | |
| Proposition 1A | 92.5 | 64.2 | 27.3 | 22.0 | |
| Greenhouse Gas Reduction Fund | | | | | 250.0 |
| Federal Funds | 84.7 | 57.9 | 185.8 | 571.3 | 1,078.7 |
| **Totals** | **$233.8** | **$136.8** | **$230.9** | **$619.7** | **$1,390.0** |

**Questions:**

1. *Please provide an update on the project's construction progress, including the acquisition of right-of-way, and environmental approvals.*
2. *What are the greatest risks to the project, at this time?*

## Item 2: Update on Connectivity and Bookend Investments

**Background and Detail.** In 2012, the Legislature passed SB 1029 (Committee on Budget and Fiscal Review), Chapter 152, Statutes of 2012, which appropriated nearly $2 billion in Proposition 1A bond funds for transit, commuter, and intercity rail projects that strengthen and improve existing rail networks, while also eventually connecting them with high-speed rail. These funds will be used to leverage approximately $5 billion in additional funding for these projects. At this time, however, the pending lawsuit regarding the use of Proposition 1A bond funds has prevented the issuance of any bonds and, as a result, some of these funds cannot be spent.

Some of the specific projects funded by SB 1029 are described below. In addition, various improvements to the state's Amtrak lines are being funded.

***Caltrain Electrification and Positive Train Control.*** SB 1029 includes $705 million to install an electric rail system that will enable the replacement of diesel trains and connect the system with high-speed rail, resulting in cleaner, faster travel. The state investment will leverage funding bringing the total investment to $1.5 billion. SB 1029 also provides $42 million ($106 million total including Bay Area Rapid Transit (BART) and the Santa Clara Valley Transportation Authority contributions) for the design, installation, testing, and training for an intelligent network of signals. This system is required by federal regulations to improve train safety at higher speeds.

***BART-Millbrae Station Track Improvements and Car Purchase.*** SB 1029 provides $145 million to lengthen track at the Millbrae Station and for the purchase of new BART cars. This state investment will be matched with other funding for a total investment of $290 million.

***San Francisco Muni-Central Subway.*** SB 1029 provides $61 million to construct a 1.7 mile extension of the light rail line from the 4th and King Streets to Chinatown. The state investment helps leverage a total of $1.6 billion.

***Southern California Memorandum of Understanding.*** SB 1029 provides $500 million for regional rail projects that improve local networks and facilitate high-speed rail travel to Southern California. Projects will be selected by local transit agencies, along with HSRA, and state funding will be matched with additional investments to make the total investment in these projects $1 billion.

**Questions:**

1. *Please provide an update on connectivity and bookend investments.*

2. *What is the impact on bookend projects of Proposition 1A bond funds not being available for expenditure at this time?*

3. *Would the Governor's cap-and-trade expenditure proposal allow for the use of cap-and-trade funds for bookend or connectivity projects?*

**Item 3: Update on Legal Challenges**

In the High-Speed Rail Project Update Report, issued March 1, 2014, the HSRA provided the following update on three major court challenges to the project:

***High-Speed Rail Authority v. All Persons Interested*** **(Filed in Sacramento Superior Court on March 19, 2013.)** On November 25, 2013, the Court denied HSRA a validation judgment. On January 24, 2014, HSRA filed a Petition for Extraordinary Writ with the California Supreme Court to revise the Superior Court's denial to validate the bond funds. On February 14, 2014, the appellate court announced that it will take up the state's request for expedited review. The opposition brief was due on March 17, 2014, and HSRA's reply is due April 1, 2014.

***John Tos, Aaron Fukuda, and the County of Kings v. California High-Speed Rail Authority*** **(Filed in Sacramento Superior Court on November 14, 2011.)** On November 23, 2013, Judge Kinney ordered that the HSRA rescind its November 2011 funding plan. In January 2014, the HSRA, the Department of Finance, the State Treasurer, and the Transportation Agency filed a Supreme Court Extraordinary Writ to overturn the Superior Court Ruling. On February 14, the appellate court announced that it will take up the state's request for expedited review. The opposition brief was due on March 17, 2014, and HSRA's reply is due April 1, 2014.

***Town of Atherton v. California High-Speed Rail Authority*** **(Appealed to the Third Appelate District, April 13, 2012.)** In November 2011, the Sacramento County Superior Court ruled HSRA had complied with the environmental review requirements in CEQA for the Bay Area to Central Valley EIR/EIS and that the public was adequately engaged in the environmental review process. The plaintiffs are appealing this ruling. The HSRA has since provided notice that the Surface Transportation Board decision to take over jurisdiction of the project which may preempt State laws, including CEQA.

**Questions:**

1. *Please provide an update on the three legal challenges described above.*

## Items Proposed for Discussion

**Item 4: Public Transportation Account (PTA) Loan to Cover State Operations Costs (Governor's January BCP #1)**

The HSRA is requesting the use of $29.3 million from the PTA to fund its 2014-15 state operations budget which includes administration, program management, outreach and communications, and fiscal and other external contracts.

**Background.** The PTA typically provides state funding for highways, local roads, and transit programs. Funds in the PTA come from the sales tax on diesel and are split between the state and local transit agencies according to a statutory formula that is applied by the State Controller. In 2013-14, the HSRA borrowed $26.2 million from the PTA to support its operations.

The current fund condition statement for the PTA in the Governor's January budget shows a reserve of $305.2 million in 2014-15, after the proposed loan to HSRA. This amount takes into account revenue projections and current cash needs of existing projects. In addition, the forecast of the fund condition for the PTA through 2017-18 estimates a fund balance of $235.7 million in 2017-18.

**LAO Comment.** To help ensure that the high–speed rail project can be completed as planned, while balancing other priorities such as maximizing GHG emission reductions, the LAO recommends the following:

- ***Require Administration to Provide Complete Funding Plan.*** The LAO recommends the Legislature require the Administration and HSRA to provide a funding plan that identifies all the funding sources (including cap-and-trade auction revenues), by amount and year, that would be used to complete the IOS.

- ***Withhold Action on Various Proposals.*** Pending the receipt of the above funding plan, the LAO recommends that the Legislature withhold action on the Governor's high-speed rail proposals (including those proposed for the California Public Utilities Commission and the Department of Conservation).

**Staff Comment.** If this additional PTA loan is approved, HSRA will have borrowed a total of $55.5 million from the PTA to support its operations. The current PTA balance is sufficient to meet the cash-flow needs of existing projects and a delayed PTA loan repayment would not result in a delay to current projects. The LAO recommends that the Legislature hold this item open until it has received a funding plan from HSRA that identifies all the funding sources (including cap-and-trade auction revenues), by amount and year, that would be used to complete the IOS ($31 billion).

**Questions:**

1. *According to the Department of Finance, there is enough funding on hand in the Public Transportation Account to fund the current cash needs of existing projects. What does that mean?*
2. *If the PTA funds were not borrowed by HSRA, could additional projects be completed?*
3. *Must this loan be repaid? If Proposition 1A bonds are not able to be sold to fund the repayment of this loan, what would be the source of funding for repayment?*

**Staff Recommendation.** Hold open.

**Item 5: Southern California Improvements (Governor's January BCP #2)**

The HSRA is requesting $32 million in federal local assistance funds for infrastructure projects and improvements that will prepare the Southern California passenger rail corridors for connectivity to high-speed rail service.

**Background and Detail.** In the original ARRA grant award for high-speed rail with the Federal Railroad Administration (FRA), $32 million was set aside for the HSRA and the Los Angeles County Metropolitan Transportation Agency (Metro) to purchase the Los Angeles Union Station (LAUS). However, this purchase did not go forward as intended and Metro purchased LAUS with its own funds. Improvements to the site are still necessary to accommodate high-speed rail and facilitate connectivity between high-speed rail and regional passenger rail service.

The Authority has proposed a grant amendment (Amendment #6) to the FRA which would allow HSRA and Metro to use the $32 million for improvements necessary to accommodate high-speed rail along the corridor into the LAUS site, as well as for improvements at the LAUS site. These one-time ARRA funds would be supplemented with a local agency match of $48 million as required by the grant agreement. The ARRA funds must be spent by September 30, 2017. The HSRA anticipates this agreement will be in place by July 1, 2014.

Projects that could be funded include the Doran Street Grade Separation and the Southern California Regional Interconnector Project.

**Staff Comment.** Without the transfer of these dollars to fund improvements in the Southern California passenger rail corridors, the $32 million in federal funds would go unexpended until another project is identified, or the funding would revert back to the FRA. The use of these funds is consistent with the steps that the Legislature has already taken to provide funding specifically for projects in the bookends that support the implementation, ridership, and operations requirements for high-speed rail service.

**Questions:**

1. *When would construction of these improvements begin?*

2. *Who determines which projects receive funding?*

3. *What actions are being taken to ensure that these ARRA funds are spent by September 30, 2017?*

**Staff Recommendation.** Hold open.

***Senate Budget and Fiscal Review—Senator Mark Leno, Chair***

**SUBCOMMITTEE NO. 2** **Agenda**

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

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

**Consultant: Catherine Freeman**

**<u>Items Proposed for Discussion</u>**



**<u>Items Proposed for Discussion</u>**



**Resources—Environmental Protection—Energy—Transportation**

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## *DEPARTMENTS PROPOSED FOR VOTE ONLY*

### 3980 Office of Environmental Health Hazard Assessment

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

**Staff Recommendation:** Approve Item 1.

# 3900 California Air Resources Board

The Air Resources Board has primary responsibility for the protection of air quality in California, as well as implementation of the California Global Warming Solutions Act of 2006 (AB 32). This responsibility includes establishing ambient air quality standards for specific pollutants, administering air pollution research studies, evaluating standards adopted by the US Environmental Protection Agency and developing and implementing plans to attain and maintain these standards. These plans include emission limitations for vehicular and industrial sources established by the Board and local air pollution control districts.

The Governor's budget proposes $801 million and 1,344 positions for support of the board. This is an increase of 45 percent over current year expenditures. The significant increase is due both to the implementation of greenhouse gas reduction programs and continued implementation of Proposition 1B bond programs.

### *Items Proposed for Vote-Only**

1. **Advanced Clean Cars Program.** Request for $577,000 and 3.5 positions (Motor Vehicle Account) to implement the Advanced Clean Cars (ACC) program and enhance the evaporative regulation portion of the ACC program due to proposed changes by the US Environmental Protection Agency.

2. **Continuation of the Implementation of Proposition 1B.** Request for a three-year appropriation of $240 million from reverted bond authority for the Goods Movement Emission Reduction Program established in the bond measure.

3. **Funding Shift—Portable Equipment Registration Program.** Request to realign funding from reimbursement authority to the Air Pollution Control Fund for the Portable Equipment and Registration program (net zero cost to the state).

4. **Heavy-Duty Trucks: On-Board Diagnostics Implementation and Enforcement.** Request for $1.23 million (Motor Vehicle Account) and seven positions to implement the heavy-duty, on-board diagnostic regulation in order to meet both state and federal emission requirements.

**Recommendation:** Approve Items 1-4.

**Note: Proposals related to Cap and Trade expenditures, regulation and administration will be held until May Revision.*

***Item Proposed for Discussion***

## Implementation of SB 4—Hydraulic Fracturing

**Background.** As discussed at the March 20 hearing under the Department of Conservation (DOC) budget item, SB 4 (Pavley), Chapter 313, Statutes of 2013, requires the regulation of oil and gas well stimulation treatments such as hydraulic fracturing. The legislation requires, among other things, the development of regulations (which we discuss in more detail below), a permitting process, and public notification and disclosure of wells that will undergo hydraulic fracturing and acid matrix stimulation and the types of chemicals used for these processes. The legislation also states that workload associated with its implementation can be funded by the Oil, Gas, and Geothermal Administrative Fund (OGGAF). The OGGAF is funded through a fee administered by the Division of Oil, Gas, and Geothermal Resources (DOGGR), within the Department of Conservation. The fee is designed to recover the division's costs to regulate oil and gas extraction in the state. The fee is currently assessed at $0.14 per barrel of oil produced or 10,000 cubic feet of natural gas produced in the state.

**Budget Proposal.** The budget requests $300,000 in contract funding and six positions (OGGAF) for the Air Resources Board (ARB) to develop regulations to control and mitigate GHG emissions, "criteria pollutants," and toxic air contaminants resulting from well stimulation.

**LAO Analysis.** "The Administration's proposal to provide ARB with positions and contract funding to develop regulations to control and mitigate GHG emissions, criteria pollutants, and toxic air contaminants related to well stimulation raises questions regarding legislative intent and workload justification. Senate Bill 4 only requires monitoring of air quality in areas where well stimulation occurs. The legislation does not explicitly direct ARB or any other agency to develop regulations to control or mitigate emissions resulting from well stimulation. Thus, it is unclear if the proposed funding and positions for ARB are consistent with the intent of SB 4. We also note that, under state and federal authority, local air districts currently regulate emissions from wells. In fact, it appears that some air districts are already monitoring emissions that occur with well stimulation, potentially resulting in some duplication of effort between ARB and local boards. In addition, it is unclear why the Governor's budget is proposing to provide ARB with ongoing resources for activities that primarily constitute one-time workload in developing regulations." The LAO does not provide a recommendation to approve or deny the budget proposal.

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

**Staff Recommendation:** Deny.

***Item Proposed for Discussion***

## Diesel Emission-Related Proposals

**Background.** In 1998, California identified diesel exhaust particulate matter (PM) as a toxic air contaminant based on its potential to cause cancer, premature death, and other health problems. Diesel engines also contribute to California's fine particulate matter (PM 2.5) air quality problems. Those most vulnerable are children whose lungs are still developing and the elderly who may have other serious health problems.

The ARB is statutorily charged with regulating air pollution from mobile and stationary sources within the state to meet both state and federal clean air standards. Mobile sources include on-road vehicles (trucks, buses, etc.), off-road vehicles and equipment (locomotives, tractors, cargo handling equipment, construction equipment, etc.), and marine vessels (recreational watercraft, commercial harbor craft, and ocean-going vessels). Stationary engines are used in emergency-standby generators, prime generators, and agricultural irrigation pumps.

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

1. **Enforcement of Diesel Emissions Reduction Regulations.** Request for $1.2 million (Motor Vehicle Account) to support increasing workload related to both state and federal diesel emission enforcement requirements. These enforcement rules ensure a level playing field among the regulated community. Industry groups are assisting the ARB to ensure their investments are protected from those who are not in compliance.

2. **Diesel Emission Regulation Implementation Support.** Request for $682,000 (Motor Vehicle Account) and four positions to meet regulatory implementation and outreach needs related to the phase-in of diesel regulations affecting trucks, trailers, and small fleet owner/operators. This would allow the affected industry timely responses to questions and enforcement actions, and would provide education opportunities for those affected by the rules.

3. **Verification Regulations for Diesel Retrofits**. Request for $187,000 (Motor Vehicle Account) and one position to implement the requirements for in-use strategies to control emissions from diesel engines. The rule strengthens the deployment of retrofits by adding new installation reporting, enhanced product warranty reporting for retrofit manufacturers and recall provisions.

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

**Staff Recommendation:** Approve Items 1-3.

# 3940 State Water Resources Control Board

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

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

### *Items Proposed for Vote-Only*

1. **401 Water Quality Certification Program Compliance Monitoring.** Request for $983,000 (Waste Discharge Permit Fund) and ten positions, to address recommendations made by the California State Auditor regarding the need for more consistent compliance monitoring and improved project record keeping.

2. **Department of Defense Fund Shift from Federal Fund Authority to Reimbursement.** Request to shift $3.9 million and 19.1 positions (including $500,000 contract authority) from federal trust fund spending authority to reimbursement spending authority to continue the ongoing oversight of cleanup activities at US Department of Navy facilities.

3. **Technical Bond Adjustments.** The budget proposes several technical bond adjustments in Propositions 13, 40, 50, and 84, to ensure expenditures and reappropriations are allocated for the purposes specified in the bond.

4. **Fund Shift for the State Water Pollution Control Revolving Fund (SWPCRF).** The budget requests a permanent fund shift of $3.6 million in state operation authority and seven existing positions from the Federal Capitalization Grant to the SWPCRF-Administrative Fund.

5. **Underground Storage Tank Cleanup Fund (USTF)—Expiration of the Temporary Fee Increase and Orphan Site Cleanup Fund Technical Adjustments.** The budget proposes a decrease of $48 million in state operations from the USTF due to the expiration of the temporary storage fee increase. The budget requests technical adjustments to revert unencumbered funds, and appropriate these funds pursuant to the original statute.

6. **Technical Adjustment—Surface Water Ambient Water Monitoring Program (SWAMP) Administration.** The budget proposes 12 positions (federal funds) from the US Environmental Protection Agency Clean Water Act, Section 106 Grant) to manage the SWAMP activities. This proposal does not require additional funding as it redirects existing contract funds currently used for this purpose.

7. **April Finance Letters and Drought Actions—Technical Budget Adjustments for Drought-Related Activities.** SB 103 (Committee on Budget), Chapter 2, Statutes of 2014, accelerated several of the Governor's proposals related to groundwater and water quality. The Finance Letter requests technical adjustments to provide the continuing funds for the programs previously approved.

8. **Leviathan Mine Combined Treatment—Spring Finance Letter.** The Governor's budget requests $789,577 (General Fund) and 1.5 positions to conduct treatment activities needed to respond to ongoing federal obligations. This will implement a more effective interim solution at the Leviathan Mine Superfund site owned by the State of California. This proposal is consistent with the long-term obligation of the state at the mine.

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

**Recommendation:** Approve Items 1-8.

## *ITEMS PROPOSED FOR DISCUSSION*

### Reorganization of the Drinking Water Program

### CURRENT REGULATION OF DRINKING WATER

**Department of Public Health Drinking Water Program.** The Department of Public Health (DPH) administers the federal Safe Drinking Water Act (and the parallel state statute). The DPH's overall programs are involved in a broad range of health-related activities, such as chronic disease prevention, communicable disease control, regulation of environmental health (including drinking water quality), and inspection of health facilities. The department's drinking water program (DWP) regulates 5,700 public water systems serving more than 15 service connections or 25 people. The department also oversees water-recycling projects, permits water treatment devices, and provides various technical assistance and financial assistance programs for water system operators—including bond and federally-funded programs for infrastructure improvements in public water systems—to meet state and federal safe drinking water standards. The department administers a revolving loan fund for water treatment infrastructure improvements that is funded by the US Environmental Protection Agency (US EPA). The department responds to drinking water emergencies and provides oversight, technical assistance, and training for local water agencies.

**State Water Resources Control Board.** The State Water Resources Control Board (SWRCB or board) and the nine semi-autonomous regional boards, administer the federal Clean Water Act (and the parallel state statute). Specifically, the board regulates the overall quality of the state's waters, including groundwater, to protect the beneficial uses of water by permitting waste discharges into water and enforcing water quality standards. The board administers the state's system of water rights and provides financial assistance to fund wastewater system improvements, underground storage cleanups, and other improvements to water quality. The board also administers a similar revolving loan fund for wastewater infrastructure improvements that is funded by the US EPA.

**Other State Agencies Involved with Water Supply and Drinking Water.** Seven state governmental departments have responsibility over the quality of the state's water; however, the DPH is the only state agency responsible for the quality of the state's *drinking* water. For example, the California Environmental Protection Agency (Cal-EPA) coordinates regulatory functions guiding environmental quality and public health. These entities generally focus on setting allowable concentrations of pollutants, issuing permits, and ensuring compliance with relevant statutes. A summary of state agency responsibilities is shown in the following table.

### State Agencies Involved with Water Supply/Drinking Water

| Department | Key Water Quality Responsibilities |
|---|---|
| Department of Public Health | • Enforces the federal and state safe drinking-water acts.<br>• Ensures the quality of the state's drinking water from the point where water is pumped from a drinking water well or surface water intake point. |
| California State Water Resources Control Board and Regional Water Quality Control Boards | • Protects the quality of surface water and groundwater to the point where the water enters a drinking water well or surface water intake point. |
| California Department of Pesticide Regulation | • Develops mitigation measures to prevent pesticide contamination of groundwater and surface water. |
| California Department of Toxic Substances Control | • Ensures that groundwater and surface water at toxic sites is monitored and remediated. |
| Office of Environmental Health Hazard Assessment | • Performs health risk assessments related to setting drinking water standards. |
| California Public Utilities Commission | • Ensures that customers of regulated water utilities receive reliable service. |
| Delta Stewardship Council | • Improves Sacramento-San Joaquin Delta water quality for drinking, agriculture, the environment, and Delta species. |

Source: Senate Office of Research, 2011

## CONCERNS RAISED ABOUT THE CURRENT DRINKING WATER PROGRAM

**LAO Concerns with the Drinking Water Program (DWP).** According to the LAO, several concerns with the DWP were raised by stakeholders and others, prompting an evaluation of the current governance structure of the state's drinking water programs. These concerns include:

- The current location of the DWP within in DPH results in a lack of integration with overall water quality management.
- The DWP's slow rulemaking process has delayed progress in meeting legislative goals, such as developing regulatory criteria for the use of recycled water, and distributing financial assistance.
- The level of fees assessed by the DWP may not be sufficient to generate adequate administrative resources.
- The current structure of decision-making in the DWP may not be sufficiently transparent.

**US EPA is Critical of DPH Financial Assistance Programs**. There has been a slow distribution of financial assistance by DPH, for projects that enable public water systems to comply with safe drinking water standards. Specifically, the US EPA issued a notice to DPH for non-compliance with the Safe Drinking Water Act, its implementing regulations, and the terms and conditions of the department's revolving loan fund grant agreements funded by US EPA for federal fiscal years 2009 and 2011. In the spring of 2013, the US EPA determined that the department had not expended the funds in the revolving fund, in a timely or efficient manner, nor employed adequate financial resources to operate the fund in a sound financial manner, in violation of the terms and conditions of the grant agreements. The US EPA approved the department's corrective action plan in July 2013, and has been working with the department on allocating these funds in a more timely manner.

## GOVERNOR'S PROPOSAL

**Proposal to Shift Drinking Water Program to Water Board.** The Administration proposes to transfer the Drinking Water Program (DWP) from DPH to the SWRCB. As a precursor to this proposal, the Administration hosted a series of stakeholder meetings and convened a reorganization task force to solicit feedback on the proposal. The Administration plans to prepare a transition plan in February 2014, that will take into account the efforts to date. The proposal includes:

- **Drinking Water Program Reorganization.** The budget proposes to shift 291 positions and $202 million ($5 million General Fund) from DPH to the SWRCB, and includes an additional $1.8 million (General Fund) for one-time funds for technology and facility costs. The proposal shifts all programs (described below) and combines certain financial assistance programs.
- **Local Assistance Programs.** The proposal also includes a request for $110.3 million local assistance appropriation, and $209,000 state operations appropriation for a two-year extension of two limited-term positions due to expire on June 30, 2014.

- **AB 21 Implementation.** The budget requests $93,000 (General Fund) and one position to promulgate rulemaking packages and develop other guidance documents related to AB 21 (Alejo), Chapter 628, Statutes of 2013. AB 21 authorizes the department to assess a fee in lieu of interest on loans for water projects made pursuant to the Safe Drinking Water State Revolving Fund. AB 21 authorizes the department to expend the money for grants for specified water projects that serve disadvantaged and severely disadvantaged communities, thereby making an appropriation.

**April Finance Letters.** The Governor amended his January proposal to include two finance letters related to the reorganization:

- **Regulating Small Water Systems in Merced and Tulare Counties.** The budget request for $619,000 (Safe Drinking Water Fund) for five positions to perform regulatory oversight of public small water systems in Merced and Tulare counties.

- **Continuation of the Recycled Water Program.** The budget requests $498,000 (Waste Discharge Permit Fund) to support three two-year, limited-term positions to continue work begun by the Department of Public Health to adopt Phase II of the uniform water recycling criteria for surface water augmentation, and to investigate the feasibility of developing uniform water recycling criteria.

**Regulatory Program.** The proposal seeks to consolidate all water quality regulation within one state agency. The DWP would be organized as a separate division under the SWRCB. Program regulatory staff would remain in locally-based offices and would not be integrated with the regional boards. The division would be overseen by a deputy director who would be required to have public health expertise and who would report directly to the executive director. The deputy director would have the authority to grant or deny water system permit applications. These decisions would not be subject to board review, nor would permit issuance and enforcement be delegated to the regional water boards. The proposal does not include a proposal to extend statutorily-mandated minimum penalties for waste discharge violations to drinking water violations.

**Maximum Contaminant Level (MCL)-Setting.** MCLs are currently adopted as regulations by DPH. These are the health protective drinking water standards to be met by public water systems. MCLs take into account chemicals' health risks; factors, such as their detectability and treatability; and, costs of treatment. The MCLs would continue to be established through the regular rulemaking process under the Administrative Procedures Act. The deputy eirector would follow existing rulemaking procedures and the SWRCB would act on the proposed regulations in a public meeting, after which they would be subject to Office of Administrative Law review.

**Recycled Water.** As a result of this reorganization, the DPH functions related to recycled water would be coordinated through the SWRCB permit process. The board does not propose to change how these permits are issued, but proposes to seek opportunities for more efficient and effective permitting of recycled water, as required by SB 322 (Hueso), Chapter 637, Statutes of 2013.

**Emergency Response.** The proposal plans to maintain the existing local emergency response structure of the DWP, including rotating district office duty officers, under the new division. The division would become part of the Cal-EPA Emergency Response Management Committee, which is Cal-EPA's coordinating body that assists in emergencies requiring cross-department or cross-agency solutions. For emergencies affecting water quality, such as sewage or chemical spills, the DWP would coordinate with the regional boards.

**Operator Certification.** The SWRCB plans to jointly manage both operator certification programs within the Division of Financial Assistance (already existing at SWRCB). This will allow the DWP to take advantage of the SWRCB's new web-based data management system for wastewater operators and would expand this system to include drinking water operators.

**Financial Assistance Programs**. The proposal plans for the SWRCB to jointly manage the Clean Water and Drinking Water State Revolving Funds (SRFs) and both bond programs (Propositions 50 and 84) within the Division of Financial Assistance. This proposal will likely require statutory and regulatory changes to harmonize the programs. The division would combine the programs to streamline water quality infrastructure financing, in particular for application assistance for disadvantaged communities.

## LAO ANALYSIS OF DRINKING WATER PROGRAM SHIFT OPTIONS

In two separate requests from the Legislature, the LAO has analyzed two options for the transfer of the drinking water program away from DPH and to the Cal-EPA. The first option is the possible shift of the program to the State Water Resources Control Board (SWRCB). The LAO was also asked to evaluate a shift of the program to a stand-alone office at Cal-EPA, such as is the case with the Office of Environmental Health Hazard Assessment.

According to the LAO, the Federal Clean Water and Safe Drinking Water acts allow states significant flexibility in how they structure their water management agencies. For example, 30 states have consolidated drinking water and water quality programs in a single entity. Some states have also consolidated their water quality-related revolving loan programs in agencies that focus solely on providing financial assistance. Below, the LAO describes the potential advantages and disadvantages of the two options it was asked to review.

**Potential *Advantages* of Shifting the Drinking Water Program to SWRCB.** Transferring the DWP to the SWRCB could address several key concerns raised about the current DPH-run program as outlined below.

- **Greater Policy Integration on Water Issues**. Consolidating the functions of the DWP with SWRCB's water quality and water rights regulatory activities could increase the effectiveness of the state's water regulation activities by addressing water issues more comprehensively. For example, there would be a more coordinated focus on the sources of pollution and their effects on drinking water. In addition, there may be opportunities to streamline permitting processes for entities that are currently regulated by both the DWP and SWRCB.

- **Potential for Accelerated Rulemakings.** The SWRCB is authorized to make some changes to rules by updating its policy handbook—an annual process that allows for public participation through board meetings, and that can be faster than making changes to regulations that are subject to the Administrative Procedures Act, such as the DWP's rulemakings.

- **Potential for Efficiencies and Increased Administrative Capacity.** Consolidation of the SWRCB's clean water and DPH's safe drinking water financial assistance programs could increase efficiency and increase administrative capacity through economies of scale. In addition, SWRCB appears to use its existing fee authority to support program administration to a greater extent than DPH. For example, DPH has the authority to bill water systems for the costs associated with processing financial assistance applications, but it does not currently do so. The SWRCB, on the other hand, exercises its authority to assess fees on loan applicants. These factors suggest that a SWRCB-administered drinking water program may be more likely to have the administrative resources required to adequately run the program and get financial assistance out the door in a timely manner.

- **Potential for Increased Transparency and Greater Public Participation.** The SWRCB's board structure provides regular, structured opportunities for comments on proposed rules or other issues from all interested parties in a public process.

**Potential *Disadvantages* of the Shifting Drinking Water Program to SWRCB.** The LAO raised concerns about the potential shift relative to other public health programs, costs associated with the reorganization, and possible disruption to certain services as described below:

- **Loss of Some Integration with Public Health Programs.** Transferring the DWP away from DPH may result in a loss of some integration of drinking water activities with other public health programs, such as those that monitor infectious diseases (including waterborne illnesses), and incidences of birth defects and cancer.

- **Temporary Disruption to Activities.** Transferring the DWP to the SWRCB may result in disruptions that temporarily reduce the program's capacity to perform regulatory activities. For example, the existing relationships between the DWP staff and local primacy agencies may be disrupted.

- **Potentially Increased, Mainly Short-Term, Costs.** These costs could include relocation expenses, increased personnel costs from consolidation of classifications, and costs to integrate information technology systems.

**Potential Relative *Advantages* of Shifting the Drinking Water Program to Cal-EPA.** Transferring the DWP to a stand-alone entity under Cal-EPA could have several advantages when compared to transferring it to SWRCB, including: (1) less disruption to the current activities of both SWRCB and the DWP, (2) greater focus within the agency on drinking water policy and public health, and (3) potentially greater visibility for drinking water issues, as described below:

- **Less Disruption to Current Activities.** As previously noted, transferring the DWP to SWRCB could result in some temporary disruption to the activities of SWRCB as it integrates the new drinking water activities and related personnel into its existing operations, and some temporary disruption to the DWP activities as DWP staff move from their current location into a new entity. While some disruption to DWP activities would still occur if the DWP were transferred to a stand-alone entity under Cal-EPA, that disruption may be lessened to the extent that the existing the DWP organizational structure remains largely intact.

- **Greater Internal Focus on Drinking Water Policy.** A stand-alone entity would inherently have a greater drinking water and public health focus than if the DWP were to be transferred to SWRCB. A stand-alone entity would focus exclusively on drinking water issues, whereas the SWRCB is required by statute to balance all beneficial uses of water, such as drinking water supply, agricultural supply, and environmental uses.

- **Potentially Greater Visibility for Drinking Water Issues.** Transferring the DWP to a stand-alone entity could increase the visibility of drinking water issues in policy discussions. First, there would be fewer layers of administration between the DWP and the Governor, potentially allowing the new entity to more effectively advance its perspective on policy issues within the Administration. In addition, establishing a stand-alone entity could signal that drinking water policy is a legislative priority.

**Potential Relative *Disadvantages* of Transfer of the Drinking Water Program to Cal-EPA.** Creating a stand-alone entity to house the DWP could have several disadvantages, relative to moving the program to SWRCB, including: (1) less integration of drinking water policies with other areas of water policy, (2) increased administrative costs and reduced potential for efficiencies, and (3) less effective financial assistance programs. These disadvantages stem, in part, from forgoing potential benefits that could be achieved by transferring the program to SWRCB.

- **Less Integration with Other Areas of Water Policy.** Transferring the DWP to a stand-alone entity in Cal-EPA could increase coordination to some degree among drinking water activities and SWRCB's water quality and water rights activities. This is because both entities would be housed under the same agency that could provide overarching policy guidance. However, the coordination and resulting benefits would be less than if the DWP were integrated into SWRCB. For example, different decision-makers would be setting policy on the quality of water supplies (such as groundwater) and the quality of drinking water. Therefore, some opportunities to recognize problems or develop innovative solutions could be lost.

- **Increased Administrative Costs and Reduced Potential for Efficiencies.** As described above, establishing a stand-alone entity could increase net costs by $6 million per year because of the need for additional administrative personnel and related operational expenditures. In addition, such an entity might not achieve the same potential efficiencies through economies of scale that could result from consolidating the SWRCB's clean water and DPH's safe drinking water financial assistance programs. Both the DWP and the SWRCB support some of their activities through fees levied on water service providers. Fees charged by a stand-alone entity would likely be higher because additional funding would be required to cover the added administrative costs and lost potential for economies of scale described above.

## Issues for Legislative Consideration

**Does this Proposal Address the Problem of Poor Drinking Water?** Among the many issues raised by stakeholders during the discussion about program reorganization is the ongoing issue of poor drinking water in certain parts of the state. As seen in the figure below, parts of the Central Valley have ongoing water quality problems that result in a complete lack of safe drinking water. These issues have been well-documented but have not been sufficiently addressed. This problem is not isolated to the Central Valley and persists in lower-income and disadvantaged communities. The Legislature should consider whether there are further reforms that the budget or policy committees should consider as part of this reorganization proposal.

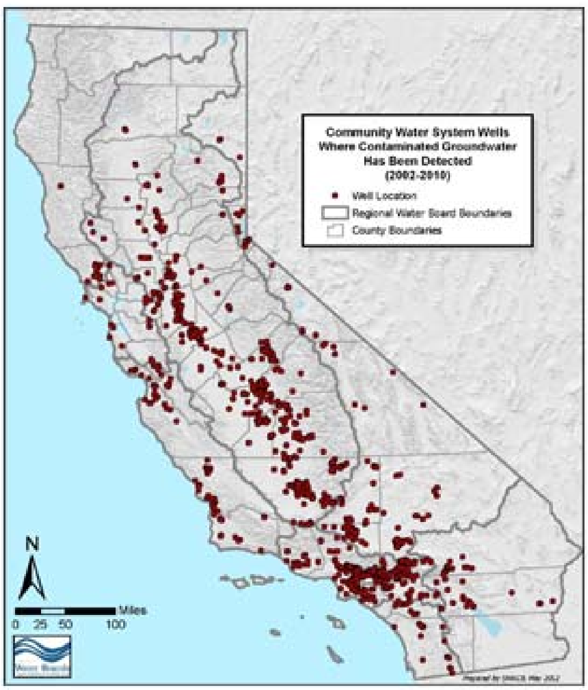



**Figure 3: Active Community Water System Wells Where Contaminated Groundwater Has Been Detected Above an MCL Two or More Times between 2002 and 2010 (1,659 Wells / 680 Community Water Systems)**

Source: State Water Resource Control Board, 2013.

**Should the Other Environmental Health Programs Shift to Cal-EPA?** The LAO has laid out a series of potential advantages and disadvantages of shifting the DWP to either the SWRCB or to a stand-alone office at Cal-EPA. While both have merit, a third option may be possible. The Governor's budget proposal attempts to address many of the concerns raised about governance, rulemaking, and public participation. However, it does not suggest further shifts of environmental programs housed in DPH to Cal-EPA. The DWP is currently housed within DPH's Center for Environmental Health, in the Division of Drinking Water and Environmental Management. Within this division are the environmental health programs that regulate the generation, handling, and disposal of medical waste;

oversees the disposal of low-level radioactive waste; and protect and manage food, drug, medical device, and radiation sources. The Legislature may wish to consider both the Governor's proposal, as well as options to shift these other programs to entities within Cal-EPA. For example, shifting the environmental health programs remaining at DPH to the Office of Environmental Health Hazard Assessment (OEHHA) at Cal-EPA may result in efficiencies and would address the concern about splitting up environmental health programs. OEHHA may also be a more appropriate entity to set standards for MCLs and assess emerging contaminants, such as endocrine disrupters.

**Transparency and Public Participation.** The SWRCB provides regular, structured opportunities for comments on proposed rules or other issues from all interested parties in a public process. The governance structure of a stand-alone drinking water entity would partly determine whether it could achieve the same transparency and opportunities for public participation. For example, if the new entity had a single department head, public participation and transparency could be reduced relative to that which would be achieved if the DWP were transferred to SWRCB; but if it was created to mirror the board structure of SWRCB, the same benefits might be achieved. Alternatively, opportunities for public participation could be built into the new entity, as is done with some other Cal-EPA agencies. The Legislature should evaluate whether or not the budget proposal allows for sufficient transparency and public participation for the drinking water program.

**Opportunity for Fee Reform.** During the earlier discussion of the proposed shift of the DWP to the SWRCB, concerns were raised about the differences in the way the two entities fund their programs. For the most part, the SWRCB issues permits with a specific up-front cost that is designed to meet regulatory needs. Contrarily, the DPH fee program consists of a mix of up-front fees and payment in arrears for service. While there are advantages to both, it would seem that having surety of an up-front cost might be a better option to fund basic regulatory programs that would allow both the program and the fee-payer assurance of costs annually. The Legislature may wish to consider how the two programs' fee structures should be integrated.

**Staff Comments.** Staff concurs with the need for the drinking water program reorganization in general. The Administration should be prepared to address the issues for legislative consideration included in the agenda. In particular, concerns have been raised by stakeholders regarding the board's ability to effectively address ongoing water contamination issues in the poorest parts of the state. The subcommittee should consider ensuring that the trailer bill requires the deputy director over the DWP be appointed by the Governor and subject to legislative confirmation. As discussed in numerous legislative hearings, community water systems with contamination are generally clustered in the poorest parts of the state where residents have the least ability to provide improvements to the systems that serve them. Staff are concerned that even with the shift to the SWRCB, the ability of the poorest residents to access clean water will continue to be a problem.

**Staff Recommendation.** Hold open.

## Groundwater Resource Protection

**Background.** According to the LAO, the potential to use groundwater to increase water supply, either by introducing water from another source into the ground as a storage basin or encouraging the natural refilling of groundwater basins, is a significant option to address water supply needs. However, there are potential barriers to this water reliability strategy. Communities are increasingly discovering that many primary groundwater basins are contaminated. Pollution from industrial activities (such as military facilities), commercial businesses (such as dry cleaners), leaking underground storage tanks (USTs), septic systems, and agricultural activities have reduced or eliminated the availability of usable groundwater in many parts of the state. In some cases, when a contaminant is discovered, it may take decades to remove pollution and bring the water back to usable condition.

**Loss of Water Source Can Be Expensive to Locals.** Over 43 percent of Californians rely in part on groundwater for their drinking water needs and some communities rely on groundwater for 100 percent of their water needs. As part of routine testing of drinking water, the DPH has sometimes discovered that a source of water (such as groundwater) is contaminated to a level that violates state and/or federal safe drinking water standards. Discovery of contamination in a drinking water well often leads to closure of the well. Users of the well must then find replacement sources of water. In areas where other sources, such as surface water or alternate groundwater resources, are not available, relatively expensive bottled water may be the only available drinking water supply.

The DPH reported that nitrate (a groundwater contaminant) was detected in levels that exceed safe drinking water standards in 921 public drinking water sources, mostly in agricultural areas. In many of these areas, groundwater is the sole source of drinking water for the community.

**Cleanup Is Costly.** Cleaning up contaminated groundwater can be very expensive. For this reason, the state established an Underground Storage Tank Cleanup Fund in 1989 to provide financial assistance to the owners and operators of USTs containing petroleum. The fund, which is administered by SWRCB and supported by an annual assessment on tank owners, is used to remediate conditions caused by leaking USTs, including the contamination of groundwater supplies. Expenditures from the fund have varied between about $180 million to $280 million annually over the last ten years for hundreds of sites. For 2010-11, the Governor’s budget proposes expenditures of $400 million from this fund—the highest level ever.

**Most Supply Projections Do Not Account For Groundwater Contamination.** In many cases, contamination of a groundwater basin is known to local water managers, who are able to use this information to plan for water supply needs. However, state projections often disregard contamination, particularly where groundwater basins have had historical pollution problems that, when not addressed, remain within that groundwater basin. This situation poses challenges for estimating how much water is available for water supply and the cost to treat contaminated water. In some cases, this is because of a lack of adequate monitoring of water quality in groundwater basins, and in others it is because groundwater monitoring data that is gathered is not shared systematically or comprehensively with state agency officials.

## LAO Analysis

**The Stakes Are High in Groundwater Management.** According to the LAO, the potential to use groundwater to increase water supply, either by introducing water from another source into the ground as a storage basin or by encouraging the natural refilling of groundwater basins, is a significant option to address the state's water supply needs. However, successful implementation of this solution into the state's management of water is hampered by the state's lack of regulation or monitoring of groundwater resources. Management of groundwater supplies—to the extent that it does occur—resides mainly at the local level and thus, by its very nature, does not address water needs from a statewide perspective. As a result, groundwater quality is not protected under state regulation and enforcement as comprehensively as surface water quality. As previously discussed, the consequences of insufficient action to protect these water resources are high. Once contaminated, groundwater loses some of its potential to serve as a water supply source. The situation has already led to costly emergency efforts to clean up contaminated supplies and to provide substitute sources of water to communities dependent upon groundwater.

