Senate Budget and Fiscal Review

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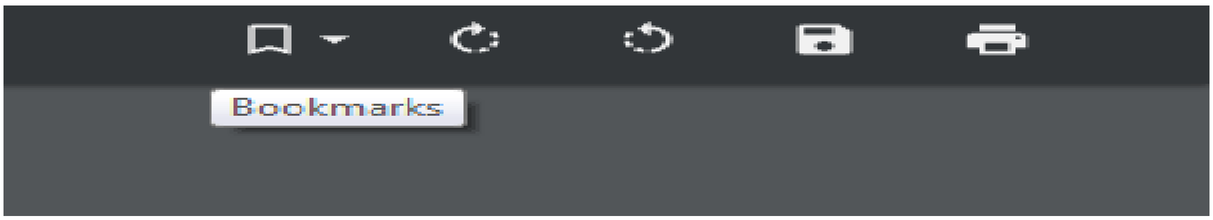

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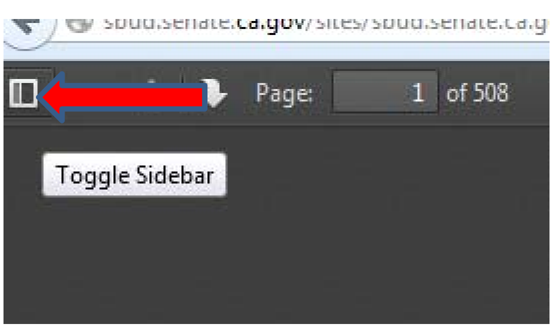

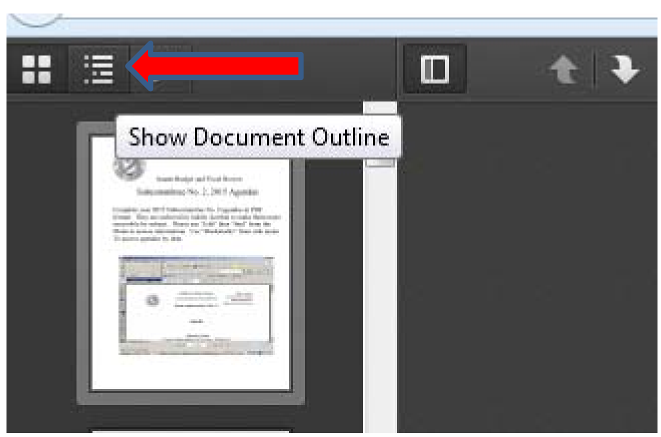

Senate Budget and Fiscal Review—Senator Mark Leno, Chair
SUBCOMMITTEE NO. 2 **Agenda**

Senator Lois Wolk, Chair
Senator Jim Nielsen
Senator Fran Pavley

Thursday, March 5, 2015
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. John Laird, Secretary for Natural Resources

Oversight

Items Proposed for Discussion

Resources—Environmental Protection—Energy—Transportation

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3210 Environmental Protection Program (Environmental License Plate Program)

Background—Environmental License Plate Fund.

Personalized License Plates. The Legislature created the personalized license plate through the enactment statute in 1970. Revenues from personalized license plates, purchased by individuals, are collected by the Department of Motor Vehicles (DMV), and, deposited into the Environmental License Plate Fund (ELPF). State law requires that for certain plates, such as the Yosemite Conservancy Plate and the California Coastal License Plate (Whale Tail), the DMV collect additional revenues that are deposited directly into separate funds (the Yosemite Fund and California Beach and Coastal Enhancement Account, respectively). The remaining funding supports the Environmental Protection Program (EPP), which addresses the preservation and protection of California's environment, as prescribed by law.

In 2011-12, over 82,000 plates were purchased. Half of these were purchased for special programs (such as the Whale Tail and Yosemite plates), and half were generic environmental personalized license plates. Over one million plates have been purchased and are renewed annually. Revenues from the plates average $41 to $42 million per year from new purchases and renewals.

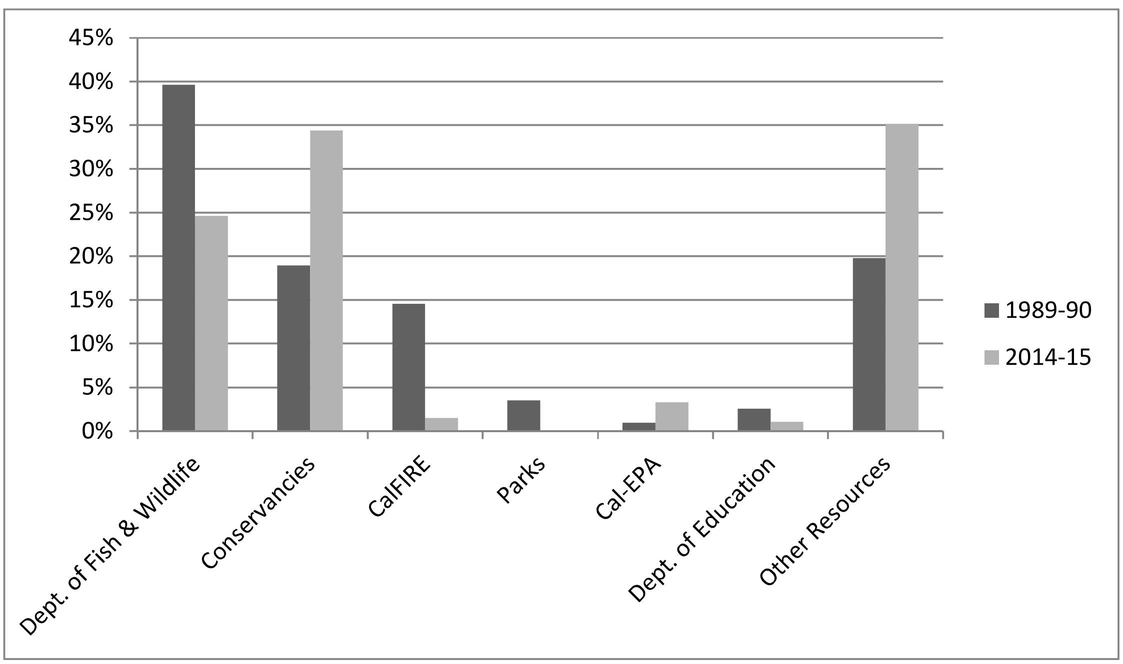
Environmental License Plate Fund (ELPF). The ELPF was established to provide funding to various environmental programs through the EPP at the state and local level. The amount of funding available is dependent upon the number of certain specialty license plates sold and maintained in the state. Traditionally, 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.
8. In addition to these, SB 861 (Committee on Budget), Chapter 35, Statutes of 2014, added climate assessment to the eligible list of priorities.

Allocation of Funds. The allocation of funds within the program is subjective. The Administration reviews revenues and provides the Legislature with a proposed funding package each January. As discussed in a 2012 audit of the program by the State Auditor, the Resources Agency is required to provide reports and programs recommended for funding, together with a statement of their purposes, the benefits to be realized, and the Secretary for Natural Resource's commitment for inclusion in the Governor's budget. This report is required to be submitted annually to the Governor with the request for funding. According to the 2012 audit, this information had not been provided; and the agency argues that the report is duplicative of the budget change proposal process already occurring.

Shifting Priorities and New Programs. As shown in the figure below, shifting priorities have altered how ELPF funding been allocated. For example, in 1990, the Department of Fish and Wildlife (DFW) accounted for 40 percent of ELPF expenditures. The budget display reflected numerous ongoing and capital programs. Conservancies made up a relatively small proportion of the budget in 1990, but jumped to 35 percent in the proposed 2015-16 budget. Over the years, new programs have been added to the ELPF budget. For example, the California Natural Resources Agency (CNRA) proposes to spend $6.7 million of the overall allocation primarily for two relatively new programs—the Ocean Protection Council (formerly housed at the State Coastal Conservancy), and the Fourth Climate Assessment (first proposed in 2014-15).

Environmental License Plate Fund
Expenditures (by percentage)
1989-90 versus 2014-15



Stable Revenues. The ELPF revenues have hovered between $39 and $41 million for over eight years. However, in multiple years, the Governor's budget has forecast higher revenues (as much as $45 million). When a final reconciliation of the budget has been made, these higher forecasts have never been realized. In 2014-15, the budget forecast revenues of $44 million. However, currently estimated revenues (as shown in the 2014-15 budget display), are forecast to be $41 million. A similar pattern has occurred over multiple years.

Conservancies—Funding Baseline Expenditures. 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 (such as the Tahoe Conservancy) 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.

In November 2014, voters approved the Water Quality, Supply, and Infrastructure Improvement Act of 2014 (Proposition 1). The bond makes available $7.5 billion in general obligation bond funds for projects that improve water supply, protect and restore watersheds, improve water quality, and increase flood protection. The majority of funds are designed to be allocated to existing state programs that provide grants and loans to local entities. This bond allocates approximately $100 million directly to state conservancies for ongoing and capital projects. The bond also allows for five percent of the full allocation to be used over the life of the bond expenditures and encumbrance periods, for baseline state operations expenses (salaries, office expenses, etc.).

State Conservancies Funding—ELPF and Proposition 1
2015-16 (Dollars in Thousands)

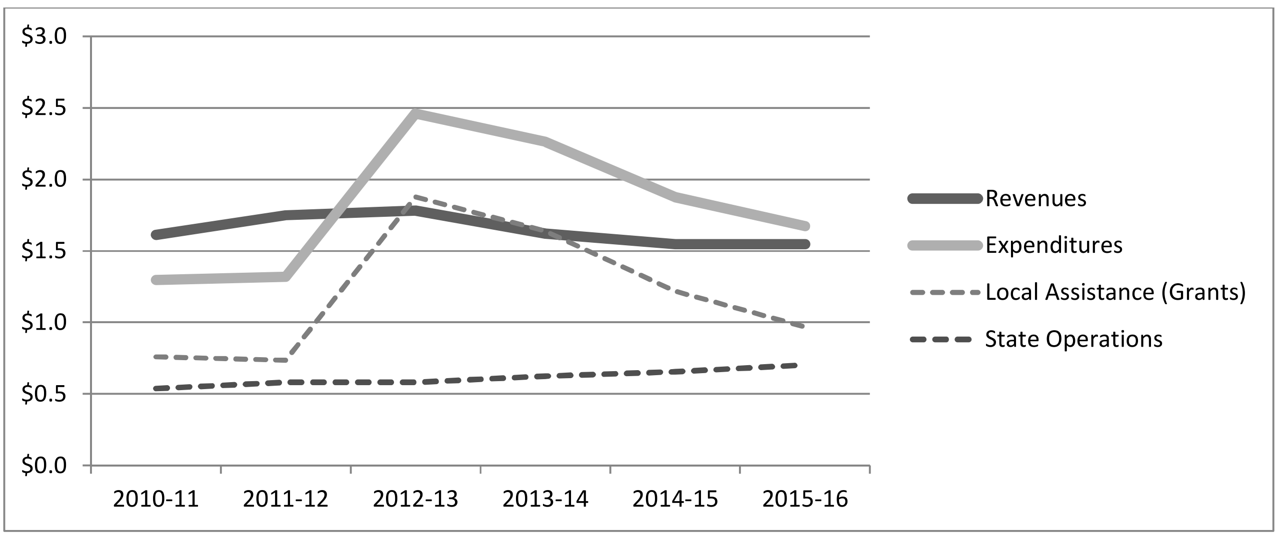
			Proposition 1 (Full Allocation)	
Conservancy	**ELPF**	**Prop 1**	**Total**	**5% for State Operations**
Tahoe*	$3,582	$14,150	$15,000	$750
Coastal**	$1,300	$15,000	$100,500	$5,025
Santa Monica Mountains***	$308	$12,640	$80,000	$4,000
Los Angeles River and Mountains***	$369	$19,700	$80,000	$4,000
San Joaquin River	$312	$2,800	$10,000	$500
Baldwin Hills	$377	$2,100	$10,000	$500
San Diego River	$374	$4,100	$17,000	$850
Coachella Valley	$303	$2,570	$10,000	$500
Sierra Nevada*	$4,406	$10,200	$25,000	$1,250
Delta	$77	$9,871	$50,000	$2,500
Totals	**$11,408**	**$93,131**	**$397,500**	**$19,875**

* Tahoe received funding in proportion to the amount raised by the Lake Tahoe license plate.
**$1.3 million to SCC is one-time allocation. Baseline ELPF to SCC was shifted to OPC.
*** In addition to $30 million per conservancy, SMMC/RMC share $100,000 for the LA River.

Whale Tail—A Special License Plate. According to the DMV Website: "The fees collected for the Whale Tail License Plates, sponsored by the California Coastal Commission, help protect and restore the priceless resources of California's coast and ocean." In reality, the allocation of funds from this special license plate is more complex.

The California Coastal Commission's Whale Tail License Plate was established as a mechanism through which the public can contribute funds to coastal and marine education programs in California. For each new plate that is sold, approximately $13.97 is deposited in the California Beach and Coastal Enhancement Account (CBCEA). Annual renewal fees deposit approximately $19.77 per plate into the account. Additional funds are deposited in the Environmental License Plate Fund (ELPF), which funds environmental programs in other state agencies. As of December 31, 2013, a total of 218,945 license plates have been sold. Whale Tail License Plate sales and renewal fees (plus miscellaneous other small fees) have contributed $21.8 million to the CBCEA, and $53.7 million to the ELPF. (The additional fees that are charged for personalized plates go to the ELPF.)

Coastal Beach and Enhancement Account
Revenues and Expenditures 2010-2015
(Dollars in Millions)



2014 Audit of ELPF. In 2013-14, the State Auditor reviewed the specialized license plate program. As a part of that audit, the auditor reviewed multiple funds receiving revenues from specialized license plates, including the ELPF, and in particular expenditures for the Department of Fish and Wildlife (DFW), Department of Parks and Recreation (CDPR), and Natural Resources Agency (CNRA). In brief, the overall audit concluded that the DMV should do a better job of collecting revenues for the plates, and several agencies could not demonstrate that the state received the intended benefit from the plate revenues. Specifically, the audit concluded:

- The DMV had not collected the appropriate amount of fees and had not claimed its administrative costs accurately. The DMV overcharged the ELPF by $2.1 million per year from 2009-10 through 2011-12.

- The CDPR and CNRA could not provide sufficient support for their expenditures or a rationale for the portion of shared costs that they charged to the environmental fund, nor for the manner in which they allocated costs to the fund.
- The CNRA could not justify why it had paid the entirety of the secretary's salary in a single month (April 2010) from the ELPF, rather than proportionally.
- The CNRA has not submitted to the Governor and Legislature required reports intended to provide pertinent information about the performance of programs and projects paid for by the fund. Specifically, the CNRA must forward reports on those projects and programs recommended for funding, together with a statement of their purposes, the benefits to be realized, and the secretary's comments for inclusion in the Governor's budget.

A review of the Governors' budget showed that in 1990, the CNRA and its respective departments provided specific and detailed information about the nature of ELPF expenditures. Projects were identified in the Governor's budget and backup justification for each project and program was included for review by the Legislature.

The current report forwarded by the CNRA repeats statutory guidance provided to the departments. For example, the following was provided:

> ***0540 Natural Resources Agency***
>
> *ELPF funds state operations of the secretary for natural resources (Natural Resources Agency). The mission of the agency is to restore, protect and manage the state's natural, historical and cultural resources. The secretary for natural resources, a member of the Governor's Cabinet, sets the policies and coordinates the environmental preservation and restoration activities of 26 various departments, boards, commissions, and conservancies, and directly administers the Sea Grant Program, California Environmental Quality Act, and River Parkways Grant Program. In addition, the secretary, per Public Resources Code (PRC) 21193 is responsible for the administration of the Environmental License Plate Fund and oversight of the funds expenditures.*

In reality, the CNRA intends to expend over $6.7 million dollars on specific programs including the Fourth Climate Assessment and the Ocean Protection Council (all-base funding). This information was not included in the justification for the budget request. It should be noted that the Whale Tail plate funding, administered by the Coastal Commission and State Coastal Conservancy, under multiple reviews, has been found to be justified by recent audits by the State Auditor.

By contrast, the DFW was able to identify how it would spend its entire $15.5 million allocation, the majority of which would fund biodiversity programs. However, a full $4.3 million was identified as general and unspecified overhead within the department.

Governor's Budget Proposal

The Governor's budget proposes $38.8 million in expenditures and $42 million in revenues. After required transfers to the Motor Vehicle Account ($2.4 million), the amount available for expenditure is $39 million. The figure below outlines ELPF expenditure proposals for the current year and budget year.

Environmental License Plate Fund
2015-16 Proposed Expenditures
(Dollars in Thousands)

Function	2014-15 (Estimate)	2015-16 (Proposed)	% Change
Department of Fish and Wildlife	$15,511	$9,468	-39%
Conservancies	$10,235	$11,408	11%
Secretary for Natural Resources	$4,561	$6,703	47%
Natural Resource Agency Departments	$5,380	$5,330	-1%
Tahoe Regional Planning Agency	$3,998	$3,998	0%
Department of Parks and Recreation	$3,058	$0	-100%
Cal-EPA boards and Departments	$1,454	$1,456	0%
Department of Education	$414	$410	-1%
Total	**$44,611**	**$38,773**	

ELPF Shortfall. According to the Administration, revenues in the ELPF are not likely to meet budgeted projects by as much as $3 million in both the current year (2014-15) and the budget year (2015-16). The shortfall occurred mainly because the Administration over-estimated revenues to the program. As discussed previously, revenues to the program historically averaged between $39 to $41 million per year. The Administration raised the revenue estimate in 2014 to $45 million. Additional cost pressures include salary adjustments required by the "like-pay for like-work" initiative.

The Administration proposes a series of actions to address the shortfall. In the current year (2014-15), the solutions include:

- Delay the beginning of the 4th Climate Assessment from the current year to budget year ($2.5 million).
- Delay the Climate Ready grants from current year to budget year ($1.3 million).
- Shift expenditures in CDPR and DFW to special funds ($1.1 million).
- Other, targeted reductions.

In 2015-16, the proposed solutions include:

- Moving the remaining 4th Climate Assessment funding out one year ($2.5 million).
- Shifting $3.3 million in CDPR to the State Parks and Recreation Fund.
- Shift $7.2 million in DFW to Fish and Game Preservation Fund.
- Introducing trailer bill language to increase plate fee by five percent (estimated new revenue of $1 million).
- Additional targeted reductions to departments ($1.1 million).

LAO Review. Shifting Funds for Support Purposes? In 2006, the Legislative Analyst's Office (LAO) provided an initial review of the ELPF and highlighted several key historical issues with the fund. First, in 2002-03, the ELPF replaced General Fund and other funds in four main areas: (1) $2.3 million from General Fund for operations at the Secretary for Natural Resources; (2) $2.8 million for operations of the Tahoe Conservancy; (3) $2.6 million from other funds at the Department of Fish and Wildlife to the ELPF; and, (4) $3 million from the General Fund to the Environmental License Plate Fund for the Tahoe Regional Planning Agency. These shifts were necessitated by major General Fund deficits.

At the time, the LAO noted that "statute does not specify the extent ELPF money has been used for one-time expenditures, such as capital outlay expenditures, and providing assistance for local programs or for ongoing support of state programs and operations." They noted that about 88 percent of funding from ELPF was directed to state operations and only 12 percent was allocated to one-time expenditures such as capital outlay or local assistance.

LAO Assessment (2015-16 Budget Proposal). The LAO also reviewed the Governor's budget year proposal and provided its assessment as follows:

> ***Important Information Not Included With Governor's Budget.*** The Governor's budget does not include details of ELPF spending by program. While the Administration provided some details on the programs funded by ELPF upon request, more detailed information on spending (such as identification of and funding levels for ELPF–supported programs and projects) is needed. In addition, providing this information in the Governor's annual budget proposal—as was done in the past—would be more timely and helpful for legislative decision making. The lack of detail regarding ELPF expenditures makes it difficult for the Legislature to evaluate the degree to which ELPF spending is being used for the most effective programs and is consistent with legislative priorities.
>
> ***Governor's Proposal Offers One Reasonable Option to Address Shortfall.*** In the current year, the state has only limited options for addressing the ELPF shortfall. It would be difficult to raise much revenue with only a few months remaining in the fiscal year, and many departments would likely have difficulty implementing budget reductions without significantly affecting their programs. Most savings achieved by the administration's proposal are from delaying one–

time spending until the next fiscal year. Therefore, this option is the least disruptive and achieves the needed savings to avoid a shortfall in 2014–15.

The proposal also provides a reasonable approach to addressing the shortfall in 2015-16 without major funding disruptions to supported programs. Yet, it has trade–offs. Under the proposal, the costs of the budget–year shortfall would be borne mostly by special funds that support the activities of DPR and DFW. While these funds have sufficient balances to support this one–time shift without reducing the departments' activities, they would not be able to sustain the shifts. Additionally, the proposal only offers a solution through the budget year. A long term solution would still need to be found for 2016–17 and beyond.

There Are Other Alternatives Available. The Legislature has several choices regarding how to address the ELPF shortfall, both for the budget year and thereafter. For the budget year, the Legislature could choose from a variety of options: (1) reduce funding from the other programs supported by ELPF, (2) reduce or eliminate one–time spending, (3) increase the license plate fee beyond the level proposed by the Governor, or (4) backfill ELPF with other special funds. For example, if the Legislature did not want to use State Parks and Recreation Fund, and Fish and Game Preservation Fund, to backfill ELPF, a cut of about 20 percent to all programs would achieve the same savings level in the budget year. Likewise, increasing the plate fee by more than the five percent proposed would reduce the need to cut spending in 2015–16 and beyond. We also note that many conservancies are getting large funding increases from Proposition 1 (2014 water bond), and may no longer need to rely as heavily on ELPF.

In the long-term, the ongoing deficit—about $8 million annually—is smaller than the budget–year shortfall, and therefore may be addressed with less drastic action. The Legislature could reevaluate statutory priorities for the ELPF to ensure that activities of the highest priority continue to be funded. Narrowing the definition of some uses or eliminating uses would result in savings to the fund. A greater increase in the plate fee, as noted above, could also address the ongoing deficit.

Issues for Legislative Consideration

Should the Legislature Consider Revisiting Conservancy ELPF Funding? As shown on page 4, aside from revenues from specific plates, ELPF funding appears to be fairly random in its allocation. Long-established conservancies (State Coastal Conservancy, for example) receive no baseline/state operations funding while the Sierra Nevada Conservancy receives $4.4 million per year. The Santa Monica Mountains and LA River Conservancies receive $308,000 and $369,000 by comparison. These conservancies have traditionally been funded by bond funds given that their main purpose is acquire and develop land for conservation status (parks, watersheds, view-sheds, trails, etc.). As the figure shows, a full five percent of allocations from bonds can be used for state operations. This is considered the amount necessary to administer a capital outlay program. For many of the smaller agencies, the addition of the five percent may not be sufficient to pay for their ongoing state operations, but for some this amount is very significant. For example, the Delta Conservancy receives $77,000 from the ELPF for state operations. Additionally, they may use up to five percent bond allocation ($2.5 million), for state operations. Is the $77,000 still necessary?

Why are Education and Environmental Protection Such a Low Priority? Public Resources Code 21190 guides the distribution of the ELPF, and clearly identifies the following priorities: (1) the control and abatement of air pollution; and, (2) environmental education. Respectively, these priorities receive four percent and one percent of the funding allocated from the ELPF. At the same time, the state continues an initiative to bring environmental education into the core curriculum of all classrooms in the state through the Education and the Environment Initiative. The Legislature should consider whether funding distributed pursuant the statute is being equitably distributed, or if there should be statutory language directing the allocation of funds in a more definite manner.

Do Plate Owners Really Think This is How We Spend the Money? One of the more challenging questions legislators may ask is how do the purchasers of the specialized license plates expect their fees to be used. For example, if PRC 21190 states that one priority is "purchase of real property for state and local parks," how is this being brought to fruition? Base state operations funding at state parks and the conservancies does not accomplish this goal. Removing all state parks funding from the ELPF, as is proposed in the 2015-16 budget, would not accomplish this goal. So, too, if the DMV website says that purchase of the Whale Tail plate would "help protect and restore the priceless resources of California's coast and ocean," would the same purchaser think that funding non-coastal agencies is part of their purchase-package? The Legislature could consider, as part of its review of the ELPF, any number of other ways of distributing funding for the ELPF and other specialty plates in a manner that is more in keeping with what the purchasers expect.