For the reasons stated above, and to build upon the work the Legislature has already done, the LAO recommends that the Legislature adopt four fundamental changes to the way the state manages groundwater. These recommendations, which are summarized below, represent the first steps that the state could take so that, in the long run, it is in a position to more strongly and effectively manage its groundwater resources. The LAO recommends a shift to a more comprehensive groundwater management regime, similar to those being implemented successfully by other states, in order to avoid future water emergencies from the contamination of groundwater supplies, and to make California's statewide water supply system more reliable.

**LAO Recommendations for Improving Groundwater Management**

| Problem | Recommendation |
|---|---|
| Monitoring not comprehensive statewide | Phase in a comprehensive monitoring system to allow the state to focus funding and technical assistance efforts to the areas in greatest need. |
| Current management efforts not necessarily focused on most challenged groundwater areas | Establish Active Management Areas where groundwater overdraft potential and/or extent of pollution problems are the highest. |
| Groundwater law does not reflect scientific reality | Bring science and law together by modernizing groundwater law to accurately reflect the physical interconnection of surface water and groundwater. |
| Groundwater use and rights unclear, leading to distribution and management issues | Consider establishing statewide groundwater permitting over a multiyear period based on data from expanded monitoring requirements. Maintain local control over implementation of state permit granted at either district or basin level to the extent possible. |

**Strengthen Monitoring Requirements.** Finally, the LAO notes that the state needs, but now lacks, comprehensive data on groundwater extraction, groundwater levels, and groundwater quality. For this reason, the LAO recommends that the state phase-in a comprehensive groundwater monitoring program over a period of years modeled after the best such measures adopted by other western states. The LAO analysis of other states finds that while no other single state program is an obvious perfect fit as a model for California, there is much to be learned from the examples of other state programs. Building on recent legislation that strengthens monitoring requirements, the LAO recommends the Legislature further require local water districts to submit standardized extraction data from all groundwater wells, as in Texas and Arizona.

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

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

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

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

**Staff Recommendation:** Approve budget proposal and trailer bill language.

## Implementation of SB 4 - Hydraulic Fracturing

**Background.** As discussed at the March 20 hearing under the Department of Conservation (DOC) budget item, SB 4 (Pavley), Chapter 313, Statutes of 2013, requires the regulation of oil and gas well stimulation treatments such as hydraulic fracturing. The legislation requires, among other things, the development of regulations (which we discuss in more detail below), a permitting process, and public notification and disclosure of wells that will undergo hydraulic fracturing and acid matrix stimulation and the types of chemicals used for these processes. The legislation also states that workload associated with its implementation can be funded by the Oil, Gas, and Geothermal Administrative Fund (OGGAF). The OGGAF is funded through a fee administered by the Division of Oil, Gas, and Geothermal Resources (DOGGR), within the Department of Conservation. The fee is designed to recover the division's costs to regulate oil and gas extraction in the state. The fee is currently assessed at $0.14 per barrel of oil produced or 10,000 cubic feet of natural gas produced in the state.

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

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

**LAO Analysis.** "It appears that the SWRCB request for contract funding in 2014-15 is premature. As indicated above, SWRCB is not required to complete the development of its criteria and monitoring plan until July 1, 2015. In addition, SWRCB cannot begin monitoring groundwater until the criteria and plan are developed. Thus, funding for groundwater monitoring is not needed until 2015-16.

SWRCB's groundwater monitoring and other activities will vary based on a variety of factors, such as how many wells are stimulated, where the stimulated wells are located, and whether well operators/owners perform monitoring themselves. These factors will depend on the criteria and monitoring plan developed by SWRCB. Thus, while SWRCB will almost certainly have workload associated with monitoring and ensuring compliance by well owners and operators in 2015-16, the extent of that workload is unknown until the criteria and monitoring plan are developed. Thus, the number of positions needed to complete that workload in 2015-16 is currently unknown.

While we (LAO) agree with the Administration's contention that current law regarding SWRCB's role in reviewing or approving monitoring plans is somewhat inconsistent, the proposed trailer bill language is a policy change that would affect which agency is responsible for approving groundwater plans, as well as who is the lead agency for preparing environmental impact reports. Therefore, the Legislature will want to make sure the proposal reflects its intentions for how groundwater monitoring is carried out."

**LAO Recommendation.** "We recommend that the Legislature deny the request to fund groundwater monitoring contracts ($3.5 million in 2014-15 and $7 million in 2015-16) and direct SWRCB to request funding in the 2015-16 budget once its criteria and monitoring plan are complete. In addition, we recommend that the Legislature approve SWRCB's request for 14 positions on a two-year limited-term basis. This would allow SWRCB and the Legislature to reevaluate the need for positions depending on actual workload data following the first year of implementation of the groundwater monitoring plans and other activities."

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

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

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

# 3950 Department of Resources Recycling and Recovery

The Department of Resources Recycling and Recovery (CalRecycle) protects public health and safety and the environment through the regulation of solid waste facilities, including landfills, and promotes recycling of a variety of materials, including beverage containers, electronic waste, waste tires, used oil, and other materials. CalRecycle also promotes the following waste diversion practices: (1) source reduction, (2) recycling and composting, and (3) reuse. Additional departmental activities include research, permitting, inspection, enforcement, market development to promote recycling industries, and technical assistance to local agencies.

**Governor's Budget.** The Governor's budget includes $1.5 billion (no General Fund) and 728 positions for support of the department. Due to the state's high recycling rate and mandated program payments, expenditures from the Beverage Container Recycling Fund (BCRF) exceed revenues by approximately $100 million. The budget proposes several reforms to support the fiscal reliability of the program. The budget also includes $30 million for recycling and composting activities that reduce GHG emissions.

### *Items Proposed for Vote-Only*

1. **Initial Transition for Support of DORIIS.** The budget requests two limited-term positions and $258,000 (BCRF) to begin transition from contractor staff to state staff support of the Division of Recycling Integrated Information System (DORIIS). This proposal yields an annual savings of approximately $250,000.

2. **Increase BCRF Revenue Through Increased Audit Coverage.** The budget requests five, three-year limited-term positions and $566,000 (BCRF) to increase audit coverage of beverage manufacturers and distributors to better protect the integrity of the BCRF. The emphasis will be on collecting revenues owed to CalRecycle and mitigating risk to the Fund.

3. **E-Waste Recycling Fund Fraud Investigations.** The budget requests $500,000 of expenditure authority to establish an Inter-Agency Agreement with the California Department of Food and Agriculture (CDFA), Division of Measurement Standards, to fund auditors and field inspectors to assess operational conformity with applicable recordkeeping requirements and ensure compliance with Weighmaster rules. CDFA is in agreement with this request and will not require additional reimbursement authority to implement this proposal.

4. **California Tire Recycling Management**. The Governor's budget proposes provisional budget language for new, two-year grant appropriations from the California Tire Recycling Management Fund (Tire Fund) to allow flexibility in the encumbrance of grants and the payment of funds. This request does not include any additional fiscal resources.

5. **Used Mattress Recovery And Recycling Program**. The budget requests 6.5 positions and $595,000, on-going, (Used Mattress Recycling Fund) to implement the CalRecycle responsibilities under the mattress stewardship law, pursuant to SB 254 (Hancock), Chapter 388, Statutes of 2013.

6. **Rubberized Asphalt Concrete Marketing Development Act.** The budget requests $5.2 million in on-going expenditure authority (Tire Fund) and 1.5 three-year, limited-term positions to allow CalRecycle to increase funding for Rubberized Asphalt Concrete grants in order to spend down an existing Tire Fund balance.

**Recommendation:** Approve Items 1-6.

## 1. Beverage Container Recycling Program Reform—Phase II

**Background.** The Beverage Container Recycling Program (BCRP) is one of the state's most successful recycling and environmental protection efforts. The state's recycling rate currently exceeds 85 percent. Because of the state's high recycling rate and mandated program payments, expenditures from the Beverage Container Recycling Fund (BCRF) now exceed revenues by approximately $100 million.

**Overview of California Redemption Value (CRV) Program.** The Division of Recycling (DOR), within CalRecycle, administers the BCRP (commonly referred to as the "bottle bill program"). This program was established more than 25 years ago with the enactment of AB 2020 (Margolin), Chapter 1290, Statutes of 1986. The purpose of the program is to be a self-funding program that encourages consumers to recycle beverage containers. The program accomplishes this goal by guaranteeing consumers a payment—referred to as the CRV—for each eligible container returned to a certified recycler. Only certain beverage containers are part of the CRV program. Whether a particular container is part of the program depends on the material, content, and size of the container.

**Unredeemed Deposits Support Supplemental Programs.** The CRV redemption rate—the percent of all CRV that is actually collected by consumers from recyclers—is less than 100 percent. This means that distributors pay more CRV into the BCRF than is claimed by consumers. In 2012-13, for example, the BCRF received roughly $1.2 billion in deposits, but only about $1 billion was spent in redemption—an 88 percent redemption rate. State law requires that much of the unredeemed CRV be spent on specified recycling-related programs. In total, there are currently ten supplemental programs funded from the BCRF (including program administration), such as programs to subsidize glass and plastic recycling, subsidize supermarket recycling collection sites, and provide grants for market development and other recycling-related activities. These particular programs cost $254 million in 2012-13.

**High Redemption Rates and Supplemental Programs Create Shortfall in BCRF.** Over time, redemption rates have increased and are now higher than the target recycling rate defined in statute—80 percent. This leaves less money for the other BCRF expenditures. As a result of the combination of a higher redemption rate and the cost of supplemental programs, the BCRF has been operating under an annual structural deficit averaging about $100 million since 2008-09.

Based on current expenditure levels, the "break even" recycling rate—the rate at which there is enough unclaimed CRV to support all other program spending—is around 75 percent. Therefore, anytime the recycling rate is above 75 percent, the fund is operating in a deficit. According to CalRecycle's estimates, the fund is currently forecast to run a deficit of $110 million in 2014-15, absent any changes made to reduce expenditures or increase revenues. While the BCRF has had operating deficits on several occasions in the past, it was able to absorb the deficits from its large fund balance built up when the CRV redemption rate was low, as well as payments received from loans made to other funds. This balance is now nearly depleted, and the loans are mostly repaid. Thus, the fund no longer has a healthy reserve to help offset the impact of operating shortfalls. CalRecycle projects the BCRF balance to fall below the healthy reserve in September of 2015.

Under current law, if there are insufficient funds available in the BCRF to make all of the required CRV and supplemental payments, the department is required to reduce most supplemental program payments in equal proportions (commonly referred to as "proportional reductions"), in order to keep the fund in balance. The only payments from the fund that are not subject to the proportional reductions are the return of CRV to consumers, as well as program administration. Proportional reductions are problematic because they do not allow for discretion in spending based on priorities or other factors. For example, under proportional reductions, the department cannot prioritize programs that are most effective or central to the BCRP's overall mission. Additionally, proportional reductions are very disruptive to program participants. Since all payments are reduced equally and quickly, participants can experience a significant cut in funding without much warning to plan accordingly.

In 2009, CalRecycle had to implement proportional reductions to maintain the BCRF's solvency. This included (1) reduced payments to recyclers of about 70 percent, (2) increased processing fees charged to beverage manufacturers totaling around $50 million, and (3) elimination of most grant and market development program funding. Based on current revenue and expenditure projections, CalRecycle expects to implement proportional reductions in 2015-16.

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

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

- **Phase Out Processing Fee Subsidy.** The budget phases out processing fee offsets over three years in order to have manufactures cover the full net cost of recycling materials. The projected savings to the BCRF is estimated at $67 million annually when fully implemented. Currently, the program subsidizes glass and plastic manufacturers by offsetting a portion of the cost to recycle containers.

- **Eliminate Curbside Supplemental Payments.** The budget eliminates supplemental payments to curbside collection programs. Curbside recycling collection programs and neighborhood drop-off programs currently receive supplemental payments to support their operations. The Administration believes that curbside collection programs will likely continue even without the supplemental payment. This change is expected to result in $15 million in annual savings.

- **Restructure "Administrative Fees."** The budget eliminates administrative fees paid to processors and recyclers due to declining administrative costs resulting from electronic filing. Distributors will keep their administrative fees, but will have increased reporting requirements to provide additional data to CalRecycle. Projected savings are $13 million in 2014-15, with ongoing savings of $26 million beginning in 2015-16.

- **Eliminate Local Government Payments.** Currently, state law requires a $10.5 million annual payment to incorporated city and county governments for beverage container recycling and litter reduction activities. This payment is distributed in proportion to the population residing in each jurisdiction. According to the Administration, the CalRecycle has minimal oversight on the use of the funds, which makes it difficult for the department to direct funding to activities that promote its policy goals. Therefore, the Governor's budget proposes to eliminate this payment, though it proposes redirecting the funds to two grant programs. The elimination of the local government payments would result in a savings to the BCRF of $10.5 million annually.

- **Diversify Local Conservation Corps Funding.** The budget replaces $15 million of existing BCRF grants to local conservation corps by redirecting a like amount of other special funds to support local corps recycling programs. New funding for local corps programs will be provided by the Tire Recycling Management Fund ($5 million), the Electronic Waste Recovery and Recycling Account ($8 million), and the Used Oil Recycling Fund ($2 million).

- **Restructure Handling Fees.** Handling fees are monthly payments made from the BCRF to recycling centers located in “convenience zones." These payments are intended to offset additional costs a recycler may incur as a result of their location, such as higher rent. CalRecycle audits the convenience zone sites every two years to determine their cost of operations, and uses that to calculate the handling fee amount. The amount of handling fees paid to recyclers is based on volume of material recycled. The Governor's budget proposes to replace the volume-based handling fee with a flat monthly payment of $1,700 per site. The Administration estimates that a flat payment will result in a savings to the BCRF of approximately $7 million annually.

- **Recycling Enforcement Grant**. The budget proposes to establish a new competitive grant program, which would provide funding for local enforcement agencies to perform activities targeted toward detecting and deterring fraud. This program would increase expenditures from the BCRF by $7 million annually.

- **Expand Beverage Container Recycling Competitive Grants.** This grant program provides funding for local recycling and litter reduction projects, such as projects to increase the recycling rates in schools, improve container collection in cities, or reduce litter at public events. The Administration proposes increasing funding for this program by $3.5 million, resulting in $5 million in total funding for the program.

- **Public Education and Information.** The proposal includes $2.5 million for public education in order to inform program participants and the public of recent and proposed changes to the BCRP.

- **Program Administration.** The proposal includes an additional 12 positions and $1.5 million for increased program administration workload resulting from the above changes, such as the establishment of a new grant program.

**LAO Analysis and Comments.** The LAO provides the following comments:

> **"Proposal Is Reasonable Way to Eliminate Structural Deficit.** We find that the Governor's proposal is a reasonable approach to addressing the BCRF structural deficit and avoiding the need for proportional reductions in 2015-16. For example, the proposal eliminates some program elements that are not as central to the mission of the CRV program, such as processing fee offsets. The Governor's proposal also reduces payments where there is little data on the program's impact on the overall beverage container recycling rate, such as curbside supplemental payments. We note, however, that there is some level of uncertainty inherent in forecasting BCRF revenues and redemption rates. Therefore, it is possible that even if the Legislature were to adopt all of the Governor's proposed changes, there could be funding shortfalls in the future."
>
> **"Proposal Could Have Small Impact on Recycling Rates.** The proposed program changes would reduce some payments to participants, especially high-volume recyclers in convenience zones (CZ), curbside recyclers, and cities and counties currently receiving payments. Consequently, some recyclers and processors currently operating with a very small profit margin might shut down or operate fewer hours. However, these changes are a small portion of revenue for most participants, and they still receive other payments through the program. For example, while curbside collection programs would no longer receive curbside supplemental payments, they would still receive CRV and processing payments, and are eligible for several grant programs. This is in addition to revenue from their contract with the local government and scrap value of the materials they collect. Therefore, we expect that any impact on recycling to be small."
>
> **"Future Recycling Rate Increases Can Cause Another Structural Deficit.** We calculate that the proposed reforms would put the fund balance at the current break even redemption rate of approximately 88 percent. However, if the redemption rate were to increase past this point, it could result in another structural deficit in the future. If that were to occur, CalRecycle anticipates that additional programmatic changes (such as additional spending reductions) would be necessary to support a redemption rate higher than 88 percent. The department states that it expects the rate to stay close to the current rate. The department is currently required to issue quarterly reports on the status of the BCRF to allow the Legislature to monitor revenue and expenditure trends."

**LAO Recommendation.** "We recommend that the Legislature adopt the Governor's proposal. As stated above, we find that the proposal is a reasonable way to ensure the fiscal solvency of the BCRF, which is currently operating with a large structural deficit. We would note, however, that each proposed reduction does come with some trade-offs and would result in a recycling program participant—especially distributors and recyclers—bearing greater costs. Therefore, the Legislature will want to make sure that each of the changes is consistent with policy priorities."

**Staff Comments.** The BCRP has achieved great success over the past several years—attaining an overall recycling rate of approximately 84 percent. The BCRF's ongoing $100 million structural deficit is, in large part, due to that success. Due to mandated expenditures, the fund cannot sustain a recycling rate that is higher than 72 percent. Up until now, a high fund balance (due to past unclaimed CRV) and fund loan repayments have enabled the BCRP to stay afloat and avoid proportional reduction.

Though the Department conducted seven stakeholder workshops in 2012 in response to the structural deficit, the Administration's reform proposal lacks stakeholder consensus. And, while some of the proposed reforms have merit, others raise questions. The elimination of the curbside supplemental payment and the local government payment, as well as diversifying local conservation corps funding, makes sense. However, the proposed changes to the processing and handling fees elicit concerns from stakeholders.

**Convenience Zones and Handling Fees.** The restructuring of the handling fees has raised concerns among stakeholders. Handling fees are monthly payments to recycling centers located in convenience zones (CZ), placed close to supermarkets. The purpose of locating centers in these areas is to increase convenience for consumers seeking to redeem used beverage containers. Seventy-five percent of consumers who recycle at recycling centers choose CZ—these customers account for 61 percent of total transactions.

Currently, handling fees are assessed on a tiered, volume-based system—the higher the volume, the higher the fee. Moving to a flat monthly fee of $1,700 per site would not guarantee more recycling centers open in currently un-served CZ areas—in fact, creating a flat fee could be a disincentive to establishing new centers. Currently, areas without centers are not served now, due to a lack of profitability.

CZ recycling centers typically operate with relatively low profit margins and relatively high operating expenses. For calendar year 2012, the average CZ payment per site was $2,701. The proposed flat payment of $1,700 per month per site would be a 37 percent cut. CalRecycle's audits show that these sites have an average profit of 5 percent. Thus, cuts of this magnitude would likely eliminate profits, and drive centers to close. The proposed change in handling fees would result in a savings of $7 million to the BCRF.

**Processing Fees.** The processing fee is the difference between the cost of recycling minus the scrap value and is intended to cover recyclers' costs of collecting a given material. According to the department, the processing fee was never intended to be either an incentive or disincentive for recycling. Further, the department states that the intent of the processing fee is to ensure that the full costs of a container were included in the market's decision-making about which containers to sell.

While the Administration's rationale for proposing that manufactures cover the full net cost of recycling materials may be desirable, the elimination of the processing fee offsets may lead to beverage manufacture’s seeking lower cost, non-recyclable containers for their products. Glass manufacturer's argue that this proposal rewards container types that are not in the program and pay no processing fee.

The phase-out of processing fee offsets will result in a large fee increase ($67 million) for beverage container manufactures. Glass container manufacturers will absorb $59 million of the fee increase. Glass container manufacturers maintain that eliminating the processing fee-offset will result in the loss of market share and the closure of plants. The department counters that the glass industry is facing many challenges that threaten the viability of the industry that have nothing to do with the bottle bill, including meeting air quality requirements, the high transportation costs associated with glass, and allegations that the industry is not doing enough to screen leaded glass from entering the recycling stream.

**Staff Recommendation.** Hold open.

# 3960 Department of Toxic Substances Control

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

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

### *Items Proposed for Discussion*

### Improving Permitting and Tracking Functions at DTSC

**Background.** The DTSC regulates hazardous waste management by issuing permits; tracking the generation, transportation, and disposal of hazardous waste; coordinating cleanup of contaminated sites; and seeking recovery of funds from parties responsible for contamination. Concerns have been raised in recent years regarding how DTSC has carried out these responsibilities. For example, due to a backlog in processing applications for hazardous waste permit renewals, many facilities are operating on "continued permits." This means that these facilities have submitted permit renewal applications, but DTSC has not completed its review and approval process, which usually takes several years. While these particular facilities are allowed to continue operations under the terms of their original permit, these are frequently no longer based on up-to-date technologies, practices, and safeguards. Backlogs in continued permits are also problematic because it means that permit holders have not undergone recent assessments of their facilities to determine if they are releasing any hazardous wastes into the environment. These assessments are part of the permit approval process.

In early 2012, the department responded with its "Fixing the Foundation" initiative, which includes more than 30 different activities intended to improve its operations and restore public trust in the department. Activities include increasing cost recovery from those responsible for hazardous waste contamination, reducing permitting backlogs, strengthening enforcement, and improving the financial sustainability of its operating funds.

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

- **Cost Recovery.** The budget requests $1.6 million and 14 two-year limited term positions to reduce a backlog of reimbursements owed to the department for hazardous waste clean-up activities. The Administration estimates that this cost recovery backlog includes around $26 million in unbilled or uncollected costs that are recoverable.

- **Hazardous Waste Permitting.** The budget requests $1.2 million and eight two-year limited term positions for two sets of activities. First, the Administration proposes to address the hazardous waste permit renewal backlog. There are currently 24 hazardous waste facilities with continued permits. This number of continued permits is expected to grow to 34 by 2017. Second, the Administration proposes to update cost estimates associated with closing hazardous waste facilities in the future. Cost estimates need to be updated to ensure that there are sufficient funds to pay for the decontamination and decommissioning of hazardous waste facilities.

- **Hazardous Waste Tracking System.** The budget includes $1.3 million in one-time funding to rebuild the Hazardous Waste Tracking System, an IT system used by the department to track the generation, transportation, and disposal of hazardous waste. The current software used by DTSC was last updated in 2002 and is no longer supported by the developer. Additionally, the capabilities of the system no longer meet the current needs of DTSC and other regulatory agencies.

- **Hazardous Waste Manifest Error Correction.** The budget includes $381,000 and 3.5 two-year, limited-term positions to correct existing errors in the hazardous waste manifest data. Hazardous waste manifests travel with hazardous waste from the point of generation, through transportation, to the final disposal facility. Each party in the chain of shipping (including the generator), signs and keeps one of the manifest copies, creating a tracking system for the hazardous waste. The manifests are used to verify that the hazardous waste was managed properly and arrived at its intended destination. They are also often used as evidence in criminal enforcement actions. However, according to the department, there are many errors in the system. These errors can occur for various reasons, including handlers of hazardous waste incorrectly, incompletely, or illegibly filling out the handwritten manifests, as well as DTSC staff making mistakes when entering the data into the electronic system. These errors create difficulties for monitoring hazardous waste and prevent DTSC from verifying that hazardous waste is being properly managed.

- **Spring Finance Letter—Hazardous Waste Permitting: Work Plan Implementation**. The budget requests $699,000 (HWCA) and five three-year, limited-term positions to implement the DTSC Permit Enhancement Work Plan. The plan identifies ten reform goals that will serve as a comprehensive roadmap for implementing a more effective, protective, timely, and equitable permitting system.

### LAO Analysis of DTSC Proposals

According to the LAO, the Governor’s proposals address documented concerns and would allow the department to make progress toward resolving some key issues, including low rates of cost recovery, inconsistent hazardous waste tracking, and permitting backlogs. Therefore, the Administration’s proposals present the Legislature with a reasonable approach to addressing these issues, as part of the 2014-15 budget.

The LAO also finds that, while the Administration’s proposals may be reasonable, they will not fully address the identified problems for the long run. For example, while two of these proposals address current backlogs, they rely on limited-term positions that will not address the underlying problems that caused the backlogs to form in the first place. In fact, the Administration does not anticipate that the permitting proposal will eliminate the entire backlog of permit renewals. Consequently, it is unclear whether the backlogs will begin to grow in the future after the limited-term positions expire. The LAO notes, however, that the department reports that it is taking additional actions—such as internal administrative and process changes—that are aimed at addressing some of these problems.

Additionally, while the proposal to correct errors in the manifest data would be beneficial, it would not entirely fix the problems it seeks to address. This is because the proposal does not address the root causes of such errors (such as illegible handwriting or data entry mistakes), thus continuing to allow incorrect data to be entered into the system. Many of the problems associated with the manifest system are due to the paper manifests currently required by the federal government. So, therefore, DTSC is limited in its ability to make certain changes in this area.

**LAO Recommendation.** “We recommend approval of the Governor’s proposals because they should enable the department to make progress in addressing operational deficiencies. We further recommend that the Legislature require the department to report at budget subcommittee hearings this spring on its progress in implementing the Fixing the Foundations initiative. Such a report should include (1) how these four proposals fit into the department’s overall strategy, (2) the next steps to be taken—especially regarding aspects of the initiative not proposed for funding, and (3) how each of these steps will be the most cost-effective means of accomplishing all of the initiative’s objectives. The department should also provide information on how it will prevent the growth of cost recovery and permitting backlogs in the future.”

**Staff Comments.** Staff concurs with LAO's analysis. The department should report on its progress in implementing the Fixing the Foundations initiative, as well as the LAO's other concerns in its opening remarks. The department should be prepared to answer the following questions:

- The Hazardous Waste Control Account is the appropriate fund source for many of the reforms proposed by the department. Would repaying the $10 million loan to the General Fund provide additional resources to the department that could be used to speed up such problems as the manifest tracking system, or specific permitting backlogs?

- The position requests are mostly limited-term. This can create challenges for hiring talented employees. Would making the positions permanent make a difference in the quality of employees hired for this work?

**Staff Recommendation:** Approve budget requests as proposed.

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

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

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

**Consultant: Catherine Freeman**

## OUTCOMES

### Items Proposed for Discussion



### Items Proposed for Discussion





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

## *DEPARTMENTS PROPOSED FOR VOTE ONLY*

### 3980 Office of Environmental Health Hazard Assessment

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

**Staff Recommendation:** Approve Item 1.

## Action: HOLD OPEN

# 3900 California Air Resources Board

### *Items Proposed for Vote-Only**

1. **Advanced Clean Cars Program.** Request for $577,000 and 3.5 positions (Motor Vehicle Account) to implement the Advanced Clean Cars (ACC) program and enhance the evaporative regulation portion of the ACC program due to proposed changes by the US Environmental Protection Agency.

2. **Continuation of the Implementation of Proposition 1B.** Request for a three-year appropriation of $240 million from reverted bond authority for the Goods Movement Emission Reduction Program established in the bond measure.

3. **Funding Shift—Portable Equipment Registration Program.** Request to realign funding from reimbursement authority to the Air Pollution Control Fund for the Portable Equipment and Registration program (net zero cost to the state).

4. **Heavy-Duty Trucks: On-Board Diagnostics Implementation and Enforcement.** Request for $1.23 million (Motor Vehicle Account) and seven positions to implement the heavy-duty, on-board diagnostic regulation in order to meet both state and federal emission requirements.

**Recommendation:** Approve Items 1-4.

**VOTE 1: 2-1** (Nielsen, no)
**VOTE 2: 3-0**
**VOTE 3: 2-1** (Nielsen, no)
**VOTE 4: 2-1** (Nielsen, no)

***Item Proposed for Discussion***

**Implementation of SB 4—Hydraulic Fracturing**

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

**Staff Recommendation:** Deny.

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

***Item Proposed for Discussion***

## Diesel Emission-Related Proposals

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

1. **Enforcement of Diesel Emissions Reduction Regulations.** Request for $1.2 million (Motor Vehicle Account) to support increasing workload related to both state and federal diesel emission enforcement requirements. These enforcement rules ensure a level playing field among the regulated community. Industry groups are assisting the ARB to ensure their investments are protected from those who are not in compliance.

2. **Diesel Emission Regulation Implementation Support.** Request for $682,000 (Motor Vehicle Account) and four positions to meet regulatory implementation and outreach needs related to the phase-in of diesel regulations affecting trucks, trailers, and small fleet owner/operators. This would allow the affected industry timely responses to questions and enforcement actions, and would provide education opportunities for those affected by the rules.

3. **Verification Regulations for Diesel Retrofits**. Request for $187,000 (Motor Vehicle Account) and one position to implement the requirements for in-use strategies to control emissions from diesel engines. The rule strengthens the deployment of retrofits by adding new installation reporting, enhanced product warranty reporting for retrofit manufacturers and recall provisions.

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

**Staff Recommendation:** Approve Items 1-3.

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

# 3940 State Water Resources Control Board

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

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

### *Items Proposed for Vote-Only*

1. **401 Water Quality Certification Program Compliance Monitoring.** Request for $983,000 (Waste Discharge Permit Fund) and ten positions, to address recommendations made by the California State Auditor regarding the need for more consistent compliance monitoring and improved project record keeping.

2. **Department of Defense Fund Shift from Federal Fund Authority to Reimbursement.** Request to shift $3.9 million and 19.1 positions (including $500,000 contract authority) from federal trust fund spending authority to reimbursement spending authority to continue the ongoing oversight of cleanup activities at US Department of Navy facilities.

3. **Technical Bond Adjustments.** The budget proposes several technical bond adjustments in Propositions 13, 40, 50, and 84, to ensure expenditures and reappropriations are allocated for the purposes specified in the bond.

4. **Fund Shift for the State Water Pollution Control Revolving Fund (SWPCRF).** The budget requests a permanent fund shift of $3.6 million in state operation authority and seven existing positions from the Federal Capitalization Grant to the SWPCRF-Administrative Fund.

5. **Underground Storage Tank Cleanup Fund (USTF)—Expiration of the Temporary Fee Increase and Orphan Site Cleanup Fund Technical Adjustments.** The budget proposes a decrease of $48 million in state operations from the USTF due to the expiration of the temporary storage fee increase. The budget requests technical adjustments to revert unencumbered funds, and appropriate these funds pursuant to the original statute.

6. **Technical Adjustment—Surface Water Ambient Water Monitoring Program (SWAMP) Administration.** The budget proposes 12 positions (federal funds) from the US Environmental Protection Agency Clean Water Act, Section 106 Grant) to manage the SWAMP activities. This proposal does not require additional funding as it redirects existing contract funds currently used for this purpose.

7. **April Finance Letters and Drought Actions—Technical Budget Adjustments for Drought-Related Activities.** SB 103 (Committee on Budget), Chapter 2, Statutes of 2014, accelerated several of the Governor's proposals related to groundwater and water quality. The Finance Letter requests technical adjustments to provide the continuing funds for the programs previously approved.

8. **Leviathan Mine Combined Treatment—Spring Finance Letter.** The Governor's budget requests $789,577 (General Fund) and 1.5 positions to conduct treatment activities needed to respond to ongoing federal obligations. This will implement a more effective interim solution at the Leviathan Mine Superfund site owned by the State of California. This proposal is consistent with the long-term obligation of the state at the mine.

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

**Recommendation:** Approve Items 1-8.

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

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

***ITEMS PROPOSED FOR DISCUSSION***

**Reorganization of the Drinking Water Program**

**Staff Recommendation.** Hold open.

## VOTE: Hold Open

## Groundwater Resource Protection

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

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

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

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

**Staff Recommendation:** Approve budget proposal and trailer bill language.

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

## Hold Open Trailer bill

## Implementation of SB 4 - Hydraulic Fracturing

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

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

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

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

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

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

# 3950 Department of Resources Recycling and Recovery

***Items Proposed for Vote-Only***

1. **Initial Transition for Support of DORIIS.** The budget requests two limited-term positions and $258,000 (BCRF) to begin transition from contractor staff to state staff support of the Division of Recycling Integrated Information System (DORIIS). This proposal yields an annual savings of approximately $250,000.

2. **Increase BCRF Revenue Through Increased Audit Coverage.** The budget requests five, three-year limited-term positions and $566,000 (BCRF) to increase audit coverage of beverage manufacturers and distributors to better protect the integrity of the BCRF. The emphasis will be on collecting revenues owed to CalRecycle and mitigating risk to the Fund.

3. **E-Waste Recycling Fund Fraud Investigations.** The budget requests $500,000 of expenditure authority to establish an Inter-Agency Agreement with the California Department of Food and Agriculture (CDFA), Division of Measurement Standards, to fund auditors and field inspectors to assess operational conformity with applicable recordkeeping requirements and ensure compliance with Weighmaster rules. CDFA is in agreement with this request and will not require additional reimbursement authority to implement this proposal.

4. **California Tire Recycling Management**. The Governor's budget proposes provisional budget language for new, two-year grant appropriations from the California Tire Recycling Management Fund (Tire Fund) to allow flexibility in the encumbrance of grants and the payment of funds. This request does not include any additional fiscal resources.

5. **Used Mattress Recovery And Recycling Program**. The budget requests 6.5 positions and $595,000, on-going, (Used Mattress Recycling Fund) to implement the CalRecycle responsibilities under the mattress stewardship law, pursuant to SB 254 (Hancock), Chapter 388, Statutes of 2013.

6. **Rubberized Asphalt Concrete Marketing Development Act.** The budget requests $5.2 million in on-going expenditure authority (Tire Fund) and 1.5 three-year, limited-term positions to allow CalRecycle to increase funding for Rubberized Asphalt Concrete grants in order to spend down an existing Tire Fund balance.

**Recommendation:** Approve Items 1-6.

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

## VOTE3, 4: 3-0

## 1. Beverage Container Recycling Program Reform—Phase II

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

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

**Staff Recommendation.** Hold open.

## VOTE: Hold Open

# 3960 Department of Toxic Substances Control

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

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

### *Items Proposed for Discussion*

### Improving Permitting and Tracking Functions at DTSC

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

- **Cost Recovery.** The budget requests $1.6 million and 14 two-year limited term positions to reduce a backlog of reimbursements owed to the department for hazardous waste clean-up activities. The Administration estimates that this cost recovery backlog includes around $26 million in unbilled or uncollected costs that are recoverable.

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

- **Hazardous Waste Manifest Error Correction.** The budget includes $381,000 and 3.5 two-year, limited-term positions to correct existing errors in the hazardous waste manifest data. Hazardous waste manifests travel with hazardous waste from the point of generation, through transportation, to the final disposal facility. Each party in the chain of shipping (including the generator), signs and keeps one of the manifest copies, creating a tracking system for the hazardous waste. The manifests are used to verify that the hazardous waste was managed properly and arrived at its intended destination. They are also often used as evidence in criminal enforcement actions. However, according to the department, there are many errors in the system. These errors can occur for various reasons, including handlers of hazardous waste incorrectly, incompletely, or illegibly filling out the handwritten manifests, as well as DTSC staff making mistakes when entering the data into the electronic system. These errors create difficulties for monitoring hazardous waste and prevent DTSC from verifying that hazardous waste is being properly managed.

- **Spring Finance Letter—Hazardous Waste Permitting: Work Plan Implementation**. The budget requests $699,000 (HWCA) and five three-year, limited-term positions to implement the DTSC Permit Enhancement Work Plan. The plan identifies ten reform goals that will serve as a comprehensive roadmap for implementing a more effective, protective, timely, and equitable permitting system.

**Staff Recommendation:** Approve budget requests as proposed.

## VOTE: 2-0

## VOTE:

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

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

**Thursday, April 24, 2014**
**9:30 a.m. or Upon Adjournment of Session**
**Hearing Room 3191**

**Consultant: Catherine Freeman**

## Special Item Proposed for Discussion



## Items Proposed for Discussion





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

## *SPECIAL ITEM PROPOSED FOR DISCUSSION*

### Marijuana-Related Enforcement

**Background.** California produces more marijuana from outdoor "grows" (crops planted) than any other state. There are two basic ways marijuana is grown outside in the state. The first is illegal cartel use of public lands to grow marijuana. The second is the legal cultivation of marijuana on private lands pursuant to Proposition 215 (1996). The impacts of growing marijuana on both public and private lands are well documented. The department estimates that private land marijuana cultivation has grown so much on the North Coast that Coho salmon, a state and federally-listed species, may go extinct in the near future if this problem is not immediately addressed. The State Water Resources Control Board (SWRCB) has observed significant land clearing activities resulting in sediment discharges to many high-value surface waters in the north state, nutrient loading from fertilizers, and stream diversions that result in dangerously low water levels.

Whether on public or private land, the impact from marijuana cultivation is substantial. The Department of Fish and Wildlife (DFW) has conducted approximately 249 marijuana eradication and reclamation missions. These missions have led to the arrest of 228 illegal marijuana growers, seizure of 72 firearms and over 5,000 pounds of marijuana. The state has collected approximately 66,000 pounds of trash, 332,000 feet of poly pipe, 14,000 pounds of fertilizer, 113 containers of common pesticides, herbicides, and rodenticides, 15 hazmat containers, and removed 105 man-made dams from waterways feeding illegal grows. Costs to reclaim damaged lands and remediate impacts range from $2,000 to $14,000 per acre on public land and as high as $30,000 to $50,000 per acre on private land.

**Budget Proposal.** The DFW budget requests $1.5 million ($500,000 General Fund, $500,900 Timber Regulation and Forest Restoration Fund, and $500,000 Waste Discharge Permit Fund [WDPF] and seven positions. The SWRCB budget requests $1.8 million (WDPF) and 11 positions to implement a task force and a priority-driven approach to address the natural resources damage. The DFW proposes shifting $500,000 from the general enforcement budget to the marijuana task force and backfilling those funds with Fish and Game Preservation Fund.

**Previous Committee Actions.** The subcommittee heard this issue on March 27 under the Department of Fish and Wildlife and held the proposal open. Concerns were raised at the hearing about how the Administration will treat the cultivation of marijuana under Proposition 215. For example, should the Department of Pesticide Regulation and Department of Food and Agriculture monitor fertilizer and pesticide use on planted lands? Should growers be required to pay additional fees for law enforcement to accompany state regulators when they inspect lands planted under Proposition 215?

**Staff Comments.** Staff concurs with the need to implement an immediate strategy to reduce the impacts of marijuana cultivation. The departments involved with regulation of legal and illegal agricultural products should discuss the challenges of regulating this crop and how growers of marijuana under Proposition 215 are treated differently than, say, vintners, rice farmers, timber harvesters, or other legal products.

**Staff Recommendation:** Approve proposal. Adopt supplemental reporting language requiring the Administration to report back at budget hearings next year on its recommendations to require "215" growers to comply with regular permitting, and any needs for regulation changes to allow law enforcement to accompany regulators for site visits.

**Staff Recommendation:** Approve Item 1.

# 3930 Department of Pesticide Regulation

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 pesticide use; (2) regulates, monitors, and controls the sale and use of pesticides in the state; and (3) develops and promotes the use of reduced-risk practices for pest management. The department is funded primarily by an assessment on the sale of pesticides in the state.

**Governor's Budget.** The Governor's budget includes $80.3 million (no General Fund) and 384 positions for support of the DPR, an increase of one percent, over current year expenditures.

### *Item Proposed for Discussion*

## Update on Risk Assessments and Fumigants

**Governor's Proposal.** The Governor does not have a budget proposal.

**Previous Legislative Actions.** The Legislature, in the 2013 Budget Act, required the department to complete five risk assessments on high priority pesticides per year. This action was taken to ensure that the department was moving forward with risk assessments to the fullest extent possible.

**Staff Comments.** The department should provide an update on the previous year's requirement to provide five risk assessments by June 30, 2014. In addition, the department should discuss its current approach to the use of fumigants both in fields and in refrigerated warehouses.

**Questions for the Department.** The department should address these questions in their opening statement:

- What is the current backlog of risk assessments at the department (if such a backlog is defined as a pesticide submitted to the department for review that has not had a completed risk assessment in over two years) and how has this changed with the language adopted by the Legislature last year?

- What is the current fund balance of the mill assessment on pesticides? Given the current drought and potential for less planting in the forthcoming year, how should the Legislature view the current fund balance?

- What would the department recommend to prioritize research on fumigants?

**Recommendation:** Hold open.

# 7300 Agriculture Labor Relations Board

The Agricultural Labor Relations Board (ALRB) is responsible for: (1) conducting secret ballot elections so that farm workers in California may decide whether to have a union represent them in collective bargaining with their employer, and (2) investigating, prosecuting, and adjudicating unfair labor practice disputes.