Should the ELPF be Used for Climate Strategy? Using $5 million in 2014-15 from the ELPF to fund 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. Previous climate assessments had been funded through the public goods charge. The Administration suggested that cap-and-trade auction revenues would not be appropriate for the assessment but did not provide a legal opinion supporting that statement. The climate assessment proposal was rejected by budget subcommittees last year, and an alternative proposal—funding direct climate resilience (direct adaptation)—was adopted. During final budget negotiations, the Administration assured the Legislature that sufficient funding was available in the ELPF for both the fourth Climate Assessment and the Climate Resilience Account ($1.3 million).

The Legislature may wish to consider rejecting the 4th Climate Assessment (given that funding for this was based on false projections), and revisit the idea of funding all climate activities through other funds (such as cap-and-trade auction revenues).

Staff Comments: Over the years, it is clear that the ELPF has been used both for its initial intended purpose, but also to backfill where other funding has been lost. Statute clearly lays out the priorities for program funding from the ELPF but does not specify how much should be allocated to each purpose. Some contend that, over the years, too, much of the funding has been diverted from traditional purposes (such as protection of land and habitat, or development of parks) to backfill for General Fund as indicated by the 2006 LAO review of the fund.

As audits confirm, the allocation of funds from ELPF has, over the years, been subject to considerable broad interpretation by the various Secretaries for Natural Resources. Priority setting has generally been left up to the administration with little input from the Legislature for the development of the ELPF budget. The Legislature could address some of the long-term issues with the ELPF either through budget action or through trailer bill language that designated percentages or priorities to the statutory priorities designated by PRC 21190. In addition, the Agency could conduct a small survey of license plate owners to determine where they think the funding is being directed.

Options for Shifting ELPF Priorities? Another option available to the Legislature is to update priorities for funding and specify what portions should be state operations generally, and what should be for project-specific work. For example, if the Legislature does not think that the Administration provided sufficient funding for environmental protection programs, it could specify a base level percent of funding for that purpose. Similarly, if the Legislature thought funding was over-allocated to state operations or other activities, it could provide that guidance through a prioritized system. Lastly, the Legislature could limit the amount of funds or state administration used for baseline budgets (currently set at five percent for bond administration).

ELPF Reporting. As discussed above, the Secretary for Natural Resources believes the statutorily report to the Governor on priorities is duplicative of other budget documents they submit. Even in years where the report was submitted, it did not provide detailed analysis of the direction of funding, priorities for use, and project commitments. Rather, funding clearly was directed to support very general priorities of the Administration. The Legislature could consider revising this reporting language to require the Agency to submit a detailed funding proposal that includes current-year to budget-year funding changes, capital outlay, local assistance, and state operations.

Staff Recommendation: Hold Open. Require the Secretary to submit to the subcommittee, by March 30, 2015, a comprehensive list of projects to be funded by the ELPF in the current year and proposed budget. This list should include a breakdown of activities in general categories, overhead, and support. Direct the agency to determine which funds are appropriately used for regulatory work (such as Tahoe Regional Planning Agency), and which should be for project-specific work.

Vote:

0540 Secretary for Natural Resources

The Secretary for Natural Resources 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 Natural 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 $53 million to support the Secretary for Natural Resources. This is a $6 million decrease under current-year estimated expenditures, primarily due to reduced bond fund expenditures and one-time expenditures in the current year. Significant increases include $2.2 million from the Environmental License Plate Fund for the Fourth Climate Assessment, and $9.8 million from Proposition 1 for various bond-related programs.

Items Proposed for Vote-Only

1. **California River Parkways Program—Staffing Extensions.** The Governor's budget requests to extend two positions, and the funding for these positions, for five years, to support the Proposition 84 California River Parkways Program. Savings from previous years will allow this allocation to adhere to the "five percent for administration" rule found in the bond.

Staff Recommendation: Approve Item 1.

Items Proposed for Discussion

1. Proposition 1 Programs

Background. Proposition 1, passed by the voters in 2014, allocates $525 million directly to three Natural Resources Agency-administered programs. These include:

- **Ocean Protection Council ($30 million).** The council was created by the California Ocean Protection Act of 2004. The council's strategic plan is to focus on research and monitoring, ocean and coastal water quality, and ocean and coastal ecosystems.

- **Watershed and Urban River Enhancement Projects ($20 million).** The bond requires $20 million for a competitive program, administered by the Secretary, to fund multi-benefit watershed and urban rivers enhancement projects to increase water self-sufficiency.

- **State Water Obligations ($475 million).** The bond requires the Secretary to administer these funds for any of the: (1) Central Valley Project Improvement Act; (2) Salton Sea Quantification Settlement Agreement; (3) San Joaquin River Settlement; and, (4) other multi-state or multi-party settlement agreements such as the Klamath River or Tahoe Compact.

- **Oversight.** The bond contemplates oversight for bond activities in much the same way as other recent bond measures, wherein the Secretary provides accountability and bond oversight for other state agencies.

Budget Proposal. The Governor's budget allocations include: (1) $9.5 million to the Ocean Protection Council; (2) $125 million for watershed and urban river enhancement projects; and, (3) $189,000 for oversight.

LAO Analysis—Accountability and Oversight. Proposition 1 includes provisions that affect how projects would be administered or overseen. For example, the measure specifies that up to five percent of the bond allocations can be used for administrative costs and up to 10 percent can be used for planning and monitoring efforts. In addition, the measure requires the Department of Finance (DOF) to audit the expenditure of grant funds and allows for additional auditing in the event that DOF identifies issues of concern. Proposition 1 also requires that CNRA annually public a list of all program and project expenditures on its website. The LAO, in its analysis of the Governor's Proposition 1 overall proposal, makes two recommendations to promote effective bond implementation: (1) Ensure data collection to support program evaluation; and, (2) facilitate oversight of projects, programs and outcomes.

Staff Comments. Staff agrees with the overall approach of the Governor's proposed allocations to the CNRA and the LAO's analysis of the oversight and accountability. The subcommittee may wish to explore how the CNRA should implement these recommendations, and how it plans to expend the $475 million allocated in the bond for settlements.

Staff Recommendation: Approve item. Request the LAO draft trailer bill language to implement its accountability recommendations, to be brought back to the subcommittee for review. Approve budget bill language requiring CNRA to report on its plans to expend the State Water Obligations ($475 million) funding pot.

Vote:

Items Proposed for Discussion

2. Marine Protected Area Monitoring

Background. The CNRA implements Fish and Game Code Section 2853 (c)(3), the Marine Life Protection Act (MLPA). The MLPA established a statewide network of marine protected areas (MPAs) designed, created, and managed through public-private partnerships. The Ocean Protection Council (OPC), within the CNRA, expended $16 million to create a baseline characterization of ecosystem status for four regions.

Budget Proposal. The Governor's budget requests $2.5 million (Proposition 84 bond funds), one-time, to continue to support monitoring to inform the ongoing management of the network of MPAs. The budget does not specify a long-term funding source for management of the MPAs, and specifically states that, "as the OPC's appropriation of Proposition 84 bond funds draw to a close, a new source of funding is needed to continue monitoring the MPAs." The proposal further states that "the annual cost of ongoing monitoring will be lower than the cost of the baseline characterization. As such, this request can be seen as a decrease in requested funds."

Previous Concerns with the MPA Program. Over several years, this subcommittee has reviewed proposals for the MLPA program through the CNRA, OPC and the Department of Fish and Wildlife (DFW). Consistently, the question of management of the MPAs has been an outstanding issue. The DFW is charged with management of the MPAs (reductions in fishing, catch limits), but no dedicated funding source has been identified, to date, to fully manage the MLPA program. The state, partnering with federal and local agencies, has, in some places, created a de-facto management program but this has not been presented to the Legislature for review.

LAO Analysis. ***Bond Funds Not Appropriate for Ongoing Operational Costs.*** "We find that the proposed monitoring activities seem reasonable. The activities are consistent with the MLPA, and the proposed funding amount is actually somewhat less than the amount described in the monitoring plan adopted by the Fish and Game Commission in 2010. That plan included a range of activities and associated costs to conduct monitoring in the North Central Coast region, with the costs varying depending on the level of monitoring. The lowest cost option identified estimated total costs of $4 million ($1 million annually over four years)."

"As a general principle, however, bond funds should be used only for capital improvements or activities that provide benefits over many years to taxpayers who finance the bonds. The state should not conduct long-term borrowing for day–to–day maintenance or operations costs. If bond proceeds were used for operations costs, it would mean that taxpayers in the future would be paying for today's activities. In addition, the state pays more in the long run when it relies on bond debt, about $1.30 (when adjusted for inflation) for each $1 borrowed. Therefore, covering operational expenses with bond funding is more expensive than using other funding sources. Since monitoring MPAs is an ongoing operational activity, bond funds are not an appropriate source of funding."

LAO Recommendation. "We find the proposed MPA monitoring activity and funding level to be reasonable. However, we recommend that the Legislature reject the Governor's proposal to use Proposition 84 bond funds for this purpose. Instead, we recommend that the Legislature choose a more appropriate funding source for an ongoing operational activity than bond funds. In determining the appropriate fund source, the Legislature should first consider who is most appropriate to bear these costs—for example, general taxpayers or users of these areas. Second, the Legislature should consider the competing demands for available funding sources and weigh the relative merits of using these funds for MPA monitoring versus other possible uses.**"**

Staff Comments. Staff disagrees with the Administration's assertion that this request "can be seen as a decrease in requested funds." It is still not clear what the long-term funding proposal is for the management of the MLPA program, nor is it clear to which department this management should be attributed. The most likely candidate is DFW, and a combination of Fish and Game Preservation Fund and General Fund, directed both toward fisheries management and law enforcement. In recent years requests have been made for more ocean-going vessels (in part for MLPA enforcement), but long-term funding for staffing and management have not been presented.

Staff Recommendation: Hold Open. Require the Ocean Protection Council to return at May Revision with a full analysis of management costs for the MLPA program, including funding sources, staffing and department management designations. Staff further requests that bond funds, which are appropriate for development of a capital program, not be proposed for ongoing staffing or maintenance of the areas. The DFW should also clearly delineate between its current baseline obligations, and the additional obligations presented by management of the MPAs.

Vote:

3340 California Conservation Corps

The California Conservation Corps (CCC) provides people between the ages of 18 and 23 work experience and educational opportunities. Program participants, referred to as corpsmembers, work on projects that conserve and improve the environment. They also provide assistance during natural disasters. Work projects are sponsored by various governmental and nongovernmental agencies that reimburse CCC for the work performed by corpsmembers. Corpsmembers often live in residential facilities that serve as a hub of CCC service delivery.

Governor's Budget. The Governor's 2015–16 budget proposes a total of $98 million for support of CCC. About half of these funds are from the General Fund, with the remaining coming from a variety of special funds. The proposed amount reflects a net decrease of $16.9 million, or 17 percent, compared to projected current–year expenditures. This change primarily reflects reduced capital outlay expenditures.

Items Proposed for Vote-Only

1. **Auburn Campus: Capital Outlay Improvements.** The budget requests $2.7 million (Public Buildings Construction Fund) for preliminary plans and working drawings for a new kitchen, multi-purpose room, and dormitory to replace facilities at the Auburn campus. Funding also includes demolition and replacement of existing corpsmember dormitories and kitchen/dining hall.

2. **Local Corps Residual Prop 40 Funding.** The budget requests $275,000 (Proposition 40) to provide funding for the CCC to award grants to certified Local Conservation Corps. Funding was identified after adjustments for statewide bond costs made a balance available.

Staff Recommendation: Approve Item 1-2.

Vote:

Items Proposed for Discussion

1. Funding CCC Programs

Background. The CCC receives about half of its funding from the General Fund with most of the balance coming from reimbursement revenues, state fire fees, bond funds and clean energy funds. When CCC corpsmembers work on projects for other public agencies or private entities, CCC is reimbursed for the labor provided. This reimbursement revenue is used to support the corpsmembers' salaries and benefits as well as department–wide administrative and operational costs. The CCC sets a statewide reimbursement rate target (currently $18.77 per hour for corpsmember labor) and field staff use this target rate when negotiating contracts with client agencies.

The CCC estimates about 4,000 men and women (the equivalent of about 1,200 full–time positions) will participate in the program during the current year. Corpsmembers earn minimum wage and are assigned to work approximately 40 hours per week. On average, corpsmembers stay in the program for a little over seven months. The current annual cost of the program per corpsmember is in the range of $40,000 to $45,000 per full–time equivalent. The current–year budget provides funding for seven residential and 15 nonresidential facilities throughout the state.

Budget Proposal. The Governor's budget includes $92.8 million for state operations and $5.2 million for capital outlay projects. This is an increase of about $4 million from the current year and $14 million over three years. The majority of increases have been due to General Fund ($14 million) baseline adjustments. At the same time, the department has increased its efforts to receive reimbursements, resulting in over a $3 million increase over two years (equaling reimbursements from 2012-13 and decreasing bond fund reliance. In 2013, after the passage of Proposition 39, the department incorporated the Clean Energy Job Fund into its programs.

2015-16 Proposed Expenditures
(Dollars in Thousands)

Function	2012-13 (Actual)	2013-14 (Actual)	2014-15 (Estimate)	2015-16 (Proposed)
General Fund	$31,670	$34,861	$43,839	$46,065
Environmental License Plate Fund	$313	$326	$327	$322
Collins-Dugan Reimbursement Account	$33011	$30,814	$32,015	$33,833
State Fire Prevention Fund	$1488	$1,483	$1,789	$1,899
Bond Funds	$12,552	$4,671	$5,400	$5,367
Proposition 39 Clean Energy Fund	$0	$4,052	$5,000	$5,342
Total	**$79,034**	**$76,107**	**$88,381**	**$92,829**

Changing Fund Sources and Changing Priorities—Focus on the Corpsmember. As can be seen from the table on the previous page, the CCC has managed to maintain its baseline funding while shifting priorities to meet new funding streams. At the same time, the model of the CCC, to develop young people into job-seekers, has remained unchanged, as has the general method of education and development. A traditional focus on local projects, fire support activities and trail building, has shifted to the development of programs including:

- EnergySmart Jobs Program—For example, corpsmembers survey refrigeration units in grocery stores to determine energy savings options.
- Active Transportation—In cooperation with the Transportation Agency and Natural Resources Agency, the CCC are included as in the project selection criteria.
- Drought Response—Administration of $13 million in emergency drought relief for conservation efforts and fire hazard reduction work.
- Energy Corps—Providing California schools with no-cost energy surveys, and installation of energy-efficient measure.

What is Next for the CCC? Given the changing nature of funds, the CCC continually is asked to reinvent itself. Several questions are appropriate in determining long-term programs and funding for the CCCs.

- Is the fundamental CCC program—that of an on-site, facility-based, education system the correct model?

- As an education program, should more of its funding be included in the Proposition 98 guarantee? Should CCC explore a Community College affiliation under Proposition 98, given that 60 percent of its corpsmembers have their high school diploma?

- What funding is on the horizon for the CCC?

- Should the state employ the CCC to do energy audits of state buildings (including University of California and the community colleges?

- How should the CCC plan for a future without Proposition 39 energy funding and Proposition 40 bond funds?

Staff Comments: Information Item, no action necessary.

2. Tahoe Base Center

Background. The Tahoe Base Center is a residential and operational facility for corpsmembers. Completed in 2013, the center includes dorm rooms, a multipurpose kitchen building, and administrative offices. In addition, the CCC currently uses a total of 8,600 square feet of storage space at two facilities, for various equipment used by corpsmembers at the center. This storage space includes 5,100 square feet of lease space and 3,500 square feet at a facility owned by CCC that was formerly a California Highway Patrol field office.

Governor's Proposal. The Governor's budget proposes to establish a consolidated storage facility of 12,500 square feet to serve the Tahoe Base Center. This would be accomplished by acquiring and renovating the entire facility currently leased by the CCC. The Governor's budget includes $2.5 million in lease-revenue bonds to fund the estimated cost of the project. The Administration estimates that annual debt-service payments would be about $180,000. The Administration provides several reasons for needing the proposed storage facility. First, the facility would provide additional storage space, as is recommended in a warehouse prototype design developed by the DGS for new CCC facilities. This design is based on 10,700 square feet. Second, the proposed location is about a half mile closer to the Tahoe Base Center than the current CCC–owned storage facility. Third, CCC states that it has had to limit the frequency and times that it accesses this facility due to neighborhood complaints.

LAO Assessment. "We find that the proposed project provides some benefits to CCC. However, it is unclear that the proposal provides a necessary and cost–effective approach for two reasons. First, CCC has not identified specific problems with the amount of storage space it currently has available or why it requires a 45 percent increase in storage capacity. Second, the proposal would result in substantially greater long-term costs than the status quo. Lease costs—currently about $43,000 annually—are significantly lower than the $180,000 annual debt–service costs for the project. In addition, the estimated annual costs to operate and maintain the new facility (about $10,000) are greater than at the current facilities (about $6,000). We find that the proposed facility remains significantly more costly than the current storage facilities even when taking into account other factors, such as inflation and the sale of the CCC–owned facility. We also note that the proposed facility would be significantly more costly per square foot than the existing facilities."

LAO Recommendation. In view of the above concerns, we recommend that the Legislature reject the Governor's proposal to develop a consolidated storage facility for CCC in the Tahoe region.

Staff Comments. Staff agrees with the LAO that there may be issues with funding and square footage requested by the CCC. However, given the compelling issue of neighborhood complaint, staff believes that this project is required should the CCC continue to operate in Tahoe. There may be less costly ways of funding this project that would require less lease-bond resources and more up-front General Fund.

Staff Recommendation. In order to determine a final funding model, and to address local neighborhood issues, staff recommends the LAO and CCC visit the Tahoe Base Center to review options for funding with the Department of Finance capital outlay staff. The department, LAO and DOF should be prepared to return at May Revision with the lowest-cost option.

Vote:

Senator Lois Wolk, Chair
Senator Jim Nielsen
Senator Fran Pavley

Thursday, March 5, 2015
9:30 a.m. or Upon Adjournment of Session
Hearing Room 112

Consultant: Catherine Freeman

OUTCOMES
Please see Agenda for Background Information

Oversight

Items Proposed for Discussion

3210 Environmental Protection Program (Environmental License Plate Program)

Governor's Budget Proposal

The Governor's budget proposes $38.8 million in expenditures and $42 million in revenues. After required transfers to the Motor Vehicle Account ($2.4 million), the amount available for expenditure is $39 million. The figure below outlines ELPF expenditure proposals for the current year and budget year.

Environmental License Plate Fund
2015-16 Proposed Expenditures
(Dollars in Thousands)

Function	2014-15 (Estimate)	2015-16 (Proposed)	% Change
Department of Fish and Wildlife	$15,511	$9,468	-39%
Conservancies	$10,235	$11,408	11%
Secretary for Natural Resources	$4,561	$6,703	47%
Natural Resource Agency Departments	$5,380	$5,330	-1%
Tahoe Regional Planning Agency	$3,998	$3,998	0%
Department of Parks and Recreation	$3,058	$0	-100%
Cal-EPA boards and Departments	$1,454	$1,456	0%
Department of Education	$414	$410	-1%
Total	**$44,611**	**$38,773**	

ELPF Shortfall. According to the Administration, revenues in the ELPF are not likely to meet budgeted projects by as much as $3 million in both the current year (2014-15) and the budget year (2015-16). The shortfall occurred mainly because the Administration over-estimated revenues to the program. As discussed previously, revenues to the program historically averaged between $39 to $41 million per year. The Administration raised the revenue estimate in 2014 to $45 million. Additional cost pressures include salary adjustments required by the "like-pay for like-work" initiative.

Staff Recommendation: Hold Open. Require the Secretary to submit to the subcommittee, by March 30, 2015, a comprehensive list of projects to be funded by the ELPF in the current year and proposed budget. This list should include a breakdown of activities in general categories, overhead, and support. Direct the agency to determine which funds are appropriately used for regulatory work (such as Tahoe Regional Planning Agency), and which should be for project-specific work.

Vote: (3-0) to Hold Open + Staff Recommendation (highlighted).

0540 Secretary for Natural Resources

Items Proposed for Vote-Only

1. **California River Parkways Program—Staffing Extensions.** The Governor's budget requests to extend two positions, and the funding for these positions, for five years, to support the Proposition 84 California River Parkways Program. Savings from previous years will allow this allocation to adhere to the "five percent for administration" rule found in the bond.

Staff Recommendation: Approve Item 1.

Vote: (3-0)

1. Proposition 1 Programs

Budget Proposal. The Governor's budget allocations include: (1) $9.5 million to the Ocean Protection Council; (2) $125 million for watershed and urban river enhancement projects; and, (3) $189,000 for oversight.

Staff Recommendation: Approve item. Request the LAO draft trailer bill language to implement its accountability recommendations, to be brought back to the subcommittee for review. Approve budget bill language requiring CNRA to report on its plans to expend the State Water Obligations ($475 million) funding pot.

Vote: 3-0 to Approve Item and Highlighted Staff Recommendation.

Marine Protected Area Monitoring

Budget Proposal. The Governor's budget requests $2.5 million (Proposition 84 bond funds), one-time, to continue to support monitoring to inform the ongoing management of the network of MPAs. The budget does not specify a long-term funding source for management of the MPAs, and specifically states that, "as the OPC's appropriation of Proposition 84 bond funds draw to a close, a new source of funding is needed to continue monitoring the MPAs." The proposal further states that "the annual cost of ongoing monitoring will be lower than the cost of the baseline characterization. As such, this request can be seen as a decrease in requested funds."

Staff Recommendation: Hold Open. Require the Ocean Protection Council to return at May Revision with a full analysis of management costs for the MLPA program, including funding sources, staffing and department management designations. Staff further requests that bond funds, which are appropriate for development of a capital program, not be proposed for ongoing staffing or maintenance of the areas. The DFW should also clearly delineate between its current baseline obligations, and the additional obligations presented by management of the MPAs.

Vote: Hold Open

3340 California Conservation Corps

The California Conservation Corps (CCC) provides people between the ages of 18 and 23 work experience and educational opportunities. Program participants, referred to as corpsmembers, work on projects that conserve and improve the environment. They also provide assistance during natural disasters. Work projects are sponsored by various governmental and nongovernmental agencies that reimburse CCC for the work performed by corpsmembers. Corpsmembers often live in residential facilities that serve as a hub of CCC service delivery.

Governor's Budget. The Governor's 2015–16 budget proposes a total of $98 million for support of CCC. About half of these funds are from the General Fund, with the remaining coming from a variety of special funds. The proposed amount reflects a net decrease of $16.9 million, or 17 percent, compared to projected current–year expenditures. This change primarily reflects reduced capital outlay expenditures.

Items Proposed for Vote-Only

1. **Auburn Campus: Capital Outlay Improvements.** The budget requests $2.7 million (Public Buildings Construction Fund) for preliminary plans and working drawings for a new kitchen, multi-purpose room, and dormitory to replace facilities at the Auburn campus. Funding also includes demolition and replacement of existing corpsmember dormitories and kitchen/dining hall.

2. **Local Corps Residual Prop 40 Funding.** The budget requests $275,000 (Proposition 40) to provide funding for the CCC to award grants to certified Local Conservation Corps. Funding was identified after adjustments for statewide bond costs made a balance available.

Staff Recommendation: Approve Item 1-2.

Vote: (3-0)

Items Proposed for Discussion

1. Funding CCC Programs

Staff Comments: Information Item, no action taken.

2. Tahoe Base Center

Governor's Proposal. The Governor's budget proposes to establish a consolidated storage facility of 12,500 square feet to serve the Tahoe Base Center. This would be accomplished by acquiring and renovating the entire facility currently leased by the CCC. The Governor's budget includes $2.5 million in lease-revenue bonds to fund the estimated cost of the project. The Administration estimates that annual debt-service payments would be about $180,000. The Administration provides several reasons for needing the proposed storage facility. First, the facility would provide additional storage space, as is recommended in a warehouse prototype design developed by the DGS for new CCC facilities. This design is based on 10,700 square feet. Second, the proposed location is about a half mile closer to the Tahoe Base Center than the current CCC–owned storage facility. Third, CCC states that it has had to limit the frequency and times that it accesses this facility due to neighborhood complaints.

Staff Comments. Staff agrees with the LAO that there may be issues with funding and square footage requested by the CCC. However, given the compelling issue of neighborhood complaint, staff believes that this project is required should the CCC continue to operate in Tahoe. There may be less costly ways of funding this project that would require less lease-bond resources and more up-front General Fund.

Staff Recommendation. In order to determine a final funding model, and to address local neighborhood issues, staff recommends the LAO and CCC visit the Tahoe Base Center to review options for funding with the Department of Finance capital outlay staff. The department, LAO and DOF should be prepared to return at May Revision with the lowest-cost option.

Vote:3-0 to Hold Open and Highlighted Staff Recommendation..