The Governor's January budget proposes $6.1 million and 45 positions for support of the board.

### *Item Proposed for Discussion*

### Funding for the ARLB's Office of General Counsel and Administration

**Background.** The ALRB has, over the past few years, attempted to align its resources with a change in its business model. These changes include pairing attorneys and field investigators to allow legal expertise to be available early in the investigation process and to allow investigators to offer support during a cases' litigation process, and changes to its legal procedures to better meet client needs.

Over the past two years, the ALRB has demonstrated sustained increase in the workload and the complexity of cases. In part, this is due to the ALRB's increased presence in communities based on its new business model.

**Budget Proposal.** The spring finance letter requests $1.9 million from the General Fund (including $1.4 million ongoing) and five positions (four attorneys and one field examiner) to address additional workload due to increased caseload responsibilities.

**Staff Comments.** Staff concurs with the need for the proposal. The ALRB should be prepared to discuss this proposal and any changes that may be needed in the future due to the increased demand for services from farmworkers.

**Staff Recommendation:** Approve

## 8570 Department of Food and Agriculture

The California Department of Food and Agriculture (CDFA) serves the citizens of California by promoting and protecting a safe, healthy food supply, and enhancing local and global agricultural trade, through efficient management, innovation, and sound science, with a commitment to environmental stewardship. The goals of CDFA are to: (1) promote and protect the diverse local and global marketability of the California agricultural brand which represents superior quality, value, and safety; (2) optimize resources through collaboration, innovation, and process improvements; (3) connect rural and urban communities by supporting and participating in educational programs that emphasize a mutual appreciation of the value of diverse food and agricultural production systems; (4) improve regulatory efficiency through proactive coordination with stake holders; and, (5) invest in employee development and succession planning efforts.

The Governor’s budget proposes $372 million and 1,616 positions for support of the department. This is an increase of about $20 million, mainly due to proposed cap-and-trade program expenditures which were heard on April 3.

### *Items Proposed for Vote-Only*

1. **Yermo Border Protection Station, Relocation—Spring Finance Letter.** Request for revised cost, scope, and schedule for the Yermo Border Protection Station project in order to add a year to the project timeline and to reduce overall project funding by about $3 million.

**Recommendation:** Approve.

***Item Proposed for Discussion***

**California Animal Health and Food Safety Laboratory System (CAHSF)—One-Time Adjustment**

**Background.** The CAHSF Laboratory System is operated by the UC Davis School of Veterinary Medicine. The laboratory establishes and operates poultry and livestock disease diagnostic programs for detection and examination of animals with potential diseases. The CAHSF laboratory employees are subject to salary and benefit increases that apply to the UC system. Funding for the positions is made available in the CDFA budget but the positions are accounted for under the UC system. The department has absorbed employee compensation cost increases rather than regularly budgeting for these changes.

**Budget Proposal.** The budget requests $1 million (General Fund), one-time, to offset the employee compensation increases. The Administration proposes to convene stakeholders to develop a sustainable long-term funding plan for CAHSF.

**Staff Comments.** Staff concurs with the need to provide funding for the employee compensation costs. The CDFA should discuss why the Administration, the UC system, and CDFA did not work more closely to ensure that funding was requested annually for compensation increases, as is the norm at all state agencies. The department should be prepared to discuss the following:

(1) When has this issue been brought to the Legislature before this year?

(2) What is the total and ongoing compensation necessary to keep the current laboratory functions available?

(3) What compensation is made by the industry this program supports?

**Staff Recommendation:** Approve.

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


**Thursday, April 24, 2014**
**9:30 a.m. or Upon Adjournment of Session**
**Hearing Room 3191**

**Consultant: Catherine Freeman**

## OUTCOMES

### Special Item Proposed for Discussion



### Items Proposed for Discussion



**Resources—Environmental Protection—Energy—Transportation**

***SPECIAL ITEM PROPOSED FOR DISCUSSION***

**Marijuana-Related Enforcement**

**Budget Proposal.** The DFW budget requests $1.5 million ($500,000 General Fund, $500,900 Timber Regulation and Forest Restoration Fund, and $500,000 Waste Discharge Permit Fund [WDPF] and seven positions. The SWRCB budget requests $1.8 million (WDPF) and 11 positions to implement a task force and a priority-driven approach to address the natural resources damage. The DFW proposes shifting $500,000 from the general enforcement budget to the marijuana task force and backfilling those funds with Fish and Game Preservation Fund.

**Staff Recommendation:** Approve proposal. Adopt supplemental reporting language requiring the Administration to report back at budget hearings next year on its recommendations to require "215" growers to comply with regular permitting, and any needs for regulation changes to allow law enforcement to accompany regulators for site visits.

*VOTE: 3-0 to approve staff recommendation, including SRL.*

# 3930 Department of Pesticide Regulation

**Update on Risk Assessments and Fumigants**

**Governor's Proposal.** The Governor does not have a budget proposal.

**Staff Comments.** The department should provide an update on the previous year's requirement to provide five risk assessments by June 30, 2014. In addition, the department should discuss its current approach to the use of fumigants both in fields and in refrigerated warehouses.

**Recommendation:** Hold open.

*Proposed Action: Approve $500k to be used for fumigant research grants (one-time, DPR Fund).*

*VOTE: Hold Open*

# 7300 Agriculture Labor Relations Board

## Funding for the ARLB's Office of General Counsel and Administration

**Budget Proposal.** The spring finance letter requests $1.9 million from the General Fund (including $1.4 million ongoing) and five positions (four attorneys and one field examiner) to address additional workload due to increased caseload responsibilities.

**Staff Comments.** Staff concurs with the need for the proposal. The ALRB should be prepared to discuss this proposal and any changes that may be needed in the future due to the increased demand for services from farmworkers.

**Staff Recommendation:** Approve

*VOTE: Hold Open*

# 8570 Department of Food and Agriculture

***Items Proposed for Vote-Only***

1. **Yermo Border Protection Station, Relocation—Spring Finance Letter.** Request for revised cost, scope, and schedule for the Yermo Border Protection Station project in order to add a year to the project timeline and to reduce overall project funding by about $3 million.

**Recommendation:** Approve.

*VOTE: 2-0 (Jackson not voting)*

## California Animal Health and Food Safety Laboratory System (CAHSF)—One-Time Adjustment

**Budget Proposal.** The budget requests $1 million (General Fund), one-time, to offset the employee compensation increases. The Administration proposes to convene stakeholders to develop a sustainable long-term funding plan for CAHSF.

**Staff Recommendation:** Approve.

*VOTE: Hold Open*

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

**Thursday, May 8, 2014**
**9:30 a.m. or Upon Adjournment of Session**
**Hearing Room 112**

**Consultant: Farra Bracht**

# PART A

## PROPOSED VOTE-ONLY



**Resources—Environmental Protection—Energy—Transportation**

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

# ITEMS PROPOSED FOR VOTE ONLY

## 2660 Department of Transportation

**Department Overview:** The Department of Transportation (Caltrans) constructs, operates, and maintains a comprehensive state system of 50,000 road and highway lane miles and 12,559 state bridges, funds three intercity passenger rail routes, and provides funding for local transportation projects. 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 Equipment.

**Budget Overview:** The Governor's budget proposes total expenditures of $10.9 billion ($83.0 million General Fund) and 19,543.5 positions. The largest sources of funds for Caltrans come from the State Highway Account, State Transportation Fund, and the Federal Trust Fund. State sources of revenue for the department are state gasoline and diesel excise taxes, the sales tax on diesel fuel, and weight fees. State sources of revenue constitute about $6.1 billion of the total available resources.

### Item 1: Proposition 1B Capital Needs Updated Cost Savings (April Finance Letter)

**Proposal:** Caltrans is requesting an increase of $242,996,000 for the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 (Proposition 1B) Program to reflect the updated administrative and project cost savings available to support additional transportation projects. In addition, provisional language that would be added to reflect this change and provide flexibility to fully use the funding authorized by Proposition 1B. The language would also allow additional projects to be funded if additional administrative and project savings materialize above the estimates in this request.

This request proposes the following changes:

- Addition of Item 2660-104-6055 in the amount of $1,000
- Addition of Item 2660-304-6055 in the amount of $101,999,000
- Increase Item 2660-104-6056 by $12,499,000
- Increase Item 2660-304-6056 by $12,499,000
- Increase Item 2660-304-6058 by $101,999,000
- Increase Item 2660-304-6072 by $13,999,000

These changes along with the $963,501,000 requested in the Governor's January budget provide a total of $1,206,497,000 in Proposition 1B funds for 2014-15.

In addition, the proposal includes budget bill language to facilitate the use of Proposition 1B savings, including adding line items for the Corridor Mobility Improvement Account. This language is in addition to the language requested in the January budget for Proposition 1B funds.

**Staff Comment:** Staff has no concerns with this request. This proposal would allow Caltrans to take advantage of program savings so that it could fund additional transportation improvements.

**Staff Recommendation:** Approve the increased appropriation of $242,996,000 in Proposition 1B funds and the proposed provisional language.

**Vote:**

### Item 2: District 12 Rent Savings

**Proposal:** Caltrans is requesting a one-time reduction of State Highway Account funds of $39,776 in 2014-15 and a permanent reduction of $119,327 beginning in 2015-16 for the Maintenance Program.

**Background:** In 2009, Caltrans entered into a lease-purchase agreement for a modular building, which houses Caltrans staff in Stanton, California. The building is located on Caltrans property and is used for District 12 administrative functions. The annual lease payment is $119,327. On January 17, 2014 in a Capital Outlay Budget Change proposal for 2014-15, Caltrans requested to exercise the lease-purchase option. On behalf of Caltrans, the Department of General Services (DGS) will exercise the lease-purchase option and acquire the modular building for one dollar ($1.00).

**Staff Comment:** Staff has no concerns with this request. The proposed reduction is due to rent avoidance from a lease purchase option exercised for a modular building in Stanton, California. This option is cost-effective and helps avoid future rental costs.

**Staff Recommendation.** Approve the proposed reduction of $39,776 of State Highway Funds in 2014-15, and the ongoing reduction of $119,327 beginning in 2015-16.

**Vote:**

**Item 3: Increased Amtrak Intercity Rail Operating Costs**

**Proposal:** Caltrans requests an increase of $10.5 million in operating expenses from the Public Transportation Account for increased operating and capital equipment costs on the three state supported Intercity Passenger Rail services (Pacific Surfliner, San Joaquin, and Capital Corridor routes).

**Background:** The state has been providing operating support for intercity rail service since 1976. Under annually-renewed contracts, the state finances the operation of three intercity rail routes (1) the Pacific Surfliner route running from San Diego to Los Angeles, Santa Barbara, and San Luis Obispo; (2) the San Joaquin route running from Bakersfield to the Bay Area/Sacramento; and (3) the Capitol Corridor route running from San Jose to Oakland and Sacramento/Auburn. These three lines are operated under contract by Amtrak and funded by the state.

The Federal Passenger Rail Investment and Improvement Act of 2008 required Amtrak, in consultation with the state, to develop and implement a standardized methodology for the allocation of operating and capital equipment costs on state-supported routes by October 2013. This new costing methodology has resulted in a 13 percent increase in operating costs over 2013-14. Almost half of this increase is attributable to updated capital equipment costs.

**Staff Comment:** Staff has no concerns with this request.

**Staff Recommendation:** Approve an increase of $10.5 million from the Public Transportation Account to fund increased operating costs for Amtrak intercity rail.

**Vote:**

## 2720 Department of California Highway Patrol

### Item 1: Air Fleet Replacement (January BCP #1)

The California Highway Patrol (CHP) has requested multi-year funding from the Motor Vehicle Account (MVA) to establish an on-going replacement program for the CHP air fleet. The proposal requests a one-time augmentation of $16 million in 2014-15; a one-time augmentation of $14 million in 2015-16 and 2016-17; and a permanent augmentation of $8 million in 2017-18 and beyond, as shown in the table below. Last year, CHP received $17 million to replace four aircraft.

**California Highway Patrol**
**Air Fleet Replacement Schedule**
**(Dollars in Millions)**

| Fiscal Year | Quantity of Aircraft | Funding |
|---|---|---|
| 2013-14 | 4 | $17 |
| 2014-15 | 4 | 16 |
| 2015-16 | 3 | 14 |
| 2016-17 | 3 | 14 |
| 2017-18 | 2 | 8 |
| 2018-19 | 2 | 8 |
| 2019-20 | 2 | 8 |
| 2020-21 | 2 | 8 |
| 2021-22 | 2 | $8 |

**Background and Detail.** The CHP's Air Operations Program (AOP) provides support for enforcement, pursuit management, hazardous material response, and inter-operable communications with allied agencies, traffic congestion relief, stolen vehicle recoveries, conducting searches, and transporting emergency medical supplies. CHP's air fleet currently consists of 15 airplanes and 15 helicopters. These were acquired using mostly federal funds, as shown below.

| Airplanes (15 total) | Funding Source |
|---|---|
| 14 | Office of Traffic Safety Grant |
| 1 | Homeland Security Grant |
| 1 | Asset Forfeiture |
| -1 | Airplane lost in accident |
| | |
| **Helicopters (15 total)** | |
| 2 | Motor Vehicle Account (MVA) |
| 1 | Military Surplus |
| 6 | Office of Traffic Safety Grant/ MVA |
| 6 | Homeland Security Grant |

Last year, the department received $17 million (MVA) to replace four of the oldest aircraft in its fleet—three helicopters and one airplane. At the time, CHP committed to conducting an overall needs assessment and providing a schedule for the replacement of its fleet.

The CHP estimated that, when department specifications are met, a helicopter will cost $4.5 million and an airplane will cost $3.5 million. The department indicates that each unit begins to experience additional maintenance issues once flight time exceeds 10,000 hours, which occurs in about ten years. At this time, the oldest airplane and helicopters in its fleet have logged nearly 15,000 hours and almost 17,000 hours, respectively. The department indicates its desire to reduce the amount of equipment 'downtime,' resulting from increased maintenance hours and difficulties in obtaining necessary replacement parts. It also expresses the desire to standardize its fleet. The intent of this request would be to replace aircraft as they accrue over 10,000 flight hours.

**LAO Comment.** The LAO raises four concerns with this proposal:

(1) While the report provided by CHP on its air fleet includes various information (such as each aircraft's record of maintenance and fuel costs), the report does not provide sufficient information justifying the size of the air fleet being proposed.

(2) The Governor's proposal "locks in" the size of the fleet at 26 aircraft in the future and that the aircraft will require replacement on a set schedule. However, it is uncertain if this size fleet would be needed in the future. There might be a need for a smaller or larger fleet size in the future for reasons such as less assistance requested by allied agencies or future aircraft lasting longer than planned.

(3) Under the Governor's proposal, the new aircraft would be purchased with monies from the MVA, which generates its revenues primarily from driver license and vehicle registration fees. The Governor's proposal raises the issue of whether it is appropriate for the MVA to be the sole funding source for this purpose. Under Article XIX of the State Constitution, any revenues from fees and taxes on vehicles or their use—such as driver license and vehicle registration fees—can only be used for the state administration and enforcement of laws regulating the use, operation, or regulation of vehicles used upon the public streets and highways. It is unclear whether all of the activities supported by CHP's air fleet meet this requirement, such as patrolling the state's electrical and water infrastructure.

(4) According to CHP, requests to assist various allied agencies (such as local law enforcement offices) increased several years ago as these agencies faced fiscal constraints during the economic downturn in operating and maintaining their own existing air fleets. Given the high cost to the state in maintaining CHP's air fleet and that the budgets of the allied agencies may have begun to recover, the Legislature may want to consider requiring certain allied agencies to reimburse CHP for some or all of the costs it incurs in providing them with air support. The LAO also notes that requiring such reimbursements might encourage allied agencies to be more efficient and selective when requesting air support assistance from CHP.

**Staff Comment.** The CHP's air fleet is aging and should be gradually replaced over a period of time. The CHP has provided a report that 1) describes its fleet of helicopters and airplanes,

2) provides justification for the 10,000 hour replacement guideline, and 3) provides a general replacement schedule. However, this report does not justify the size of the air fleet that is needed now and in the future. According to CHP, its goal is to have each aircraft log an average of 1,000 flight hours each year. Based on this, a fleet of 26 aircraft provides an annual total of 26,000 flight hours. However, it is unclear what the basis is for this goal and what outcomes are associated with this goal. Moreover, CHP states that the size of the fleet and locations of aircraft are based on a number of factors including, but not limited to, effective and efficient aircraft response to varied missions, response time, geography, political considerations, CHP ground unit deployments, allied agency resources, facility costs, and airport regulations. However, CHP has not provided an analysis that uses these factors to justify the size of its fleet.

It would be reasonable for such a study to be conducted in advance of additional purchases and that these purchases should be informed by the study. However, given that last year's request to conduct a similar study did not result in the desired outcomes, it is unclear if a second request would result in a better report.

In the past, CHP's fleet was funded with mostly federal funds. Given that there might be federal funds available in the future and that the actual size of the fleet CHP needs is unknown, it would be premature at this time to commit the MVA to funding the future purchase of aircraft beyond the budget year.

**Staff Recommendation.** Approve on a one-time basis the requested augmentation for 2014-15 of $16 million in Motor Vehicle Account funds to purchase four aircraft.

**<u>Vote:</u>**

**Item 2: Statewide Advance Planning and Site Selection (January BCP #1)**

The Governor's budget calls for $1.7 million in funding (Motor Vehicle Account funds) to identify suitable parcels for replacing up to five facilities ($1.3 million) and develop studies ($400,000) for those sites. It is expected that the results of advance planning and site selection will drive future requests for site specific replacement offices.

**Background.** Working with the Department of General Services (DGS), the CHP categorized its 111 total offices according to seismic risk. Risk was based on engineering studies of risk resulting from a seismic event and expressed on a 1-7 scale, with 7 representing a condition that would necessitate immediate evacuation and 1 indicating only nugatory structural impacts. Facilities with a 5 or 6 denotation would likely be unsafe during or following a seismic event. The studies indicated that 80 of CHP facilities are of seismic level 5 and 6.

Site searches for CHP facilities have been problematic in the past due to constraints and demands. It has proven to be difficult to locate parcels of the required 3-5 acres, with appropriate freeway access, and unhindered by traffic, rail or other impediments. This has been particularly troubling in urban areas in Los Angeles, San Diego, and the San Francisco Bay Area. Acquisition of land, and subsequent construction, has often been delayed as a result of these limitations.

***Build-to Suit Leases or Direct Capital Outlay.*** Field office replacements can be procured in one of a few ways. The most common ways are 'build-to-suit' leases and direct capital outlay. With the build-to-suit procurement method, CHP contracts with a private developer to construct a facility and agrees to lease the facility from the developer for a predetermined number of years. At specified times during the built-to-suit lease, CHP has the option to purchase the facility from the developer. With the direct capital outlay procurement method, DGS uses funds from the Motor Vehicle Account (MVA) to both purchase the property and contract with a private developer to design and build the CHP facility. Under direct capital outlay, the state owns the facility and does not have ongoing lease payments.

In 2012, in a letter response to a notification from DGS of its intent to execute three separate build-to-suit lease agreements on behalf of the CHP, the Chair of the Joint Legislative Budget Committee (JLBC) raised several issues, including (1) the absence of an updated CHP facilities plan that outlines its facility needs and priorities, and (2) the lack of an assessment of the relative benefits of financing projects with the build-to-suit process or capital outlay. The department, at that time, indicated that facility needs and priorities will be addressed in the 2013 Five-Year Infrastructure Plan and no systematic analysis was made available to the Legislature regarding capital outlay and build-to-suit approaches. The JLBC expressed that such an assessment is essential to ensure that the most cost-effective method is chosen when building new CHP facilities. To address this concern, supplemental report language was adopted in 2013 requiring the Department of Finance (DOF), in consultation with DGS, to report to the Legislature, by April 1, 2014, guidelines that help determine whether a proposed new facility should be procured using capital outlay or through a build-to-suit lease.

***California's Five-Year Infrastructure Plan.*** The Administration released its Five-Year Infrastructure Plan in January 2014. For CHP, the plan proposes $398 million from the MVA for the second through sixth year of the statewide field office replacement program. According to the document, the funding will be used to develop budget packages and select sites for up to 25 projects, acquire land and start design on 20 of those projects, and begin construction on 10 of those projects.

**LAO Comment.** The LAO recommends that the Legislature withhold action on the Governor's proposal pending receipt of (1) the Administration's forthcoming report on direct capital outlay and build–to–suit procurement methods and (2) a list in priority order of the area offices proposed for replacement and the criteria used to determine such prioritization.

**Staff Comment.** This proposal continues a process approved in the 2013 Budget Act to identify five CHP offices for replacement. However, the proposal does not justify why a capital outlay approach to procure the facilities is being used rather than build-to-suit. Guidelines are under development, as discussed earlier. It would be reasonable to hold this item open until those guidelines are received. Moreover, these guidelines should be used when making procurement decisions in the future.

<u>Update.</u> The Facility Procurement Methodology report containing the procurement guidelines was received on April 3, 2014. These guidelines apply to all state facilities with capital outlay projects overseen by the State Public Works Board.

**Staff Recommendation:** Approve the request for $1.7 million in funding (Motor Vehicle Account funds) to identify suitable parcels for replacing up to five facilities ($1.3 million) and develop studies ($400,000) for those sites.

<u>**Vote:**</u>

**Item 3: California Highway Patrol Enhanced Radio System—Reappropriations for Phases 1 and 2 (April Finance Letter)**

**Background and Detail:** California Highway Patrol Enhanced Radio System (CHPERS) Phase 1 and Phase 2 projects are intended to address deteriorating radio communications infrastructure and improve radio interoperability among various public safety agencies. The projects were for tower and vault replacements at 21 sites. Of these 21 sites, five have had delays.

The Administration requests that Motor Vehicle Account funding for CHPERS from the 2009, 2010, and 2011 Budget Acts be reappropriated in continued support of the project. The reappropriation request is for both Phases 1 and 2 of the project. The amount requested for reappropriation for Phase 1 is $4.8 million and the amount requested for reappropriation for Phase 2 is $11.2 million.

**Staff Comment:** Staff has no concerns with this proposal.

**Staff Recommendation:** Approve the request to reappropriate prior year funds for the California Highway Patrol Enhanced Radio System project.

**Vote:**

**Item 4: Santa Fe Springs Project—Shift in Procurement Method (April Finance Letter)**

**Background and Detail:** The Administration requests to revert $4.9 million, the remaining capital outlay authority for the CHP Santa Fe Springs Replacement Facility project, and that provisional language be added to authorize the option of a lease-purchase agreement for a potential build-to-suit project to replace the existing Santa Fe Springs Area Office. This action reflects a shift in the procurement method for this project to replace an outdated and undersized facility. The request is due to an inability to acquire land under the capital outlay process.

**Staff Comment:** Staff has no concerns with this proposal.

**Staff Recommendation:** Approve the request to shift the procurement method for the Santa Fe Springs Replacement Facility from capital outlay to build-to-suit leasing, revert $4.9 million from the Motor Vehicle Account in unexpended capital outlay authority, and add budget bill language to authorize a lease-purchase agreement as an option for the build-to-suit lease.

**Vote:**

## Item 5: CHP Office Replacement Projects (April Finance Letter)

**Background and Detail:** The 2013 Budget Act provided funding to identify up to five sites where capital outlay would be feasible based on the likelihood of finding replacement property. Based on the results of this site search, the Administration proposes to relocate five CHP offices that no longer meet the CHP's programmatic requirements, nor the seismic performance criteria required for state-owned buildings. For these five offices, the existing property is too small for an on-site replacement.

The Administration requests $32.4 million in Motor Vehicle Account funding for 2014-15 to provide acquisition and design authority for the office replacement projects. The total replacement costs for these offices are estimated to be $167.6 million. The requested funding and estimated total funding for the replacement of these five offices is summarized in the figure below.

| CHP Area Office | Total Project Cost | 2014-15 Amount Requested |
|---|---:|---:|
| Truckee | $35.3 | $5.9 |
| Santa Barbara | 34.2 | 9.9 |
| San Diego | 45.0 | 12.1 |
| Crescent City | 23.7 | 2.4 |
| Quincy | 29.4 | 2.2 |
| **Total** | **$167.6** | **$32.4** |

The Administration also requests that budget bill language be added to allow these five projects to move forward using the design-build procurement methodology. Traditionally, agencies have used a project delivery method known as design-bid-build for construction projects. Under design-bid-build, an agency contracts separately for the design and construction of a project. The agency must award the construction contract to the lowest responsible bidder. Alternatively, under a design-build project delivery method, an agency contracts with a single firm to provide both design and construction services. The Administration expects to reduce the project schedule by approximately 13 months by using design-build procurement.

**Staff Comment:** Staff has no concerns with this proposal.

**Staff Recommendation:** Approve the request for $32.4 million from the Motor Vehicle Account to replace five CHP area offices and budget bill language to allow the use of design-build procurement methodology.

**Vote:**

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

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

**Thursday, May 8, 2014**
**9:30 a.m. or Upon Adjournment of Session**
**Hearing Room 112**

**Consultant: Farra Bracht**

# PART A

## PROPOSED VOTE-ONLY

### 2660 California Department of Transportation

Item 1 Proposition 1B Capital Needs Updated Cost Savings
Approve the increased appropriation of $242,996,000 in Proposition 1B funds and the proposed provisional language.
Vote: 3-0

Item 2 District 12 Rent Savings
Approve the proposed reduction of $39,776 of State Highway Funds in 2014-15, and the ongoing reduction of $119,327 beginning in 2015-16.
Vote: 3-0

Item 3 Increased Amtrak Intercity Rail Operating Costs
Approve an increase of $10.5 million from the Public Transportation Account to fund increased operating costs for Amtrak intercity rail.
Vote: 2-1 (Nielsen voting against)

### 2720 Department of California Highway Patrol

Item 1 Air Fleet Replacement
Held Open

Item 2 Statewide Advance Planning and Site Selection
Approve the request for $1.7 million in funding (Motor Vehicle Account funds) to identify suitable parcels for replacing up to five facilities ($1.3 million) and develop studies ($400,000) for those sites.
Vote: 3-0

Item 3 California Highway Patrol Enhanced Radio System Reappropriations
Approve the request to reappropriate prior year funds for the California Highway Patrol Enhanced Radio System project.
Vote: 3-0

Item 4 Santa Fe Springs Project
Approve the request to shift the procurement method for the Santa Fe Springs Replacement Facility from capital outlay to build-to-suit leasing, revert $4.9 million from the Motor Vehicle Account in unexpended capital outlay authority, and add budget bill language to authorize a lease-purchase agreement as an option for the build-to-suit lease.
Vote: 3-0

Item 5 Office Replacement Projects
Approve the request for $32.4 million from the Motor Vehicle Account to replace five CHP area offices and budget bill language to allow the use of design-build procurement methodology.
Vote: 3-0

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

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

**Thursday, May 8, 2014**
**9:30 a.m. or Upon Adjournment of Session**
**Hearing Room 112**

**Consultant: Catherine Freeman**

**Open Items and Spring Finance Letters (Part B)**

**Items Proposed for Vote Only**



**Items Proposed for Discussion**



**Resources—Environmental Protection—Energy—Transportation**

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

## *ITEMS PROPOSED FOR VOTE ONLY*

**Staff Comment:** Staff recommends approval of the vote-only items.

### 0540 Secretary for Natural Resources

1. **Reappropriations—Bond Programs (Spring Finance Letter).** Request for reappropriation of remaining balances of Propositions 12, 13, 40, 50, and 84 for bond administration and programs (River Parkways and Urban Greening).

2. **Ocean Protection Council Local Assistance (Spring Finance Letter).** Request for a reappropriation of $2.5 million for the second round of local assistance grants to support local governments planning efforts for sea level rise.

**VOTE (Items 1-2):**

### 3125 California Tahoe Conservancy

3. **Implementation of the Environmental Improvement Program (January Budget and Spring Finance Letters).** The budget requests $1.01 million (various special funds) for continued capital outlay in support of the Lake Tahoe Environmental Improvement Program. The Spring Finance Letter requests reversion and appropriation of funds in the amount of $4 million (Proposition 84 bond funds) for similar purposes.

**VOTE (Item 3):**

### 3340 California Conservation Corps (CCC)

4. **Vehicle Replacement Plan.** Request for a one-time augmentation of $540,000 (Collins-Dugan Reimbursement Account) to fund the continuation of the CCC's vehicle replacement plan.

5. **CCC Work Projects.** Request for a one-time augmentation of $1.7 million to the Collins-Dugan Reimbursement Account over three years to allow the CCC to fund project operating expenses and equipment, and to perform project work for sponsoring agencies.

6. **C-3 Information Technology (Spring Finance Letter).** Request for a $1.4 million (Collins-Dugan Reimbursement Account), and three positions, to implement and support the C-3 enterprise resource management system. This proposal is in accordance with the feasibility study report submitted to the Department of Technology.

7. **Proposition 84 Program Delivery (January Budget and Spring Finance Letter**). Request for $208,000 (Proposition 84 bond funds) for program delivery costs associated with the administration of resource conservation and restorations under the bond act.

**VOTE (Items 3-7):**

## 3540 Department of Forestry and Fire Protection (CalFIRE)

8. **Office of The State Fire Marshal (OSFM) Support (Spring Finance Letter).** The Governor requests $2.15 million (reimbursements, special funds), and nine permanent positions for the OSFM to conduct required plan review and construction inspections of local jail facility projects, in support of the implementation of SB 1022 (Committee on Budget), Chapter 42, Statutes of 2012.

9. **Minor Capital Outlay (Spring Finance Letter**). The Governor requests $1.7 million (Public Buildings Construction Fund) for various increases in minor capital outlay projects related to critical water supply and treatment problems.

10. **Various Fire Station Facility Replacement Projects and New 2014 Facility Program Policy Guidelines (Spring Finance Letter).** The Governor requests a net of $33.5 million (Public Buildings Construction Fund), including a technical fund shift, for various fire state facility replacement projects and to incorporate design changes to meet current program and building code standards, as proposed in the 2014 Facility Program Policy Guidelines.

| Project | Action | Amount *(in thousands)* |
|---|---|---:|
| Westwood Fire Station | Scope Change/Augmentation | $1,335 |
| Bieber Fire Station/Helitack Base | Scope Change/Augmentation | 4,258 |
| Butte Fire Station/Unit Headquarters | Scope Change/Augmentation | 3,845 |
| Soquel Fire Station | Scope Change/Augmentation | 512 |
| Potrero Fire Station | Scope Change/Augmentation | 2,163 |
| Cayucos Fire Station | Scope Change/Augmentation | 1,341 |
| Pine Mountain Fire Station | Scope Change/Augmentation | 582 |
| Higgins Corner Fire Station | Scope Change/Augmentation | 1,390 |
| Santa Clara Unit Headquarters | Scope Change/Augmentation | 4,454 |
| Siskiyou Unit Headquarters | Scope Change/Augmentation | 5,849 |
| Madera-Mariposa Unit Headquarters | Scope Change/Augmentation | 3,898 |

| **Project** | **Action** | **Amount** *(in thousands)* |
|---|---|---|
| Parkfield Fire Station | Scope Change/Augmentation | 585 |
| El Dorado Fire Station | Scope Change/Augmentation | 1,267 |
| Felton Fire Station | Scope Change/Augmentation | 786 |
| Baker Fire Station | Scope Change/Augmentation | 572 |
| Rincon Fire Station | Scope Change/Augmentation | 669 |
| South Operations Area Headquarters | Fund Shift ($4,057,000) | 0 |
| Badger Fire Station | Fund Shift ($1,182,000) | 0 |
| 2014 Facility Program Policy Guidelines | Adopt Updated Standards | |
| **Total** | | **$33,506** |

## VOTE (Items 8-10):

## 3790 Department of Parks and Recreation

11. **Reversions (Spring Finance Letter).** Request for the reversion of the unencumbered balances of several previously funded capital outlay projects where funding is not necessary at this time and will be re-submitted at a later date.

12. **Reappropriations—Capital Outlay Program (Spring Finance Letter).** Request for the reappropriation of capital outlay projects to allow for the completion of projects currently in progress. These include finalizing the Chino Hills State Park entrance project and Fort Ord Dunes campground and beach access working drawings.

13. **MacKerricher State Park—Replace Water Treatment Plant (Spring Finance Letter).** Requests for an increase of $40,000 (Proposition 84 bond funds) for the preliminary plans phase of the MacKerricher State Park: Replace Water Treatment System Project.

14. **Marbled Murrelet Management (Spring Finance Letter).** The Governor requests a permanent augmentation of $418,000 from the State Parks and Recreation Fund (SPRF) for a planning and management strategy for the marbled murrelet, a state and federally-listed endangered bird species, in Big Basin Redwoods State Park and the Santa Cruz Mountains. This management plan is the result of the settlement of a lawsuit, *Center for Biological Diversity v. State Parks* (Case No. CV 177159, Santa Cruz County).

15. **Federal Funds: Benbow Dam (Spring Finance Letter).** The Governor requests an augmentation of $2.3 million to its federal authority to expend a grant from the National Oceanic and Atmospheric Administration for the Benbow Dam Removal. The removal of the dam, a seasonal fish barrier, will help facilitate fish passage and improve habitat for Coho, Chinook, Steelhead, and most other aquatic species in the South Fork of the Eel River in Southern Humboldt County.

16. **Capital Outlay—San Diego Historic Park.** The spring finance letter requests reappropriation of funds for preliminary plans due to the delayed assumption of jurisdiction of the property from Caltrans in November 2013.

**VOTE (Items 11-16):**

## 3810 Santa Monica Mountains Conservancy

17. **Technical Adjustment (Spring Finance Letter).** Request to decrease previous appropriations (Proposition 84) and increase Environmental License Plate Fund by $236,000 to keep administrative costs within the five-percent bond administration limit.

**VOTE (Item 17):**

## 3855 Sierra Nevada Conservancy

18. **Technical Adjustment (Spring Finance Letter).** Request to decrease Environmental License Plate Fund by $282,000 due to an erroneous baseline increase in the January budget.

**VOTE (Item 18):**

## 3850 Coachella Valley Mountains Conservancy

19. **Reappropriation.** The spring finance letter requests reappropriation of the balance of funding from Proposition 84 bond funds to maintain adequate funding levels for acquisitions and local assistance grants.

**VOTE (Item 19):**

## 3860 Department of Water Resources

20. **FloodSAFE California Program (Spring Finance Letter).** Request to re-characterize $14.2 million from state operations to local assistance in Proposition 1E to allow funding to be more appropriately moved to local agencies for flood control.

21. **Technical Support: Reappropriations, Reversions, Technical Adjustments (Spring Finance Letter).** Request for annual reappropriation and technical adjustments to ongoing flood programs within the state including the California Water Plan, enforcement programs, water recycling and water conservation. This continues programs that are ongoing.

22. **Technical Support—Capital Outlay: Reappropriations (Spring Finance Letter).** Request for annual reappropriation and technical adjustments to ongoing capital outlay flood projects including the Lower San Joaquin River, system-wide levee evaluations, and Sutter Bypass projects.

**VOTE (Items 20-22):**

## 3875 Sacramento-San Joaquin Delta Conservancy

23. **Implementation of the Delta Plan.** The budget requests one position (costs to be absorbed) to support the implementation of the Delta Plan near-term actions in the priority areas defined by the plan, and to assist in securing additional funding from a variety of sources.

24. **Implementation of the Delta Mercury Exposure Reduction Program.** Request for one (three-year, limited-term) position for the implementation of the Delta Mercury Exposure Reduction Program. The position costs would be funded by reimbursements from the State Water Resources Control Board.

**VOTE (Items 23-24):**

## 3980 Office of Environmental Health Hazard Assessment

25. **Proposition 65 Limited-Term Positions.** Request for $785,000 (Safe Drinking Water and Toxic Enforcement Fund) and four, limited-term positions, to revise Proposition 65 regulations and develop a website that provides information to the public on exposure to listed chemicals. The proposed reforms are intended to inform the public about their exposures to chemicals that cause cancer or reproductive harm, pursuant to the original proposition. There is no trailer bill language associated with this request. This item was heard on April 10 and held open.

**VOTE (Item 25):**

## 7300 Agriculture Labor Relations Board

26. **General Counsel—Spring Finance Letter.** The spring finance letter requests $1.9 million from the General Fund (including $1.4 million ongoing) and five positions (four attorneys and one field examiner) to address additional workload due to increased caseload responsibilities. This item was heard on April 28 and held open.

**VOTE (Item 26):**

## 8570 Department of Food and Agriculture

27. **California Animal Health and Food Safety Laboratory System (CAHSF)—One-Time Adjustment (Spring Finance Letter).** The budget requests $1 million (General Fund), one-time, to offset the employee compensation increases. The Administration proposes to convene stakeholders to develop a sustainable long-term funding plan for CAHSF. This item was heard on April 28 and held open.

28. **Yermo Agriculture Inspection Station Reappropriation.** The spring finance letter updates the January budget proposal by clarifying the CalTrans appropriation through the Statewide Highway Account. This will not result in a change of General Fund expenditures.

**VOTE (Items 27-28):**

# 0540 Secretary for Natural Resources

### *Items Proposed for Discussion*

## 1. Fourth California Climate Change Assessment

**Governor's Proposal.** The Governors' budget requests $5 million (one-time, Environmental License Plate Fund [ELPF]) and one position at the California Natural Resources Agency (CNRA), to carry out a fourth climate change assessment. The majority of funds are proposed to be used for contracts to conduct the scientific research needed for the assessment. The assessment, similar to the three previous, would continue to generate data and information needed to support continued climate policy development, planning, and implementation efforts at the state, regional, and local level. The intent is to ensure that efforts to foster resilient communities and businesses are informed by the best available science.

The Governor's proposal also includes trailer bill language that would add the following eligibility language to the ELPF funding allocations:

- "Scientific research on the risks to California's natural resources and communities caused by the impacts of climate change."

**Previous Subcommittee Action.** This item was heard on March 6 of this year and held open. The discussion included the use of the ELPF for climate assessment (a new purpose requiring trailer bill language), demands on the ELPF from existing programs, the need for more funding for climate adaptation prior to further assessment, and the lack of statutory guidance for climate assessments.

**Legislation Introduced.** SB 1217 (Leno) has been introduced related to climate assessments. The bill would require the Strategic Growth Council (Council) to prepare a climate risk assessment and strategy evaluation of the state's vulnerability and risk for climate change impacts every five years starting January 2017. The bill includes specific areas the Council should focus on and is likely to be amended to include further legislative intent specific to the assessments.

**Staff Comments.** As is consistent with other policy areas, staff recommends holding off funding programs where legislative intent is being determined. Staff recommends rejecting the proposal until legislative intent is clearly established.

**Staff Recommendation:** Reject proposal without prejudice and request the proposal be resubmitted in the 2015-16 budget cycle after legislation establishing the criteria for periodic climate assessments has been adopted.

**VOTE:**

# 3360 Energy Resources Conservation Development Commission (California Energy Commission)

***Items Proposed for Discussion***

**Proposition 39—Implementation and Operation of the California Clean Energy Jobs Act**

**Governor's Proposal.** The Governor's budget proposes $3 million and 12 permanent positions to implement and provide technical assistance related to the California Clean Energy Jobs Act (CCEJA [Proposition 39]), SB 73 (Committee on Budget and Fiscal Review), Chapter 29, Statutes of 2013. The legislation provides legislative guidance for implementation of Proposition 39, the Income Tax Increase for the Multistate Business Initiative, passed in 2012.

The budget proposal continues the request from the current year and provides for $1.3 million in external consulting funding and $1.7 million for the baseline positions and state activities. The positions are intended to provide outreach to Local Education Agencies (LEAs) including annual evaluations and approval an estimated 1,700-2,100 energy expenditure plans that will be submitted to the California Energy Commission (CEC), as required by the enabling legislation. In addition to providing outreach to the LEAs, the CEC plans to: develop and maintain a publicly available and searchable database to track and report program metrics (energy savings, energy costs savings, greenhouse gas reductions and employment effects of project); review and evaluate energy savings project expenditure plan modifications; provide and manage low and zero-interest revolving loans to LEAs and community colleges; and, provide annual reports to the Citizens Oversight Board.

**Previous Subcommittee Action.** This item was heard on March 6 of this year and held open.

**Staff Comments.** The CEC has provided updates consistent with the intent of Proposition 39. Staff recommends approval of the proposal.

**Staff Recommendation:** Approve proposal.

**VOTE:**

## CEC Information Technology Proposals

**Governor's Proposal.** The Governor's budget includes three separate funding proposals for information technology (IT) related projects. These include:

1. **Renewables Portfolio Standard Database Modernization Project.** The budget requests $2.2 million (Petroleum Violations Escrow Account [PVEA]) to hire a contractor to implement a new Renewable Portfolio Standards database. The new database will allow for continued database growth and functionality, and increased efficiency of business processes, without risk to data security and stability. With this one-time funding, a contractor will design, build, and implement the proposed new database system, as well as support and train the CEC's IT Services Branch staff on maintenance and operations for six months after implementation.

2. **Application Development and Maintenance Support.** Request for three permanent programmer analyst positions and $403,000 (Energy Resources Program Account {ERPA]) to support the increasing workload for software applications and databases. Currently, the IT branch has about 40 applications and databases that require support on a regular basis. There are an additional 20 databases that require support but are only addressed on an emergency basis due to lack of programmer capacity. Another ten applications and databases, including critical systems such as e-filing for power plant siting cases, will come online in the next 12 months.

3. **Building an Energy Data Infrastructure to Meet the 21st Century.** The Governor's budget proposes six two-year limited-term positions and $790,000 (Energy Resources Program Account) to develop disaggregated energy demand forecasts purportedly needed to implement the Governor's renewable distributed generation goals and support statewide energy decisions at the CEC, CPUC and the California Independent System Operator

**Previous Subcommittee Action.** This item was heard on March 6 of this year and held open.

**Staff Comments.** The Commission has provided additional information to the subcommittee on its overall information technology plans. Staff recommends approval of the proposals.

**Staff Recommendation:** Approve.

**VOTE:**

**Vulnerability of the Fueling Infrastructure for the Transportation Sector to Climate Change**

**Governor's Proposal.** The Governor's budget requests $2 million (Petroleum Violation Escrow Account) and one two-year limited-term position to support an evaluation of the vulnerability of the fuel infrastructure for the transportation sector to climate change impacts. This work is intended to contribute to the Fourth Climate Change Assessment (see page 7 of this agenda) which is planned to be released in 2017. The project is proposed to identify specific vulnerabilities of California's fuel infrastructure to both extreme weather events (flooding, fire, storms), and other climate impacts (sea level rise, coastal erosion, rising temperatures).

**Previous Subcommittee Action.** This item was heard on March 6 of this year and held open.

**Staff Comments:** Consistent with the staff recommendation under the Secretary for Natural Resources item, staff recommends rejecting this proposal without prejudice until legislation providing clear direction on periodic climate assessments can be established.

**Staff Recommendation:** Reject.

**VOTE:**

## Transportation Energy Supply Forecast Analysis

**Background.** Existing statute requires the CEC to conduct assessments and forecasts of energy industry supply, production, transport, delivery, and distribution. This assessment includes demand and pricing analysis for several sectors, including transportation fuels. Specifically, the CEC is required to:

- Assess trends in transportation fuels, technologies and infrastructure supply and demand.
- Forecast statewide and regional energy demand.
- Evaluate sufficient transportation fuel supplies, technologies and infrastructure.
- Assess risk and disruptions in price shocks.
- Provide alternative fuel assessments.
- Provide recommendations to improve transportation energy use.

Assembly Bill 118 (Núñez), Chapter 750, Statutes of 2007, created the CEC's Alternative and Renewable Fuel and Vehicle Technology Program. Specifically, this program provides funding, in part, to:

- Develop and improve alternative and renewable low-carbon fuels.
- Optimize alternative and renewable fuels for existing and developing engine technologies.
- Decrease, on a full fuel cycle basis, the overall impact and carbon footprint of alternative and renewable fuels and increase sustainability.
- Expand fuel infrastructure, fueling stations, and equipment.
- Improve light-, medium-, and heavy-duty vehicle technologies.
- Expand infrastructure connected with existing fleets, public transit, and transportation corridors.

**Governor's Proposal.** The budget requests to redirect $750,000 (ERPA, mainly from electric and natural gas ratepayers) baseline contract funds to establish two new permanent positions to initiate a transportation supply and economic impact analysis framework, gather energy supply data, and initiate economic impact analysis.

**Staff Comments:** The CEC, as part of its administration of AB 118, has, in large part, conducted much of the initial research on the transportation sector as is evidenced in its AB 118 Investment Plan. However, further research may be necessary.

The funding source identified for this proposal is derived mainly from electric and natural gas ratepayers throughout the state. Funding is not proposed from existing transportation fuel fees and taxes. In addition, it is unclear to what extent this proposal utilizes existing research gathered through the implementation of AB 118 and other state transportation programs.

**Staff Recommendation:** Approve funding with the Motor Vehicle Account.

**VOTE:**

# 3720 California Coastal Commission (CCC)

***Item Proposed for Discussion***

## Local Coastal Plans and Climate Adaptation Planning

**Background.** The subcommittee held an extensive hearing on climate adaptation, including the CCC's role in the development of Local Coastal Plans (LCPs), on March 20. As discussed at the hearing, the CCC has maintained a steady budget over the past several years but has struggled to make progress in updating LCPs. There are many reasons for this, including: (1) funding has not been available to assist local jurisdictions in updating their coastal plans; (2) some locals are reluctant to take back coastal permitting and prefer to have the state provide this service; and, (3) recent local funding issues have, as with other areas of government, reduced their ability to do forward-thinking planning.

**Previous Subcommittee Action.** On March 20, 2014, this subcommittee approved a General Fund appropriation of $3 million per year to the CCC for five years, with $1 million per year dedicated to local assistance, to work in partnership with local governments to accelerate the completion and updates of LCPs.

**Spring Finance Letter Proposed.** The Governor proposes a two-year pilot program (FY 2014-15 and FY 2015-16) of $3 million (General Fund carryover, Coastal Act Services Fund and the Environmental License Plate Fund) per year of state operations in the CCC budget to work in partnership with local governments to accelerate the completion and updates of LCPs.

**Staff Comments:** The Governor's spring proposal addresses concerns that were raised by the Legislature and local governments regarding funding for updating LCPs. For over 25 years, many local governments have adhered to the voters request for stronger coastal planning, which includes the LCP requirement. However, a handful of local agencies have not, making the CCC a de facto local government permitting agency within the coastal zone. Staff suggests that by making this LCP pilot program a five-year program, and by providing funding to update LCPs, the Legislature will be in a position, at the conclusion of the pilot program, to begin to eliminate the local permitting role of the CCC and focus on its appellate role, as intended by the voters.

**Staff Recommendation:** Approve the Spring Finance Letter. In order to ensure this pilot program is fully funded for five years, approve an additional two years of Environmental License Plate Fund funding for state operations. Approve $1 million (GF) local assistance for an additional three years, after the budget year. This action is intended to substitute for the previous subcommittee action on March 20.

**VOTE:**

# 3760 State Coastal Conservancy (SCC)
# 3820 Bay Conservation Development Commission (BCDC)

***Items Proposed for Discussion***

## 1. Office Move and Increased Rent

**Background.** As discussed at the March 20 hearing, the State Coastal Conservancy (SCC) has occupied space at 1330 Broadway in Oakland for over 30 years. The SCC's lease is up for renewal on November 30, 2014, at $2.41 per square foot. The building at 1330 Broadway is also occupied by coastal-related nonprofits including Save the Bay, the Ocean Science Trust, The National Oceanic and Atmospheric Administration (NOAA) and the Coastal Services Center (Center).

Similarly, the Bay Conservation Development Commission (BCDC) occupied 50 California Street in San Francisco for several years and was co-located with multiple local and regional planning agencies. Recently, the Metropolitan Transportation Commission (MTC) purchased a new building intended to be a hub of regional planning agencies in the Bay Area. Rather than allow BCDC to move with its sister planning agencies to the new MTC building, the Department of General Services (DGS) required BCDC to move to the Hiram Johnson State Building in San Francisco.

**Executive Order (EO) B-17-12.** The Governor, through EO B-17-12, calls for agencies statewide to reduce their leased space footprint and consolidate into available state-controlled space.

**Budget Proposal (SCC).** As discussed on March 20, the DGS has made a formal request for the SCC to move into the Elihu Harris State Building. In order to accommodate this move, the SCC would require "significant and unavoidable one-time costs associated with the DGS architectural design, engineering, and construction project, as well as furniture and moving costs."

**Spring Finance Letter (BCDC).** The Spring Finance Letter requests $85,000 to cover the additional lease costs due to the BCDC office relocation to the Hiram Johnson State Building in San Francisco.

**Staff Comments.** The moves by SCC and BCDC to the Elihu Harris and Hiram Johnson buildings may solve a problem for DGS; however, the move does not necessarily make sense for these state agencies and their missions. Co-location with other federal and state ocean-related agencies is important to the mission of the SCC, as is co-location with other planning agencies to BCDC.

**Staff Recommendation:** Approve January SCC proposal. Approve funding proposal for BCDC for one-year. Require the BCDC to submit a proposal in January 2015 for a move to the MTC building, including cost estimates.

**VOTE:**

# 3860 Department of Water Resources

## Agricultural Drainage Water in the San Joaquin River

**Background.** The San Joaquin River is listed as an impaired water body, in part due to high loads of boron and salt, with a significant portion originating from agricultural subsurface drainage coming from the west side of the San Joaquin Valley. Subsurface drainage systems are designed to remove water from land without percolation to the groundwater table. More common in the upper midwest where excessive rains can damage crops and high water tables are common, this practice is also present in parts of the Central Valley. The drainage programs in California are designed to remove excess salt from the soil which can accumulate in areas where the groundwater table is shallow.

The drainage system was largely designed for federal water contractors. Salinity problems increased from the 1940s to the late 1960s when Congress authorized a drainage system as part of a federal project. This resulted in the construction of an 85-mile canal that discharged into the Kesterson Reservoir in the southern part of the San Joaquin Valley. The discovery of bird deformities due to high concentrations of selenium from agricultural drainage water lead to the shutdown of the reservoir and a portion of the drains. The subsurface drainage systems have remained in place and drain to local waters, including the San Joaquin River.

Currently, the Mud and Salt Sloughs are tributaries of the San Joaquin River and contribute approximately 85 percent of the selenium load, 65 percent of the boron load, and 45 percent of the salt load carried by the river. Seasonal drainage from 90,000 acres of wetlands in the Grassland Water District and state and federal refuges also contribute to the salt load.

**Governor's Budget.** The Governor requests $37 million for local assistance and $930,000 for program administration (Proposition 84) for implementing projects that reduce or eliminate discharges of subsurface drainage water from the west side of the San Joaquin Valley for the purpose of improving water quality in the San Joaquin River and the Delta.

**Staff Comments.** This proposal is consistent with previous year efforts to reduce salt loads in the Delta. At the March 27 subcommittee hearing, the department discussed efforts by locals to address this long-standing problem. The department did not describe a comprehensive or long-term and sustainable program that would provide a permanent and ongoing solution to the pollution problem.

Staff are concerned that the proposal lacks the cohesiveness to provide a long-term and sustainable fix to the farming community. The intent of the proposal has merit, but needs to be completed in a way that requires long-term groundwater and surface water interactions to be improved. Staff recommends the department prepare a proposal for the 2015-16 budget cycle that would provide a long-term solution.

**Recommendation:** Reject.

**VOTE:**

## System Reoperation Program, and Surface Storage Program

**Background.** Proposition 84 provides funding to DWR to conduct statewide water planning and project feasibility studies for current and future needs related to water supply, conveyance and flood control systems. Within this context, the department has initiated a system reoperation program which means changing existing operation and management procedures for supply and conveyance, including management of flood control projects. Proposition 84 also includes funding for development of surface storage projects. Traditionally, DWR has used these funds (see table below) to explore projects developed under the CALFED program in partnership with the US Bureau of Reclamation (USBR).

**Spring Finance Letter (SFL).** The Governor requests reversion of $6.2 million (Proposition 84 bond funds), and reappropriation for three years, to complete the analysis and report for the System Reoperation Study. The proposal also requests reversion of $260,000 (Proposition 84 bond funds), and reappropriation, to continue the existing Surface Storage Program. This proposal is intended to support a 0.5 existing position to coordinate the development of studies with the USBR and Sites Project Joint Powers Authority.

**Staff Comments.** **Surface Water Storage Feasibility Studies.** As shown on the figure below, over $81 million of state funds will have been spent under the California/Federal Bay-Delta program (CALFED) program on surface water storage studies through the end of the current year.

***"State Funding Should Continue Only if Funding Partners Come on Board.*** *The LAO 2008 review finds that, for the most part, the preliminary feasibility study work for these projects is complete, and for the studies to practically move into the more costly final stage of investigation and into project development, local and/or federal funding partners (entities who benefit from and would have an interest in funding the project) must be on board to share in these costs with the state. This is consistent with legislative direction in the 2006-07 Budget Act regarding funding for the Los Vaqueros Reservoir Expansion. Specifically, the Legislature prohibited state funds being spent for this project until regional funding sources were secured to fund the investigation and planning of the project."*

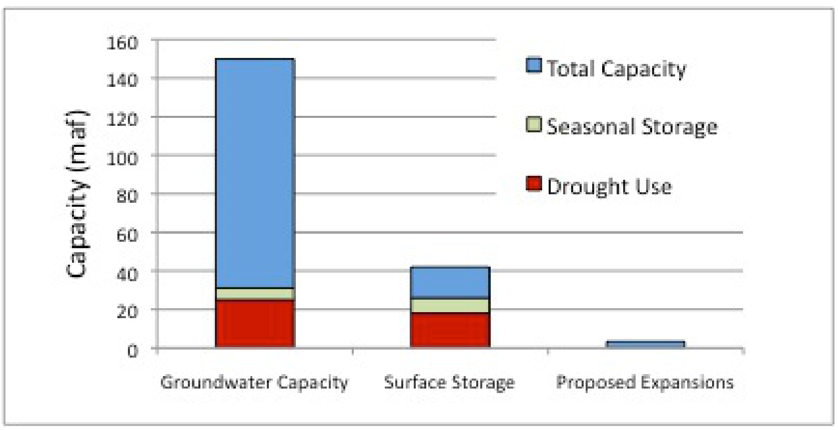
**Summary of Expenditures on Surface Storage Investigation** *(2000 through 2013)*
*(in millions)*

| Project | State Funds | Federal Funds |
|---|---:|---:|
| Common Assumptions | $5.08 | $0 |
| Shasta Lake Enlargement | $0.35 | $28.42 |
| Sites Reservoir (North of Delta Offstream Storage) | $44.93 | $12.21 |
| In-Delta Storage Investigations | $9.15 | $0.16 |
| Los Vaqueros Reservoir | $19.11 | $16.24 |
| Temperance Flat (Upper San Joaquin River Storage Investigations) | $2.42 | $25.07 |
| **Total** | **$81.03** | **$82.10** |

The Governor's proposal to continue the study of system reoperation makes sense. Given that the water system in California is over 50 years old, and has relied on antiquated assumptions about the movement of water and water needs throughout the state, the department's efforts to align water supply and flood management are appropriate.

Staff has concerns with the proposal to reappropriate funding for further surface storage studies originally approved under the CALFED. The state has spent over $81 million studying storage projects that are not necessarily in alignment with where the state is moving toward in water storage and water supply. Over the past ten years, locals have developed over 900,000 acre feet of storage for local use. Access to these reservoirs during drought times has improved the ability of local to mitigate the challenges of periodic drought. At the same time, state and federal system storage and supplies have been reduced to historically low allocations.

The state's groundwater holds more than ten times the amount of the state's surface storage. According to UC Davis, the surface water projects proposed come nowhere near to the capacity groundwater may fill in the future (see table below). Groundwater should be the state's focus, as should local assistance to improve regional water supply reliability. The continued development of the State Water Project (SWP), and any projects that would benefit users of the project, should be paid for by those users through the existing SWP billing system.




UC Davis, Jay Lund, PhD. "Water Storage in California." 2011

Staff recommends the subcommittee reject the current surface storage proposal. The department may continue its studies with funding from the SWP should the users of that project wish to continue. Staff recommends DWR consider development of a proposal to direct the remainder of any surface storage funding to local projects and/or project that have significant local co-benefits, such as conjunctive groundwater storage, water recycling, or flood water storage.

**Staff Recommendation:** Approve $6.2 million for System Reoperations Study. Reject $260,000 for Surface Storage Program.

**VOTE:**

## Proposition 13 Agricultural Water Conservation Local Assistance and Drought Mitigation

**Background.** The DWR manages water use efficiency programs in order to enable local districts to implement innovative programs to achieve water conservation benefits. Within the agriculture sector, extensive change is needed to be able to conserve the amount of water needed for overall water supply statewide. The department, through these programs, focuses on providing financial and technical assistance to enable locals to implement efficient water management practices and water shortage contingency planning.

**Spring Finance Letter.** The governor requests an appropriation of $17.9 million in Proposition 13 bond funds to support the Agriculture Water Conservation Local Assistance loans program. $17 million is proposed to be used for local assistance funding to provide loans for projects that include the implementation of efficient water management practices and agricultural water management plan criteria that can effectively contribute to immediate water savings. $900,000 is proposed to be used to fund 1.5 existing positions to administer the program for three years.

This proposal requests that the loan funding be available as a three-year appropriation (encumber through June 30, 2017 and liquidate through June 30, 2019). According to DWR, the program application evaluation and selection process can take six to eight months following the receipt of the application. Construction of the projects may take up to three years to complete.

**LAO Recommendation:** *We recommend approval of the two proposals, with the addition of provisional language stating that the state operations funding proposed—$300,000—is only available to fund the actual administrative costs incurred to issue loans. Our concern is that the department might spend this funding and fill the 1.5 administrative positions requested even if there few or no loans issued. We find that low or no participation in this program is a distinct possibility because (1) the department has not received any applications for loans under this program to date and (2) the recent drought legislation passed by the Legislature authorized $10 million in grant funds for agricultural water conservation projects and an additional $200 million in grant funds for integrated water projects, both of which could reduce the demand on the proposed loan program.*

**Staff Comments:** Staff concurs with the LAO recommendation.

**Staff Recommendation:** Adopt LAO recommendation.

**VOTE:**

## Delta Habitat Conservation and Conveyance Program (DHCCP) Implementation

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

The Bay Delta Conservation Plan (BDCP) is a planning process is being conducted by the Department of Water Resources (DWR) to provide the basis for the issuance of endangered species permits necessary to allow the operations of both state and federal water projects in the Delta for the next 50 years. The BDCP planning process will develop a combined Habitat Conservation Plan and Natural Community Conservation Plan (NCCP), key components of which are ecosystem enhancement above and beyond required environmental mitigation and alternative conveyance to improve water supply reliability.

Specifically, the DHCCP is a program run by DWR to conduct the engineering and scientific studies required to prepare an Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for BDCP that satisfy the requirements of the National Environmental Policy Act and the California Environmental Quality Act (CEQA). The DWR is designated as lead agency for the purposes of CEQA, while the state and federal water contractors that receive water from the projects are responsible parties that will use the EIR/EIS to perform some activities. Although initially separate, DHCCP has now largely merged with the BDCP planning process.

**Previous Legislative Actions.** The 2012 Budget Act approved 37 permanent positions and 38 two-year limited-term positions from the State Water Project. The budget rejected 60 requested positions. The positions approved were for preliminary design and construction work associated with the DHCCP.

**Spring Finance Letter.** The Governor requests to convert the 39 limited-term positions to permanent. These positions are proposed to be supported by the "off-budget," continuously appropriated State Water Project (SWP).

**Staff Comments:** The positions requested are consistent with the Governor's approach to the development of the Bay Delta Conservation Plan, and the further development of the conveyance system through the Delta (tunnels) by the SWP. The department should be prepared to update the subcommittee on how many of the initial positions currently authorized for the DHCCP are filled and when the new positions would be filled under the Governor's proposal.

**Staff Recommendation:**

**VOTE:**

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

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

**Thursday, May 8, 2014**
**9:30 a.m. or Upon Adjournment of Session**
**Hearing Room 112**

**Consultant: Catherine Freeman**

**Open Items and Spring Finance Letters (Part B)**

# OUTCOMES

## Items Proposed for Vote Only



## Items Proposed for Discussion



**Resources—Environmental Protection—Energy—Transportation**

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

***ITEMS PROPOSED FOR VOTE ONLY***

**Staff Comment:** Staff recommends approval of the vote-only items.

## 0540 Secretary for Natural Resources

1. **Reappropriations—Bond Programs (Spring Finance Letter).** Request for reappropriation of remaining balances of Propositions 12, 13, 40, 50, and 84 for bond administration and programs (River Parkways and Urban Greening).

2. **Ocean Protection Council Local Assistance (Spring Finance Letter).** Request for a reappropriation of $2.5 million for the second round of local assistance grants to support local governments planning efforts for sea level rise.

**VOTE (Item 1): Approve (3-0)**
**VOTE (Item 2: Nielsen No**

## 3125 California Tahoe Conservancy

3. **Implementation of the Environmental Improvement Program (January Budget and Spring Finance Letters).** The budget requests $1.01 million (various special funds) for continued capital outlay in support of the Lake Tahoe Environmental Improvement Program. The Spring Finance Letter requests reversion and appropriation of funds in the amount of $4 million (Proposition 84 bond funds) for similar purposes.

**VOTE (Item 3): Approve (2-1, Nielsen no)**

## 3340 California Conservation Corps (CCC)

4. **Vehicle Replacement Plan.** Request for a one-time augmentation of $540,000 (Collins-Dugan Reimbursement Account) to fund the continuation of the CCC's vehicle replacement plan.

5. **CCC Work Projects.** Request for a one-time augmentation of $1.7 million to the Collins-Dugan Reimbursement Account over three years to allow the CCC to fund project operating expenses and equipment, and to perform project work for sponsoring agencies.

6. **C-3 Information Technology (Spring Finance Letter).** Request for a $1.4 million (Collins-Dugan Reimbursement Account), and three positions, to implement and support the C-3 enterprise resource management system. This proposal is in accordance with the feasibility study report submitted to the Department of Technology.

7. **Proposition 84 Program Delivery (January Budget and Spring Finance Letter**). Request for $208,000 (Proposition 84 bond funds) for program delivery costs associated with the administration of resource conservation and restorations under the bond act.

**VOTE (Items 4, 5, 7): Approve (3-0)**
**VOTE (Item 6): Approve (2-1, Nielsen no)**

## 3540 Department of Forestry and Fire Protection (CalFIRE)

8. **Office of The State Fire Marshal (OSFM) Support (Spring Finance Letter).** The Governor requests $2.15 million (reimbursements, special funds), and nine permanent positions for the OSFM to conduct required plan review and construction inspections of local jail facility projects, in support of the implementation of SB 1022 (Committee on Budget), Chapter 42, Statutes of 2012.

9. **Minor Capital Outlay (Spring Finance Letter**). The Governor requests $1.7 million (Public Buildings Construction Fund) for various increases in minor capital outlay projects related to critical water supply and treatment problems.

10. **Various Fire Station Facility Replacement Projects and New 2014 Facility Program Policy Guidelines (Spring Finance Letter).** The Governor requests a net of $33.5 million (Public Buildings Construction Fund), including a technical fund shift, for various fire state facility replacement projects and to incorporate design changes to meet current program and building code standards, as proposed in the 2014 Facility Program Policy Guidelines.

| **Project** | **Action** | **Amount** *(in thousands)* |
|---|---|---:|
| Westwood Fire Station | Scope Change/Augmentation | $1,335 |
| Bieber Fire Station/Helitack Base | Scope Change/Augmentation | 4,258 |
| Butte Fire Station/Unit Headquarters | Scope Change/Augmentation | 3,845 |
| Soquel Fire Station | Scope Change/Augmentation | 512 |
| Potrero Fire Station | Scope Change/Augmentation | 2,163 |
| Cayucos Fire Station | Scope Change/Augmentation | 1,341 |
| Pine Mountain Fire Station | Scope Change/Augmentation | 582 |
| Higgins Corner Fire Station | Scope Change/Augmentation | 1,390 |
| Santa Clara Unit Headquarters | Scope Change/Augmentation | 4,454 |
| Siskiyou Unit Headquarters | Scope Change/Augmentation | 5,849 |
| Madera-Mariposa Unit Headquarters | Scope Change/Augmentation | 3,898 |

| **Project** | **Action** | **Amount** *(in thousands)* |
|---|---|---|
| Parkfield Fire Station | Scope Change/Augmentation | 585 |
| El Dorado Fire Station | Scope Change/Augmentation | 1,267 |
| Felton Fire Station | Scope Change/Augmentation | 786 |
| Baker Fire Station | Scope Change/Augmentation | 572 |
| Rincon Fire Station | Scope Change/Augmentation | 669 |
| South Operations Area Headquarters | Fund Shift ($4,057,000) | 0 |
| Badger Fire Station | Fund Shift ($1,182,000) | 0 |
| 2014 Facility Program Policy Guidelines | Adopt Updated Standards | |
| **Total** | | **$33,506** |

**VOTE (Item 8): Approve (3-0)**
**VOTE (Items 9-10): Approve (3-0)**

## 3790 Department of Parks and Recreation

11. **Reversions (Spring Finance Letter).** Request for the reversion of the unencumbered balances of several previously funded capital outlay projects where funding is not necessary at this time and will be re-submitted at a later date.

12. **Reappropriations—Capital Outlay Program (Spring Finance Letter).** Request for the reappropriation of capital outlay projects to allow for the completion of projects currently in progress. These include finalizing the Chino Hills State Park entrance project and Fort Ord Dunes campground and beach access working drawings.

13. **MacKerricher State Park—Replace Water Treatment Plant (Spring Finance Letter).** Requests for an increase of $40,000 (Proposition 84 bond funds) for the preliminary plans phase of the MacKerricher State Park: Replace Water Treatment System Project.

14. **Marbled Murrelet Management (Spring Finance Letter).** The Governor requests a permanent augmentation of $418,000 from the State Parks and Recreation Fund (SPRF) for a planning and management strategy for the marbled murrelet, a state and federally-listed endangered bird species, in Big Basin Redwoods State Park and the Santa Cruz Mountains. This management plan is the result of the settlement of a lawsuit, *Center for Biological Diversity v. State Parks* (Case No. CV 177159, Santa Cruz County).

15. **Federal Funds: Benbow Dam (Spring Finance Letter).** The Governor requests an augmentation of $2.3 million to its federal authority to expend a grant from the National Oceanic and Atmospheric Administration for the Benbow Dam Removal. The removal of the dam, a seasonal fish barrier, will help facilitate fish passage and improve habitat for Coho, Chinook, Steelhead, and most other aquatic species in the South Fork of the Eel River in Southern Humboldt County.

16. **Capital Outlay—San Diego Historic Park.** The spring finance letter requests reappropriation of funds for preliminary plans due to the delayed assumption of jurisdiction of the property from Caltrans in November 2013.

**VOTE (Items 11, 12 , 13, 14, 16): Approve (3-0)**
**VOTE (Item 15): Approve (2-1, Nielsen not voting)**

## 3810 Santa Monica Mountains Conservancy

17. **Technical Adjustment (Spring Finance Letter).** Request to decrease previous appropriations (Proposition 84) and ~~increase~~ decrease Environmental License Plate Fund by $236,000 to keep administrative costs within the five-percent bond administration limit.

**VOTE (Item 17): Approve (3-0)**

## 3855 Sierra Nevada Conservancy

18. **Technical Adjustment (Spring Finance Letter).** Request to decrease Environmental License Plate Fund by $282,000 due to an erroneous baseline increase in the January budget.

**VOTE (Item 18): Approve (3-0)**

## 3850 Coachella Valley Mountains Conservancy

19. **Reappropriation.** The spring finance letter requests reappropriation of the balance of funding from Proposition 84 bond funds to maintain adequate funding levels for acquisitions and local assistance grants.

**VOTE (Item 19): Approve (2-1, Nielsen no)**

## 3860 Department of Water Resources

20. **FloodSAFE California Program (Spring Finance Letter).** Request to re-characterize $14.2 million from state operations to local assistance in Proposition 1E to allow funding to be more appropriately moved to local agencies for flood control.

21. **Technical Support: Reappropriations, Reversions, Technical Adjustments (Spring Finance Letter).** Request for annual reappropriation and technical adjustments to ongoing flood programs within the state including the California Water Plan, enforcement programs, water recycling and water conservation. This continues programs that are ongoing.

22. **Technical Support—Capital Outlay: Reappropriations (Spring Finance Letter).** Request for annual reappropriation and technical adjustments to ongoing capital outlay flood projects including the Lower San Joaquin River, system-wide levee evaluations, and Sutter Bypass projects.

**VOTE (Items 20-22): Approve (3-0)**

## 3875 Sacramento-San Joaquin Delta Conservancy

23. **Implementation of the Delta Plan.** The budget requests one position (costs to be absorbed) to support the implementation of the Delta Plan near-term actions in the priority areas defined by the plan, and to assist in securing additional funding from a variety of sources.

24. **Implementation of the Delta Mercury Exposure Reduction Program.** Request for one (three-year, limited-term) position for the implementation of the Delta Mercury Exposure Reduction Program. The position costs would be funded by reimbursements from the State Water Resources Control Board.

**VOTE (Items 23-24): Approve (2-1, Nielsen no)**

## 3980 Office of Environmental Health Hazard Assessment

25. **Proposition 65 Limited-Term Positions.** Request for $785,000 (Safe Drinking Water and Toxic Enforcement Fund) and four, limited-term positions, to revise Proposition 65 regulations and develop a website that provides information to the public on exposure to listed chemicals. The proposed reforms are intended to inform the public about their exposures to chemicals that cause cancer or reproductive harm, pursuant to the original proposition. There is no trailer bill language associated with this request. This item was heard on April 10 and held open.

**VOTE (Item 25): Approve (2-1, Nielsen no)**

## 7300 Agriculture Labor Relations Board

26. **General Counsel—Spring Finance Letter.** The spring finance letter requests $1.9 million from the General Fund (including $1.4 million ongoing) and five positions (four attorneys and one field examiner) to address additional workload due to increased caseload responsibilities. This item was heard on April 28 and held open.

**VOTE (Item 26): Approve (2-1, Nielsen no)**

## 8570 Department of Food and Agriculture

27. **California Animal Health and Food Safety Laboratory System (CAHSF)—One-Time Adjustment (Spring Finance Letter).** The budget requests $1 million (General Fund), one-time, to offset the employee compensation increases. The Administration proposes to convene stakeholders to develop a sustainable long-term funding plan for CAHSF. This item was heard on April 28 and held open.

28. **Yermo Agriculture Inspection Station Reappropriation.** The spring finance letter updates the January budget proposal by clarifying the CalTrans appropriation through the Statewide Highway Account. This will not result in a change of General Fund expenditures.

**VOTE (Items 27-28): Approve (3-0)**

# 0540 Secretary for Natural Resources

***Items Proposed for Discussion***

## 1. Fourth California Climate Change Assessment

**Governor's Proposal.** The Governors' budget requests $5 million (one-time, Environmental License Plate Fund [ELPF]) and one position at the California Natural Resources Agency (CNRA), to carry out a fourth climate change assessment. The majority of funds are proposed to be used for contracts to conduct the scientific research needed for the assessment. The assessment, similar to the three previous, would continue to generate data and information needed to support continued climate policy development, planning, and implementation efforts at the state, regional, and local level. The intent is to ensure that efforts to foster resilient communities and businesses are informed by the best available science.

The Governor's proposal also includes trailer bill language that would add the following eligibility language to the ELPF funding allocations:

- "Scientific research on the risks to California's natural resources and communities caused by the impacts of climate change."

**Previous Subcommittee Action.** This item was heard on March 6 of this year and held open. The discussion included the use of the ELPF for climate assessment (a new purpose requiring trailer bill language), demands on the ELPF from existing programs, the need for more funding for climate adaptation prior to further assessment, and the lack of statutory guidance for climate assessments.

**Legislation Introduced.** SB 1217 (Leno) has been introduced related to climate assessments. The bill would require the Strategic Growth Council (Council) to prepare a climate risk assessment and strategy evaluation of the state's vulnerability and risk for climate change impacts every five years starting January 2017. The bill includes specific areas the Council should focus on and is likely to be amended to include further legislative intent specific to the assessments.

**Staff Comments.** As is consistent with other policy areas, staff recommends holding off funding programs where legislative intent is being determined. Staff recommends rejecting the proposal until legislative intent is clearly established.

**Staff Recommendation:** Reject proposal without prejudice and request the proposal be resubmitted in the 2015-16 budget cycle after legislation establishing the criteria for periodic climate assessments has been adopted.

**VOTE: Approve staff recommendation (3-0)**

# 3360 Energy Resources Conservation Development Commission (California Energy Commission)

***Items Proposed for Discussion***

**Proposition 39—Implementation and Operation of the California Clean Energy Jobs Act**

**Governor's Proposal.** The Governor's budget proposes $3 million and 12 permanent positions to implement and provide technical assistance related to the California Clean Energy Jobs Act (CCEJA [Proposition 39]), SB 73 (Committee on Budget and Fiscal Review), Chapter 29, Statutes of 2013. The legislation provides legislative guidance for implementation of Proposition 39, the Income Tax Increase for the Multistate Business Initiative, passed in 2012.

The budget proposal continues the request from the current year and provides for $1.3 million in external consulting funding and $1.7 million for the baseline positions and state activities. The positions are intended to provide outreach to Local Education Agencies (LEAs) including annual evaluations and approval an estimated 1,700-2,100 energy expenditure plans that will be submitted to the California Energy Commission (CEC), as required by the enabling legislation. In addition to providing outreach to the LEAs, the CEC plans to: develop and maintain a publicly available and searchable database to track and report program metrics (energy savings, energy costs savings, greenhouse gas reductions and employment effects of project); review and evaluate energy savings project expenditure plan modifications; provide and manage low and zero-interest revolving loans to LEAs and community colleges; and, provide annual reports to the Citizens Oversight Board.

**Previous Subcommittee Action.** This item was heard on March 6 of this year and held open.

**Staff Comments.** The CEC has provided updates consistent with the intent of Proposition 39. Staff recommends approval of the proposal.

**Staff Recommendation:** Approve proposal.

**VOTE: Approve (2-1, Nielsen no)**

## CEC Information Technology Proposals

**Governor's Proposal.** The Governor's budget includes three separate funding proposals for information technology (IT) related projects. These include:

1. **Renewables Portfolio Standard Database Modernization Project.** The budget requests $2.2 million (Petroleum Violations Escrow Account [PVEA]) to hire a contractor to implement a new Renewable Portfolio Standards database. The new database will allow for continued database growth and functionality, and increased efficiency of business processes, without risk to data security and stability. With this one-time funding, a contractor will design, build, and implement the proposed new database system, as well as support and train the CEC's IT Services Branch staff on maintenance and operations for six months after implementation.

2. **Application Development and Maintenance Support.** Request for three permanent programmer analyst positions and $403,000 (Energy Resources Program Account {ERPA]) to support the increasing workload for software applications and databases. Currently, the IT branch has about 40 applications and databases that require support on a regular basis. There are an additional 20 databases that require support but are only addressed on an emergency basis due to lack of programmer capacity. Another ten applications and databases, including critical systems such as e-filing for power plant siting cases, will come online in the next 12 months.

3. **Building an Energy Data Infrastructure to Meet the 21st Century.** The Governor's budget proposes six two-year limited-term positions and $790,000 (Energy Resources Program Account) to develop disaggregated energy demand forecasts purportedly needed to implement the Governor's renewable distributed generation goals and support statewide energy decisions at the CEC, CPUC and the California Independent System Operator

**Previous Subcommittee Action.** This item was heard on March 6 of this year and held open.

**Staff Comments.** The Commission has provided additional information to the subcommittee on its overall information technology plans. Staff recommends approval of the proposals.

**Staff Recommendation:** Approve.

**VOTE: Approve with Supplemental Reporting Language to report back during budget hearings on progress with the projects. (2-1, Nielsen no).**

**Vulnerability of the Fueling Infrastructure for the Transportation Sector to Climate Change**

**Governor's Proposal.** The Governor's budget requests $2 million (Petroleum Violation Escrow Account) and one two-year limited-term position to support an evaluation of the vulnerability of the fuel infrastructure for the transportation sector to climate change impacts. This work is intended to contribute to the Fourth Climate Change Assessment (see page 7 of this agenda) which is planned to be released in 2017. The project is proposed to identify specific vulnerabilities of California's fuel infrastructure to both extreme weather events (flooding, fire, storms), and other climate impacts (sea level rise, coastal erosion, rising temperatures).

**Previous Subcommittee Action.** This item was heard on March 6 of this year and held open.

**Staff Comments:** Consistent with the staff recommendation under the Secretary for Natural Resources item, staff recommends rejecting this proposal without prejudice until legislation providing clear direction on periodic climate assessments can be established.

**Staff Recommendation:** Reject.

**VOTE: Reject (3-0)**

## Transportation Energy Supply Forecast Analysis

**Background.** Existing statute requires the CEC to conduct assessments and forecasts of energy industry supply, production, transport, delivery, and distribution. This assessment includes demand and pricing analysis for several sectors, including transportation fuels. Specifically, the CEC is required to:

- Assess trends in transportation fuels, technologies and infrastructure supply and demand.
- Forecast statewide and regional energy demand.
- Evaluate sufficient transportation fuel supplies, technologies and infrastructure.
- Assess risk and disruptions in price shocks.
- Provide alternative fuel assessments.
- Provide recommendations to improve transportation energy use.

Assembly Bill 118 (Núñez), Chapter 750, Statutes of 2007, created the CEC's Alternative and Renewable Fuel and Vehicle Technology Program. Specifically, this program provides funding, in part, to:

- Develop and improve alternative and renewable low-carbon fuels.
- Optimize alternative and renewable fuels for existing and developing engine technologies.
- Decrease, on a full fuel cycle basis, the overall impact and carbon footprint of alternative and renewable fuels and increase sustainability.
- Expand fuel infrastructure, fueling stations, and equipment.
- Improve light-, medium-, and heavy-duty vehicle technologies.
- Expand infrastructure connected with existing fleets, public transit, and transportation corridors.

**Governor's Proposal.** The budget requests to redirect $750,000 (ERPA, mainly from electric and natural gas ratepayers) baseline contract funds to establish two new permanent positions to initiate a transportation supply and economic impact analysis framework, gather energy supply data, and initiate economic impact analysis.

**Staff Comments:** The CEC, as part of its administration of AB 118, has, in large part, conducted much of the initial research on the transportation sector as is evidenced in its AB 118 Investment Plan. However, further research may be necessary.

The funding source identified for this proposal is derived mainly from electric and natural gas ratepayers throughout the state. Funding is not proposed from existing transportation fuel fees and taxes. In addition, it is unclear to what extent this proposal utilizes existing research gathered through the implementation of AB 118 and other state transportation programs.

**Staff Recommendation:** Approve funding with the Motor Vehicle Account.

**VOTE: Approve staff recommendation (2-1, Nielsen no)**

# 3720 California Coastal Commission (CCC)

***Item Proposed for Discussion***

## Local Coastal Plans and Climate Adaptation Planning

**Background.** The subcommittee held an extensive hearing on climate adaptation, including the CCC's role in the development of Local Coastal Plans (LCPs), on March 20. As discussed at the hearing, the CCC has maintained a steady budget over the past several years but has struggled to make progress in updating LCPs. There are many reasons for this, including: (1) funding has not been available to assist local jurisdictions in updating their coastal plans; (2) some locals are reluctant to take back coastal permitting and prefer to have the state provide this service; and, (3) recent local funding issues have, as with other areas of government, reduced their ability to do forward-thinking planning.

**Previous Subcommittee Action.** On March 20, 2014, this subcommittee approved a General Fund appropriation of $3 million per year to the CCC for five years, with $1 million per year dedicated to local assistance, to work in partnership with local governments to accelerate the completion and updates of LCPs.

**Spring Finance Letter Proposed.** The Governor proposes a two-year pilot program (FY 2014-15 and FY 2015-16) of $3 million (General Fund carryover, Coastal Act Services Fund and the Environmental License Plate Fund) per year of state operations in the CCC budget to work in partnership with local governments to accelerate the completion and updates of LCPs.

**Staff Comments:** The Governor's spring proposal addresses concerns that were raised by the Legislature and local governments regarding funding for updating LCPs. For over 25 years, many local governments have adhered to the voters request for stronger coastal planning, which includes the LCP requirement. However, a handful of local agencies have not, making the CCC a de facto local government permitting agency within the coastal zone. Staff suggests that by making this LCP pilot program a five-year program, and by providing funding to update LCPs, the Legislature will be in a position, at the conclusion of the pilot program, to begin to eliminate the local permitting role of the CCC and focus on its appellate role, as intended by the voters.

**Staff Recommendation:** Approve the Spring Finance Letter. In order to ensure this pilot program is fully funded for five years, approve an additional two years of Environmental License Plate Fund funding for state operations. Approve $1 million (GF) local assistance for an additional three years, after the budget year. This action is intended to substitute for the previous subcommittee action on March 20.