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

SUBCOMMITTEE NO. 2 MEMBERS
JIM NIELSEN
FRAN PAVLEY

ENVIRONMENTAL QUALITY MEMBERS
GAINES
BATES
HILL
JACKSON
LENO
PAVLEY

SENATE CALIFORNIA LEGISLATURE

STATE CAPITOL
SACRAMENTO, CALIFORNIA
95814

Lois Wolk and Bob Wieckowski, Chairs

STAFF DIRECTOR
MARK IBELE

DEPUTY STAFF DIRECTOR
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CONSULTANT
CATHERINE FREEMAN

COMMITTEE ASSISTANT
SANDY PEREZ
MARY TEABO

ENVIRONMENTAL QUALITY
CHIEF CONSULTANT
RACHEL MACHI WAGONER

CONSULTANTS
REBECCA NEWHOUSE
JOANNE ROY

COMMITTEE ASSISTANT
SUE FISCHBACK

JOINT OVERSIGHT HEARING
BUDGET AND FISCAL REVIEW SUBCOMMITTEE NO. 2 ON RESOURCES, ENVIRONMENTAL PROTECTION, ENERGY AND TRANSPORTATION
AND
SENATE ENVIRONMENTAL QUALITY COMMITTEE

MARCH 12, 2015

9:30 A.M. OR UPON ADJOURNMENT OF SESSION
STATE CAPITOL – ROOM 112

Oversight (Part A):

California Department of Toxic Substances Control

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.

Joint Oversight—Department of Toxic Substances Control

Opening Remarks:
Senator Lois Wolk, Chair, Senate Budget Subcommittee #2
Senator Bob Wieckowski, Chair, Senate Environmental Quality Committee

Background

The Department of Toxic Substances Control (DTSC) is responsible for protecting public health and the environment by overseeing the state's response to releases of hazardous substances and disposal of hazardous waste. DTSC investigates, removes and remediates contamination as part of that mission.

The Governor's budget includes $208 million (including $27 million General Fund) and 1,005 positions for support of the DTSC. This is a decrease of $13 million under current year expenditures.

EXPENDITURES BY PROGRAM (in thousands)

Program	Actual 2013-14	Estimated 2014-15	Proposed 2015-16
Site Mitigation and Brownfields Reuse	$103,004	$133,568	$117,342
Hazardous Waste Management	63,904	72,597	73,615
Safer Consumer Products	12,286	12,860	14,346
State Certified Unified Program Agency	1,760	2,572	2,820
Total Expenditures (All Programs)	**$180,953**	**$221,596**	**$208,123**

POSITIONS BY PROGRAM

Program	Actual 2013-14	Estimated 2014-15	Proposed 2015-16
Site Mitigation and Brownfields Reuse	297.0	341.5	341.5
Hazardous Waste Management	335.0	386.0	410.0
Safer Consumer Products	58.6	56.5	64.5
State Certified Unified Program Agency	10.8	14.7	14.7
Administration	178.5	174.9	174.9
Total Positions (All Programs)	**879.9**	**973.6**	**1,005.6**

Major Program Areas. DTSC operations fall under four major program areas and five support offices:

1. **Brownfields and Environmental Restoration Program.** This program is responsible for the cleanup and restoration of contaminated sites throughout the state; including legacy landfills (e.g., Stringfellow Acid Pits and the BKK Landfill), the Santa Susana Field Lab, military bases, former industrial properties, and school sites.

2. **Hazardous Waste Management Program.** This program is responsible for several important DTSC functions. It issues permit decisions for proposed new hazardous waste facilities and the approximately 120 existing hazardous waste facilities in California that treat, store, and dispose of hazardous waste. The program's staff conduct inspections and take enforcement actions to ensure compliance with hazardous waste laws and regulations. This program oversees the hazardous waste generator program. In addition, it provides hazardous waste management-related policy support, regulatory and statutory interpretation, financial assurance, and data management support for internal and external stakeholders. The program also provides emergency response support for hazardous materials-related emergencies throughout California.

3. **Safer Products and Workplaces Program.** This program is responsible for implementing the provisions of Assembly Bill 1879 (Feuer and Huffman), Chapter 559, Statutes of 2008, and Senate Bill 509 (Simitian), Chapter 560, Statutes of 2008. Together, these statutes require DTSC to establish a program that identifies and prioritizes chemicals of concern in consumer products, evaluates alternatives, and specifies regulatory responses to reduce chemicals of concern in products. This program is also responsible for providing health and safety support and consultation to DTSC staff relative to their office and field activities.

4. **Environmental Chemistry Laboratory.** The lab provides DTSC and other agencies within Cal/EPA with scientific leadership and laboratory capacity in the areas of environmental analytical chemistry and biochemistry. Scientists identify and measure concentrations of toxic chemicals in many different media including air, water, soil, hazardous waste streams, consumer products, and biological or human tissues.

5. **Office of Communications.** This office is responsible for serving as the primary source for all internal and external communication. In addition, the office is responsible for administering a public participation program designed to establish an ongoing dialogue with impacted communities. The program ensures the establishment of two-way communication between community members and DTSC staff so that community concerns are addressed and taken into account when final decisions on projects are made.

6. **Office of Administrative Service.** This office is responsible for providing DTSC with administrative support services, including accounting, human resources, training, budgets, purchasing, fleet administration, file management, and contract development.

7. **Office of Environmental Information Management.** This office supports DTSC's information technology needs, including software and hardware acquisition, standardization, and training. The office also provides network and user support services, and develops and supports various information technology applications critical to DTSC.

8. **Office of Legal Affairs.** This office provides three critical functions for DTSC. Its Office of Legal Counsel provides legal advice and representation for DTSC. Through the Office of Criminal Investigations, it investigates alleged criminal violations of hazardous waste laws and develops cases for referral to state and local prosecutors. Finally, this office houses the

Office of Planning and Environmental Analysis, which provides technical support to DTSC programs to ensure compliance with the California Environmental Quality Act.

9. **Office of Legislation.** This office is responsible for coordinating, analyzing, and recommending actions on all state and federal legislative proposals impacting DTSC. The office also serves as the primary liaison between DTSC's programs and the California Legislature and external interest groups.

Issues for Legislative Oversight

Previous Legislative Oversight. Over the past three years, the Legislature has held a number of hearings on the department's internal controls, its business practices, and its basic statutory obligations. To that end, provided below are four main areas that budget and policy committees have monitored including: (1) reviewing and monitoring the department's strategic plan and reorganization; (2) auditing cost recovery at the department; (3) providing staffing to improve permit backlogs and business operations; and, (4) improving enforcement at the department. Subsequently, emerging issues include the department's treatment of superfund sites and its ability to take over these sites and fund them on an ongoing basis.

This oversight hearing is intended to give the Senate budget and policy committees involved with oversight of DTSC an update on these issues. The department should be prepared to discuss the following issues:

1. Hazardous Waste Management. 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.

2. DTSC Strategic Plan and Reorganization. According to the department, for several years, DTSC's efforts to carry out this mission were compromised by deficiencies in technical and administrative processes and procedures, from a misaligned personnel system to insufficient coordination between programs. These systemic issues resulted in a structural budget deficit; $184.5 million in uncollected cleanup costs dating back 26 years; a growing backlog of applications to renew hazardous waste permits; and decreased stakeholder confidence and public trust in the Department.

In early 2012, the department embarked on 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. This effort includes multiple goals at every level of the organization, from staff engagement to permitting backlogs and cost recovery. This document has provided guidance to the department at it reinvents itself.

3. Limited-Term Positions Approved in 2014. In 2014, the Legislature approved four proposals designed to implement certain aspects of the department's "Fixing the Foundation" initiative. These proposals increased expenditures and positions over two years (including the budget year). In total, the budget included $4.6 million in 2014–15 and $3.2 million in 2015-16, from the Hazardous Waste Control Account and the TSCA, as summarized below.

The Department of Toxic Substances Control 2014-15 Positions Approved
(Dollars in Thousands)

Proposal	2014–15 Amount	Limited–Term Positions
Address cost recovery backlog	$1,618	14.0
Address permit renewal backlog and update cost estimates	1,191	8.0
Rebuild hazardous waste tracking system	1,364	—
Correct errors in the hazardous waste manifest data	381	3.5
Totals	**$4,554**	**25.5**

The LAO, at the time of the request, noted: "While we find the administration's proposals to be reasonable, it is important to note 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. We would note, 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."

4. State Auditor's Recommendations for Cost Recovery Program. In 2013, the State Auditor completed a review of DTSC cost-recovery efforts. The report, *DTSC, Its Lack of Diligence in Cost Recovery Has Contributed to Millions in Unbilled and Uncollected Costs*, illustrated systemic problems with the manner in which the department has, to date, conducted some of the fundamental statutory requirements. Highlights of the audit include:

- Long-standing shortcomings with the department's recovery of costs have resulted in unbilled, and billed but uncollected, cleanup costs (outstanding costs)—as of March 2014 the department has 1,661 projects totaling almost $194 million in outstanding costs.

- Nearly $142 million was unbilled and almost $52 million was billed but uncollected.

- These outstanding costs were incurred between July 1987 and December 2013.

- The department has made progress in resolving the accuracy of information related to projects with outstanding costs. However, it may extend the target completion dates for some tasks until June 2016.

- The department may not be able to recover all of its outstanding costs due to several factors—preliminary determinations indicated that the federal and state statutes of limitations have expired for 76 projects with a total of $13.4 million in outstanding costs.

- Despite updating its cost recovery procedures, the audit found several areas in which the department could better maximize its cost recovery efforts.

- The department has not consistently used some of its methods—such as issuing collection letters or recording liens on the properties of responsible parties to ensure that it maximizes cost recovery.

5. Emerging Issues—Superfund Site Takeovers. Federal law, under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), requires that states provide 10 percent of the cost for construction and operation of remedies for Superfund National Priority List sites for generally 10 years. After 10 years, states are required to pay 100 percent of the operation and maintenance at those sites. The number of federal sites ready to transfer to the state for ongoing operation and maintenance is increasing. It is unclear what the cost of these transfers will be in future years.

Senator Lois Wolk, Chair
Senator Jim Nielsen
Senator Fran Pavley

Thursday, March 12, 2014
Upon Adjournment of Part A (Joint Oversight Hearing)
Hearing Room 112

Consultant: Catherine Freeman

Part B

Special Presentations

1. Matt Rodriguez, Secretary for Cal-EPA
2. Brian Brown, Legislative Analyst's Office

Items Proposed for Discussion

Special Presentations

1. Matt Rodriguez, Secretary for Cal-EPA
2. Brian Brown, Legislative Analyst's Office

Figure 5

Major Environmental Protection Budget Summary—Selected Funding Sources

(Dollars in Millions)

Department	Actual 2013–14	Estimated 2014–15	Proposed 2015–16	Change From2014–15	
				Amount	Percent
Resources Recycling and Recovery					
Beverage container recycling funds	$1,181.9	$1,189.3	$1,181.9	–$7.4	–0.6%
Electronic Waste Recovery	76.3	95.9	101.5	5.6	5.8
Other funds	174.2	254.9	248.3	–6.6	–2.6
Totals	**$1,432.4**	**$1,540.1**	**$1,531.7**	**–$8.4**	**–0.5%**
State Water Resources Control Board					
General Fund	$13.5	$42.3	$32.7	–$9.6	–22.7%
Underground Tank Cleanup	228.9	234.5	398.4	163.9	69.9
Bond funds	51.3	275.9	320.8	44.9	16.3
Waste Discharge Fund	109.0	122.0	120.2	–1.8	–1.5
Other funds	17.6	462.4	486.7	24.3	5.3
Totals	**$420.3**	**$1,137.1**	**$1,358.8**	**$221.7**	**19.5%**
Air Resources Board					
Greenhouse Gas Reduction Fund	$30.9	$209.2	$211.9	$2.7	1.3%
Motor Vehicle Account	121.1	131.6	134.1	2.5	1.9
Air Pollution Control Fund	118.4	116.4	117.5	1.1	0.9
Bond funds	104.2	245.0	0.1	–244.9	–100.0
Other funds	113.8	146.2	118.5	–27.7	–18.9
Totals	**$488.4**	**$848.4**	**$582.1**	**–$266.3**	**–31.4%**
Toxic Substances Control					
General Fund	$21.1	$27.3	$27.1	–$0.2	–0.7%
Hazardous Waste Control	52.1	58.9	60.0	1.1	1.9
Toxic Substances Control	43.8	45.9	48.9	3.0	6.5
Other funds	64.0	101.0	72.1	–28.9	–28.6
Totals	**$181.0**	**$233.1**	**$208.1**	**–$25.0**	**–10.7%**
Pesticide Regulation					
Pesticide Regulation Fund	$80.0	$84.7	$87.8	$3.1	3.7%
Other funds	3.1	3.0	3.1	0.1	3.3
Totals	**$83.1**	**$87.7**	**$90.9**	**$3.2**	**3.6%**

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 General Fund.