**VOTE: Approve staff recommendation (2-1, Nielsen no)**

# 3760 State Coastal Conservancy (SCC)
# 3820 Bay Conservation Development Commission (BCDC)

***Items Proposed for Discussion***

## 1. Office Move and Increased Rent

**Background.** As discussed at the March 20 hearing, the State Coastal Conservancy (SCC) has occupied space at 1330 Broadway in Oakland for over 30 years. The SCC's lease is up for renewal on November 30, 2014, at $2.41 per square foot. The building at 1330 Broadway is also occupied by coastal-related nonprofits including Save the Bay, the Ocean Science Trust, The National Oceanic and Atmospheric Administration (NOAA) and the Coastal Services Center (Center).

Similarly, the Bay Conservation Development Commission (BCDC) occupied 50 California Street in San Francisco for several years and was co-located with multiple local and regional planning agencies. Recently, the Metropolitan Transportation Commission (MTC) purchased a new building intended to be a hub of regional planning agencies in the Bay Area. Rather than allow BCDC to move with its sister planning agencies to the new MTC building, the Department of General Services (DGS) required BCDC to move to the Hiram Johnson State Building in San Francisco.

**Executive Order (EO) B-17-12.** The Governor, through EO B-17-12, calls for agencies statewide to reduce their leased space footprint and consolidate into available state-controlled space.

**Budget Proposal (SCC).** As discussed on March 20, the DGS has made a formal request for the SCC to move into the Elihu Harris State Building. In order to accommodate this move, the SCC would require "significant and unavoidable one-time costs associated with the DGS architectural design, engineering, and construction project, as well as furniture and moving costs."

**Spring Finance Letter (BCDC).** The Spring Finance Letter requests $85,000 to cover the additional lease costs due to the BCDC office relocation to the Hiram Johnson State Building in San Francisco.

**Staff Comments.** The moves by SCC and BCDC to the Elihu Harris and Hiram Johnson buildings may solve a problem for DGS; however, the move does not necessarily make sense for these state agencies and their missions. Co-location with other federal and state ocean-related agencies is important to the mission of the SCC, as is co-location with other planning agencies to BCDC.

**Staff Recommendation:** Approve January SCC proposal. Approve funding proposal for BCDC for one-year. Require the BCDC to submit a proposal in January 2015 for a move to the MTC building, including cost estimates.

**VOTE: Approve staff recommendation, with report back as supplemental reporting language when the MTC building is ready for occupancy. (3-0)**

# 3860 Department of Water Resources

## Agricultural Drainage Water in the San Joaquin River

**Background.** The San Joaquin River is listed as an impaired water body, in part due to high loads of boron and salt, with a significant portion originating from agricultural subsurface drainage coming from the west side of the San Joaquin Valley. Subsurface drainage systems are designed to remove water from land without percolation to the groundwater table. More common in the upper midwest where excessive rains can damage crops and high water tables are common, this practice is also present in parts of the Central Valley. The drainage programs in California are designed to remove excess salt from the soil which can accumulate in areas where the groundwater table is shallow.

The drainage system was largely designed for federal water contractors. Salinity problems increased from the 1940s to the late 1960s when Congress authorized a drainage system as part of a federal project. This resulted in the construction of an 85-mile canal that discharged into the Kesterson Reservoir in the southern part of the San Joaquin Valley. The discovery of bird deformities due to high concentrations of selenium from agricultural drainage water lead to the shutdown of the reservoir and a portion of the drains. The subsurface drainage systems have remained in place and drain to local waters, including the San Joaquin River.

Currently, the Mud and Salt Sloughs are tributaries of the San Joaquin River and contribute approximately 85 percent of the selenium load, 65 percent of the boron load, and 45 percent of the salt load carried by the river. Seasonal drainage from 90,000 acres of wetlands in the Grassland Water District and state and federal refuges also contribute to the salt load.

**Governor's Budget.** The Governor requests $37 million for local assistance and $930,000 for program administration (Proposition 84) for implementing projects that reduce or eliminate discharges of subsurface drainage water from the west side of the San Joaquin Valley for the purpose of improving water quality in the San Joaquin River and the Delta.

**Staff Comments.** This proposal is consistent with previous year efforts to reduce salt loads in the Delta. At the March 27 subcommittee hearing, the department discussed efforts by locals to address this long-standing problem. The department did not describe a comprehensive or long-term and sustainable program that would provide a permanent and ongoing solution to the pollution problem.

Staff are concerned that the proposal lacks the cohesiveness to provide a long-term and sustainable fix to the farming community. The intent of the proposal has merit, but needs to be completed in a way that requires long-term groundwater and surface water interactions to be improved. Staff recommends the department prepare a proposal for the 2015-16 budget cycle that would provide a long-term solution.

**Recommendation:** Reject.

**VOTE: Motion to approve 1-2 (Jackson no, Beall not voting).**

## System Reoperation Program, and Surface Storage Program

**Background.** Proposition 84 provides funding to DWR to conduct statewide water planning and project feasibility studies for current and future needs related to water supply, conveyance and flood control systems. Within this context, the department has initiated a system reoperation program which means changing existing operation and management procedures for supply and conveyance, including management of flood control projects. Proposition 84 also includes funding for development of surface storage projects. Traditionally, DWR has used these funds (see table below) to explore projects developed under the CALFED program in partnership with the US Bureau of Reclamation (USBR).

**Spring Finance Letter (SFL).** The Governor requests reversion of $6.2 million (Proposition 84 bond funds), and reappropriation for three years, to complete the analysis and report for the System Reoperation Study. The proposal also requests reversion of $260,000 (Proposition 84 bond funds), and reappropriation, to continue the existing Surface Storage Program. This proposal is intended to support a 0.5 existing position to coordinate the development of studies with the USBR and Sites Project Joint Powers Authority.

**Staff Comments.** **Surface Water Storage Feasibility Studies.** As shown on the figure below, over $81 million of state funds will have been spent under the California/Federal Bay-Delta program (CALFED) program on surface water storage studies through the end of the current year.

***"State Funding Should Continue Only if Funding Partners Come on Board.*** *The LAO 2008 review finds that, for the most part, the preliminary feasibility study work for these projects is complete, and for the studies to practically move into the more costly final stage of investigation and into project development, local and/or federal funding partners (entities who benefit from and would have an interest in funding the project) must be on board to share in these costs with the state. This is consistent with legislative direction in the 2006-07 Budget Act regarding funding for the Los Vaqueros Reservoir Expansion. Specifically, the Legislature prohibited state funds being spent for this project until regional funding sources were secured to fund the investigation and planning of the project."*

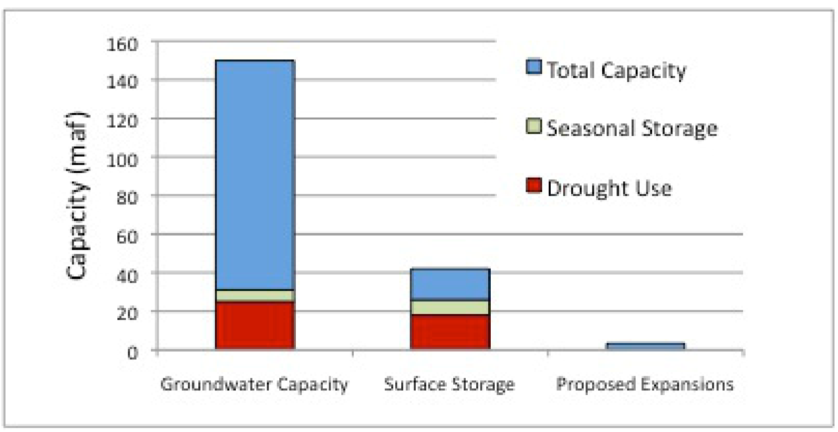
**Summary of Expenditures on Surface Storage Investigation** *(2000 through 2013)*
*(in millions)*

| Project | State Funds | Federal Funds |
|---|---:|---:|
| Common Assumptions | $5.08 | $0 |
| Shasta Lake Enlargement | $0.35 | $28.42 |
| Sites Reservoir (North of Delta Offstream Storage) | $44.93 | $12.21 |
| In-Delta Storage Investigations | $9.15 | $0.16 |
| Los Vaqueros Reservoir | $19.11 | $16.24 |
| Temperance Flat (Upper San Joaquin River Storage Investigations) | $2.42 | $25.07 |
| **Total** | **$81.03** | **$82.10** |

The Governor's proposal to continue the study of system reoperation makes sense. Given that the water system in California is over 50 years old, and has relied on antiquated assumptions about the movement of water and water needs throughout the state, the department's efforts to align water supply and flood management are appropriate.

Staff has concerns with the proposal to reappropriate funding for further surface storage studies originally approved under the CALFED. The state has spent over $81 million studying storage projects that are not necessarily in alignment with where the state is moving toward in water storage and water supply. Over the past ten years, locals have developed over 900,000 acre feet of storage for local use. Access to these reservoirs during drought times has improved the ability of local to mitigate the challenges of periodic drought. At the same time, state and federal system storage and supplies have been reduced to historically low allocations.

The state's groundwater holds more than ten times the amount of the state's surface storage. According to UC Davis, the surface water projects proposed come nowhere near to the capacity groundwater may fill in the future (see table below). Groundwater should be the state's focus, as should local assistance to improve regional water supply reliability. The continued development of the State Water Project (SWP), and any projects that would benefit users of the project, should be paid for by those users through the existing SWP billing system.




UC Davis, Jay Lund, PhD. "Water Storage in California." 2011

Staff recommends the subcommittee reject the current surface storage proposal. The department may continue its studies with funding from the SWP should the users of that project wish to continue. Staff recommends DWR consider development of a proposal to direct the remainder of any surface storage funding to local projects and/or project that have significant local co-benefits, such as conjunctive groundwater storage, water recycling, or flood water storage.

**Staff Recommendation:** Approve $6.2 million for System Reoperations Study. Reject $260,000 for Surface Storage Program.

**VOTE: Approve $6.2 System Reoperation (3-0)**
**Reject $260k surface storage studies (2-1, Nielsen no)**

## Proposition 13 Agricultural Water Conservation Local Assistance and Drought Mitigation

**Background.** The DWR manages water use efficiency programs in order to enable local districts to implement innovative programs to achieve water conservation benefits. Within the agriculture sector, extensive change is needed to be able to conserve the amount of water needed for overall water supply statewide. The department, through these programs, focuses on providing financial and technical assistance to enable locals to implement efficient water management practices and water shortage contingency planning.

**Spring Finance Letter.** The governor requests an appropriation of $17.9 million in Proposition 13 bond funds to support the Agriculture Water Conservation Local Assistance loans program. $17 million is proposed to be used for local assistance funding to provide loans for projects that include the implementation of efficient water management practices and agricultural water management plan criteria that can effectively contribute to immediate water savings. $900,000 is proposed to be used to fund 1.5 existing positions to administer the program for three years.

This proposal requests that the loan funding be available as a three-year appropriation (encumber through June 30, 2017 and liquidate through June 30, 2019). According to DWR, the program application evaluation and selection process can take six to eight months following the receipt of the application. Construction of the projects may take up to three years to complete.

**LAO Recommendation:** *We recommend approval of the two proposals, with the addition of provisional language stating that the state operations funding proposed—$300,000—is only available to fund the actual administrative costs incurred to issue loans. Our concern is that the department might spend this funding and fill the 1.5 administrative positions requested even if there few or no loans issued. We find that low or no participation in this program is a distinct possibility because (1) the department has not received any applications for loans under this program to date and (2) the recent drought legislation passed by the Legislature authorized $10 million in grant funds for agricultural water conservation projects and an additional $200 million in grant funds for integrated water projects, both of which could reduce the demand on the proposed loan program.*

**Staff Comments:** Staff concurs with the LAO recommendation.

**Staff Recommendation:** Adopt LAO recommendation.

**VOTE: Approve LAO recommendation (3-0)**

## Delta Habitat Conservation and Conveyance Program (DHCCP) Implementation

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

The Bay Delta Conservation Plan (BDCP) is a planning process is being conducted by the Department of Water Resources (DWR) to provide the basis for the issuance of endangered species permits necessary to allow the operations of both state and federal water projects in the Delta for the next 50 years. The BDCP planning process will develop a combined Habitat Conservation Plan and Natural Community Conservation Plan (NCCP), key components of which are ecosystem enhancement above and beyond required environmental mitigation and alternative conveyance to improve water supply reliability.

Specifically, the DHCCP is a program run by DWR to conduct the engineering and scientific studies required to prepare an Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for BDCP that satisfy the requirements of the National Environmental Policy Act and the California Environmental Quality Act (CEQA). The DWR is designated as lead agency for the purposes of CEQA, while the state and federal water contractors that receive water from the projects are responsible parties that will use the EIR/EIS to perform some activities. Although initially separate, DHCCP has now largely merged with the BDCP planning process.

**Previous Legislative Actions.** The 2012 Budget Act approved 37 permanent positions and 38 two-year limited-term positions from the State Water Project. The budget rejected 60 requested positions. The positions approved were for preliminary design and construction work associated with the DHCCP.

**Spring Finance Letter.** The Governor requests to convert the 39 limited-term positions to permanent. These positions are proposed to be supported by the "off-budget," continuously appropriated State Water Project (SWP).

**Staff Comments:** The positions requested are consistent with the Governor's approach to the development of the Bay Delta Conservation Plan, and the further development of the conveyance system through the Delta (tunnels) by the SWP. The department should be prepared to update the subcommittee on how many of the initial positions currently authorized for the DHCCP are filled and when the new positions would be filled under the Governor's proposal.

**Staff Recommendation:**

**VOTE: Approve Assembly compromise, 2-year limited term positions. (2-1, Nielsen no)**

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

**Tuesday, May 20, 2014**
**10:00 a.m.**
**Hearing Room 112**

**May Revision and Open Items**
Consultant: Catherine Freeman

## Items Proposed for Vote Only



## Items Proposed for Discussion



**Resources—Environmental Protection—Energy—Transportation**

## *ITEMS PROPOSED FOR VOTE ONLY*

### 0540 Secretary for Natural Resources, 3600 Department of Fish and Wildlife, 3790 Department of Parks and Recreation, 0555 Secretary for Cal-EPA

1. **Public Resources Account Adjustment.** The May Revision requests a decrease of $163,000 (Secretary for Natural Resources), $644,000 (Department of Parks and Recreation), and $163,000 (Department of Fish and Wildlife) from the Cigarette and Tobacco Products Surtax Fund due to declining cigarette and tobacco sales.

2. **Headquarters Building—Refunding Savings.** The May Revision requests to reduce expenditure authority for all departments housed within the Cal-EPA building due to a decrease in rental expenses resulting from the Cal-EPA building bond refinancing in August 2013. The decrease totals about $2 million annually to the distributed boards and departments.

**Recommendation (Items 1-2):** Approve.

Vote:

### 3340 California Conservation Corps

3. **Technical Adjustment.** The Spring Finance Letter requests a technical adjustment to keep Proposition 39 proposed expenditures at the $5 million level for the budget year consistent with the 2013-14 Budget Act.

**Recommendation (Item 3):** Approve.

Vote:

### 3360 California Energy Commission (CEC)

4. **Petroleum Fuel Price Vulnerability Analysis.** The May Revision requests $342,000 (Energy Resources Program Account [ERPA]), and one position, to evaluate the vulnerability of California's economy and transportation energy sector. This proposal mirrors SB 448 (Leno) which passed the Legislature in 2013 but was vetoed by the Governor.

   **Recommendation:** ***Approve with Motor Vehicle Account Funds.*** Consistent with the Subcommittee's previous actions on petroleum-related activities at the Energy Commission, approve with funding from vehicles.

**Recommendation (Item 4):** Approve.

Vote:

## 3480 Department of Conservation (DOC)

5. **Amended Funding Plan for Sustainable Communities Planning Grant and Incentives Programs (Spring Finance Letter).** Request to revert $495,000 in unencumbered local assistance Proposition 84 funds and appropriate $493,000 to award grants in round three of the Sustainable Communities Planning Grant and Incentive Program (SCPGIP). Request to appropriate $1.03 million to provide state support for the program (funds include previous reversions).

6. **SB 4 Hydraulic Fracturing: Environmental Impact Report and Independent Study (May Revision).** The May Revision requests $5.7 million from the Oil, Gas, and Geothermal Administrative Fund. Funding will be used to address increased costs to conduct and complete the independent scientific study on well stimulation treatments, and the Environmental Impact Report (EIR), as specified by SB 4 (Pavley), Chapter 313, Statutes of 2013. Updated cost estimates received since the January 10 proposal indicate that, to complete the studies within the statutory timelines, $2.5 million is needed for the independent well stimulation scientific study (an increase of $1.75 million) and $4.4 million is needed for the EIR (an increase of $3.5 million).

7. **Mapping Mines in California.** The DOC has been tasked with tracking and mapping mines throughout the state. The department is able to take advantage of off-the-shelf software that would allow the public more access to information on mines, similar to the well tracking software used by the State Water Resources Control Board. Staff recommends approval of $100,000 (General Fund), for three years, to purchase software (MineTracker) compatible with the existing GeoTracker and EnviroStor software used by the Cal-EPA agencies. This will save the state the cost of developing a “custom base” option that will take one to two years to develop.

**Recommendation (Items 5-7):** Approve.

Vote:

## 3600 Department of Fish and Wildlife

8. **Salton Sea Restoration Program.** The May Revision requests a decrease of $400,000 (Salton Sea Restoration Fund) to remove funding proposed to operate and maintain the Species Habitat Conservation ponds at the Salton Sea. The maintenance schedule has been moved beyond the 2014-15 budget timeframe.

**Recommendation (Item 8):** Approve.

Vote:

## 3640 Wildlife Conservation Board

9. **Habitat Conservation Fund.** The May Revision requests reappropriation of Proposition 50 and 1E bond funds. This will allow previous transfers to remain available for expenditure for acquisition, enhancement, and restoration of wildlife, pursuant to the original voter-approved measure (conforms to an item under the State Coastal Conservancy).

10. **Technical Adjustments and Pro Rata.** The Spring Finance Letter requests an increase of $105,000 from the Habitat Conservation Fund to align the pro-rata costs with appropriate fund sources. Additionally, the Spring Finance Letter requests technical adjustments to revert various Proposition 84 capital outlay appropriations.

**Recommendation (Items 9-10):** Approve.

Vote:

## 3760 State Coastal Conservancy

11. **Habitat Conservation Fund.** The May Revision requests reappropriation of Proposition 50 and 1E bond funds. This will allow previous transfers to remain available for expenditure for acquisition, enhancement, and restoration of wildlife pursuant to the original voter-approved measure (conforms to previous item under Wildlife Conservation Board).

12. **Technical Reversions and Capital Outlay.** The Spring Finance Letter requests various technical changes and reversions from Propositions 12 and 50.

**Recommendation (Items 11-12):** Approve.

Vote:

## 3790 Department of Parks and Recreation

13. **Kings Beach Operations and Maintenance.** The May Revision requests $521,000 in 2014-15 and $450,000 in subsequent fiscal years from the State Parks and Recreation Fund (SPRF) and Lake Tahoe Conservancy Account for the operation and maintenance of Kings Beach State Recreation Area (KBSRA). This includes the operation and maintenance of properties covered under the 2014 Operating Agreement with the California Tahoe Conservancy (CTC). This project would allow the department to operate and maintain the park. This is consistent with legislative direction in 2013 to consolidate local, state, and federal holdings in a more cost-effective manner.

14. **McLaughlin Eastshore State Park, Brickyard Upland Area Public Access Improvements.** The May Revision requests local assistance funding from Prop 84 to the East Bay Regional Park District (EBRPD) for their continued design development expenses and future construction expenses related to capital improvements at Brickyard Cove, McLaughlin Eastshore State Park. The department and EBRPD have entered into a 30-year operating agreement, where the department is to provide up to $5 million for EBRPD's completion of capital improvements to Brickyard Cove. The 2013 Budget Act appropriated $1.2 million and this request is for the remaining $3.8 million allowed under the operating agreement.

**Recommendation (Items 13-14):** Approve.

Vote:

## 3940 State Water Resources Control Board (SWRCB)

15. **Drinking Water Program.** The budget proposes to shift 291 positions and $202 million ($5 million General Fund) from Department of Public Health to the SWRCB, and includes an additional $1.8 million (General Fund) for one-time funds for technology and facility costs. The proposal shifts all programs (described below) and combines certain financial assistance programs. This item was heard on April 10 and held open. A draft trailer bill is available to the public on the Department of Finance website.

16. **Local Assistance Programs.** The Drinking Water Program shift also includes $110.3 million local assistance, and $209,000 state operations (Propositions 50 and 84 bond funds), with a two-year extension of two limited-term positions, due to expire on June 30, 2014. This item was heard on April 10 and held open.

17. **AB 21 Implementation.** The budget requests $93,000 (General Fund), and one position, to promulgate rulemaking packages and develop other guidance documents related to AB 21 (Alejo), Chapter 628, Statutes of 2013. AB 21 authorizes the department to assess a fee in lieu of interest on loans for water projects made pursuant to the Safe Drinking Water State Revolving Fund. AB 21 authorizes the department to expend the money for grants for specified water projects that serve disadvantaged and severely disadvantaged communities, thereby making an appropriation. This item was heard on April 10 and held open.

18. **Regulating Small Water Systems in Merced and Tulare Counties.** The budget request for $619,000 (Safe Drinking Water Fund) for five positions to perform regulatory oversight of public small water systems in Merced and Tulare counties. This item was heard on April 10 and held open.

19. **Continuation of the Recycled Water Program.** The budget requests $498,000 (Waste Discharge Permit Fund) to support three, two-year, limited-term positions, to continue work begun by the Department of Public Health to adopt Phase II of the uniform water recycling criteria for surface water augmentation, and to investigate the feasibility of developing uniform water recycling criteria. This item was heard on April 10 and held open.

20. **Continuation of the Emergency Drought Expenditures.** The May Revision requests $4.3 million (General Fund) to continue water rights enforcement efforts, respond to public inquiries, utilize field inspectors, and provide public enforcement hearings before the board.

21. **Regional Drinking Water and Wastewater Plan for Salinas Valley.** The May Revision requests $500,000 (Waste Discharge Permit Fund) to provide for the development of an integrated plan addressing drinking water and wastewater needs of disadvantaged communities in the Salinas Valley.

**Recommendation (Items 15-21):** Approve.

Vote:

## 3960 Department of Toxic Substances Control

22. **Stringfellow Superfund Hazardous Waste Site Remediation and Operation.** The May Revision requests $5.2 million (General Fund) to support an administrative order on consent with the US Environmental Protection Agency for further investigation and cleanup of contaminated water that has reached a drinking water source in the Chino Basin.

23. **California Environmental Contaminant Biomonitoring Program.** The May Revision includes $175,000 (Toxic Substances Control Account) and $175,000 (Birth Defects Monitoring Program Fund) to fund two positions in the Biomonitoring program as federal funding for the program is being reduced. A similar amount is proposed for two positions at the Department of Public Health.

**Recommendation (Items 22-23):** Approve.

Vote:

## 3970 Department of Resources Recycling and Recovery

**24. Education and the Environment Initiative (EEI).** Provide $800,000 (Environmental License Plate Fund [ELPF]) for transfer to the Department of Education, to provide base leveraging funding to support EEI, a public/private partnership. This item was heard under the Secretary for Natural Resources budget on March 6. The Subcommittee took action to reject $5 million related to the climate assessment, and corresponding trailer bill language that would add climate assessment as an eligible use of ELPF. This would direct a portion of the saved funding to a current and priority use of the ELPF, environmental education.

**Recommendation (Item 24):** Approve.

Vote:

## 3980 Office of Environmental Health Hazard Assessment

**25. Technical Amendment—Proposition 65 Website Development.** The May Revision requests $520,000 (Safe Drinking Water and Toxic Enforcement) to address higher information technology development costs identified in the draft feasibility study. This proposal increases the one-time contract funding in 2014-15 and eliminates a like amount in 2015-16. The corresponding budget proposal was heard on April 10 and approved on May 8 in this subcommittee.

**Recommendation (Item 25):** Approve.

Vote:

# 3110 Tahoe Regional Planning Agency
# 3125 Tahoe Conservancy
# 3940 State Water Resources Control Board

### *Items Proposed for Discussion*

## 1. SB 630 Implementation

**May Revise Proposal—SB 630 Implementation.** The Governor's May Revision includes $450,000 (Lake Tahoe Science and Lake Improvement Account) to implement the provisions of SB 630 (Pavley), Chapter 762, Statutes of 2013. SB 630 created the Tahoe Science Account which is funded by lease-revenues collected from piers and other leases in Lake Tahoe. The proposal includes:

- $150,000 for near-shore environmental improvement program activities, including but not limited to aquatic invasive species (AIS) projects and improved public access to sovereign lands, if matched by the California Tahoe Conservancy;
- $150,000 for near-shore water quality monitoring, executed by the Lahontan Regional Water Quality Control Board (Lahontan Water Board); and,
- $150,000 for the establishment of a bi-state science-based advisory council, pursuant to a bi-state Memorandum of Agreement between California and Nevada at the Tahoe Conservancy.

**Staff Recommendation.** ***Approve Proposal.*** The budget proposal is consistent with the intent and statutory direction given by SB 630.

## 2. Supplemental Reporting Language—Tahoe Regional Planning Agency (TRPA)

**Background.** SB 630 (Pavley), Chapter 762, Statutes of 2013, requires TRPA, until, January 1, 2018, to annually prepare and submit to the Department of Finance and the budget committees a report, in a format established by the department, of revenues and expenditures provided by the States of Nevada and California, including a complete summary and explanation of the expenditure of the revenues received and expended by the agency.

**Staff Comments.** The TRPA submitted this report on February 25, 2014. The report, while complete, could include a more comprehensive budgetary explanation. The State of Nevada also requires TRPA to submit budget and fiscal information to the state. Staff recommends that in addition to the information provided under SB 630, TRPA be required to annually submit to the Legislature the same budget information it submits to the State of Nevada.

**Staff Recommendation:** ***Adopt SRL.*** Adopt supplemental reporting language to require TRPA to annually submit to the Legislature the same budget information it submits to the State of Nevada, to by February 1 of each year.

**Vote (Items 1-2):**

# 3360 Energy Resources Conservation Development Commission (California Energy Commission)

***Item Proposed for Discussion***

**Implementation of the Electric Program Investment Charge (EPIC)**

**Background**. In December 2011, funding for the state's Public Goods Charge (PGC) on electricity ratepayers expired. The PGC funded energy efficiency research and development and renewable energy programs. Efforts to continue the surcharge, which requires a 2/3 vote of the Legislature, failed. The charge, considered a tax for voting purposes, supported about a quarter of the total energy efficiency programs funded by the state and energy utilities. In September 2011, the Governor sent a letter to the California Public Utilities Commission (CPUC) requesting that they take action under its quasi-legislative authority to ensure that programs, like those funded under the PGC, would be continued, but with the modifications legislators discussed during the PGC renewal deliberations. In December 2011, the CPUC initiated a rulemaking (essentially started a pathway to a new policy) to continue the programs similar to PGC, with a sole focus on the investor-owned utilities (IOUs). The commission planned a two-phased deliberation.

**Previous Budget Actions.** In the 2012 budget, the Legislature approved $1 million from the EPIC and 4.5 positions specifically to complete an investment plan for the future appropriations from this charge, established for the CPUC (and also described above). The 2013 budget approved $160 million and 55 positions from IOUs ratepayer funds for the implementation of EPIC. Trailer bill language restricted the use of funds to activities within the IOU areas and provided the authority for $25 million to be approved through the CPUC EPIC proceeding for the New Solar Homes Partnership Program.

**Budget Proposal.** The budget requests baseline authority for 26 positions to administer $172.5 million (direct ratepayer funds) in program funds for implementation of the CPUC-created EPIC program. The total request of $17 million is comprised of $3.8 million for state operations and $13.2 million for local assistance. This item was heard on March 6 of this year and held open.

**Lawsuit Outcome.** On May 21, 2013, one of the IOUs, Southern California Edison (SCE), sued the CPUC asserting that the CPUC's adoption of the EPIC is illegal for the following reasons: (1) CPUC's jurisdiction to regulate utilities does not extend to the establishment of a charge to fund another state agency (CEC); (2) EPIC raises revenue that is being used for broad purposes such as research and development, and is thus a tax; and, (3) EPIC involves an unlawful delegation of discretionary authority from CPUC to CEC.

**Staff Comments.** The court may rule on this issue before May 31. Therefore staff recommends holding this open by moving it to conference committee.

**Staff Recommendation:** Reduce by $1,000 to move to conference committee.

**Vote:**

## Proposition 39

**Background**. The Governor's budget proposes $3 million and 12 permanent positions to implement and provide technical assistance related to the California Clean Energy Jobs Act (CCEJA [Proposition 39]), SB 73 (Committee on Budget and Fiscal Review), Chapter 29, Statutes of 2013. The legislation provides legislative guidance for implementation of Proposition 39, the Income Tax Increase for the Multistate Business Initiative, passed in 2012. The subcommittee, on May 8 of this year, approved this proposal as budgeted.

**Citizens Oversight Board.** The May Revision requests baseline authority for two permanent positions ($284,000 one-time) and $300,000 per year for independent audit support from Energy Resources Programs Account (ERPA) funds, for a total request of $584,000 to implement and operate Proposition 39. These positions will serve as staff to the Citizens Oversight Board (COB), charged with: annually reviewing all expenditures from the fund; reviewing an annual independent audit of the fund and selected projects; publishing a complete accounting each year; and, submitting an evaluation of the program to the Legislature. The COB, composed of nine members, three appointees each by the Treasurer, Controller, and Attorney General, will review and report on all expenditures of the Job Creation Fund. The California Public Utilities Commission (CPUC) and the California Energy Commission (Energy Commission) each appoint an ex officio member to serve on the COB.

**Increasing Funding for Loan Programs.** The 2014 budget act included $28 million for financing assistance for K-12 public school districts and community colleges via the Energy Conservation Assistance Account (ECAA) Program and other technical assistance from the California Energy Commission (CEC). Financing assistance includes zero and low-interest revolving loans with up to 20 years terms.

**Staff Recommendation:** ***Approve May Revise proposal and $28 million for ECAA (including corresponding position authority)***. This is consistent with funding allocated in the 2014 budget.

**Vote:**

# 3540 Department of Forestry and Fire Protection (CalFIRE)

***Items Proposed for Discussion***

## Ecological Performance—Spring Finance Letter (with Natural Resources Agency)

**Governor's Proposals.** The Spring Finance Letter proposes $666,000 (Timber Regulation and Forest Restoration Fund), for three permanent, full-time positions, for CalFIRE to collect data and conduct assessments of program efficiencies and process improvements for evaluation of ecological performance relating to forest and timberland regulation. The request will assist the department in conducting the assessments and evaluation of ecological performance as required by AB 1492 (Committee on Budget), Chapter 289, Statutes of 2012.

The Governor's May Revision includes $200,000 (Timber Regulation and Forest Restoration Fund) to assist in the development of the ecological performance measures for forest management on forestlands in California to assist in the long-term response to a prolonged drought. Developing such measures will be scientifically and technically challenging, requiring combined expertise found within the Natural Resources Agency and the California Environmental Protection Agency and other agencies as well.

**Staff Recommendation:** Approve proposals.

**Vote:**

## State Responsibility Area—Local Assistance

**Governor's Proposal.** The May Revision includes $10 million (State Responsibility Area [SRA] Fire Prevention Fund) for local assistance as specifically allowed in Public Resources Code 4214 (d). This section specifies the allowable fire prevention activities from the SRA Fund includes grants to fire safe councils, local conservation corps, grants to nonprofit organizations that can complete a fire prevention project applicable to the SRA, public education to reduce the fire risk in the SRA, and other fire prevention projects.

**Staff Comments.** Staff have recommended local assistance be included in the budget since the SRA fee was approved. Numerous local agencies have requested funding from the SRA fund in the form of grants but until this proposal, the Administration has not allowed local assistance grants to be allocated from the SRA Fund. This has, in part, caused the fund to develop a substantial balance because CalFIRE can only use the fund for specific purposes stated in the enabling legislation. Rather than increase the appropriation, in the interest of evaluation, *staff recommends supplemental reporting language requiring the department to report back in the January budget on the under- or over-subscription of the grant program, and anticipated need in 2015-16 for local assistance grants.*

**Staff Recommendation:** Approve proposal plus supplemental reporting language.

**Vote:**

## Fire Protection Services Due to Drought and Emergency Fire Suppression (E-Fund)

**May Revision Proposals.** The Governor's May Revision requests $30.8 million General Fund and $2.2 million State Responsibility Area (SRA) Fire Prevention Fund, and 259 temporary help positions through fall 2014 and two associate governmental program analysts (AGPA) through June 30, 2016, to address heightened fire conditions brought on by drought conditions, as authorized and detailed in the Governor's Drought Declaration issued on January 17, 2014. The SRA Fund request will provide dedicated staff to address critical fire prevention, emergency preparedness, and outreach activities, and for fire prevention grants, to address the increased fire risk brought on by drought conditions. The remaining temporary staff will provide on-the-ground fire protection for what has already proved a costly fire season. Staff recommends adding $1,000 to remove CalFIRE from conference committee.

The May Revision also includes $23,000 (General Fund) to increase the E-Fund to provide resources in anticipation of an extended fire season due to extreme drought conditions. With this request, the Governor's budget provides a total of $209 million for emergency wildfire suppression in 2014-15.

**Staff Recommendation:** Approve proposals.

**Vote:**

## Vegetation Treatment Program

**Background.** The State Board of Forestry and Fire Protection (BOF) proposes to initiate a California Statewide Vegetation Treatment Program (VTP). The proposed program is intended to lower the risk of catastrophic wildfires on nonfederal lands by reducing hazardous fuels. The VTP goals include control of unwanted vegetation, including invasive species, improvement of rangeland for livestock grazing, improvement of fish and wildlife habitat, enhancement and protection of riparian areas and wetlands, and improvement of water quality in priority watersheds. The initiation of this program is a project, subject to the California Environmental Quality Act (CEQA). As the CEQA lead agency, the BOF will provide policy direction for implementation of the VTP to CalFIRE, which administers a wide range of vegetation management programs.

**Staff Comments.** The 2013 budget included language that addressed reporting and communication issues between the department and members of the public, mainly in Southern California, regarding the VTP Environmental Impact Report. The department has adhered to the language, including holding certain Board of Forestry meetings in Southern California to accommodate public comment. *Staff recommends continuing the language for one more year to ensure that the final result of the program is in keeping with both the department and the Legislature's intent for the VTP.* The language is consistent with the actions of the Subcommittee in 2013 and has been reviewed by the department.

**Recommendation:** Approve provisional language.

**Vote:**

# 3600 Department of Fish and Wildlife

### *Items Proposed for Discussion*

## Statewide Oil Pollution Program (Marine and Inland)

**Budget Proposal.** The Governor proposes statutory changes to maintain the Oil Spill Prevention and Administration Fund (OSPAF) fee at 6.5 cents per barrel on an ongoing basis, as well as expand the fee to all oil entering California refineries, including oil transported by rail and pipelines. The Administration projects that the proposed fee increase would increase revenues by $6.6 million in 2014-15 ($12.3 million annually when fully implemented) compared to current-year revenues. The Governor's budget for 2014-15 proposes to increase ongoing spending by $8.7 million, as follows:

- $6.2 million and 38 permanent positions to support the proposed expansion of Oil Spill Response Program's (OSPR) activities, to include inland prevention activities, as well as allow the office to respond to all inland spills. According to the Administration, the proposed expansion is necessary because the amount of oil transported over land (by rail or pipeline) is expected to significantly increase in coming years.

- $2.5 million to support the Oiled Wildlife Care Network and change the program's fund source from the Oil Spill Response Trust Fund (OSRTF) to the OSPAF. The proposed amount reflects an increase of $500,000 for the program relative to the current-year funding level.

**Assembly Action.** On April 23, the Assembly approved requested funding and positions. They (1) approved expanding the OSPAF fee to all oil entering California refineries, and (2) denied proposed statutory changes to maintain the OSPAF fee at 6.5 cents per barrel on an ongoing basis and instead authorized the department to charge fees to generate total revenue up to the amount authorized for oil spill prevention and response in the annual state budget.

**Staff Comments.** This item was heard in Subcommittee on March 27. Staff concurs with the need to approve position authority for the evaluation and enforcement of well stimulation practices. Staff concurs with the Assembly analysis and proposal to authorize the department to charge fees to generate total revenue up to the amount appropriated in the annual state budget. This action is consistent with many regulatory fees within the resources and environmental protection budgets.

**Staff Recommendation:**

1. Approve requested funding and positions.
2. Approve expanding the OSPAF fee to all oil entering California refineries.
3. Deny proposed statutory changes to maintain the OSPAF fee at 6.5 cents per barrel on an ongoing basis and instead authorize the department to charge the fees to generate total revenue up to the amount authorized for oil spill prevention and response in the annual state budget.

**VOTE:**

## Fisheries Restoration Grant Program (FRGP)—with Natural Resources Agency

**May Revision.** **Fish and Wildlife Proposal.** The May Revision proposes to add $5.2 million (General Fund) and $2 million Timber Regulation and Forest Restoration Fund (TRF) to FRGP. This action will use TRF to disperse FRGP grants to restoration projects that:

- Are in forested watersheds for restoration of conditions beneficial to state and/or federally listed salmonids;
- Address legacy impacts of forest management (e.g., problem forest roads, poor stream crossings, sediment sources, and lack of in-stream large woody debris), which have resulted in the shallowing or loss of deep pool fish refugia that is now aggravated by drought-related reduced instream flow;
- Rely on state and federal recovery plans for listed salmonids and existing watershed assessments to guide identification of priority watersheds and projects;
- Target multiple projects in just a few watersheds to ensure maximum impact;
- May be in coastal or inland watersheds;
- Monitor before and after treatment to assess project outcomes;
- Are selected according to guidance for priorities and project selection provided by Natural Resources Agency and Cal-EPA leadership team for AB 1492 implementation; and,
- May use California Conservation Corps crews (such as Watershed Stewardship Program) for projects (pre- and post-project monitoring, on-the-ground project implementation) as appropriate.

**Natural Resources Agency Proposal.** A second May Revision Proposal (drought-related) would increase the allocation to FRGP to leverage the existing funding program within the Natural Resources Agency. Currently, about 150-170 grant applications are reviewed annually, and approximately 50 percent are funded. The funding distribution in recent years has focused exclusively on coastal streams. These coastal counties are experiencing significant drought impacts. The department proposes to divide the $6 million equally for coastal and Central Valley habitat restoration. Including this geographic focus on the Central Valley helps further mitigate the substantial risks for Central Valley salmon and steelhead from drought.

**Assembly Action.** The Assembly heard the Spring Finance Letter in May and included trailer bill language to prioritize restoration grants programs for the Fisheries Restoration Grant Program administered by the Department of Fish and Wildlife and state conservancies.

**Staff Recommendation:** Approve proposals and Assembly proposed trailer bill amendment. Approve proposal to split grant program with inland areas on a one-time basis.

**VOTE:**

## Emergency Drought Relief

**Budget Proposal.** The May Revision includes multiple one-time proposals intended to provide immediate drought relief. The overall proposal requests $25 million (General Fund, $2.6 million special funds, and $3.7 million Proposition 84 bond funds). (A portion of the department's overall proposal is included in the previous item.) The proposal includes:

- **Habitat Restoration ($3.7 million).** Allocates available bond funds for restoration of 1,100 acres of fresh and brackish water tidal emergent wetlands, and 69 acres of alkali wetlands, to be accomplished by reconnecting diked lands in Lindsey Slough (in the Cache Slough area) and Hill Slough (in Suisun Marsh). The requested Proposition 84 funding would facilitate the completion of these two projects.

- **Monitoring for Chinook on the Sacramento River and Delta Native Fishes ($5.8 million).** The state and federal Water Project Drought Operations Plan describes the risk to federally and state listed winter-run and spring-run Chinook salmon on the Sacramento River and its tributaries. These fish depend on cold water stored in Shasta Reservoir and sufficient cold water releases from other upstream dams to maintain downstream temperature thresholds. The drought and difficult water and reservoir management decisions combine to put the spawning areas for these two runs in the upper Sacramento River and tributaries at significant risk. The Drought Operations Plan also identifies a suite of existing monitoring studies to assess effects of modified operations upon federally and state listed delta and longfin smelts. These species depend on conditions that fluctuate seasonally with a balance between outflow and tidal influences. Modified operations have the potential to exacerbate water quality conditions that could impact these fish.