Governor's Budget. The Governor's budget includes $208 million (including $27 million General Fund) and 1,005 positions for support of the DTSC. This is a decrease of $13 million under current year expenditures.

EXPENDITURES BY PROGRAM

Program	Actual 2013-14*	Estimated 2014-15*	Proposed 2015-16*
Site Mitigation and Brownfields Reuse	$103,004	$133,568	$117,342
Hazardous Waste Management	63,904	72,597	73,615
Safer Consumer Products	12,286	12,860	14,346
State Certified Unified Program Agency	1,760	2,572	2,820
Total Expenditures (All Programs)	**$180,953**	**$221,596**	**$208,123**

POSITIONS BY PROGRAM

Program	Actual 2013-14	Estimated 2014-15	Proposed 2015-16
Site Mitigation and Brownfields Reuse	297.0	341.5	341.5
Hazardous Waste Management	335.0	386.0	410.0
Safer Consumer Products	58.6	56.5	64.5
State Certified Unified Program Agency	10.8	14.7	14.7
Administration	178.5	174.9	174.9
Total Positions (All Programs)	**879.9**	**973.6**	**1,005.6**

Items Proposed for Vote-Only

1. **Biomonitoring.** The budget requests $600,000 (Toxic Substances Control Account) and two positions, for two years, to support the California Environmental Contaminant Biomonitoring Program, which identifies and measures toxic chemicals in Californians, to help assess the effectiveness of public health and environmental programs, in reducing chemical exposures and preventing diseases.

Recommendation: Approve Item 1.

Vote:

Items Proposed for Discussion

Permitting Coordination and Backlog Support

Background. As discussed in Part A (Oversight) of this agenda, the department is responsible for regulating hazardous waste, pursuant according to California law, and administers the state's hazardous waste program, as authorized by the U.S. Environmental Protection Agency. Several divisions and offices within DTSC take a direct role in permitting coordination and support. These include:

- Enforcement Division
- Policy and Program Support Division
- Office of Planning and Environmental Analysis
- Office of Legal Counsel Office of Environmental Information Management

The 2014-15 final budget included the following approved proposals related to permitting and enforcement:

- $1.6 million (Hazardous Waste Control Account [HWCA] and Toxic Substances Control Account), 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, at the time, estimated that this cost recovery backlog includes around $26 million in unbilled or uncollected costs that are recoverable.

- $1.2 million (HWCA), and eight, two-year limited-term positions, to address the hazardous waste permit renewal backlog and to update cost estimates associated with closing hazardous waste facilities in the future.

- $1.3 million (HWCA) in one-time funding to rebuild the Hazardous Waste Tracking System, an information technology system used by the department to track the generation, transportation, and disposal of hazardous waste.

- $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.

2015-16 Budget Proposal. The budget requests $1.6 million (Hazardous Waste Control Account), and sixteen limited-term positions for two years, to address increased workloads in order to: (1) reduce the DTSC inventory of backlogged continued hazardous waste facility permit applications, and (2) streamline and enhance protections in the enforcement and permitting processes.

LAO Assessment of the 2014-15 Budget Proposals. According to the LAO, the Governor's proposals approved by the Legislature in 2014 addressed documented concerns and could allow the department to make progress toward resolving some key issues, including low rates of cost recovery, inconsistent hazardous waste tracking, and permitting backlogs.

The LAO also found that, while the Administration's proposals might be reasonable, they would 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.

Staff Comments. The proposed positions fit into the department's plans to improve planning and permitting. However, there seems to be a lack of a long-term and public plan to address concerns within the department. Over the past few years, the department has submitted multiple proposals that include limited-term positions. The justification for the limited-term nature of the positions was the continued work on the "fixing the foundation" effort to improve internal and structural issues within the department. However, at this time, it seems reasonable that the Legislature should have before it a permanent plan for reducing permit backlogs.

Staff Recommendation:

Vote:

Exide 2014 Enforcement Order

Background. Exide Technologies is located in the City of Vernon, about five miles southeast of downtown Los Angeles. The facility occupies 15 acres in a heavy industrial region, with surrounding residential areas about ¾ miles to the north and south. Exide operations include recycling lead-bearing scrap materials obtained from pent lead-acid batteries to produce marketable lead ingots.

The recycling process requires authorization from DTSC, which was granted in 1981 (by a department within the former California Department of Health Services, now residing in DTSC). The authorization, or "Interim Status," allowed the facility to operate pending approval or denial of a full permit to ensure operations protected public health and the environment. Other agencies, such as local air quality districts, and local jurisdictions, also impose requirements upon the facility.

No change to the permit was recorded until February 2002, when, in response to contamination at Exide, DTSC issued a corrective action consent order that required Exide to conduct a corrective action (investigation and cleanup). This order is still enforceable.

Enforcement Order and Court Proceedings. On March 1, 2013, the South Coast Air Quality Management District (SCAQMD) announced that Exide operations had a significant potential health impact on the surrounding communities. In a subsequent action in April 2013, DTSC, issued an order to Exide that required the immediate suspension of Exide's operations, pending an administrative hearing. Exide responded by filing a complaint in the superior court to block (enjoin) DTSC's suspense order. The superior court granted a temporary restraining order against DTSC's suspension order in June 2013, and subsequently granted a preliminary injunction against the suspension order in July 2013. This, effectively, allowed Exide to continue operations.

Elevated Levels of Lead Found. In early 2014, sampling results from two of the nearest neighborhoods showed elevated levels of lead in the top six inches of soils in all 39 homes sampled. As a consequence, DTSC required Exide to develop a work plan in accordance with the 2002 corrective action order, to remediate soil contamination at homes in those areas, as well as offer additional sampling to the 215 off-site residential properties located in the two nearby residential areas. DTSC required Exide to provide up-front funding to ensure that cleanup occurs and the community is protected during remediation of off-site residential properties. Exide subsequently received approval from a bankruptcy court to comply with the order to set aside funding to clean up contaminated areas surrounding the facility.

The 2014 Enforcement Order (order) against Exide establishes that Exide Technologies is liable for all costs incurred by DTSC in reviewing work plans and overseeing the work required by the order, including all CEQA costs. The work required by the order includes: (1) cleanup of 215 off-site residential properties; (2) investigation and possible cleanup of properties adjacent to the facility; and, (3) development of a corrective measure study and remedy. Exide must fund both the amount necessary to close the site upon termination of activity (post-closure), and any fines or cleanups required by agencies, separately. To date, the state has collected an $11 million post-closure bond, $2.7 million for a post-closure trust fund, and over $1 million in fines and assessments against Exide.

Budget Proposal. The budget requests $734,000 (HWCA) and 5.5 positions to implement the 2014 Enforcement Order (EO) against Exide Technologies. The DTSC request proposes to add staff to:

- Provide oversight and management of the investigations, planning, execution, and completion of the corrective action activities as outlined in the Order.
- Provide a geologist to lead the enforcement effort, to direct technical teams and inform management of potential problems and status of activities.
- Provide CEQA direction, oversight, coordination and review of environmental documents associated with the cleanup order.
- Provide a public liaison to coordinate and facilitate community meetings.

Staff Comments. Staff is concerned about the amount of time Exide operated under a temporary permit, never having obtained a final operating permit from the state. The corrective orders, along with the SCAQMD orders, may not have been necessary if a proper permitting system had been in place at DTSC.

The department should be prepared to discuss, in plain terms, what actions will be taking place in the next six months, 12 months, and ongoing at the Exide facility. For example, Exide Technologies is in bankruptcy court, and is being investigated by a Grand Jury for criminal complaint. What is the contingency plan should the business not be able to pay for the cleanup?

Is there more the state can, and should, be doing to speed up cleanup? How many more "Exide-like" facilities are there in the state and what is being done to identify them?

Staff Recommendation:

Vote:

Hazardous Waste Reduction

Background. Hazardous waste siting and planning is partly the responsibility of DTSC. Concerns about incineration and the limited availability of legally operating facilities, led to significant efforts by state and federal regulators, along with the industry, to reduce the generation of hazardous waste, and therefore the need to construct hazardous waste facilities.

The generation and disposal of hazardous wastes in California presents an equity issue for communities where hazardous wastes are generated and where hazardous waste landfills are operated. Only two legal disposal facilities are available in the state. The communities where these facilities are located can bear a disproportionate burden of the legal disposal of these wastes. In 2013, DTSC approved the expansion of one of California's two operating hazardous waste facilities, and will soon review an application for a renewed permit at the second landfill.

The DTSC has initiated an executive-driven proposal to reduce by 50 percent the amount of hazardous waste disposed of in California landfills by 2025. To that end, DTSC proposes an initiative, "The Community Protection and Hazardous Waste Reduction Initiative," that will select up to three pilot-scale projects to reduce hazardous wastes that are generated in significant quantities, that can pose substantial risks or hazards to human health or the environment, and that are treated or disposed of in communities that are disproportionately burdened by multiple sources of pollution. The Administration also proposes to select individuals to sit on an advisory panel that will provide guidance on the initiative.

Budget Proposal. The budget requests an augmentation of $840,000 and six limited-term positions from the Toxic Substances Control Account (TSCA), for two years, to develop, implement, and evaluate projects that reduce the generation of hazardous waste that are treated or disposed of in California.

Staff Comments. The goal of reducing hazardous waste is laudable and consistent with legislative direction in previous years. However, this specific initiative has not been reviewed by legislative policy committees or by the Legislature. Staff has concerns about setting such specific goals, such as the reduction of 50 percent of hazardous waste disposed of, without some form of legislative direction. To compare, reducing California's dependence on specific energy fuels to percentages has been an ongoing topic within California's policy discussion, and is statutorily authorized. While this is a pilot project, given that DTSC is not a public board or commission, it would be prudent for the Legislature to weigh in on the goals set forth by the initiative, and to contribute its directives to the initiative.

Staff Recommendation:

Vote:

SB 1249 (Hill), Metal Shredder Regulation

Background. SB 1249 (Hill), Chapter 756, Statutes of 2014, requires DTSC to evaluate the risks and threats posed by metal shredders and the management of metal shredder waste, and to either develop alternative management standards that governmental shredding activities, or to rescind its 1987 era decisions that have allowed metal shredders to be managed as non-hazardous waste. SB 1249 also authorizes DTSC to assess a fee on metal shredders to cover its costs in implementing the bill and for ensuring compliance with its standards in the future. At the time of the final bill analysis, less than 10 operators were identified as legal metal shredding businesses.

Budget Proposal. The budget requests $311,000 (Hazardous Waste Control Account) in 2015-16, $322,000 in 2016-17, and $128,000 in 2018-19, along six positions over that time period, to implement SB 1249.

Staff Comments. The implementation of this bill will require significant funding from the few metal shredding businesses operating legally in the state. In order to fully fund the department's costs to regulate the industry, and to evaluate risks and threat posed by metal shredders, the department will be required to impose a fee on the industry it is regulating, pursuant to state law. That fee is unknown at this time, but if less than 10 legal metal shredders are identified, the fee on each could be in the tens of thousands of dollars per year. Additionally, it is unclear whether or not mobile metal shredders are covered by the law and/or will be required to pay the fee.

The department should be prepared to discuss how it intends to identify and manage the fee regulation process, and its thoughts about the size of the fee on the industry.

Staff Recommendation:

Vote:

3970 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 from various funds for support of CalRecycle in 2015–16. This is about the same level as current–year estimated expenditures.

EXPENDITURES BY PROGRAM

Program	Actual 2013-14*	Estimated 2014-15*	Proposed 2015-16*
Waste Reduction and Management	$174,726	$255,230	$254,536
Loan Repayments	-6,367	-3,385	-3,745
Education and Environment Initiative	1,659	2,562	2,565
Beverage Container Recycling and Litter Reduction	1,262,393	1,285,712	1,278,322
Total Expenditures (All Programs)	**$1,432,411**	**$1,540,119**	**$1,531,678**

POSITIONS BY PROGRAM

Program	Actual 2013-14	Estimated 2014-15	Proposed 2015-16
Waste Reduction and Management	315.9	367.9	374.9
Loan Repayments	-	-	-
Education and Environment Initiative	15.7	11.7	11.7
Beverage Container Recycling and Litter Reduction	217.7	236.0	234.0
Administration	101.0	101.0	101.0
Total Positions (All Programs)	**650.3**	**716.6**	**721.6**

Items Proposed for Vote-Only

1. **Provisional Budget Language for Two-Year Grant Appropriations.** The budget requests provisional language to increase the encumbrance availability of two CalRecycle grant program funds to two years. These include the Farm and Ranch Solid Waste Cleanup and Abatement Account and the Integrated Waste Management Account (Integrated Waste Management Fund). The proposed changes will allow the department additional time to propose, review, award, and manage these grants.

Recommendation: Approve Item 1.

Vote:

Implementation of New Single-Use Carryout Bag Law

Background. Beginning July 1, 2015, SB 270 (Padilla), Chapter 850, Statutes of 2014, prohibits stores from providing single–use carryout plastic bags to customers. Stores may sell reusable grocery bags that are made by a certified reusable grocery bag producer and that meet specified requirements with regard to the bag's durability, material, labeling, heavy metal content, and recycled material content. Chapter 850 requires CalRecycle to perform several activities, including: (1) establish and maintain a system for certifications of reusable bags, (2) develop and maintain a web page to post the certifications and re–certifications, (3) develop a fee schedule to charge reusable bag manufacturers for the costs of reviewing proofs of certification, (4) establish the Reusable Grocery Bag Fund to deposit certification fees, (5) provide $2 million in loans from the Recycling Market Development Zone Loan Subaccount to manufacturers of reusable bags, and (6) submit a report to the Legislature by March 1, 2018 on the implementation of the law.

Governor's Proposal. The Governor's budget proposes $268,000 in 2015–16, $264,000 in 2017–18, and $180,000 ongoing, from the Integrated Waste Management Account, to support one limited–term and two permanent positions, in order for CalRecycle to implement the provisions of Chapter 850.

Referendum. In January 2014, opponents of SB 270 submitted signatures to county election offices in an effort to qualify a voter referendum seeking to repeal the law. At the time the budget was prepared, it was unclear whether the referendum would qualify. However, if enough signatures were found to be valid, most provisions of the law would be suspended until the outcome of the referendum was determined at the November 2016 statewide election. Therefore, should the referendum qualify for the ballot, CalRecycle would not require any of the resources requested until at least 2016–17, and should the voters reject the proposed law, it would not be implemented at all.

LAO Recommendation. "We find that the requested resources are reasonable to implement the provisions of Chapter 850 should the referendum effort fail. However, we recommend that the Legislature reject the budget proposal if the Secretary of State determines that the referendum qualifies for the November 2016 ballot because the provisions of SB 270 would no longer be implemented in the budget year."

Staff Comments. Staff concurs with the LAO analysis and recommendation.

Staff Recommendation: Reject Proposal. The referendum qualified for the ballot.

Funding the Beverage Container Recycling Program

Background. The Legislative Analyst's Office (LAO), has done extensive research on the Beverage Container Recycling Fund (BCRF), and has provided both background and analysis of issues over several years related to the program, and provides the following background to the 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 Chapter 1290, Statutes of 1986 (AB 2020, Margolin). 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. As shown in Figure 7, 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.
>
> The BCRF—administered by DOR—is the funding source of the CRV program. The program involves the flow of beverage containers and payments between several sets of parties, and generally operates as follows:
>
> - **Distributors and Retailers.** For each beverage container subject to the CRV that distributors sell to retailers, they make redemption payments to the BCRF. The distributors typically recoup this cost in payments from retailers.
> - **Retailers and Consumers.** Beverage retailers sell beverages directly to consumers, collecting the CRV from consumers for each applicable beverage container sold.
> - **Consumers and Recyclers.** When consumers redeem empty recyclable beverage containers, they recoup the cost of the CRV from the recycler. In this way, from the consumer's perspective, the CRV can be viewed as a "deposit."
> - **Recyclers/Processors and Manufacturers.** Recyclers sell the recyclable materials to processors in exchange for the CRV, as well as the scrap value of the recycled material. Processors are then reimbursed from the BCRF for CRV. Then the processors sort, clean, and consolidate the recyclable materials and sell them to container manufacturers or other end users who make new bottles, cans, and other products from these materials.
>
> **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 discussed above. 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. For example, as shown above in Figure 9, the BCRF had a structural deficit of $105 million in 2012–13. 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 15 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.

2014 Proposal—Phase 2 Reform. In January 2014, The Governor's budget proposed ten programmatic changes that 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 changes would have both raised revenue and decreased expenditures; and increased expenditures for fraud prevention, data collection, and expanded grant programs. The Administration projected that these changes would eliminate the program's structural deficit once fully implemented, and avoid the need to implement proportional reductions.

2014 Budget and Trailer Bill Actions. The budget subcommittees did not approve trailer bill language and the budget proposals that would have provided the second phase of the BCRF reform. Instead, the Legislature approved trailer bill language to remove the Local Conservation Corps (LCC) from the statutory provisions of the program funding and diversified the LCC funding similar to that proposed by the Governor under the program reform proposal.

The budget also included several positions to increase audit coverage of beverage manufacturers and distributors to better protect the integrity of the BCRF. The emphasis of these was on collecting revenues owed to CalRecycle and mitigating risk to the fund.

2014 Audit. In 2014, the State Auditor, in response to a request from the Legislature, evaluated the BCRF and made the following recommendations:

> **Audit Recommendations to the Legislature.** To better ensure that the beverage program is financially sustainable, the Legislature should consider enacting statutory changes that increase revenue, reduce costs, or a combination of both.
>
> **Audit Recommendations to CalRecycle.** To ensure that it can demonstrate that its fraud prevention efforts are maximizing financial recoveries for the beverage program, CalRecycle should both modify and annually update its fraud management plan to include the following:
>
> - Finalize a process to analyze the data Food and Agriculture provided on out-of-state containers and act on the results to identify and prosecute those committing fraud.
> - Develop fraud estimates—by type of fraudulent activity—that quantify the potential financial losses to the beverage program and the methodology CalRecycle used to develop these estimates.
> - Identify the amount of actual fraud in the prior year by type of fraudulent activity, such as the financial losses resulting from the redemption of out-of-state beverage containers or the falsification of reports used to substantiate program payments.
> - Identify the amount actually recovered for the beverage program in the form of cash for restitution and penalties resulting from fraud.

To ensure that all appropriate redemption payments are identified and made to the beverage fund, CalRecycle should do the following:

- Contract with Equalization to determine the feasibility and cost of transferring its revenue collection duties and audit reviews to Equalization.

- Should CalRecycle find that it is feasible and cost-effective, it should pursue legislative changes that enable Equalization to collect revenues for the beverage program at the point of sale and remit the money to the beverage fund.

Issues for Legislative Consideration: Given the robust discussion of last year regarding the Phase II Reform, and the informative contributions of the LAO and the State Auditor, it is clear that the program continues to need a policy reform. Staff concurs that the Legislature needs to actively seek a policy solution to the structural deficit of the program, and that this need not be considered solely in the budget arena. In fact, it may be more appropriate for the department, after working with stakeholders, to introduce legislation that would provide incremental solutions to the structural deficit.

The department should be prepared to discuss:

- Actions and results of the Phase I Reform actions taken by the department (2013-14 budget and trailer bill actions).

- Response to audit findings by the State Auditor.

- Actions taken to work with stakeholders to refine the Phase II Reform proposal.

- What public process is being used to develop a new reform proposal?

- When should the Legislature expect a legislative proposal?

Staff Recommendation: Information item, no action necessary.

3930 Department of Pesticide Regulation

The California Department of Pesticide Regulation (CDPR) administers programs to protect 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 $90.1 million and 307 positions for the Department of Pesticide Regulation. This is an increase of about $3 million, mainly due to a proposal for a new information technology system. Funding for the department is derived mainly from an assessment on the sale of pesticides of the state. Other funds include fees on registration of products, federal funds, and the California Environmental License Plate Fund.

EXPENDITURES BY PROGRAM

Program	Actual 2013-14*	Estimated 2014-15*	Proposed 2015-16*
Pesticide Programs	$83,130	$87,742	$90,909
Total Expenditures (All Programs)	**$83,130**	**$87,742**	**$90,911**

POSITIONS BY PROGRAM

Program	Actual 2013-14	Estimated 2014-15	Proposed 2015-16
Pesticide Programs	284.5	304.1	307.1
Administration	82.0	83.7	83.7
Total Positions (All Programs)	**366.5**	**387.8**	**390.8**

Items Proposed for Vote-Only

1. **Implementation of SB 1405 (School and Child Care Integrated Pest Management).** The budget requests $412,000 (Department of Pesticide Regulation Fund), and three positions, to implement SB 1405 (Desaulnier), Chapter 848, Statutes of 2014. SB 1405 expands the School and child care integrated pest management (IPM) program to require development and administration of comprehensive training courses that anyone using pesticides at a school site must take, and a template for a written IPM plan for school districts and child care centers that use certain pesticides (excluding antimicrobials).

Recommendation: Approve Item 1.

Vote:

Product Registration Data Management System

Background. The DPR is required to provide a thorough and timely evaluation before a substance is registered for the first time and to place appropriate restrictions on such use, to continuously evaluate all registered pesticide products, and eliminate from use in the state any pesticide that endangers the agricultural or nonagricultural environment. The Pesticide Registration Branch (PBR), which serves as the primary liaison to pesticide product and device registrants, maintains registration for approximately 13,000 pesticide products containing 1,000 different active ingredients and seven devices. PBR receives and processes approximately 5,000 registration submissions each year, as well as managing license renewals and product label and data storage for existing products. At present, several problems have been identified with the current registration process, including:

- Paper-based, manual-intensive registration processes resulting in cumbersome processing, bottlenecks and inefficiencies. Disparate, stand-alone systems limit visibility of workload per station and staff, and no single data source exists to register products.

- Hard-copy product labels limit the ability to efficiently evaluate pesticide product labels and impact stakeholders in the field needing the information. Registrants submit incomplete registration and label amendment submissions.

Budget Proposal. The budget requests $1.9 million (Department of Pesticide Regulation Fund) for two years, and $400,000 in year three, and $163,000 ongoing, to develop and implement a fully integrated information management system for the pesticide product and device registration process. According to the Administration, once completed, the system will offer online functionality and allow for online submission of registration-related materials and electronic payment. The system will make DPR more efficient with accepting, evaluating, processing, and managing pesticide product and device registration materials. The system will also allow the public, including medical professionals, poison control centers, and pesticide enforcement agencies, to access copies of currently registered pesticide products and device labels.

Staff Comments. Staff concurs with the necessity of this proposal. The process of registering pesticides in this state is a long process that needs to be expedited for those pesticides determined to be appropriate for use. There are several outstanding questions:

- Does DPR have a backlog of registrations, and if so, how is this defined and how will this new system improve the defined backlog? Why are we using emergency regulations?

- What issues are on the horizon that are not captured by the current DPR system (wherein we register pesticides for known uses), such as marijuana cultivation or emerging products? How does DPR handle these?

Staff Recommendation: Approve.

Vote:

3900 California Air Resources Board (ARB)

In California, air quality regulation is divided between the ARB and 35 local air quality management districts. The local air districts manage the regulation of stationary sources of pollution (such as industrial facilities) and prepare local implementation plans to achieve compliance with the federal Clean Air Act. The ARB is responsible primarily for the regulation of mobile sources of pollution (such as automobiles) and for the review of local district programs and plans. Historically, the ARB's regulations focused on emissions that affect local or regional air quality, such as particulate matter and ozone–forming emissions. More recently, the ARB also began overseeing the state's efforts to reduce GHG emissions.

The Governor's budget proposes $582 million for ARB in 2015–16, a net decrease of $266 million (31 percent) compared to estimated expenditures in the current year. This year–over–year decrease is largely the result of a one–time $240 million appropriation of Proposition 1B bond funds for port modernization that was included in the 2014–15 budget.