- **Increasing San Joaquin River Restoration Program ($2.0 million).** The California Water Action Plan identifies the goals of restoring flows to the San Joaquin River from Friant Dam to the confluence of the Merced River, and bringing back a naturally-reproducing, self-sustaining Chinook salmon fishery, while reducing or avoiding adverse water supply impacts. This proposal will allow the department to improve infrastructure at its Moccasin and San Joaquin fish hatcheries. The department will also provide drought specific fish rescue, monitoring, and enhanced restoration activities.

- **Infrastructure Investment at Public Wildlife Refuges ($5.0 million).** There are 19 state and federal wildlife refuges in the Central Valley. The department owns and operates five of them. Collectively, these refuges play a valuable ecological role as food and shelter for tens of millions of birds migrating along the Pacific Flyway because the Central Valley has lost 90 percent of historically occurring wetland habitats. Under the Drought Operations Plan, and Reclamation's contracts with the department, these managed wetland areas will receive 40 percent of their allocation this year with the exception of north-of Delta wildlife refuges, which will receive an allocation of 75 percent. The Governor's emergency drought proclamation (paragraph 14) requires the Department to develop contingency plans for Wildlife Areas and Ecological Reserves; some 60 plans will have been completed.

- **Applying 21st Century Technology to Monitoring ($6.8 million).** The California Water Action Plan states that preparing for 2014 and beyond through better technology and improved procedures can lead to increased operational and regulatory efficiency for the State Water Project and Central Valley Project and benefit water supply and fish and wildlife. This proposal is for the department to partner with the Department of Water Resources and lead collaboration with Reclamation, the U.S. Fish and Wildlife Service (USFSW), and the National Marine Fisheries Service (NMFS) to develop and implement the technology and monitoring improvements described in the California Water Action Plan and Drought Operations Plan.

- **Statewide Drought Response ($5.9 million).** This action will allow the department to continue: (a) monitoring of environmental stressors using 15 existing personnel positions to conduct field surveys on threatened and endangered species; (b) conducting fish rescues and, where necessary, and relocating fish to hatcheries to prevent extirpation or extinction; (c) preparing department hatcheries to hold rescued fish; (d) increased wildlife officer enforcement; (e) the department's ability to rapidly review and respond to requests for a suite of permits and licenses; (f) improving water infrastructure on department-owned lands; and, (g) constant and dedicated coordination with the Department of Water Resources to minimize drought effects on aquatic species and implement Delta-specific regulatory flexibility decisions.

- **Commercial Fishery Impact Mitigation ($0.7 million**). In early March 2014, the Department, US Fish and Wildlife Service (USFWS), and National Marine Fisheries Service (NMFS) implemented a contingency plan for the release of hatchery juvenile salmon in 2014 due to drought. Trucking all or part of the Sacramento River Basin salmon to selected net pens locations downstream of the Delta was expected to increase the survival of these hatchery-produced fish. Sacramento River Basin fall-run Chinook salmon are the primary contributor to ocean commercial and recreational fisheries. Several million fish were trucked to the pens, by the department. The cost to the department to-date is approximately $250,000. These additional resources would continue a commitment to commercial fishing through complete implementation of the plan, and for the purchase of two state-of-the-art fish transport trailers to maximize fish health and survival.

- **Increasing Enforcement ($0.7 million**). This proposed action provides for the necessary overtime to sustain increased field presence of the department's enforcement staff in the parts of the state where drought impacts combined with illegal activities are likely to prove most harmful for fish and wildlife.

**Staff Comments.** The proposed actions by the department range from immediate to long-term and far-ranging. While some of the proposals clearly are needed in the immediate term (increased enforcement, emergency response, monitoring of endangered species), several other proposals are problematic. These include:

- **Increasing San Joaquin River Restoration Program ($2.0 million).** The long-term goal of restoring San Joaquin River flows is ultimately a state-federal project that includes the management of the Central Valley Project, Friant Water project, and others. The federal government is currently releasing additional water from upstream reservoirs to accommodate senior water rights holders on the river. The state has invested nearly $83 million (Proposition 84 bond funds) in San Joaquin River Restoration projects. The most recent proposal in 2013 allocated $10 million. An additional $17 million is available from the bond.

  **Staff and LAO Recommendations:** In accordance with the investment of the state to date and the availability of other funding sources, staff recommends rejecting the General Fund appropriation for San Joaquin River Restoration. The LAO recommends rejecting $1 million for similar reasons.

- **Applying 21st Century Technology to Monitoring ($6.8 million).** The proposal states that "preparing for 2014 and beyond through better technology and improved procedures can lead to increased operational and regulatory efficiency for the State Water Project and Central Valley Project." However, neither of these entities are funding the proposals that will have a clear benefit for their water contractors. Other state and federal monitoring agencies have already entered the 21$^{st}$ century and are able to contract with the state should we need to catch up.

  **Staff and LAO Recommendations:** In accordance with the investment of the state to date and the availability of other funding sources, staff recommends rejecting the General Fund appropriation for the 21$^{st}$ Century Technology. The LAO recommends rejecting $3.4 million for similar reasons.

- **Infrastructure Investment at Public Wildlife Refuges ($5.0 million).** The proposal intends to develop contingency plans refuges given the lower allocation of water. The department, in response to questions, also indicates that a more long-term infrastructure investment will be started with this funding. The proposal does not clearly specify roles and responsibilities, nor the long-term approach the state might take with this investment. In addition, many state water rights holders are receiving zero allocations, while urban and agricultural areas are cutting water consumption at unprecedented levels.

  **Staff Recommendation:** Staff recommends the department move forward with contingency plans, staff recommends rejecting the General Fund appropriation for the infrastructure project. This project should be submitted as a capital outlay budget proposal in the fall.

**Staff Recommendation:**

1. Per staff comments, reject $12.8 million General Fund appropriations.
2. Recommend approval of the remainder of the proposal.

**VOTE:**

# 3790 Department of Parks and Recreation

### *Items Proposed for Discussion*

**Parks Capital Outlay, Off-Highway, Revenue Generation, and Bond-Funded Proposals**

**Previous Subcommittee Action:** The subcommittee heard two of the following proposals on March 20 and held them open for further review.

**Oceano Dunes Le Grande Acquisition.** The budget proposes $5 million in one-time costs to purchase 584 acres of land in San Luis Obispo County (County). Currently, the parcels are leased from the county by the department and operated as part of Oceano Dunes State Vehicular Recreation Area (SVRA). The land is used for off-highway vehicle (OHV) recreation and other beach- and dune-related recreational uses. County-owned land represents 38 percent of the land open to motorized recreation within the park. A long-term lease expired in June 2008, and the current lease between the county and the department is month-to-month.

In 2007, the State Coastal Commission sent a letter to the county stating, among other things, the following regarding the county's local coastal plan, the land update certification (LUP) and inclusion of the property in question in that plan, and the sale of the property to the department:

> "It is the Coastal Commission staff's opinion that (the property in question) was intentionally included within the certified LUP to reflect the long-term objectives shared by the County and the commission for this sensitive dune habitat area, which included phasing out of the northern access route for OHV use and restricting OHV use on County-owned land."
>
> "We (the Commission staff) support the conclusions of the County planning staff that the sale would result in the continuation of a use that is inconsistent with the land use designations established by the certified Local Coastal Plan."

**Fort Ord Dunes—New Campground and Beach Access.** The budget proposes $19.2 million (Proposition 84 bond funds) to develop initial permanent public facilities, including camping and day use beach access, at the Fort Ord Dunes State Park in Monterey County. Up to 110 new campsites, approximately one-half with full utility hook-ups for recreational vehicles, will be constructed along with appurtenant improvements, operations facilities, and a beach access trail with restrooms and parking.

This project is estimated to increase the support budget of the department due to the expensive nature of campgrounds which includes housekeeping, maintenance, administration, and public safety services. The department's calculations for revenue anticipate that the campground will be filled to capacity on most days year round. Annual ongoing costs for the park are anticipated at $1.1 million per year. Annual revenues are anticipated at $1.3 million.

Staff is concerned with the close nature of revenue and expenditure forecasts given the directive of the Legislature to produce revenue-generating activities at State Parks. With limited Proposition 84 bond funds, the department should address how it would enhance this proposal to provide a better ratio of revenue to expenditure.

**Revenue Generation.** The Governor's January budget proposes trailer bill language to continue the legislatively established revenue generation program at the department and to make technical changes to park gifts and loans. The language (publicly posted) is currently being reviewed by fiscal and policy staff.

**Staff Comments:** Staff followed up on each budget proposal.

- The **Fort Ord Dunes** proposal would begin the process of developing the property acquired by the state with developed campgrounds and interpretive centers. The park is open for limited hiking and bicycling, as well as access to the beach. The tradeoff to this proposal is that funding would not be available for other needed projects within this district and throughout the state. For example, funding is necessary at the highly-visited Point Lobos to increase the collection of entrance fees (many people still park outside the park entrance to avoid paying for entry), and to increase accessibility to the park (options include bus or trams within the park). Point Lobos is not unique to the system. Many existing state parks need significant upgrades. The Subcommittee should consider whether it wishes to upgrade existing parks or develop recently acquired parks for new visitation.

- Locally, the **Oceano Dunes** acquisition proposal is highly controversial. While the state wishes to finalize acquisition of the existing footprint of the available off-road vehicle use, local opposition, as well as Coastal Commission opposition, make this proposal challenging to approve. It is staff's understanding that the parties involved with this acquisition proposal are meeting to re-negotiate and that the result of this discussion will be available in time for next year's budget. Therefore, staff recommends rejecting the current proposal without prejudice to allow time for further negotiations on the acquisition.

- **Revenue Generation** is a critical part of the department's ongoing ability to further reduce its dependence on the General Fund, and to allow the department to use its variety of funding sources more efficiently. Staff recommends the adoption of the trailer bill language; modified to include a few changes to simplify the statute, require the department to shift to cost-based revenue targets, and to reduce barriers to establishment of a statewide fee collection program.

**Staff Recommendation:** Staff recommends the following actions:

1. For Ord Dunes—Approve as budgeted.
2. Oceano Dunes Le Grande Acquisition—Reject without prejudice and request re-submission in the 2015-16 budget cycle.
3. Adopt trailer bill language with recommended changes.

**Vote:**

# 3860 Department of Water Resources

***Items Proposed for Discussion***

## Drought and Delta Projects

**Governor's Proposal (Drought).** The May Revision requests a one-time appropriation of $18 million (General Fund) and 72 existing positions to address drought water supply issues, including:

- $11 million—Emergency Operations. This program would provide management, technical assistance, and resources to state and local agencies for managing drought emergencies through the establishment of an emergency operations center. The center will also be responsible for measures or actions taken by the department to respond to critical water shortage and drought impacts.

- $5 million to fund implementation of management actions including measures or actions taken by the Department to respond to critical water shortage and drought impacts. These resources are needed to begin the responses in a timely and efficient manner. Additional resources may be required to fully address the responses. Such measures or actions include but are not limited to: facilitating water movement within a local or regional area, expansion of water infrastructure, facilitating water transfers, water purchasing, and Delta water quality mitigation actions.

- $2 million of this request is to fund the Save Our Water campaign, which provides public outreach and education to Californians on water conservation.

**May Revision Proposal (Delta Water Quality Reappropriations).** The May Revision requests reappropriation of funds to implement projects in the Delta including, but not limited to, protecting water quality, water supply, and the ecosystem.

**Staff Comments.** The majority of the May Revision proposal makes sense. However, it is unclear to staff how 72 existing positions are in need of further funding (without a corresponding reduction in another fund source, say bond funds). The Administration should also consider local assistance funding for immediate water supply needs that do not fit neatly into other categories of funding.

**Staff Recommendation:** Approve proposals with the following provisional language:

1. The department shall report to the Legislature on or before January 10, 2015, with the specific reductions in funding for all 72 proposed positions that were backfilled with this proposal.

2. The department shall, to all extent possible, allocate the Delta water quality reappropriations to projects identified by the Department of Fish and Wildlife in its drought proposal in order to effect immediate change in water supply and water quality.

**Vote:**

## Groundwater Management Program

**Governor's Proposal.** The May Revision requests $2.5 million in General Fund to initiate development and implementation of the California Statewide Sustainable Groundwater Management Program. This will fund five existing, and five new, positions. This funding is proposed to implement Action 6, in order to expand water storage capacity and improve groundwater management, in the January 2014 Governor's Five-Year California Water Action Plan. This proposal complements, but does not duplicate, work funded recently through two 2014-15 budget proposals.

**Previous Subcommittee Action.** The Subcommittee approved $13.8 million General Fund (multi-year) for the statewide groundwater elevation monitoring program at DWR. In addition, the February drought package included $2 million for the State Water Resources Control Board's groundwater monitoring programs.

**Staff Comments.** First, it is unclear what portion of the $2.5 million will be used to fund the five existing positions and where the corresponding savings would occur. Second, the Governor's office has indicated that it wishes to advance groundwater legislation that would provide further monitoring and protections for the state's groundwater resources. While this is a laudable goal, further funding for groundwater management should be contingent upon updated statutory authorization.

Therefore, staff recommends approving the funding contingent upon the passage of groundwater legislation in this budget session.

As with the previous item, staff recommends the following additional provisional language:

1. The department shall report to the Legislature on or before January 10, 2015, with the specific reductions in funding for all proposed positions that were backfilled with this proposal.

**Staff Recommendation:** Approve proposal with provisional language.

**Vote:**

# 3970 Department of Resources Recycling and Recovery

***Items Proposed for Discussion***

## 1. Beverage Container Recycling Program Reform—Phase II

**Background.** The Beverage Container Recycling Program (BCRP) is one of the state's most successful recycling and environmental protection efforts. The state's recycling rate currently exceeds 85 percent. Because of the state's high recycling rate and mandated program payments, expenditures from the Beverage Container Recycling Fund (BCRF) now exceed revenues by approximately $100 million.

**Governor's Proposal.** The Governor's January proposal was heard in Subcommittee on April 10 and held open. The Governor's January budget proposes 12 positions and $1.48 million, Beverage Container Recycling Fund (BCRF), and $1.2 million ongoing to develop and implement Phase II of reforms to the Beverage Container Recycling Program (BCRP), including restructuring administrative and handling fees, a phased elimination of the processing fee offset, creating a Recycling Enforcement Grant Program, and changing the funding sources for local conservation corps payments.

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

**Staff Comments.** Staff raised concerns regarding three aspects of the January proposal in the April 10 agenda. These included impacts to convenience zones, and handling fees, and processing fee offsets. BCRP has achieved great success over the past several years—attaining an overall recycling rate of approximately 84 percent. The BCRF's ongoing $100 million structural deficit is, in large part, due to that success. Due to mandated expenditures, the fund cannot sustain a recycling rate that is higher than 72 percent. Up until now, a high fund balance (due to past unclaimed CRV) and fund loan repayments have enabled the BCRP to stay afloat and avoid statutorily required proportional reduction. The Administration has not come to an agreement with the stakeholders.

**Staff Recommendation.** Reject Proposal. Provide funding for Local Conservation Corps in the budget year as a contingency against closure as they transition to multiple funding sources.

**Vote:**

# 8570 California Department of Food and Agriculture (CDFA)

### *Items Proposed for Discussion*

## Border Protection Station (BPS) Program Restoration

**Background.** The CDFA staff stations at entrances to the state in order to inspect vehicles and commodities to ensure they are pest free and in compliance with state quarantine entry requirements. The stations both identify pests and act as a deterrent to carrying commodities that are prohibited or restricted by quarantine. Recent budget reduction measures, intended to be permanent, have reduced funding for the program from $19.6 million in 2011-12 to $16.1 million in 2013-14.

According to the department, 90 percent of high-risk pests are intercepted at the eight high-risk stations, eight percent are intercepted at the medium risk stations, and less than three percent are intercepted at the low-risk stations.

**Governor's Proposal.** The May Revision requests $3.1 million (General Fund) to restore funding to the BPS program. The request would allow CDFA to operate all sixteen stations year-round with additional permanent and temporary staff. The proposal does not request new positions but use vacant positions identified at the department rather than allow them to expire.

**Alternatives Proposed.** The budget proposal includes four funding alternatives:

1. Approve $3.1 million in General Fund authority beginning in 2014-15 to enhance the existing BPS program, restoring the program to previous year funding levels.

2. Do not approve the $3.1 million. Operations would continue at current levels.

3. Permanently close four stations identified as low-risk entrance points to California, modify the service level at four stations identified as medium-risk entrance points, and redirect those resources to increase activity levels at the remaining high-risk stations.

4. Seek additional funding through partners. The department has had strong success executing interagency agreements with the Board of Equalization and CalRecycle.

**Staff Recommendation.** **Reject May Revision Proposal.** Given the risk analysis conducted by the department, full staffing of low-risk stations does not seem the best use of scarce General Fund resources. Staff recommends the department explore alternatives three and four to see if there are other ways to adjust funding and staffing levels at the stations.

**Vote:**

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

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

**Tuesday, May 20, 2014**
**10:00 a.m.**
**Hearing Room 112**
**OUTCOMES**
**May Revision and Open Items**
Consultant: Catherine Freeman

## Items Proposed for Vote Only



## Items Proposed for Discussion



**Resources—Environmental Protection—Energy—Transportation**

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

***ITEMS PROPOSED FOR VOTE ONLY***

**0540 Secretary for Natural Resources, 3600 Department of Fish and Wildlife, 3790 Department of Parks and Recreation, 0555 Secretary for Cal-EPA**

1. **Public Resources Account Adjustment.** The May Revision requests a decrease of $163,000 (Secretary for Natural Resources), $644,000 (Department of Parks and Recreation), and $163,000 (Department of Fish and Wildlife) from the Cigarette and Tobacco Products Surtax Fund due to declining cigarette and tobacco sales.

2. **Headquarters Building—Refunding Savings.** The May Revision requests to reduce expenditure authority for all departments housed within the Cal-EPA building due to a decrease in rental expenses resulting from the Cal-EPA building bond refinancing in August 2013. The decrease totals about $2 million annually to the distributed boards and departments.

**Recommendation (Items 1-2):** Approve.

Vote: 3-0

**3340 California Conservation Corps**

3. **Technical Adjustment.** The Spring Finance Letter requests a technical adjustment to keep Proposition 39 proposed expenditures at the $5 million level for the budget year consistent with the 2013-14 Budget Act.

**Recommendation (Item 3):** Approve.

Vote: 3-0

**3360 California Energy Commission (CEC)**

4. **Petroleum Fuel Price Vulnerability Analysis.** The May Revision requests $342,000 (Energy Resources Program Account [ERPA]), and one position, to evaluate the vulnerability of California's economy and transportation energy sector. This proposal mirrors SB 448 (Leno) which passed the Legislature in 2013 but was vetoed by the Governor.

   **Recommendation:** ***Approve with Motor Vehicle Account Funds.*** Consistent with the Subcommittee's previous actions on petroleum-related activities at the Energy Commission, approve with funding from vehicles.

**Recommendation (Item 4):** Approve.

Vote: 2-1 (Nielsen, no)

## 3480 Department of Conservation (DOC)

5. **Amended Funding Plan for Sustainable Communities Planning Grant and Incentives Programs (Spring Finance Letter).** Request to revert $495,000 in unencumbered local assistance Proposition 84 funds and appropriate $493,000 to award grants in round three of the Sustainable Communities Planning Grant and Incentive Program (SCPGIP). Request to appropriate $1.03 million to provide state support for the program (funds include previous reversions).

6. **SB 4 Hydraulic Fracturing: Environmental Impact Report and Independent Study (May Revision).** The May Revision requests $5.7 million from the Oil, Gas, and Geothermal Administrative Fund. Funding will be used to address increased costs to conduct and complete the independent scientific study on well stimulation treatments, and the Environmental Impact Report (EIR), as specified by SB 4 (Pavley), Chapter 313, Statutes of 2013. Updated cost estimates received since the January 10 proposal indicate that, to complete the studies within the statutory timelines, $2.5 million is needed for the independent well stimulation scientific study (an increase of $1.75 million) and $4.4 million is needed for the EIR (an increase of $3.5 million).

7. **Mapping Mines in California.** The DOC has been tasked with tracking and mapping mines throughout the state. The department is able to take advantage of off-the-shelf software that would allow the public more access to information on mines, similar to the well tracking software used by the State Water Resources Control Board. Staff recommends approval of $100,000 (General Fund), for three years, to purchase software (MineTracker) compatible with the existing GeoTracker and EnviroStor software used by the Cal-EPA agencies. This will save the state the cost of developing a "custom base" option that will take one to two years to develop.

**Recommendation (Items 5-7):** Approve.

Votes: 2-1 (Nielsen, no)

## 3600 Department of Fish and Wildlife

8. **Salton Sea Restoration Program.** The May Revision requests a decrease of $400,000 (Salton Sea Restoration Fund) to remove funding proposed to operate and maintain the Species Habitat Conservation ponds at the Salton Sea. The maintenance schedule has been moved beyond the 2014-15 budget timeframe.

**Recommendation (Item 8):** Approve.

Vote: 3-0

## 3640 Wildlife Conservation Board

9. **Habitat Conservation Fund.** The May Revision requests reappropriation of Proposition 50 and 1E bond funds. This will allow previous transfers to remain available for expenditure for acquisition, enhancement, and restoration of wildlife, pursuant to the original voter-approved measure (conforms to an item under the State Coastal Conservancy).

10. **Technical Adjustments and Pro Rata.** The Spring Finance Letter requests an increase of $105,000 from the Habitat Conservation Fund to align the pro-rata costs with appropriate fund sources. Additionally, the Spring Finance Letter requests technical adjustments to revert various Proposition 84 capital outlay appropriations.

**Recommendation (Items 9-10):** Approve.

Votes: 2-1 (Nielsen, no)

## 3760 State Coastal Conservancy

11. **Habitat Conservation Fund.** The May Revision requests reappropriation of Proposition 50 and 1E bond funds. This will allow previous transfers to remain available for expenditure for acquisition, enhancement, and restoration of wildlife pursuant to the original voter-approved measure (conforms to previous item under Wildlife Conservation Board).

12. **Technical Reversions and Capital Outlay.** The Spring Finance Letter requests various technical changes and reversions from Propositions 12 and 50.

**Recommendation (Items 11-12):** Approve.

Vote-Item 11: 2-1 (Nielsen, no)
Vote-Item 12: 3-0

## 3790 Department of Parks and Recreation

13. **Kings Beach Operations and Maintenance.** The May Revision requests $521,000 in 2014-15 and $450,000 in subsequent fiscal years from the State Parks and Recreation Fund (SPRF) and Lake Tahoe Conservancy Account for the operation and maintenance of Kings Beach State Recreation Area (KBSRA). This includes the operation and maintenance of properties covered under the 2014 Operating Agreement with the California Tahoe Conservancy (CTC). This project would allow the department to operate and maintain the park. This is consistent with legislative direction in 2013 to consolidate local, state, and federal holdings in a more cost-effective manner.

14. **McLaughlin Eastshore State Park, Brickyard Upland Area Public Access Improvements.** The May Revision requests local assistance funding from Prop 84 to the East Bay Regional Park District (EBRPD) for their continued design development expenses and future construction expenses related to capital improvements at Brickyard Cove, McLaughlin Eastshore State Park. The department and EBRPD have entered into a 30-year operating agreement, where the department is to provide up to $5 million for EBRPD's completion of capital improvements to Brickyard Cove. The 2013 Budget Act appropriated $1.2 million and this request is for the remaining $3.8 million allowed under the operating agreement.

**Recommendation (Items 13-14):** Approve.

Vote-Item 13: 2-0 (Nielsen, not voting)
Vote-Item 14: 2-1 (Nielsen, no)

## 3940 State Water Resources Control Board (SWRCB)

15. **Drinking Water Program.** The budget proposes to shift 291 positions and $202 million ($5 million General Fund) from Department of Public Health to the SWRCB, and includes an additional $1.8 million (General Fund) for one-time funds for technology and facility costs. The proposal shifts all programs (described below) and combines certain financial assistance programs. This item was heard on April 10 and held open. A draft trailer bill is available to the public on the Department of Finance website.
Vote: 2-1 (Nielsen, no)

16. **Local Assistance Programs.** The Drinking Water Program shift also includes $110.3 million local assistance, and $209,000 state operations (Propositions 50 and 84 bond funds), with a two-year extension of two limited-term positions, due to expire on June 30, 2014. This item was heard on April 10 and held open.
Vote: 2-1 (Nielsen, no)

17. **AB 21 Implementation.** The budget requests $93,000 (General Fund), and one position, to promulgate rulemaking packages and develop other guidance documents related to AB 21 (Alejo), Chapter 628, Statutes of 2013. AB 21 authorizes the department to assess a fee in lieu of interest on loans for water projects made pursuant to the Safe Drinking Water State Revolving Fund. AB 21 authorizes the department to expend the money for grants for specified water projects that serve disadvantaged and severely disadvantaged communities, thereby making an appropriation. This item was heard on April 10 and held open.
Vote: 2-1 (Nielsen, no)

18. **Regulating Small Water Systems in Merced and Tulare Counties.** The budget request for $619,000 (Safe Drinking Water Fund) for five positions to perform regulatory oversight of public small water systems in Merced and Tulare counties. This item was heard on April 10 and held open.

Vote: 3-0

19. **Continuation of the Recycled Water Program.** The budget requests $498,000 (Waste Discharge Permit Fund) to support three, two-year, limited-term positions, to continue work begun by the Department of Public Health to adopt Phase II of the uniform water recycling criteria for surface water augmentation, and to investigate the feasibility of developing uniform water recycling criteria. This item was heard on April 10 and held open.

Vote: 2-1 (Nielsen, no)

20. **Continuation of the Emergency Drought Expenditures.** The May Revision requests $4.3 million (General Fund) to continue water rights enforcement efforts, respond to public inquiries, utilize field inspectors, and provide public enforcement hearings before the board.

Vote: 2-1 (Nielsen, no)

21. **Regional Drinking Water and Wastewater Plan for Salinas Valley.** The May Revision requests $500,000 (Waste Discharge Permit Fund) to provide for the development of an integrated plan addressing drinking water and wastewater needs of disadvantaged communities in the Salinas Valley.

Vote: 2-1 (Nielsen, no)

**Recommendation (Items 15-21):** Approve.

Vote:

## 3960 Department of Toxic Substances Control

22. **Stringfellow Superfund Hazardous Waste Site Remediation and Operation.** The May Revision requests $5.2 million (General Fund) to support an administrative order on consent with the US Environmental Protection Agency for further investigation and cleanup of contaminated water that has reached a drinking water source in the Chino Basin.

Vote: 3-0

23. **California Environmental Contaminant Biomonitoring Program.** The May Revision includes $175,000 (Toxic Substances Control Account) and $175,000 (Birth Defects Monitoring Program Fund) to fund two positions in the Biomonitoring program as federal funding for the program is being reduced. A similar amount is proposed for two positions at the Department of Public Health.

Vote: 2-1 (Nielsen, no)

**Recommendation (Items 22-23):** Approve.

## 3970 Department of Resources Recycling and Recovery

**24. Education and the Environment Initiative (EEI).** Provide $800,000 (Environmental License Plate Fund [ELPF]) for transfer to the Department of Education, to provide base leveraging funding to support EEI, a public/private partnership. This item was heard under the Secretary for Natural Resources budget on March 6. The Subcommittee took action to reject $5 million related to the climate assessment, and corresponding trailer bill language that would add climate assessment as an eligible use of ELPF. This would direct a portion of the saved funding to a current and priority use of the ELPF, environmental education.

**Recommendation (Item 24):** Approve.

Vote: 2-1 (Nielsen, no)

## 3980 Office of Environmental Health Hazard Assessment

**25. Technical Amendment—Proposition 65 Website Development.** The May Revision requests $520,000 (Safe Drinking Water and Toxic Enforcement) to address higher information technology development costs identified in the draft feasibility study. This proposal increases the one-time contract funding in 2014-15 and eliminates a like amount in 2015-16. The corresponding budget proposal was heard on April 10 and approved on May 8 in this subcommittee.

**Recommendation (Item 25):** Approve.

Vote: 2-1 (Nielsen, no)

# 3110 Tahoe Regional Planning Agency
# 3125 Tahoe Conservancy
# 3940 State Water Resources Control Board

***Items Proposed for Discussion***

## 1. SB 630 Implementation

**May Revise Proposal—SB 630 Implementation.** The Governor's May Revision includes $450,000 (Lake Tahoe Science and Lake Improvement Account) to implement the provisions of SB 630 (Pavley), Chapter 762, Statutes of 2013. SB 630 created the Tahoe Science Account which is funded by lease-revenues collected from piers and other leases in Lake Tahoe. The proposal includes:

- $150,000 for near-shore environmental improvement program activities, including but not limited to aquatic invasive species (AIS) projects and improved public access to sovereign lands, if matched by the California Tahoe Conservancy;
- $150,000 for near-shore water quality monitoring, executed by the Lahontan Regional Water Quality Control Board (Lahontan Water Board); and,
- $150,000 for the establishment of a bi-state science-based advisory council, pursuant to a bi-state Memorandum of Agreement between California and Nevada at the Tahoe Conservancy.

**Staff Recommendation.** ***Approve Proposal.*** The budget proposal is consistent with the intent and statutory direction given by SB 630.

## 2. Supplemental Reporting Language—Tahoe Regional Planning Agency (TRPA)

**Background.** SB 630 (Pavley), Chapter 762, Statutes of 2013, requires TRPA, until, January 1, 2018, to annually prepare and submit to the Department of Finance and the budget committees a report, in a format established by the department, of revenues and expenditures provided by the States of Nevada and California, including a complete summary and explanation of the expenditure of the revenues received and expended by the agency.

**Staff Comments.** The TRPA submitted this report on February 25, 2014. The report, while complete, could include a more comprehensive budgetary explanation. The State of Nevada also requires TRPA to submit budget and fiscal information to the state. Staff recommends that in addition to the information provided under SB 630, TRPA be required to annually submit to the Legislature the same budget information it submits to the State of Nevada.

**Staff Recommendation:** ***Adopt SRL.*** Adopt supplemental reporting language to require TRPA to annually submit to the Legislature the same budget information it submits to the State of Nevada, to by February 1 of each year.

**Vote (Items 1-2):** Vote: 2-0 (Nielsen, not voting)

# 3360 Energy Resources Conservation Development Commission (California Energy Commission)

***Item Proposed for Discussion***

## Implementation of the Electric Program Investment Charge (EPIC)

**Background**. In December 2011, funding for the state's Public Goods Charge (PGC) on electricity ratepayers expired. The PGC funded energy efficiency research and development and renewable energy programs. Efforts to continue the surcharge, which requires a 2/3 vote of the Legislature, failed. The charge, considered a tax for voting purposes, supported about a quarter of the total energy efficiency programs funded by the state and energy utilities. In September 2011, the Governor sent a letter to the California Public Utilities Commission (CPUC) requesting that they take action under its quasi-legislative authority to ensure that programs, like those funded under the PGC, would be continued, but with the modifications legislators discussed during the PGC renewal deliberations. In December 2011, the CPUC initiated a rulemaking (essentially started a pathway to a new policy) to continue the programs similar to PGC, with a sole focus on the investor-owned utilities (IOUs). The commission planned a two-phased deliberation.

**Previous Budget Actions.** In the 2012 budget, the Legislature approved $1 million from the EPIC and 4.5 positions specifically to complete an investment plan for the future appropriations from this charge, established for the CPUC (and also described above). The 2013 budget approved $160 million and 55 positions from IOUs ratepayer funds for the implementation of EPIC. Trailer bill language restricted the use of funds to activities within the IOU areas and provided the authority for $25 million to be approved through the CPUC EPIC proceeding for the New Solar Homes Partnership Program.

**Budget Proposal.** The budget requests baseline authority for 26 positions to administer $172.5 million (direct ratepayer funds) in program funds for implementation of the CPUC-created EPIC program. The total request of $17 million is comprised of $3.8 million for state operations and $13.2 million for local assistance. This item was heard on March 6 of this year and held open.

**Lawsuit Outcome.** On May 21, 2013, one of the IOUs, Southern California Edison (SCE), sued the CPUC asserting that the CPUC's adoption of the EPIC is illegal for the following reasons: (1) CPUC's jurisdiction to regulate utilities does not extend to the establishment of a charge to fund another state agency (CEC); (2) EPIC raises revenue that is being used for broad purposes such as research and development, and is thus a tax; and, (3) EPIC involves an unlawful delegation of discretionary authority from CPUC to CEC.

**Staff Comments.** The court may rule on this issue before May 31. Therefore staff recommends holding this open by moving it to conference committee.

**Staff Recommendation:** Reduce by $1,000 to move to conference committee.

Vote: 2-1 (Nielsen, no)

## Proposition 39

**Background**. The Governor's budget proposes $3 million and 12 permanent positions to implement and provide technical assistance related to the California Clean Energy Jobs Act (CCEJA [Proposition 39]), SB 73 (Committee on Budget and Fiscal Review), Chapter 29, Statutes of 2013. The legislation provides legislative guidance for implementation of Proposition 39, the Income Tax Increase for the Multistate Business Initiative, passed in 2012. The subcommittee, on May 8 of this year, approved this proposal as budgeted.

**Citizens Oversight Board.** The May Revision requests baseline authority for two permanent positions ($284,000 one-time) and $300,000 per year for independent audit support from Energy Resources Programs Account (ERPA) funds, for a total request of $584,000 to implement and operate Proposition 39. These positions will serve as staff to the Citizens Oversight Board (COB), charged with: annually reviewing all expenditures from the fund; reviewing an annual independent audit of the fund and selected projects; publishing a complete accounting each year; and, submitting an evaluation of the program to the Legislature. The COB, composed of nine members, three appointees each by the Treasurer, Controller, and Attorney General, will review and report on all expenditures of the Job Creation Fund. The California Public Utilities Commission (CPUC) and the California Energy Commission (Energy Commission) each appoint an ex officio member to serve on the COB.

**Increasing Funding for Loan Programs.** The 2014 budget act included $28 million for financing assistance for K-12 public school districts and community colleges via the Energy Conservation Assistance Account (ECAA) Program and other technical assistance from the California Energy Commission (CEC). Financing assistance includes zero and low-interest revolving loans with up to 20 years terms.

**Staff Recommendation:** ***Approve May Revise proposal and $28 million for ECAA (including corresponding position authority)***. This is consistent with funding allocated in the 2014 budget.

Vote: 2-1 (Nielsen, no)

# 3540 Department of Forestry and Fire Protection (CalFIRE)

### *Items Proposed for Discussion*

### Ecological Performance—Spring Finance Letter (with Natural Resources Agency)

**Governor's Proposals.** The Spring Finance Letter proposes $666,000 (Timber Regulation and Forest Restoration Fund), for three permanent, full-time positions, for CalFIRE to collect data and conduct assessments of program efficiencies and process improvements for evaluation of ecological performance relating to forest and timberland regulation. The request will assist the department in conducting the assessments and evaluation of ecological performance as required by AB 1492 (Committee on Budget), Chapter 289, Statutes of 2012.

The Governor's May Revision includes $200,000 (Timber Regulation and Forest Restoration Fund) to assist in the development of the ecological performance measures for forest management on forestlands in California to assist in the long-term response to a prolonged drought. Developing such measures will be scientifically and technically challenging, requiring combined expertise found within the Natural Resources Agency and the California Environmental Protection Agency and other agencies as well.

**Staff Recommendation:** Approve proposals.

**Vote: 3-0 (Committee asked that the department and agency submit a letter clarifying the public process.)**

### State Responsibility Area—Local Assistance

**Governor's Proposal.** The May Revision includes $10 million (State Responsibility Area [SRA] Fire Prevention Fund) for local assistance as specifically allowed in Public Resources Code 4214 (d). This section specifies the allowable fire prevention activities from the SRA Fund includes grants to fire safe councils, local conservation corps, grants to nonprofit organizations that can complete a fire prevention project applicable to the SRA, public education to reduce the fire risk in the SRA, and other fire prevention projects.

**Staff Comments.** Staff have recommended local assistance be included in the budget since the SRA fee was approved. Numerous local agencies have requested funding from the SRA fund in the form of grants but until this proposal, the Administration has not allowed local assistance grants to be allocated from the SRA Fund. This has, in part, caused the fund to develop a substantial balance because CalFIRE can only use the fund for specific purposes stated in the enabling legislation. Rather than increase the appropriation, in the interest of evaluation, *staff recommends supplemental reporting language requiring the department to report back in the January budget on the under- or over-subscription of the grant program, and anticipated need in 2015-16 for local assistance grants*.

**Staff Recommendation:** Approve proposal plus supplemental reporting language.

Vote: 2-1 (Nielsen, no)

## Fire Protection Services Due to Drought and Emergency Fire Suppression (E-Fund)

**May Revision Proposals.** The Governor's May Revision requests $30.8 million General Fund and $2.2 million State Responsibility Area (SRA) Fire Prevention Fund, and 259 temporary help positions through fall 2014 and two associate governmental program analysts (AGPA) through June 30, 2016, to address heightened fire conditions brought on by drought conditions, as authorized and detailed in the Governor's Drought Declaration issued on January 17, 2014. The SRA Fund request will provide dedicated staff to address critical fire prevention, emergency preparedness, and outreach activities, and for fire prevention grants, to address the increased fire risk brought on by drought conditions. The remaining temporary staff will provide on-the-ground fire protection for what has already proved a costly fire season. Staff recommends adding $1,000 to remove CalFIRE from conference committee.

The May Revision also includes $23,000 (General Fund) to increase the E-Fund to provide resources in anticipation of an extended fire season due to extreme drought conditions. With this request, the Governor's budget provides a total of $209 million for emergency wildfire suppression in 2014-15.

**Staff Recommendation:** Approve proposals.

**Vote: 3-0**

## Vegetation Treatment Program

**Background.** The State Board of Forestry and Fire Protection (BOF) proposes to initiate a California Statewide Vegetation Treatment Program (VTP). The proposed program is intended to lower the risk of catastrophic wildfires on nonfederal lands by reducing hazardous fuels. The VTP goals include control of unwanted vegetation, including invasive species, improvement of rangeland for livestock grazing, improvement of fish and wildlife habitat, enhancement and protection of riparian areas and wetlands, and improvement of water quality in priority watersheds. The initiation of this program is a project, subject to the California Environmental Quality Act (CEQA). As the CEQA lead agency, the BOF will provide policy direction for implementation of the VTP to CalFIRE, which administers a wide range of vegetation management programs.

**Staff Comments.** The 2013 budget included language that addressed reporting and communication issues between the department and members of the public, mainly in Southern California, regarding the VTP Environmental Impact Report. The department has adhered to the language, including holding certain Board of Forestry meetings in Southern California to accommodate public comment. *Staff recommends continuing the language for one more year to ensure that the final result of the program is in keeping with both the department and the Legislature's intent for the VTP.* The language is consistent with the actions of the Subcommittee in 2013 and has been reviewed by the department.

**Recommendation:** Approve provisional language.

Vote: 2-1 (Nielsen, no)

# 3600 Department of Fish and Wildlife

### *Items Proposed for Discussion*

**Statewide Oil Pollution Program (Marine and Inland)**

**Budget Proposal.** The Governor proposes statutory changes to maintain the Oil Spill Prevention and Administration Fund (OSPAF) fee at 6.5 cents per barrel on an ongoing basis, as well as expand the fee to all oil entering California refineries, including oil transported by rail and pipelines. The Administration projects that the proposed fee increase would increase revenues by $6.6 million in 2014-15 ($12.3 million annually when fully implemented) compared to current-year revenues. The Governor's budget for 2014-15 proposes to increase ongoing spending by $8.7 million, as follows:

- $6.2 million and 38 permanent positions to support the proposed expansion of Oil Spill Response Program's (OSPR) activities, to include inland prevention activities, as well as allow the office to respond to all inland spills. According to the Administration, the proposed expansion is necessary because the amount of oil transported over land (by rail or pipeline) is expected to significantly increase in coming years.

- $2.5 million to support the Oiled Wildlife Care Network and change the program's fund source from the Oil Spill Response Trust Fund (OSRTF) to the OSPAF. The proposed amount reflects an increase of $500,000 for the program relative to the current-year funding level.

**Assembly Action.** On April 23, the Assembly approved requested funding and positions. They (1) approved expanding the OSPAF fee to all oil entering California refineries, and (2) denied proposed statutory changes to maintain the OSPAF fee at 6.5 cents per barrel on an ongoing basis and instead authorized the department to charge fees to generate total revenue up to the amount authorized for oil spill prevention and response in the annual state budget.

**Staff Comments.** This item was heard in Subcommittee on March 27. Staff concurs with the need to approve position authority for the evaluation and enforcement of well stimulation practices. Staff concurs with the Assembly analysis and proposal to authorize the department to charge fees to generate total revenue up to the amount appropriated in the annual state budget. This action is consistent with many regulatory fees within the resources and environmental protection budgets.

**Staff Recommendation:**

1. Approve requested funding and positions.
2. Approve expanding the OSPAF fee to all oil entering California refineries.
3. Deny proposed statutory changes to maintain the OSPAF fee at 6.5 cents per barrel on an ongoing basis and instead authorize the department to charge the fees to generate total revenue up to the amount authorized for oil spill prevention and response in the annual state budget.

Vote: 2-1 (Nielsen, no)

## Fisheries Restoration Grant Program (FRGP)—with Natural Resources Agency

**May Revision. Fish and Wildlife Proposal.** The May Revision proposes to add $5.2 million (General Fund) and $2 million Timber Regulation and Forest Restoration Fund (TRF) to FRGP. This action will use TRF to disperse FRGP grants to restoration projects that:

- Are in forested watersheds for restoration of conditions beneficial to state and/or federally listed salmonids;
- Address legacy impacts of forest management (e.g., problem forest roads, poor stream crossings, sediment sources, and lack of in-stream large woody debris), which have resulted in the shallowing or loss of deep pool fish refugia that is now aggravated by drought-related reduced instream flow;
- Rely on state and federal recovery plans for listed salmonids and existing watershed assessments to guide identification of priority watersheds and projects;
- Target multiple projects in just a few watersheds to ensure maximum impact;
- May be in coastal or inland watersheds;
- Monitor before and after treatment to assess project outcomes;
- Are selected according to guidance for priorities and project selection provided by Natural Resources Agency and Cal-EPA leadership team for AB 1492 implementation; and,
- May use California Conservation Corps crews (such as Watershed Stewardship Program) for projects (pre- and post-project monitoring, on-the-ground project implementation) as appropriate.

**Natural Resources Agency Proposal.** A second May Revision Proposal (drought-related) would increase the allocation to FRGP to leverage the existing funding program within the Natural Resources Agency. Currently, about 150-170 grant applications are reviewed annually, and approximately 50 percent are funded. The funding distribution in recent years has focused exclusively on coastal streams. These coastal counties are experiencing significant drought impacts. The department proposes to divide the $6 million equally for coastal and Central Valley habitat restoration. Including this geographic focus on the Central Valley helps further mitigate the substantial risks for Central Valley salmon and steelhead from drought.

**Assembly Action.** The Assembly heard the Spring Finance Letter in May and included trailer bill language to prioritize restoration grants programs for the Fisheries Restoration Grant Program administered by the Department of Fish and Wildlife and state conservancies.

**Staff Recommendation:** Approve proposals and Assembly proposed trailer bill amendment. Approve proposal to split grant program with inland areas on a one-time basis.

Vote: 2-1 (Nielsen, no)

## Emergency Drought Relief

**Budget Proposal.** The May Revision includes multiple one-time proposals intended to provide immediate drought relief. The overall proposal requests $25 million (General Fund, $2.6 million special funds, and $3.7 million Proposition 84 bond funds). (A portion of the department's overall proposal is included in the previous item.) The proposal includes:

**Staff Comments.** The proposed actions by the department range from immediate to long-term and far-ranging. While some of the proposals clearly are needed in the immediate term (increased enforcement, emergency response, monitoring of endangered species), several other proposals are problematic. These include:

- **Increasing San Joaquin River Restoration Program ($2.0 million).** The long-term goal of restoring San Joaquin River flows is ultimately a state-federal project that includes the management of the Central Valley Project, Friant Water project, and others. The federal government is currently releasing additional water from upstream reservoirs to accommodate senior water rights holders on the river. The state has invested nearly $83 million (Proposition 84 bond funds) in San Joaquin River Restoration projects. The most recent proposal in 2013 allocated $10 million. An additional $17 million is available from the bond.

  **Staff and LAO Recommendations:** In accordance with the investment of the state to date and the availability of other funding sources, staff recommends rejecting the General Fund appropriation for San Joaquin River Restoration. The LAO recommends rejecting $1 million for similar reasons.

- **Applying 21st Century Technology to Monitoring ($6.8 million).** The proposal states that "preparing for 2014 and beyond through better technology and improved procedures can lead to increased operational and regulatory efficiency for the State Water Project and Central Valley Project." However, neither of these entities are funding the proposals that will have a clear benefit for their water contractors. Other state and federal monitoring agencies have already entered the 21st century and are able to contract with the state should we need to catch up.

  **Staff and LAO Recommendations:** In accordance with the investment of the state to date and the availability of other funding sources, staff recommends rejecting the General Fund appropriation for the 21st Century Technology. The LAO recommends rejecting $3.4 million for similar reasons.

- **Infrastructure Investment at Public Wildlife Refuges ($5.0 million).** The proposal intends to develop contingency plans refuges given the lower allocation of water. The department, in response to questions, also indicates that a more long-term infrastructure investment will be started with this funding. The proposal does not clearly specify roles and responsibilities, nor the long-term approach the state might take with this investment. In addition, many state water rights holders are receiving zero allocations, while urban and agricultural areas are cutting water consumption at unprecedented levels.

  **Staff Recommendation:** Staff recommends the department move forward with contingency plans, staff recommends rejecting the General Fund appropriation for the infrastructure project. This project should be submitted as a capital outlay budget proposal in the fall.

### Staff Recommendation:

1. Per staff comments, reject $12.8 million.

Vote: 3-0

2. Recommend approval of the remainder of the proposal.

Vote: 2-1 (Nielsen, no)

# 3790 Department of Parks and Recreation

### *Items Proposed for Discussion*

## Parks Capital Outlay, Off-Highway, Revenue Generation, and Bond-Funded Proposals

**Previous Subcommittee Action:** The subcommittee heard two of the following proposals on March 20 and held them open for further review.

**Oceano Dunes Le Grande Acquisition.** The budget proposes $5 million in one-time costs to purchase 584 acres of land in San Luis Obispo County (County). Currently, the parcels are leased from the county by the department and operated as part of Oceano Dunes State Vehicular Recreation Area (SVRA). The land is used for off-highway vehicle (OHV) recreation and other beach- and dune-related recreational uses. County-owned land represents 38 percent of the land open to motorized recreation within the park. A long-term lease expired in June 2008, and the current lease between the county and the department is month-to-month.

In 2007, the State Coastal Commission sent a letter to the county stating, among other things, the following regarding the county's local coastal plan, the land update certification (LUP) and inclusion of the property in question in that plan, and the sale of the property to the department:

> "It is the Coastal Commission staff's opinion that (the property in question) was intentionally included within the certified LUP to reflect the long-term objectives shared by the County and the commission for this sensitive dune habitat area, which included phasing out of the northern access route for OHV use and restricting OHV use on County-owned land."
>
> "We (the Commission staff) support the conclusions of the County planning staff that the sale would result in the continuation of a use that is inconsistent with the land use designations established by the certified Local Coastal Plan."

**Fort Ord Dunes—New Campground and Beach Access.** The budget proposes $19.2 million (Proposition 84 bond funds) to develop initial permanent public facilities, including camping and day use beach access, at the Fort Ord Dunes State Park in Monterey County. Up to 110 new campsites, approximately one-half with full utility hook-ups for recreational vehicles, will be constructed along with appurtenant improvements, operations facilities, and a beach access trail with restrooms and parking.

This project is estimated to increase the support budget of the department due to the expensive nature of campgrounds which includes housekeeping, maintenance, administration, and public safety services. The department's calculations for revenue anticipate that the campground will be filled to capacity on most days year round. Annual ongoing costs for the park are anticipated at $1.1 million per year. Annual revenues are anticipated at $1.3 million.

Staff is concerned with the close nature of revenue and expenditure forecasts given the directive of the Legislature to produce revenue-generating activities at State Parks. With limited Proposition 84 bond funds, the department should address how it would enhance this proposal to provide a better ratio of revenue to expenditure.

**Revenue Generation.** The Governor's January budget proposes trailer bill language to continue the legislatively established revenue generation program at the department and to make technical changes to park gifts and loans. The language (publicly posted) is currently being reviewed by fiscal and policy staff.

**Staff Comments:** Staff followed up on each budget proposal.

- The **Fort Ord Dunes** proposal would begin the process of developing the property acquired by the state with developed campgrounds and interpretive centers. The park is open for limited hiking and bicycling, as well as access to the beach. The tradeoff to this proposal is that funding would not be available for other needed projects within this district and throughout the state. For example, funding is necessary at the highly-visited Point Lobos to increase the collection of entrance fees (many people still park outside the park entrance to avoid paying for entry), and to increase accessibility to the park (options include bus or trams within the park). Point Lobos is not unique to the system. Many existing state parks need significant upgrades. The Subcommittee should consider whether it wishes to upgrade existing parks or develop recently acquired parks for new visitation.

- Locally, the **Oceano Dunes** acquisition proposal is highly controversial. While the state wishes to finalize acquisition of the existing footprint of the available off-road vehicle use, local opposition, as well as Coastal Commission opposition, make this proposal challenging to approve. It is staff's understanding that the parties involved with this acquisition proposal are meeting to re-negotiate and that the result of this discussion will be available in time for next year's budget. Therefore, staff recommends rejecting the current proposal without prejudice to allow time for further negotiations on the acquisition.

- **Revenue Generation** is a critical part of the department's ongoing ability to further reduce its dependence on the General Fund, and to allow the department to use its variety of funding sources more efficiently. Staff recommends the adoption of the trailer bill language; modified to include a few changes to simplify the statute, require the department to shift to cost-based revenue targets, and to reduce barriers to establishment of a statewide fee collection program.

**Staff Recommendation:** Staff recommends the following actions:

1. For Ord Dunes—Approve as budgeted.
2. Oceano Dunes Le Grande Acquisition—Reject without prejudice and request re-submission in the 2015-16 budget cycle.
3. Adopt trailer bill language with recommended changes.

Vote: 2-1 (Nielsen, no)

# 3860 Department of Water Resources

***Items Proposed for Discussion***

**Drought and Delta Projects**

**Governor's Proposal (Drought).** The May Revision requests a one-time appropriation of $18 million (General Fund) and 72 existing positions to address drought water supply issues, including:

- $11 million—Emergency Operations. This program would provide management, technical assistance, and resources to state and local agencies for managing drought emergencies through the establishment of an emergency operations center. The center will also be responsible for measures or actions taken by the department to respond to critical water shortage and drought impacts.

- $5 million to fund implementation of management actions including measures or actions taken by the Department to respond to critical water shortage and drought impacts. These resources are needed to begin the responses in a timely and efficient manner. Additional resources may be required to fully address the responses. Such measures or actions include but are not limited to: facilitating water movement within a local or regional area, expansion of water infrastructure, facilitating water transfers, water purchasing, and Delta water quality mitigation actions.

- $2 million of this request is to fund the Save Our Water campaign, which provides public outreach and education to Californians on water conservation.

**May Revision Proposal (Delta Water Quality Reappropriations).** The May Revision requests reappropriation of funds to implement projects in the Delta including, but not limited to, protecting water quality, water supply, and the ecosystem.

**Staff Comments.** The majority of the May Revision proposal makes sense. However, it is unclear to staff how 72 existing positions are in need of further funding (without a corresponding reduction in another fund source, say bond funds). The Administration should also consider local assistance funding for immediate water supply needs that do not fit neatly into other categories of funding.

**Staff Recommendation:** Approve proposals with the following provisional language:

1. The department shall report to the Legislature on or before January 10, 2015, with the specific reductions in funding for all 72 proposed positions that were backfilled with this proposal.

2. The department shall, to all extent possible, allocate the Delta water quality reappropriations to projects identified by the Department of Fish and Wildlife in its drought proposal in order to effect immediate change in water supply and water quality.

Vote: 3-0 with provisional language allocating $4 million for projects that do not fit into other drought categories but serve at least $200,000 people.

## Groundwater Management Program

**Governor's Proposal.** The May Revision requests $2.5 million in General Fund to initiate development and implementation of the California Statewide Sustainable Groundwater Management Program. This will fund five existing, and five new, positions. This funding is proposed to implement Action 6, in order to expand water storage capacity and improve groundwater management, in the January 2014 Governor's Five-Year California Water Action Plan. This proposal complements, but does not duplicate, work funded recently through two 2014-15 budget proposals.

**Previous Subcommittee Action.** The Subcommittee approved $13.8 million General Fund (multi-year) for the statewide groundwater elevation monitoring program at DWR. In addition, the February drought package included $2 million for the State Water Resources Control Board's groundwater monitoring programs.

**Staff Comments.** First, it is unclear what portion of the $2.5 million will be used to fund the five existing positions and where the corresponding savings would occur. Second, the Governor's office has indicated that it wishes to advance groundwater legislation that would provide further monitoring and protections for the state's groundwater resources. While this is a laudable goal, further funding for groundwater management should be contingent upon updated statutory authorization.

Therefore, staff recommends approving the funding contingent upon the passage of groundwater legislation in this budget session.

As with the previous item, staff recommends the following additional provisional language:

1. The department shall report to the Legislature on or before January 10, 2015, with the specific reductions in funding for all proposed positions that were backfilled with this proposal.

**Staff Recommendation:** Approve proposal with provisional language.

Vote: 2-1 (Nielsen, no)

# 3970 Department of Resources Recycling and Recovery

***Items Proposed for Discussion***

## 1. Beverage Container Recycling Program Reform—Phase II

**Background.** The Beverage Container Recycling Program (BCRP) is one of the state's most successful recycling and environmental protection efforts. The state's recycling rate currently exceeds 85 percent. Because of the state's high recycling rate and mandated program payments, expenditures from the Beverage Container Recycling Fund (BCRF) now exceed revenues by approximately $100 million.

**Governor's Proposal.** The Governor's January proposal was heard in Subcommittee on April 10 and held open. The Governor's January budget proposes 12 positions and $1.48 million, Beverage Container Recycling Fund (BCRF), and $1.2 million ongoing to develop and implement Phase II of reforms to the Beverage Container Recycling Program (BCRP), including restructuring administrative and handling fees, a phased elimination of the processing fee offset, creating a Recycling Enforcement Grant Program, and changing the funding sources for local conservation corps payments.

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

**Staff Comments.** Staff raised concerns regarding three aspects of the January proposal in the April 10 agenda. These included impacts to convenience zones, and handling fees, and processing fee offsets. BCRP has achieved great success over the past several years—attaining an overall recycling rate of approximately 84 percent. The BCRF's ongoing $100 million structural deficit is, in large part, due to that success. Due to mandated expenditures, the fund cannot sustain a recycling rate that is higher than 72 percent. Up until now, a high fund balance (due to past unclaimed CRV) and fund loan repayments have enabled the BCRP to stay afloat and avoid statutorily required proportional reduction. The Administration has not come to an agreement with the stakeholders.

**Staff Recommendation.** Reject Proposal. Provide funding for Local Conservation Corps in the budget year as a contingency against closure as they transition to multiple funding sources.

**Vote: 3-0**

# 8570 California Department of Food and Agriculture (CDFA)

***Items Proposed for Discussion***

## Border Protection Station (BPS) Program Restoration

**Background.** The CDFA staff stations at entrances to the state in order to inspect vehicles and commodities to ensure they are pest free and in compliance with state quarantine entry requirements. The stations both identify pests and act as a deterrent to carrying commodities that are prohibited or restricted by quarantine. Recent budget reduction measures, intended to be permanent, have reduced funding for the program from $19.6 million in 2011-12 to $16.1 million in 2013-14.

According to the department, 90 percent of high-risk pests are intercepted at the eight high-risk stations, eight percent are intercepted at the medium risk stations, and less than three percent are intercepted at the low-risk stations.

**Governor's Proposal.** The May Revision requests $3.1 million (General Fund) to restore funding to the BPS program. The request would allow CDFA to operate all sixteen stations year-round with additional permanent and temporary staff. The proposal does not request new positions but use vacant positions identified at the department rather than allow them to expire.

**Alternatives Proposed.** The budget proposal includes four funding alternatives:

1. Approve $3.1 million in General Fund authority beginning in 2014-15 to enhance the existing BPS program, restoring the program to previous year funding levels.

2. Do not approve the $3.1 million. Operations would continue at current levels.

3. Permanently close four stations identified as low-risk entrance points to California, modify the service level at four stations identified as medium-risk entrance points, and redirect those resources to increase activity levels at the remaining high-risk stations.

4. Seek additional funding through partners. The department has had strong success executing interagency agreements with the Board of Equalization and CalRecycle.

**Staff Recommendation.** **Reject May Revision Proposal.** Given the risk analysis conducted by the department, full staffing of low-risk stations does not seem the best use of scarce General Fund resources. Staff recommends the department explore alternatives three and four to see if there are other ways to adjust funding and staffing levels at the stations.

**Vote:** Motion to approve, 3-0

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

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

**Wednesday, May 21, 2014**
**10:00 a.m.**
**Hearing Room 112**

**PART A**

**Consultant: Farra Bracht**

## PROPOSED VOTE-ONLY



## PROPOSED DISCUSSION/VOTE



**Resources—Environmental Protection—Energy—Transportation**

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

# ITEMS PROPOSED FOR VOTE ONLY

## 2600 California Transportation Commission

**Item 1: Active Transportation-Placeholder Trailer Bill Language**

**Proposal.** The Administration requests a technical change to statute to reflect a deadline of December 2015 for the second round of programming for the Active Transportation Program (ATP).

**Background and Detail.** The ATP was created by Senate Bill 99 (Budget and Fiscal Review Committee), Chapter 359, Statutes of 2013 and Assembly Bill 101 (Committee on Budget), Chapter 354, Statutes of 2013, to encourage increased use of active modes of transportation, such as biking and walking. The program combines five programs: the federal Transportation Alternatives Program, the state and federal Safe Routes to Schools programs, the state Environmental Enhancement and Mitigation Program, and the state Bicycle Transportation Account. The California Transportation Commission (CTC) was required to adopt guidelines for the initial ATP within six months (by March 26, 2014). The statute does not include a deadline by which the CTC must adopt the initial program, but does require that subsequent programs be adopted by April first of odd-numbered years.

Adoption of the initial program of projects is planned for December 2014. The statutory deadline for the CTC to adopt the second round of ATP programming is April 1, 2015. This deadline, coming soon after the adoption of the initial program, will cause an overlap where the CTC will need to adopt guidelines for the second round of programming and issue a call for projects for the second round before they have completed the adoption of the first round. The CTC has, therefore, requested a technical change to statute to reflect a deadline of December 2015 for this second round of programming.

**Staff comment.** The proposed technical change would prevent a situation where the adoption of the initial program of projects would overlap with the call for projects for the second round of funding. Staff has no concerns with this proposal.

**Staff Recommendation.** Adopt placeholder trailer bill language to change the Active Transportation Program deadline for the second round of programming to December 2015.

**Vote:**

## 2660 Department of Transportation

### Item 1: Early Repayment of General Fund Loans (BCP #6)

The Governor's budget proposes the early repayment of $337 million ($328 million plus $9 million interest) in outstanding General Fund (GF) loans to make funds immediately available for the State Highway Operation and Protection Program (SHOPP) projects and repair and replacement of Traffic Management System (TMS) elements, that will improve the safety, preservation, and operational efficiency of the highways throughout the state.

Caltrans also requests 12 positions and $1,749,000 ($1,640,000 in personal services and $109,000 in operating expenses) for a three-year limited-term period to develop Project Initiation Documents (PID). These resources will be offset by a redirection from the Capital Outlay Support Program (COS) State Highway Account (SHA) resources from anticipated reductions due to declining workload.

In conjunction with this request, but as a separate distribution of early loan repayment funds, another $12.1 million will be repaid to various other transportation fund accounts that include approximately $6 million for the Bicycle Transportation Account (BTA) and $1.7 million for the Pedestrian Safety Account (PSA) associated with the Active Transportation Program (ATP); and $4.4 million for the Environmental Enhancement Program Fund (EEMP) to the California Natural Resources Agency (CNRA).

**Background and Detail.** The Budget Act of 2010 authorized loans totaling $328 million from the Highway Users Tax Account (HUTA) to the GF. To date, approximately $9 million of interest has accrued. Assembly Bill 115 (Committee on Budget), Chapter 38, Statutes of 2011, extended repayments to fiscal year 2020-21.

The SHA is the main funding source for the state's highway transportation programs. The SHA's main revenue source is state excise taxes on gasoline (fuel tax). Revenues generated from excise taxes are used, in part, by the SHOPP to fund highway construction, maintenance, preservation, and improvement projects. The 2011 Statewide Transportation Needs Assessment identified a revenue shortfall for transportation infrastructure projects over a specified period, 2011-2020, due to decreased fuel consumption. The projected cost of statewide transportation system preservation, management, and expansion projects during the study period exceeded revenue projections by almost $300 billion. Based on the California Board of Equalization's fuel consumption reports, the net taxable gasoline gallons have decreased by approximately 233 million gallons from 2009-2012. This reduces the funding available for the state's transportation preservation projects and increases the probability of costly rehabilitation in the future.

The Budget Act of 2008 authorized $12.1 million in loans to the GF from various other transportation funds including the Bicycle Transportation Account (BTA), the Pedestrian Safety Account (PSA), and the Environmental Enhancement Program Fund (EEMP). These loans are currently scheduled to be repaid in fiscal year 2016-17.

The early loan repayments and the activities they would fund are illustrated below:

**Programs and Activities Addressed by Early Loan Repayments**
**(Dollars in Millions)**

| **Program** | **Activity** | **Amount** |
|---|---|---|
| SHOPP-Operations | Capital Pavement Projects | $110 |
| SHOPP-Operations | Traffic Management System | $100 |
| Highway Maintenance | HM Pavement (Class III roadways) | $27 |
| Cities and Counties | Local Transportation-Related Improvements | $100 |
| Bicycle Transportation Account | Active Transportation | $6 |
| Pedestrian Safety Account | Active Transportation | $2 |
| Natural Resources Agency | Environmental Enhancement Program | $4 |
| **Grand Total** | | **$349** |

The $237 million in funds repaid to Caltrans would be used for projects already programmed in the SHOPP. The 12 three-year limited-term positions and $1.7 million are requested to prepare projects needed to backfill the advancement of SHOPP projects. Caltrans proposes transportation system upgrade projects that would require new project initiation documents for programming as backfill for the advanced SHOPP projects, including additional traffic management system elements, bridge rehabilitation, culvert rehabilitation, and fish passage remediation.

The PIDs will target $232 million in new projects as follows: (1) $78 million for the Traffic Management System; (2) $73 million for Bridge Rehabilitation; and, (3) $81 million for Culverts Rehabilitation/Fish Passage Remediation. Likely delivery of these projects would be by 2017-18, if resources for planning and design were made available in the budget year.

**Staff Comment.** This item was discussed on March 13, 2014. The early repayment of outstanding loans to Caltrans, especially for SHOPP and highway maintenance projects, has the two-fold benefit of helping: (1) to pay down the state's "wall-of-debt"; and, (2) allowing for critical investments in maintaining the state's infrastructure. The Governor's recent Five-Year Infrastructure Plan identified $64.6 billion in deferred maintenance costs statewide with $59 billion of these costs related to Caltrans. In addition, while the request in PIDs resources is significant, it may not be unreasonable given the recent zero-basing of the budget and depletion of the shelf of projects after the receipt of federal stimulus funds.

**Staff Recommendation.** Approve the early repayment of the following General Fund loans:

- $337 million ($237 million for Caltrans and $100 million for cities and counties);
- $6 million for the Bicycle Transportation Account;
- $4.4 million for the Environmental Enhancement Program Fund; and
- $1.7 million for the Pedestrian Safety Account.

In addition, approve 12 positions and $1.7 million from the State Highway Account for a three-year limited-term for the development of project initiation documents.

**Vote:**

## ITEMS PROPOSED FOR DISCUSSION AND VOTE

## 2660 Department of Transportation

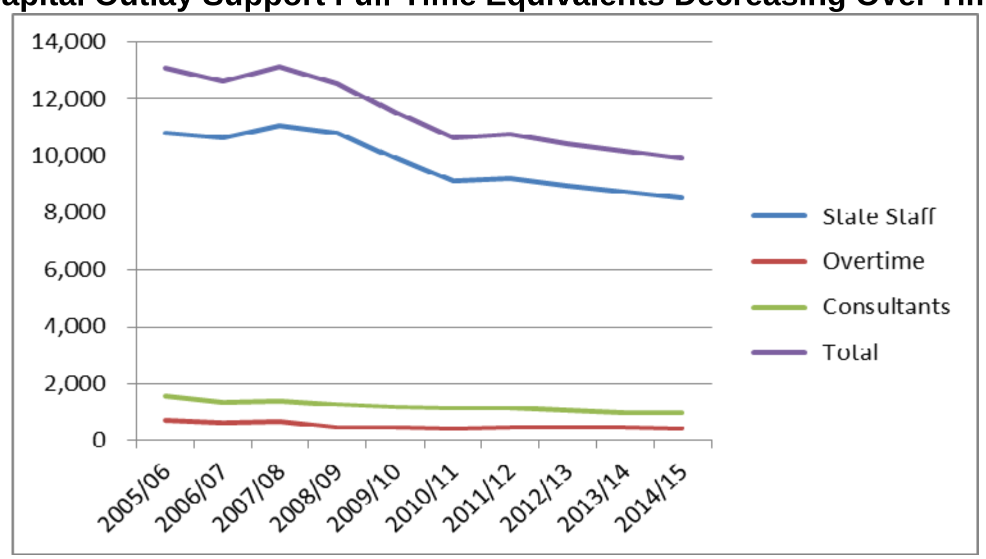
**Item 1: Capital Outlay Support: Project Delivery Workload (May Finance Letter)**

**Proposal.** The Administration proposes a decrease of $21.8 million and 210 full-time equivalents (FTEs) for the Capital Outlay Support (COS) Program from the 2014-15 Governor's budget. Caltrans' proposed workload is a decrease from fiscal year 2013-14 to 2014-15 levels by 258 FTEs which is approximately 2.6 percent less than the approved 2013-14 workload levels.

The Administration also requests two provisional language-related changes. First, the Administration requests existing provisional language be amended to reflect the budgeted increase of *five* Caltrans positions (was originally 10 positions) for work on high-speed rail. Second, the Administration requests the addition of provisional language to limit the amount of expenditures for overhead and to require Caltrans and the Department of Finance to review the overhead component of the program.

**Background and Detail.** Capital outlay is the funding mechanism for construction contracts and right-of-way acquisition on projects that preserve and improve the State Highway System (SHS). The COS program provides the funding and resources necessary to develop and deliver the projects to construction, as well as administer and oversee the projects once they are in construction. The COS program also provides oversight or independent quality assurance of projects developed by local entities on the state highway system. The COS budget supports over $40 billion in capital outlay projects. The total level of full-time equivalent positions for COS has decreased since 2005-06 as shown below.

**Capital Outlay Support Full-Time Equivalents Decreasing Over Time**




Positions are based on full-time equivalents.

COS Workload Reduction Proposed

The Governor's proposal reflects a decrease in COS workload due to the diminishing funding for transportation capital projects and proposes a reduction of 258 FTE from the 2013-14 level for a total of 9,894 FTEs. This includes a reduction of 243 positions in the COS program from the 2013-14 level and a reduction that is the equivalent of 15 positions that would be achieved by reducing cash overtime (12 FTE) and contracting out (3 FTE). Forty-eight of the 258 positions are proposed to be redirected to other programs as shown in the figure below.

**Capital Outlay Support Positions Proposed for Redirection**

| Program Redirection | Description | Budget Change Proposal | Senate Action | Number of Positions |
|---|---|---|---|---|
| Maintenance | Devil's Slide | #8 | Approved | 16 |
| Maintenance | I-5 Express Lanes | #9 | Approved | 10 |
| Mass Transportation | Cap and Trade | #11 | Open | 4 |
| Mass Transportation | JARC New Freedom | #17 | Approved | 3 |
| Planning | Early Repayment | #6 | Open | 12 |
| Traffic Operations | ADA Infrastructure | #3 | Approved | 3 |
| **Total** | | | | **48** |

The remaining 210 positions proposed for reduction in COS are shown below.

**Capital Outlay Support Program Workload Changes (FTEs)**

| Workload Categories | Jan. 10 2014-15 | May Revise 2014-15 | Change 2014-15 |
|---|---|---|---|
| State Highway Operation and Protection Program | 3,797 | 4,250 | 453 |
| State Transportation Improvement Program | 1,504 | 1,337 | (167) |
| Partnership (Includes Measure/Locally Funded) | 1,285 | 1,239 | (46) |
| Phase II / Toll Seismic / Other Toll | 379 | 315 | (64) |
| Real Property Services | 119 | 97 | (22) |
| Bond CMIA | 567 | 330 | (237) |
| Bond Route 99 | 210 | 140 | (70) |
| Bond STIP (TFA) | 90 | 52 | (38) |
| Bond TCIF | 49 | 69 | 20 |
| Bond SHOPP | 18 | 6 | (12) |
| Bond SLPP | 0 | 15 | 15 |
| American Recovery and Reinvestment Act | 53 | 24 | (29) |
| Traffic Congestion Relief Program | 36 | 12 | (24) |
| High Speed Rail | 31 | 41 | 10 |
| Highway Users Tax Account (HUTA) | 0 | 55 | 55 |
| Regional Measure 1 (BATA) | 5 | 0 | (5) |
| Materials Engineering & Testing Services | 27 | 27 | 0 |
| Overhead and Corporate | 1,934 | 1,885 | (36) |
| **Total Capital Outlay Support Workload** | **10,104** | **9,894** | **(210)** |

**LAO Comment.** The LAO recently reviewed the Governor's May COS request and found that significant reductions to the size of the program and increases in the level of external oversight are necessary to ensure the state's limited transportation funds are used wisely. The LAO recommends the following:

- Reduce Staffing Levels. The LAO estimates the COS budget request is overstated by roughly 3,500 FTE and more than $500 million in 2014-15 and recommends that the Legislature take a first step to address this overstaffing problem in the 2014-15 budget by significantly expanding the Governor's proposed reduction of the COS program.

- Require Staffing Plan. The LAO recommends that the Legislature adopt legislation requiring Caltrans to annually develop a multi-year staffing plan and submit the plan to the Legislature annually, beginning January 10, 2015. The plan should include for each district 1) workload projections by type of workload, 2) staff on board by type, 3) projected imbalances between existing staff and workload, and 4) how Caltrans will align staff resources with workload.

- Improve Data Quality. The LAO recommends Caltrans takes various actions to improve the quality of data related to staffing and workload such as to develop a data quality management plan and conduct a hindsight review of a sample of projects.

- Increase Oversight of Repair Program. The LAO recommends the Legislature takes steps to increase the California Transportation Commission's oversight and project approval functions for the State Highway Operation and Protection Program (SHOPP). The SHOPP is the state's program for repairing and reconstructing the highway.

**Staff Comment.** As transportation funding has declined, the anticipated workload for the COS program is also expected to decline. The LAO has raised concerns about the number of COS staff. However, the data upon which the LAO has drawn these conclusions has many limitations and making a significant reduction to the number of COS staff could negatively impact Caltrans' ability to deliver transportation projects. The recommendation to have Caltrans provide data about its staffing needs as part of the January budget proposal has merit and would increase the Legislature's ability to provide appropriate oversight of this important program. The recommendations to improve data quality and increase oversight of the SHOPP program also have merit and it would be appropriate for the transportation policy committee to consider these recommendations.

**Questions.**

*Caltrans:*

1) Please provide a summary of your May 1 COS request.

2) What is your response to the LAO report?

**Staff Recommendation.** Approve the May Finance Letter to reduce the Caltrans budget by $21.8 million and 210 full-time equivalents (FTEs) for the Capital Outlay Support (COS) program from the 2014-15 Governor's budget. In addition, adopt placeholder trailer bill legislation requiring Caltrans to annually develop a multi-year staffing plan and submit the plan annually to the Legislature beginning on January 10, 2015. The plan should include for each district 1) workload projections by type of workload, 2) staff on board by type, 3) projected imbalances between existing staff and workload, and 4) how Caltrans will use staff strategies and workload management tools to align staff resources with workload.

**Vote:**

## 2720 Department of California Highway Patrol

### Item 1: Air Fleet Replacement (January BCP #1)

The California Highway Patrol (CHP) has requested multi-year funding from the Motor Vehicle Account (MVA) to establish an on-going replacement program for the CHP air fleet. The proposal requests a one-time augmentation of $16 million in 2014-15; a one-time augmentation of $14 million in 2015-16 and 2016-17; and a permanent augmentation of $8 million in 2017-18 and beyond, as shown in the table below. Last year, CHP received $17 million to replace four aircraft.

**California Highway Patrol**
**Air Fleet Replacement Schedule**
**(Dollars in Millions)**

| Fiscal Year | Quantity of Aircraft | Funding |
|---|---|---|
| 2013-14 | 4 | $17 |
| 2014-15 | 4 | 16 |
| 2015-16 | 3 | 14 |
| 2016-17 | 3 | 14 |
| 2017-18 | 2 | 8 |
| 2018-19 | 2 | 8 |
| 2019-20 | 2 | 8 |
| 2020-21 | 2 | 8 |
| 2021-22 | 2 | $8 |

**Background and Detail.** The CHP's Air Operations Program (AOP) provides support for enforcement, pursuit management, hazardous material response, and inter-operable communications with allied agencies, traffic congestion relief, stolen vehicle recoveries, conducting searches, and transporting emergency medical supplies. CHP's air fleet currently consists of 15 airplanes and 15 helicopters. These were acquired using mostly federal funds, as shown below.

| Airplanes (15 total) | Funding Source |
|---|---|
| 14 | Office of Traffic Safety Grant |
| 1 | Homeland Security Grant |
| 1 | Asset Forfeiture |
| -1 | Airplane lost in accident |
| | |
| **Helicopters (15 total)** | |
| 2 | Motor Vehicle Account (MVA) |
| 1 | Military Surplus |
| 6 | Office of Traffic Safety Grant/MVA |
| 6 | Homeland Security Grant |

Last year, the department received $17 million (MVA) to replace four of the oldest aircraft in its fleet—three helicopters and one airplane. At the time, CHP committed to conducting an overall needs assessment and providing a schedule for the replacement of its fleet.

The CHP estimated that, when department specifications are met, a helicopter will cost $4.5 million and an airplane will cost $3.5 million. The department indicates that each unit begins to experience additional maintenance issues once flight time exceeds 10,000 hours, which occurs in about ten years. At this time, the oldest airplane and helicopters in its fleet have logged nearly 15,000 hours and almost 17,000 hours, respectively. The department indicates its desire to reduce the amount of equipment 'downtime,' resulting from increased maintenance hours and difficulties in obtaining necessary replacement parts. It also expresses the desire to standardize its fleet. The intent of this request would be to replace aircraft as they accrue over 10,000 flight hours.

**LAO Comment.** The LAO raises four concerns with this proposal:

(1) While the report provided by CHP on its air fleet includes various information (such as each aircraft's record of maintenance and fuel costs), the report does not provide sufficient information justifying the size of the air fleet being proposed.

(2) The Governor's proposal "locks in" the size of the fleet at 26 aircraft in the future and that the aircraft will require replacement on a set schedule. However, it is uncertain if this size of fleet would be needed in the future. There might be a need for a smaller or larger fleet size in the future for reasons such as less assistance requested by allied agencies or future aircraft lasting longer than planned.

(3) Under the Governor's proposal, the new aircraft would be purchased with monies from the MVA, which generates its revenues primarily from driver license and vehicle registration fees. The Governor's proposal raises the issue of whether it is appropriate for the MVA to be the sole funding source for this purpose. Under Article XIX of the State Constitution, any revenues from fees and taxes on vehicles or their use—such as driver's license and vehicle registration fees—can only be used for the state administration and enforcement of laws regulating the use, operation, or regulation of vehicles used upon the public streets and highways. It is unclear whether all of the activities supported by CHP's air fleet meet this requirement, such as patrolling the state's electrical and water infrastructure.

(4) According to CHP, requests to assist various allied agencies (such as local law enforcement offices) increased several years ago as these agencies faced fiscal constraints during the economic downturn in operating and maintaining their own existing air fleets. Given the high cost to the state in maintaining CHP's air fleet and that the budgets of the allied agencies may have begun to recover, the Legislature may want to consider requiring certain allied agencies to reimburse CHP for some, or all, of the costs it incurs in providing them with air support. The LAO also notes that requiring such reimbursements might encourage allied agencies to be more efficient and selective when requesting air support assistance from CHP.

**Staff Comment.** At the May 8th Senate Subcommittee #2 hearing, the committee expressed concerns about 1) CHP's inability to justify its request for a fleet of 26 air craft, 2) the lack of a long-term replacement plan for the fleet, and 3) the Department of General Services (DGS) procurement process for air craft. In response to legislative concerns about size of CHP's requested air fleet, the Department of Finance (DOF) has provided information that justifies the size of the fleet based on square miles covered per aircraft. As shown in the figure below, each aircraft covers fewer square miles than the fleet Texas uses, but more square miles than the average of several other states of roughly 2,600 square miles covered by each air craft. In addition, information was provided that shows how the fleet is distributed across the state's population and how CHP ensures coverage along the state's major freeways. Given this additional information, staff finds the request reasonable.

**CHP's Air Fleet Compared to Selected States**

| State | Square Miles | Number of Aircraft | Square Miles Patrolled/Per Aircraft |
|---|---|---|---|
| Texas | 266,874 | 23 | 11,603 |
| California | 158,648 | 26 | 6,102 |
| Pennsylvania | 45,310 | 16 | 2,832 |
| Indiana | 36,185 | 14 | 2,585 |
| Ohio | 41,328 | 16 | 2,583 |
| Maryland | 10,455 | 11 | 950 |

Source: The Department of Finance

In response to legislative concerns about the lack of a long-term plan to replace its existing fleet, this agenda shows that CHP has a replacement schedule for its air fleet and consistent with this plan, the Governor's budget requests $8 million annually from the MVA to fund the continuous replacement of the air fleet. The committee also had questions about what actions the DGS had taken to ensure the competitiveness of the request for proposals for the aircraft, which DGS will respond to during the May Revision hearings.

Previous Staff Comment on the Issue. The CHP's air fleet is aging and should be gradually replaced over a period of time. The CHP has provided a report that 1) describes its fleet of helicopters and airplanes, 2) provides justification for the 10,000 hour replacement guideline, and 3) provides a general replacement schedule. However, this report does not justify the size of the air fleet that is needed now and in the future. According to CHP, its goal is to have each aircraft log an average of 1,000 flight hours each year. Based on this, a fleet of 26 aircraft provides an annual total of 26,000 flight hours. However, it is unclear what the basis is for this goal and what outcomes are associated with this goal. Moreover, CHP states that the size of the fleet and locations of aircraft are based on a number of factors including, but not limited to, effective and efficient aircraft response to varied missions, response time, geography, political considerations, CHP ground unit deployments, allied agency resources, facility costs, and airport regulations. However, CHP has not provided an analysis that uses these factors to justify the size of its fleet.

It would be reasonable for such a study to be conducted in advance of additional purchases and that these purchases should be informed by the study. However, given that last year's request to conduct a similar study did not result in the desired outcomes, it is unclear if a second request would result in a better report.

In the past, CHP's fleet was funded with mostly federal funds. Given that there might be federal funds available in the future and that the actual size of the fleet CHP needs is unknown, it would be premature at this time to commit the MVA to funding the future purchase of aircraft beyond the budget year.

**Questions.**

*CHP and DOF:*

1) Please describe how the additional information that you recently provided justifies the size of the air fleet that is being requested (26 aircraft).

*DGS:*

1) Please discuss what actions were taken to ensure the competitiveness of the request for proposals for the aircraft.

**Staff Recommendation.** Approve the request for multi-year funding from the Motor Vehicle Account (MVA) to establish an on-going replacement program for the CHP air fleet. The proposal requests a one-time augmentation of $16 million in 2014-15; a one-time augmentation of $14 million in 2015-16 and 2016-17; and a permanent augmentation of $8 million in 2017-18 and beyond.

**<u>Vote:</u>**

**Item 2: Teen Safety Driver Program (Staff Proposal)**

**Proposal.** $700,000 from the Motor Vehicle Account for CHP and direct CHP to study and plan for the implementation of a program to educate teen drivers on the dangers of distracted driving. Staff proposes adoption of the following provisional language to allow for the use of outside consultants:

$700,000 is hereby appropriated to the California Highway Patrol from the Motor Vehicle Account to study and begin planning for a program to educate provisional (teen drivers) on the dangers of distracted driving. The Department may utilize outside consultants as needed.

**Background and Detail.** Traffic crashes are the leading cause of death for teenagers across the United States. For both men and women, drivers between 16 to 19 years of age have the highest average annual crash and traffic violation rates of any other age group. Many factors contribute to teen accidents such as poor hazard detection, low-risk perception, risk taking, not wearing seat belts, and lack of skill. Distracted driving caused by factors such as texting also contributes to teen deaths and according to the Institute for Highway Safety Fatality Facts, 11 teens die every day as a result of texting.

Last year, Assembly Bill 1113 (Frazier) was vetoed by the Governor with the message that "rather than imposing yet even more restrictions on a teenager's driving privilege, I am directing the Department of Motor Vehicles (DMV), CHP, and the Office of Traffic Safety (OTS) to implement a teen driving training and education program to improve transportation safety for provisional drivers."

According to the Administration, the CHP, DMV, and OTS have been meeting and actively working to implement the Governor's directive. Currently, the California State Transportation Agency (CalSTA) is working with the departments to gather more information before making an implementation recommendation to the Governor's Office.

The Impact Teen Driver program is part of CHP's "Teen Distracted Drivers Education and Enforcement" OTS grant. The objectives of the grant are to provide enhanced enforcement and broad public awareness, and an education and media campaign, which focuses on distracted driving among teens. Based on the grant objectives, Impact Teen Driver will provide presentations to stakeholders, conduct a media campaign to educate teen drivers about the dangers of distracted driving and partner with stakeholder groups (including teachers, parents, and teen groups) to enhance community involvement. The funding amounts for this program by federal fiscal year are as follows:

**OTS Grants for the Impact Teen Driver Program**

| Federal Fiscal Year | Amount |
|---|---|
| 2014 | $1.3 million |
| 2013 | $1.0 million |
| 2012 | $1.4 million |
| 2011 | $1.7 million |

**Staff Comments.** The proposed additional funding could help to address the problem of distracted teen driving and potentially reduce the number of traffic collisions resulting from this behavior.

**Questions.**

*For CalSTA:*

1) Please provide an update on the Administration's efforts to implement the Governor's directive to implement a teen driving training and education program to improve transportation safety for provisional drivers.

**Staff Recommendation.** Approve $700,000 from the Motor Vehicle Account for CHP to study and plan for the implementation of a program to educate teen drivers on the dangers of distracted driving. In addition, adopt the proposed provisional language that would allow CHP to use outside consultants as necessary to carry out these activities.

**<u>Vote:</u>**

## 2740 Department of Motor Vehicles

### Item 1: Implementation of AB 60—Placeholder Trailer Bill Language (Staff Proposal)

**Proposal.** Placeholder trailer bill language to modify the affidavit-related language adopted in AB 60 (Alejo), Chapter 524, Statutes of 2013.

**Background and Detail.** As of January 2013, the DMV had issued 27.3 million licenses/identification cards. AB 60 expanded who DMV can issue a license to and requires DMV, by January 1, 2015, to issue a driver's license to an applicant who is unable to submit satisfactory proof that their presence in the United States is authorized under federal law, if he or she meets all other qualifications for licensure and provides satisfactory proof to the department of his or her identify and California residency. AB 60 also requires DMV to develop regulations and consult with interested parties in an effort to assist the department in identifying documents that will be acceptable for purposes of providing documentation to establish identity and residency.

Under AB 60, people may be required to declare via affidavit that they are both (1) ineligible for a social security number and (2) are unable to submit proof of authorized presence in the United States.

The proposed changes to state law would allow applicants to use the existing DMV driver's license and identification card application (Form 44) to certify, under penalty of perjury, that a social security number has never been issued to them and that they are not eligible for a social security number.

**Staff Comment.** The proposed change to statute would enable the DMV to use the existing DMV driver's license and identification card application (Form 44) to ensure that applicants are eligible for the driver's license and allow DMV to obtain the information it needs for identity and fraud protection.

**Questions.**

*For DMV:*

1) Please provide a brief update on the implementation of AB 60 and discuss the status of working with the federal Department of Homeland Security on the approval of the design of the license.

2) Please discuss the proposed changes to the Vehicle Code and any concerns the Administration has with the proposed changes to state law.

**Staff Recommendation.** Approve the placeholder trailer bill language that would make changes to the Vehicle Code related to the implementation of AB 60.

**<u>Vote:</u>**

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

# OUTCOMES

**Wednesday, May 21, 2014**
**10:00 a.m.**
**Hearing Room 112**

**PART A**
**Consultant: Farra Bracht**

## PROPOSED VOTE-ONLY

**2600 California Transportation Commission**


**Action.** Adopted placeholder trailer bill language to change the Active Transportation Program deadline for the second round of programming to December 2015.

**Vote: 3-0**

**2660 California Department of Transportation**


**Action.** Approved 12 positions and $1.7 million from the State Highway Account for a three-year limited-term for the development of project initiation documents and the early repayment of the following General Fund loans:

- $337 million ($202.2 million for Caltrans and $134.8 million for cities and counties based on a compromise of a 60 percent state and 40 percent cities and counties split);
- $6 million for the Bicycle Transportation Account;
- $4.4 million for the Environmental Enhancement Program Fund; and
- $1.7 million for the Pedestrian Safety Account.

In addition, the committee adopted placeholder trailer bill language requiring the Department of Transportation to provide a report to the budget committees and the appropriate policy committees of both houses of the Legislature on the use of advertising on electronic signage on the state's highway system and the feasibility of a pilot project, including estimates of revenue, on or before March 1, 2015.

**Vote: 3-0**

## PROPOSED DISCUSSION/VOTE

**2660 California Department of Transportation**



**Action.** Approved the May Finance Letter to reduce the Caltrans budget by $21.8 million and 210 full-time equivalents (FTEs) for the Capital Outlay Support (COS) program from the 2014-15 Governor's budget and the proposed provisional language. In addition, directed staff to work with Caltrans and the Department of Finance to determine the types of COS-related data that could be reported on January 10, 2015 to help the Legislature assess next year's budget proposal. Directed staff to develop provisional language to pilot this reporting requirement.

**Vote: 3-0**

**2720 Department of California Highway Patrol**



**Action.** Approved the request for multi-year funding from the Motor Vehicle Account (MVA) to establish an on-going replacement program for the CHP air fleet. The proposal requests a one-time augmentation of $16 million in 2014-15; a one-time augmentation of $14 million in 2015-16 and 2016-17; and a permanent augmentation of $8 million in 2017-18 and beyond.

**Vote: 2-0 (Jackson absent)**



**Action.** Approved $700,000 from the Motor Vehicle Account for CHP to study and plan for the implementation of a program to educate teen drivers on the dangers of distracted driving. In addition, adopt the proposed provisional language that would allow CHP to use outside consultants as necessary to carry out these activities.

**Vote: 2-0 (Nielsen not voting)**

**2740 Department of Motor Vehicles**



**Action.** Approved placeholder trailer bill language that would make changes to the Vehicle Code to modify the affidavit-related language adopted in AB 60 (Alejo), Chapter 524, Statutes of 2013.

**Vote: 2-1**

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

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

**Wednesday, May 21, 2014**
**10:00 a.m.**
**Hearing Room 112**

**Consultant: Catherine Freeman**

# May Revision and Open Items (Part B)

**Items Proposed for Discussion**





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

# Trailer Bill Language

## Update on Trailer Bill Actions and Open Items

**Governor's Proposals and Subcommittee Actions.** The following table provides updates to the trailer bills proposed by the Governor, including status and date of public availability on the Department of Finance website.

| **Trailer Bill** | **Date Available or Modified** | **Subcommittee Action (to move these to the Resources Trailer Bill)** |
|---|---|---|
| Environmental License Plate Fund for Climate Change | February 1 | Reject (May 8) |
| Cap-and-Trade | February 7 | No Action |
| Resources License Plate Fund | February 1 | No Action (no budget proposal) |
| Seismic Planning Fee | February 1 | Approved on March 20 |
| Fireworks | March 7 | Held Open |
| Oil Spill Response | February 19 | Recommended for approval with changes on May 20 |
| State Park Gifts | February 1 | Recommended for approval with changes on May 20 |
| Revenue Generation | February 1, amended May 1 | Recommended for approval with changes on May 20 |
| State Parks Revolving Fund | May 1 | Did not hear |
| Fracking | March 10 | Held Open |
| Groundwater | Not Available | Held Open |
| Drinking Water | March 1 (draft) | Approved on May 20 |
| Marijuana Enforcement | February 1 | Held Open |
| Beverage Container Recycling | February 15 | Held Open |
| Beverage Container Audit | February 1 | Approved on April 10 |
| PUC Self Generation Incentive Fund | May 15 | Did not hear (no budget proposal) |

**Staff Comments.** The majority of the trailer bills have been publicly available for 2-3 months. In that time, the public has submitted comments to staff and the Administration. Staff recommends the following language be moved forward in order to advance the budget proposals they implement: (1) Fireworks; (2) Fracking; (3) Drinking Water; and, (4) Marijuana Enforcement. Moving these trailer bills forward will allow staff to consolidate the final trailer bill for review and amendment by all parties in a timely manner.

**Staff Recommendation:** Approve trailer bill language proposals. All language is subject to review and revision by legislative counsel and staff.

**Vote:**

# 3930 Department of Pesticide Regulation

***Item Proposed for Discussion***

## Update on Risk Assessments and Fumigants

**Governor's Proposal.** The Governor does not have a budget proposal.

**Previous Legislative Actions.** The Legislature, in the 2013 Budget Act, required the department to complete five risk assessments on high priority pesticides per year. This action was taken to ensure that the department was moving forward with risk assessments to the fullest extent possible.

**Staff Comments.** The department should provide an update on the previous year's requirement to provide five risk assessments by June 30, 2014. In addition, the department should discuss its current approach to the use of fumigants both in fields and in refrigerated warehouses.

**Previous Subcommittee Actions.** The subcommittee heard this item on April 24. Members of the public suggested that allocating funding to fumigant research would accelerate the department's ability to provide options to those using fumigants both in agricultural settings and post-production work. However, the department also provided an update on the mill assessment, and projections, should the drought continue. During drought conditions, less crops are planted, and less pesticides used, resulting in potential significant decreases in revenue in the forthcoming year.

The subcommittee considered appropriating $500,000 from the mill assessment for fumigant research and held the item open.

**Recommendation:**

**Vote:**

# 0540 Secretary for Natural Resources
# 8570 California Department of Food and Agriculture

***Item Proposed for Discussion***

**AB 32 Scoping Plan Update**

**Governor's Proposals.** The Governor has submitted the following requests directed by the air Resources Board to other departments related to the AB 32 Scoping Plan Update.

- **California Natural Resources Agency (CNRA).** The Spring Finance Letter requests $529,000 (Cost of Implementation Account) and two positions to implement the requirements of the AB 32 Scoping Plan Update. One position will coordinate activities to prepare and publish a forest carbon plan and further efforts to develop sustainability criteria to support forest biomass utilization. The second position will serve as a coordinator for other significant new responsibilities described in the AB 32 Scoping Plan Update. The proposal also includes $250,000 a year for two years to fund an economic resources study to support a forest carbon plan.

- **California Department of Food and Agriculture (CDFA).** The May Revision requests $140,000 (Cost of Implementation Account) and one position (redirected) to assist and implement the requirements of the AB 32 Scoping Plan Update. The funding would be used to establish emission reduction targets for the agriculture sector, develop tools to help farmers and ranchers estimate GHG emissions, and other agriculture-related GHG reduction activities.

**Staff Comments.** There is no statutory authorization for the Air Resources Board to direct another agency to engage in new activities related to AB 32. Staff recommends rejecting this proposal until the Legislature considers, whether to codify the studies and changes requested by the ARB in the Scoping Plan Update.

In addition, the Secretary for Natural Resources (CNRA) has the following existing positions that work on climate change, forestry, and AB 32: (1) Deputy Secretary for Climate Change and Energy; (2) Assistant Secretary for Climate Change; (3) Assistant Secretary of Forest Resources and Management. The Secretary also oversees the activities of the Department of Forestry and Fire Protection, California Energy Commission, and other agencies related to the requirements of the AB 32 scoping plan.

The CDFA also has a proposal before the Legislature for use of cap-and-trade auction revenues that would provide direct assistance and aid to the agriculture community. Significant research has been conducted at the local, state, and federal levels on greenhouse gas emissions in this sector. It is unclear, without statutory direction, what this position would add to the existing research.

**Staff Recommendation:** Reject proposals.

**Vote:**

# 8660 California Public Utilities Commission

### *Items Proposed for Discussion*

## Railroad Safety: Addressing Increased Hazards from Oil-by-Rail

**Background.** Crude oil trains, railroad bridges, and hazardous materials present significant population exposure to catastrophic incidents in heavily populated areas. A sharp upswing in Bakken crude oil railcar explosions nationally, and internationally, and a projected 25-fold increase in such train traffic in California, represents a significant risk increase. Both the National Transportation Safety Board (NTSB) and the Federal Railroad Administration (FRA) have identified crude-oil train shipments carrying Bakken crude as presenting significant risk of explosion and harm.

**Governor's Proposal.** The Spring Finance Letter requests seven rail inspectors and $1.1 million (Public Utilities Commission Transportation Reimbursement Account) to address new rail risks and mandates. The proposal would include: two associate railroad track inspectors for railroad bridge inspections; two associate transportation operations supervisors for hazardous materials inspections of crude oil trains and container trains at ports; two associate railroad track inspectors to address the increased wear on tracks and supporting structures; and, one associate railroad equipment inspector to focus on the heavy and high-use tank car trains.

**LAO Recommendation.** "The LAO recommends approval of the proposal with the addition of supplemental reporting language requiring the CPUC to report on the implementation of this proposal. We find that there are increased environmental and public safety risks associated with the projected increase in rail traffic in the coming years, and there is currently limited oversight of rail bridge safety. Our concern is that this is a new responsibility for the commission, and certain implementation details still need to be developed. In particular, the commission has not completed its plan for how it will prioritize which bridges to inspect, and it is unclear what additional training the commission will seek for its inspectors who will specialize in rail bridge safety."

**Staff Comments.** Staff concurs with the LAO.

**Recommendation.** Approve proposal with supplemental reporting language to be drafted by the LAO.

## Implement Greenhouse Gas Revenue Return to Energy-Intensive, Trade Exposed Industries

**Background**. As part of its implementation of the state's cap-and-trade program for greenhouse gas reduction, the Air Resources Board (ARB) issues greenhouse gas (GHG) allowances, which are permits to emit GHGs into the atmosphere. In order to protect electric ratepayers from price increases, the ARB allocates free allowances to the state's electric utilities and requires them to sell those allowances, returning the revenue to ratepayers. Senate Bill 1018 (Committee on Budget and Fiscal Review), Chapter 39, Statutes of 2011, required this revenue to be provided directly to residential customers, small businesses, and companies in emission intensive, trade-exposed (EITE) industries. The allocation to EITE companies is intended to ensure that industrial production currently occurring in California does not move outside the state as a result of cap-and-trade, thus causing emissions to "leak" out of the state.

The CPUC has been developing a program to address the mitigation leakage risk, including specific formulas to determine how much allowance revenue each EITE company should receive, and to base the allocation primarily on product output. The CPUC has stated that this calculation is problematic because it has a challenging time calculating the price of output, and that it is not aware of all companies at risk of "leakage."

**Budget Proposal.** The budget requests an increase of $1 million (reimbursable authority) in 2014-15 and $500,000 per year from 2015-16 through 2021-2022, to enable the CPUC to implement the return of GHG revenue to EITE industries. The funding is proposed to allow CPUC to ensure that sensitive and confidential business information is not compromised, and to complete the study of EITE industry leakage. In the proposal, the CPUC asserts that because the state has not yet conducted a comprehensive study of industries put at risk due to cap-and-trade, the CPUC would like to engage researchers at the University of California to conduct a "far-ranging study" of other industries that might need financial assistance.

**Implementing Legislation.** SB 1018 states:

> *748.5. (a) Except as provided in subdivision (c), the commission shall require revenues, including any accrued interest, received by an electrical corporation as a result of the direct allocation of greenhouse gas allowances to electric utilities pursuant to subdivision (b) of Section 95890 of Title 17 of the California Code of Regulations to be credited directly to the residential, small business, and emissions-intensive trade-exposed retail customers of the electrical corporation.*
>
> *(b) Not later than January 1, 2013, the commission shall require the adoption and implementation of a customer outreach plan for each electrical corporation, including, but not limited to, such measures as notices in bills and through media outlets, for purposes of obtaining the maximum feasible public awareness of the crediting of greenhouse gas allowance revenues. Costs associated with the implementation of this plan are subject to recovery in rates pursuant to Section 454.*

**Staff Comments.** At the time of the passage of SB 1018, it was not contemplated that the return of cap and trade funds to residential, commercial, and industrial entities would require over $1 million to implement the program. In addition, the idea that the CPUC must contract to conduct a far-ranging study on the impacts of cap-and-trade on industry was not discussed. This activity is beyond the scope of the CPUC and more in the purview of the ARB, as part of its broader discussion of “leakage” within the cap-and-trade program.

This item was held open on March 6 for further review. As discussed above, staff believes that there are easier and more cost-effective way to identify impacted industries, particularly working with the Air Resources Board, which has held numerous public meetings on the impacts of the cap-and-trade program.

**Staff Recommendation:** Reject

## General Fund Loan Repayment

**Background.** In October 1996, the California Public Utilities Commission (CPUC) established the California High-Cost Fund-B Administrative Committee Fund (CHCF-B) Program to provide subsidies to larger telephone companies serving high-cost areas. The purpose of the program was to reduce the disparity in rates charged by these telephone companies. The CHCF-B is funded by a surcharge on telephone customers who have services such as "call waiting" or "caller ID" on their phones. The budgeted surcharge rate—which is set administratively by the CPUC by resolution—has varied significantly from a high of 3.8 percent on the cost of services in 1999 to a low of 1.4 percent in 2002. Currently, the rate is 2 percent.

**Governor's Proposal.** The Governor proposes to repay a $59 million loan from CHCF-B in the budget year. At this time, the fund has a balance of $156.7 million. With annual expenditures declining from $29.5 million to $22.2 million, the necessity of this funding is not demonstrated in the near future and, therefore, repayment of this loan could be delayed.

**Staff Comments.** Conversations with the Administration have made it clear that the fund does not need repayment in the budget year. In addition, the continued audits related to fund balances and fiscal management at the CPUC make it difficult to determine when a loan repayment would be necessary in the near future.

**Recommendation.** Reject loan repayment.

# 3900 Air Resources Board (ARB)

### *Items Proposed for Discussion*

## Cap-and-Trade Support Proposals

**Governor's Proposal.** The Governor's budget includes several proposals intended to provide coordination, administration, and monitoring of cap-and-trade auction proceeds. These proposals are proposed to be funded by the Greenhouse Gas Reduction Fund (GGRF) and are separate from the overall cap-and-trade expenditure proposals.

1. **Cap-And-Trade Auction Proceeds—Administration.** The Governor's Budget proposes $2.63 million, which includes $1 million per year in contract funds, and 10 positions (GGRF) for activities related to implementation of the new GGRF, including: fiscal management of the GGRF; technical analysis to quantify and evaluate the benefits of GGRF investments; and legal review to ensure a legally defensible implementation of GGRF investments in sustainable communities projects.

2. **Cap-And-Trade Expenditure Plan – Coordination and Reporting (Spring Finance Letter).** The Governor's budget requests an additional 16 positions and $4.135 million (GGRF), which includes just over $1 million annually for two years, in contract and equipment funds, for implementing the GGRF and establishing a GGRF project tracking solution.

3. **Cap and Trade Market Surveillance.** The Governor's budget proposes $700,000 (GGRF) for ARB to support three new positions and contract funding to expand its market surveillance capabilities and implement its market monitoring plan. The additional staff would review daily trades of allowances to look for anomalies in trade patterns and coordinate with the U.S. Commodity Futures Trading Commission (CFTC) to incorporate more advanced methods of surveillance into ARB's own oversight activities. ARB is requesting resources because the program is going to expand to include fuels beginning January 1, 2015, and the market will mature with an increase in trading volumes.

**Staff Comments.** Staff recommends approval of these proposals in order to enhance the coordination, administration, and monitoring of the cap-and-trade program.

**Staff Recommendation:** Approve.

## In-State Greenhouse Gas Reductions—Carbon Capture

**Governor's Proposal.** Governor's budget requests an ongoing eight positions and $400,000 (Cost of Implementation Account) in annual contract money to support the development and implementation of quantification methodologies for in-state greenhouse gas (GHG) reductions including carbon capture and storage (CCS) and in-state offset protocols from non-capped sectors. The proposal would allow ARB to develop, propose, implement, and enforce quantification methodologies for emission reductions from CCS projects, and/or additional in-state offset protocols that can generate offset credits for use as compliance instruments under the cap-and-trade program. These activities are important to provide additional cost-effective compliance options for California businesses, as well as support creation of more in-state jobs associated with climate change mitigation.

**Staff Comments.** This proposal should be targeted depending on the ultimate outcome of the cap-and-trade expenditure plan approved by the Legislature.

**Staff Recommendation:** Reject.

## Climate Change Engagement with Other Jurisdictions

**Governor's Proposal.** The May Revision requests six positions and $1.1 million ($550,000 Cost of Implementation Account [COIA]; $550,000 Motor Vehicle Account [MVA]) 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.

**LAO Recommendation. "**We recommend rejection of this proposal for a couple of reasons. First, we find that it is questionable whether either fund source proposed to be used for these activities is allowable. In the case of the Motor Vehicle Account, Article XIX of the California Constitution permits these funds to be used for various purposes related to "vehicles used upon the streets and highways of this State, including…mitigation of the environmental effects of motor vehicle operation." However, this proposal would not be used directly for California roads or vehicles, and it is unclear whether the proposed activities would mitigate the effects of air pollution by California drivers to any significant extent. In the case of the Cost of Implementation Account, current law requires that its funds be used for the implementation of Chapter 488 of 2006 (AB 32, Nuñez), including "to facilitate the development of integrated and cost-effective regional, national, and international greenhouse gas reduction programs." However, based on our conversations with the board, its proposed activities will be focused on providing advice and assistance to other jurisdictions interested in implementing similar programs. These activities will not necessarily be intended to integrate California's greenhouse gas emission reduction programs with those of other jurisdictions. Second, the board has not provided clear workload justification for the number of positions it has requested (6). Thus, it is unclear what additional resources, if any, would be necessary to support the proposed activities."

**Staff Comments.** Reject.

## Fund Transfer for Clean Vehicle Rebate Project

**Governor's Proposal.** The Governor's budget requests a one-time transfer of $30 million ($15 million in 2013-14 and $15 million in 2014-15) from smog abatement fee revenues deposited in the Vehicle Inspection Fund to the Air Quality Improvement Fund. This includes a corresponding increase in spending authority of $30 million to provide vehicle rebates for light-duty zero emission and plug-in vehicle rebates through ARB's Clean Vehicle Rebate Program.

**Governor's January Proposal.** The Governor also proposes $200 million to expand the existing clean transportation programs that provide incentives for sustainable freight technology, zero-emission cars, low-emission cars in disadvantaged communities, and clean trucks and bus programs. The Governor proposes to spend $30 million from current-year proceeds for low-carbon transportation projects. This would reverse a $30 million loan from the Vehicle Inspection and Repair Fund approved in the current-year mainly for electric vehicle rebate programs.

**Staff Comments.** Arguments in opposition to the proposal state that the use of smog abatement fee revenue is inappropriate because it is derived from broad sources, many of whom are lower income individuals. The program provides incentives to those purchasing mainly vehicles that are available for moderate to higher income individuals.

Arguments in favor of the proposal state that the smog abatement fees were originally intended to be used for programs that reduce vehicle emissions, and that, therefore, the use of these funds for incentive programs (regardless of the income of the recipient) is appropriate.

Should the subcommittee adopt the proposal, it should also require that the allocation of funds be means-tested to address the need for funding to go to lower income individuals.

**Recommendation:**

**Vote:**

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

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

**Wednesday, May 21, 2014**
**10:00 a.m.**
**Hearing Room 112**

**Consultant: Catherine Freeman**

**May Revision and Open Items (Part B)**

**OUTCOMES**

**Items Proposed for Discussion**



**Resources—Environmental Protection—Energy—Transportation**

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

# Trailer Bill Language

## Update on Trailer Bill Actions and Open Items

**Governor's Proposals and Subcommittee Actions.** The following table provides updates to the trailer bills proposed by the Governor, including status and date of public availability on the Department of Finance website.

| Trailer Bill | Date Available or Modified | Subcommittee Action (to move these to the Resources Trailer Bill) |
|---|---|---|
| Environmental License Plate Fund for Climate Change | February 1 | Reject (May 8) |
| Cap-and-Trade | February 7 | No Action |
| Resources License Plate Fund | February 1 | No Action (no budget proposal) |
| Seismic Planning Fee | February 1 | Approved on March 20 |
| Fireworks | March 7 | Held Open |
| Oil Spill Response | February 19 | Recommended for approval with changes on May 20 |
| State Park Gifts | February 1 | Recommended for approval with changes on May 20 |
| Revenue Generation | February 1, amended May 1 | Recommended for approval with changes on May 20 |
| State Parks Revolving Fund | May 1 | Did not hear |
| Fracking | March 10 | Held Open |
| Groundwater | Not Available | Held Open |
| Drinking Water | March 1 (draft) | Approved on May 20 |
| Marijuana Enforcement | February 1 | Held Open |
| Beverage Container Recycling | February 15 | Held Open |
| Beverage Container Audit | February 1 | Approved on April 10 |
| PUC Self Generation Incentive Fund | May 15 | Did not hear (no budget proposal) |

**Votes:**
**PUC Self Generation Incentive Fund:** (2-0, Nielsen not voting.) including trailer bill language that ensures that the funds will be used for clean energy investments. (The original vote to move this item forward without additional language was 2-1 (Nielsen, no).
**Drinking Water:** Motion to reject (3-0)
**Marijuana Enforcement:** Motion to approve (3-0)
**Fracking:** Motion to approve, with clarification that this does not impede local ability to regulate (2-1, Nielsen, no).
**Fireworks:** (2-1, Nielsen, no)

# 3930 Department of Pesticide Regulation

***Item Proposed for Discussion***

## Update on Risk Assessments and Fumigants

**Governor's Proposal.** The Governor does not have a budget proposal.

**Previous Legislative Actions.** The Legislature, in the 2013 Budget Act, required the department to complete five risk assessments on high priority pesticides per year. This action was taken to ensure that the department was moving forward with risk assessments to the fullest extent possible.

**Staff Comments.** The department should provide an update on the previous year's requirement to provide five risk assessments by June 30, 2014. In addition, the department should discuss its current approach to the use of fumigants both in fields and in refrigerated warehouses.

**Previous Subcommittee Actions.** The subcommittee heard this item on April 24. Members of the public suggested that allocating funding to fumigant research would accelerate the department's ability to provide options to those using fumigants both in agricultural settings and post-production work. However, the department also provided an update on the mill assessment, and projections, should the drought continue. During drought conditions, less crops are planted, and less pesticides used, resulting in potential significant decreases in revenue in the forthcoming year.

The subcommittee considered appropriating $500,000 from the mill assessment for fumigant research and held the item open.

**Recommendation:**

**Vote:** Motion to approve $500,000 on a one-time basis. (2-1, Nielsen, no)

# 0540 Secretary for Natural Resources
# 8570 California Department of Food and Agriculture

***Item Proposed for Discussion***

## AB 32 Scoping Plan Update

**Governor's Proposals.** The Governor has submitted the following requests directed by the air Resources Board to other departments related to the AB 32 Scoping Plan Update.

- **California Natural Resources Agency (CNRA).** The Spring Finance Letter requests $529,000 (Cost of Implementation Account) and two positions to implement the requirements of the AB 32 Scoping Plan Update. One position will coordinate activities to prepare and publish a forest carbon plan and further efforts to develop sustainability criteria to support forest biomass utilization. The second position will serve as a coordinator for other significant new responsibilities described in the AB 32 Scoping Plan Update. The proposal also includes $250,000 a year for two years to fund an economic resources study to support a forest carbon plan.

- **California Department of Food and Agriculture (CDFA).** The May Revision requests $140,000 (Cost of Implementation Account) and one position (redirected) to assist and implement the requirements of the AB 32 Scoping Plan Update. The funding would be used to establish emission reduction targets for the agriculture sector, develop tools to help farmers and ranchers estimate GHG emissions, and other agriculture-related GHG reduction activities.

**Staff Comments.** There is no statutory authorization for the Air Resources Board to direct another agency to engage in new activities related to AB 32. Staff recommends rejecting this proposal until the Legislature considers, whether to codify the studies and changes requested by the ARB in the Scoping Plan Update.

In addition, the Secretary for Natural Resources (CNRA) has the following existing positions that work on climate change, forestry, and AB 32: (1) Deputy Secretary for Climate Change and Energy; (2) Assistant Secretary for Climate Change; (3) Assistant Secretary of Forest Resources and Management. The Secretary also oversees the activities of the Department of Forestry and Fire Protection, California Energy Commission, and other agencies related to the requirements of the AB 32 scoping plan.

The CDFA also has a proposal before the Legislature for use of cap-and-trade auction revenues that would provide direct assistance and aid to the agriculture community. Significant research has been conducted at the local, state, and federal levels on greenhouse gas emissions in this sector. It is unclear, without statutory direction, what this position would add to the existing research.

**Staff Recommendation:** Reject proposals.

**Vote: 3-0**

# 8660 California Public Utilities Commission

***Items Proposed for Discussion***

**Railroad Safety: Addressing Increased Hazards from Oil-by-Rail**

**Background.** Crude oil trains, railroad bridges, and hazardous materials present significant population exposure to catastrophic incidents in heavily populated areas. A sharp upswing in Bakken crude oil railcar explosions nationally, and internationally, and a projected 25-fold increase in such train traffic in California, represents a significant risk increase. Both the National Transportation Safety Board (NTSB) and the Federal Railroad Administration (FRA) have identified crude-oil train shipments carrying Bakken crude as presenting significant risk of explosion and harm.

**Governor's Proposal.** The Spring Finance Letter requests seven rail inspectors and $1.1 million (Public Utilities Commission Transportation Reimbursement Account) to address new rail risks and mandates. The proposal would include: two associate railroad track inspectors for railroad bridge inspections; two associate transportation operations supervisors for hazardous materials inspections of crude oil trains and container trains at ports; two associate railroad track inspectors to address the increased wear on tracks and supporting structures; and, one associate railroad equipment inspector to focus on the heavy and high-use tank car trains.

**LAO Recommendation.** "The LAO recommends approval of the proposal with the addition of supplemental reporting language requiring the CPUC to report on the implementation of this proposal. We find that there are increased environmental and public safety risks associated with the projected increase in rail traffic in the coming years, and there is currently limited oversight of rail bridge safety. Our concern is that this is a new responsibility for the commission, and certain implementation details still need to be developed. In particular, the commission has not completed its plan for how it will prioritize which bridges to inspect, and it is unclear what additional training the commission will seek for its inspectors who will specialize in rail bridge safety."

**Staff Comments.** Staff concurs with the LAO.

**Recommendation.** Approve proposal with supplemental reporting language to be drafted by the LAO.

**Vote: 2-1 (Nielsen, no)**

**Implement Greenhouse Gas Revenue Return to Energy-Intensive, Trade Exposed Industries**

**Background**. As part of its implementation of the state's cap-and-trade program for greenhouse gas reduction, the Air Resources Board (ARB) issues greenhouse gas (GHG) allowances, which are permits to emit GHGs into the atmosphere. In order to protect electric ratepayers from price increases, the ARB allocates free allowances to the state's electric utilities and requires them to sell those allowances, returning the revenue to ratepayers. Senate Bill 1018 (Committee on Budget and Fiscal Review), Chapter 39, Statutes of 2011, required this revenue to be provided directly to residential customers, small businesses, and companies in emission intensive, trade-exposed (EITE) industries. The allocation to EITE companies is intended to ensure that industrial production currently occurring in California does not move outside the state as a result of cap-and-trade, thus causing emissions to "leak" out of the state.

The CPUC has been developing a program to address the mitigation leakage risk, including specific formulas to determine how much allowance revenue each EITE company should receive, and to base the allocation primarily on product output. The CPUC has stated that this calculation is problematic because it has a challenging time calculating the price of output, and that it is not aware of all companies at risk of "leakage."

**Budget Proposal.** The budget requests an increase of $1 million (reimbursable authority) in 2014-15 and $500,000 per year from 2015-16 through 2021-2022, to enable the CPUC to implement the return of GHG revenue to EITE industries. The funding is proposed to allow CPUC to ensure that sensitive and confidential business information is not compromised, and to complete the study of EITE industry leakage. In the proposal, the CPUC asserts that because the state has not yet conducted a comprehensive study of industries put at risk due to cap-and-trade, the CPUC would like to engage researchers at the University of California to conduct a "far-ranging study" of other industries that might need financial assistance.

**Staff Comments.** At the time of the passage of SB 1018, it was not contemplated that the return of cap and trade funds to residential, commercial, and industrial entities would require over $1 million to implement the program. In addition, the idea that the CPUC must contract to conduct a far-ranging study on the impacts of cap-and-trade on industry was not discussed. This activity is beyond the scope of the CPUC and more in the purview of the ARB, as part of its broader discussion of "leakage" within the cap-and-trade program.

This item was held open on March 6 for further review. As discussed above, staff believes that there are easier and more cost-effective way to identify impacted industries, particularly working with the Air Resources Board, which has held numerous public meetings on the impacts of the cap-and-trade program.

**Staff Recommendation:** Reject

**Vote: Motion to approve, 3-0**

## General Fund Loan Repayment

**Background.** In October 1996, the California Public Utilities Commission (CPUC) established the California High-Cost Fund-B Administrative Committee Fund (CHCF-B) Program to provide subsidies to larger telephone companies serving high-cost areas. The purpose of the program was to reduce the disparity in rates charged by these telephone companies. The CHCF-B is funded by a surcharge on telephone customers who have services such as "call waiting" or "caller ID" on their phones. The budgeted surcharge rate—which is set administratively by the CPUC by resolution—has varied significantly from a high of 3.8 percent on the cost of services in 1999 to a low of 1.4 percent in 2002. Currently, the rate is 2 percent.

**Governor's Proposal.** The Governor proposes to repay a $59 million loan from CHCF-B in the budget year. At this time, the fund has a balance of $156.7 million. With annual expenditures declining from $29.5 million to $22.2 million, the necessity of this funding is not demonstrated in the near future and, therefore, repayment of this loan could be delayed.

**Staff Comments.** Conversations with the Administration have made it clear that the fund does not need repayment in the budget year. In addition, the continued audits related to fund balances and fiscal management at the CPUC make it difficult to determine when a loan repayment would be necessary in the near future.

**Recommendation.** Reject loan repayment.

**Vote:** Motion to reject loan repayment (2-1, Nielsen, no)

# 3900 Air Resources Board (ARB)

***Items Proposed for Discussion***

## Cap-and-Trade Support Proposals

**Governor's Proposal.** The Governor's budget includes several proposals intended to provide coordination, administration, and monitoring of cap-and-trade auction proceeds. These proposals are proposed to be funded by the Greenhouse Gas Reduction Fund (GGRF) and are separate from the overall cap-and-trade expenditure proposals.

1. **Cap-And-Trade Auction Proceeds—Administration.** The Governor's Budget proposes $2.63 million, which includes $1 million per year in contract funds, and 10 positions (GGRF) for activities related to implementation of the new GGRF, including: fiscal management of the GGRF; technical analysis to quantify and evaluate the benefits of GGRF investments; and legal review to ensure a legally defensible implementation of GGRF investments in sustainable communities projects.

2. **Cap-And-Trade Expenditure Plan – Coordination and Reporting (Spring Finance Letter).** The Governor's budget requests an additional 16 positions and $4.135 million (GGRF), which includes just over $1 million annually for two years, in contract and equipment funds, for implementing the GGRF and establishing a GGRF project tracking solution.

3. **Cap and Trade Market Surveillance.** The Governor's budget proposes $700,000 (GGRF) for ARB to support three new positions and contract funding to expand its market surveillance capabilities and implement its market monitoring plan. The additional staff would review daily trades of allowances to look for anomalies in trade patterns and coordinate with the U.S. Commodity Futures Trading Commission (CFTC) to incorporate more advanced methods of surveillance into ARB's own oversight activities. ARB is requesting resources because the program is going to expand to include fuels beginning January 1, 2015, and the market will mature with an increase in trading volumes.

**Staff Comments.** Staff recommends approval of these proposals in order to enhance the coordination, administration, and monitoring of the cap-and-trade program.

**Staff Recommendation:** Approve.

**Vote:** Motion to approve, 2-1 (Nielsen, no)

## In-State Greenhouse Gas Reductions—Carbon Capture

**Governor's Proposal.** Governor's budget requests an ongoing eight positions and $400,000 (Cost of Implementation Account) in annual contract money to support the development and implementation of quantification methodologies for in-state greenhouse gas (GHG) reductions including carbon capture and storage (CCS) and in-state offset protocols from non-capped sectors. The proposal would allow ARB to develop, propose, implement, and enforce quantification methodologies for emission reductions from CCS projects, and/or additional in-state offset protocols that can generate offset credits for use as compliance instruments under the cap-and-trade program. These activities are important to provide additional cost-effective compliance options for California businesses, as well as support creation of more in-state jobs associated with climate change mitigation.

**Staff Comments.** This proposal should be targeted depending on the ultimate outcome of the cap-and-trade expenditure plan approved by the Legislature.

**Staff Recommendation:** Reject.
**Vote:** Motion to approve, 2-1 (Nielsen, no)

## Climate Change Engagement with Other Jurisdictions

**Governor's Proposal.** The May Revision requests six positions and $1.1 million ($550,000 Cost of Implementation Account [COIA]; $550,000 Motor Vehicle Account [MVA]) 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.

**LAO Recommendation. "**We recommend rejection of this proposal for a couple of reasons. First, we find that it is questionable whether either fund source proposed to be used for these activities is allowable. In the case of the Motor Vehicle Account, Article XIX of the California Constitution permits these funds to be used for various purposes related to "vehicles used upon the streets and highways of this State, including…mitigation of the environmental effects of motor vehicle operation." However, this proposal would not be used directly for California roads or vehicles, and it is unclear whether the proposed activities would mitigate the effects of air pollution by California drivers to any significant extent. In the case of the Cost of Implementation Account, current law requires that its funds be used for the implementation of Chapter 488 of 2006 (AB 32, Nuñez), including "to facilitate the development of integrated and cost-effective regional, national, and international greenhouse gas reduction programs." However, based on our conversations with the board, its proposed activities will be focused on providing advice and assistance to other jurisdictions interested in implementing similar programs. These activities will not necessarily be intended to integrate California's greenhouse gas emission reduction programs with those of other jurisdictions. Second, the board has not provided clear workload justification for the number of positions it has requested (6). Thus, it is unclear what additional resources, if any, would be necessary to support the proposed activities."

**Staff Comments.** Reject.
**Vote:** Motion to approve half of the funding, 2-0 (Nielsen, not voting)

## Fund Transfer for Clean Vehicle Rebate Project

**Governor's Proposal.** The Governor's budget requests a one-time transfer of $30 million ($15 million in 2013-14 and $15 million in 2014-15) from smog abatement fee revenues deposited in the Vehicle Inspection Fund to the Air Quality Improvement Fund. This includes a corresponding increase in spending authority of $30 million to provide vehicle rebates for light-duty zero emission and plug-in vehicle rebates through ARB's Clean Vehicle Rebate Program.

**Governor's January Proposal.** The Governor also proposes $200 million to expand the existing clean transportation programs that provide incentives for sustainable freight technology, zero-emission cars, low-emission cars in disadvantaged communities, and clean trucks and bus programs. The Governor proposes to spend $30 million from current-year proceeds for low-carbon transportation projects. This would reverse a $30 million loan from the Vehicle Inspection and Repair Fund approved in the current-year mainly for electric vehicle rebate programs.

**Staff Comments.** Arguments in opposition to the proposal state that the use of smog abatement fee revenue is inappropriate because it is derived from broad sources, many of whom are lower income individuals. The program provides incentives to those purchasing mainly vehicles that are available for moderate to higher income individuals.

Arguments in favor of the proposal state that the smog abatement fees were originally intended to be used for programs that reduce vehicle emissions, and that, therefore, the use of these funds for incentive programs (regardless of the income of the recipient) is appropriate.

Should the subcommittee adopt the proposal, it should also require that the allocation of funds be means-tested to address the need for funding to go to lower income individuals.

**Recommendation:**

**Vote:** Motion to approve as proposed, 2-0 (Nielsen, not voting)