EXPENDITURES BY PROGRAM

Program	Actual 2013-14*	Estimated 2014-15*	Proposed 2015-16*
Mobile Source	$314,663	$482,510	$204,278
Stationary Source	34,521	37,867	37,829
Climate Change	66,773	248,877	254,986
Subvention	72,468	79,111	79,111
Total Expenditures (All Programs)	**$488,425**	**$848,365**	**$576,204**

POSITIONS BY PROGRAM

Program	Actual 2013-14	Estimated 2014-15	Proposed 2015-16
Mobile Source	669.0	712.2	712.2
Stationary Source	255.0	271.3	271.3
Climate Change	126.1	134.4	136.4
Subvention	-	-	-
Administration	230.1	244.8	244.8
Total Positions (All Programs)	**1,280.2**	**1,362.7**	**1,364.7**

Item Proposed for Discussion

ARB Southern California Consolidation Project

Background. The LAO has provided a background and analysis of the ARB Southern California Consolidation Project (as follows).

> **Mobile Source Regulations.** Mobile sources, such as automobiles, are a large portion of the state's overall emissions. For example, 83 percent of statewide nitrogen oxide emissions—a major contributor to ground–level ozone—come from mobile sources. Under the federal Clean Air Act, California is authorized to adopt motor vehicle emissions standards that are more stringent than the federal standards. While California has made progress in reducing air pollution in recent years, it still faces significant air quality challenges. For example, the federal government has designated two of the state's air districts—the South Coast and the San Joaquin Valley—as the two areas with the highest ozone concentrations in the nation. These districts are required to achieve the most stringent federal ozone standards by 2031.
>
> As part of ARB's mobile source regulatory activities, it administers emissions testing and research activities that are used for such things as developing regulations, researching new emission control technologies and vehicles, evaluating the effects of different fuels on engine emissions, and developing methods for measuring emissions.
>
> **Existing Southern California Testing and Research Facilities.** Most of the ARB's mobile emission testing and research occurs at facilities in Southern California. The state–owned Haagen–Smit Laboratory (HSL), located in El Monte and built in 1971, is ARB's primary testing and research facility. The state also leases five buildings adjacent to the HSL for additional testing and office space. In addition, ARB currently conducts heavy–duty testing—such as testing of large diesel truck emissions—at the Metropolitan Transit Authority (MTA) facility about ten miles away in Los Angeles. The various testing facilities use specialized equipment, such as dynamometers (equipment used to simulate road conditions) and chambers specifically designed to measure emissions from vehicles and other engines (known as Sealed Housing for Evaporative Determinations, or SHEDs). Staff at these various facilities conduct vehicle testing, laboratory analysis, regulatory development, and enforcement activities.

Budget Proposal. The budget requests $5.9 million to begin the process to consolidate and relocate the ARB's existing motor vehicle and engine emission testing and research facility. Funding includes $3.8 million (Motor Vehicle Account), $1.2 million (Air Pollution Control Fund), and $0.9 million (Vehicle Inspection Repair Fund). The Governor proposes the following:

1. **Consolidation of Existing Southern California Testing and Research Facilities.** The Administration proposes to consolidate and relocate the existing Southern California testing and research facilities. The exact location of the property for this project is unclear, but the Administration indicates that it expects that the new facility would be located on a piece of state–owned land in Pomona. The ARB is considering various possible sites, including land owned by the California State University, Pomona and the site of the recently closed

Lanterman Developmental Center. According to the Administration, the existing Southern California facilities do not meet current and future emission testing needs. Some of the main concerns include:

- The MTA facility is too small to meet heavy–duty testing needs.
- The HSL property is too small and cannot be adapted to accommodate the equipment needed for current and future testing operations.
- Some of the equipment at the HSL has reached the end of its service life and will need to be replaced soon.
- The distance that staff have to travel between the MTA facility in Los Angeles and the El Monte facilities result in inefficiencies.

As shown in the figure below, the Administration is proposing to more than double the amount of building space and triple the amount of total space (including parking). The new facility would include testing centers, a chemistry laboratory, offices, space for Administrative services (such as receiving and shipping and storage areas) and a parking structure. The Administration proposes to use a design–build procurement process for this project.

Size Comparison of Existing and Proposed Air Resources Board Testing and Research Facilities
Thousand Square Feet

	Existing Facilities	Proposed Facilities	Percent Change
Testing facilities	50	160	222%
Chemistry laboratory	17	48	177
Offices	55	73	32
Administrative services	10	18	84
Total Building Space	**132**	**299**	**127%**
Parking and outside facilities	58	311	440%
Total Space	**190**	**610**	**222%**

Requests $5.9 Million to Evaluate Site and Develop Performance Criteria. As discussed above, the Administration requests a total of $5.9 million, in 2015-16, to assess the suitability of a proposed new site ($200,000) and develop performance criteria ($5.7 million). The Administration will use the performance criteria to develop documents that will then be used to solicit bids. These three funds are currently used to support the operations of the existing facilities. After the performance criteria have been approved by the Public Works Board, the Administration plans to proceed to bid in mid–2016, award a contract in mid–2017, and complete the project by early 2020.

The total cost of this project is estimated to be $366 million. This amount includes (1) $5.9 million for site evaluation and development of performance criteria (as proposed in the Governor's budget), (2) $258 million in other planning and construction costs, and (3) $102 million for equipment. The administration indicates that it intends to use the same fund sources that are currently used to fund the operations of the existing facilities. The proposal does not identify future ongoing operating costs for the new facility.

LAO Assessment. The LAO provides the following assessment:

> Given the state's regulatory authority over mobile sources of emissions and continuing significant air quality challenges in certain parts of the state, a significant amount of mobile emission testing and research activities will likely continue into the future. In addition, given the current condition and size of ARB's existing facilities and equipment, at least a portion of the existing Southern California facilities will likely need to be renovated, upgraded, or replaced in the coming years. While the Administration's proposal could potentially be the preferred approach to addressing ARB's future air quality regulatory needs, the Administration's proposal lacks several critical components. Specifically, the proposal lacks (1) a clear justification for the size and scope of the project, (2) a complete analysis of alternatives, and (3) a clear strategy for long term funding. At a minimum, the administration should address these issues before the Legislature considers approving such a project—particularly one of this size, scope, and cost. In addition, the administration has not provided an adequate justification for the $5.9 million cost estimate for site evaluation and developing performance criteria. We discuss each of these issues in more detail below.
>
> **No Clear Justification for the Size and Scope of the Project.** While the Administration identifies a wide variety of future testing and research activities that will be conducted as vehicles and fuels evolve, it has not provided a clear analysis of future workload that justifies the size and scope of the proposed project. For example, the Administration's proposal includes three chassis dynamometers to conduct over 860 heavy–duty tests per year beginning in 2020. However, it is unclear how the Administration arrived at an estimate of 860 tests. Furthermore, the proposed project is scheduled to be completed in 2020, but the Administration does not provide estimates of the future workload and needs beyond 2020. As a result, it is difficult to evaluate whether the size and scope of the proposed project is appropriate.

Lack of Complete Analysis of Alternatives. To the extent possible, the Legislature should have a clear understanding of the advantages and disadvantages—including the net fiscal effects—of reasonable options prior to moving forward with capital outlay projects. While the ARB's proposal includes a limited discussion of some alternatives, the administration does not provide an adequate analysis of these alternatives. For example, at the time of this analysis, the administration had not provided an analysis of renovating the HSL and building or leasing a separate space that could accommodate additional testing needs.

No Clear Strategy for Long-Term Project Funding. Prior to moving forward with a project, the Legislature should have a clear understanding of how the project will be funded in the long-term. The Administration has not provided a long term funding plan for this project. The $5.9 million to evaluate a potential site and develop performance criteria would be funded from the MVA, the APCF, and the VIRF. According to the Administration, it also intends to rely on these three funds—in roughly the same proportion—to pay for the debt–service on the bonds that will be issued to fund the construction and equipment. If the bonds were repaid over a 25–year period at a five percent interest rate, the annual debt–service payments would be about $26 million. If the annual debt–service payments were divided in roughly the same proportion as the current funding amounts, the annual costs would be as follows: $17 million from the MVA, $5 million from the APCF, and $4 million from the VIRF. It is currently unclear whether these funds could support the additional costs in the long term. For example, the Governor's budget includes other proposals to use the MVA for capital outlay projects that would increase cost pressures on the fund. If the Administration intends to use the three existing fund sources, it should provide (1) a description of how the project costs will affect the long-term condition of these funds and (2) if the additional costs are found to jeopardize the solvency of the fund condition, what programmatic reductions or revenue increases would be needed to maintain solvency.

No Adequate Justification for $5.9 Million Cost Estimate. At the time of this analysis, the Administration has not provided a detailed justification for the $5.9 million cost estimate for site evaluation and developing performance criteria. For example, the Administration estimates that it will cost $1.1 million for project management activities. However, it is unclear how the Administration developed such an estimate.

LAO Recommendation. ***Direct Administration to Provide Additional Information.*** "In view of the above concerns, we recommend that the Legislature direct the Administration to provide a more detailed analysis of the needed size and scope of the project, a more complete analysis of reasonable alternatives, more specific information about how the identified funds will support the long-term project costs, and a more detailed justification for the $5.9 million cost estimate. Until the Administration provides such information, we find that the proposal is premature."

Staff Comments. Staff concurs with the LAO's assessment of the proposal. Further, concerns have been raised about the process used to select the site determined by Department of Finance (DOF) and the Department of General Services (DGS). Neither the alternatives analysis, nor budget proposal, includes a discussion of other sites within a 50-mile radius of the current facility. Several other higher education institutions were involved with early discussion regarding the co-location of the ARB facility with their existing programs. The idea of co-location goes beyond the DOF/DGS determination of simply finding the lowest priced piece of land, but goes to the use of programmatic efficiencies. For example, if a university had programs directly related to the ARB functions, these would not be included as cost-factors (and therefore not included in the current determination), but would be extremely important to the program's ongoing use of intellectual capital within the local and university systems.

Staff Recommendation: Deny proposal. Request the Administration return in January with a proposal that addresses the LAO concerns as well as provides a serious alternatives analysis, including a public process for site selection, that goes further than finding the lowest-priced piece of land, but rather includes programmatic efficiencies to be found within possible partnerships based on co-location.

Vote:

SB 1371 (Chapter 525, Statutes of 2014)—Natural Gas Leakage Abatement

Background. The LAO has provided an analysis of this issue, as follows.

Current law requires ARB to develop and maintain an inventory of GHG emissions. The GHG emission inventory is used to monitor California's progress in meeting the state's carbon emission reduction goals. Emission estimates rely on regional, state, and national data sources and facility–specific emissions data reported from large emitters.

SB 1371 (Leno), Chapter 525, Statutes of 2014, requires the CPUC, in consultation with ARB, to adopt rules and procedures governing the operation and maintenance of natural gas pipeline facilities in order to achieve two primary goals: (1) minimize safety concerns associated with leaks, and (2) advance the state's goals of reducing GHGs. Among other things, these rules and procedures must:

- Provide for the maximum technologically feasible and cost–effective avoidance, reduction, and repair of leaks in gas pipelines.

- Establish procedures for the development of metrics to quantify and track the volume of emissions from leaking gas pipelines, which will then be incorporated into state emissions tracking systems, such as the ARB's GHG emission inventory.

- Require gas pipeline owners to report to CPUC and ARB an estimate of leaks from their pipelines—including data and methods used to estimate leakage—and periodically update this estimate.

The CPUC began a proceeding to develop these rules and procedures in January 2015.

Budget Proposal. The budget requests a total of $670,000 in 2015-16 from the Public Utilities Reimbursement Account to implement SB 1371. This includes $370,000 annually for two positions, and a one–time allocation of $300,000 for contract funding to independently collect additional pipeline emission data and examine additional methods to estimate emissions. The requested positions would consult with the CPUC on its proceedings, analyze pipeline emission data, and help develop future regulations and policies related to pipeline emissions. (The Governor's budget provides $550,000 and four positions for CPUC to administer the proceeding and develop the rules and procedures.)

LAO Assessment. The LAO provides the following assessment:

> **Inadequate Justification for ARB Resources.** The Administration has not adequately justified the need for additional ARB resources at this time. Our findings are based on the following factors:
>
> - **SB 1371 Does Not Require ARB to Collect Additional Data.** SB 1371 requires CPUC, in consultation with ARB, to develop rules and procedures for utilities to measure and track pipeline emissions data, which will be provided to ARB to incorporate into its emissions

inventory. It does not require ARB to collect additional data beyond what will be provided by the utilities.

- **Premature to Request Resources to Analyze and Collect Additional Data.** The request for resources to collect and analyze emissions data is premature. The data that will be submitted by utilities should inform ARB's emissions inventory. If the ARB ultimately determines that the data—after it is submitted by the utilities—is insufficient for its purposes, it could then request additional resources for data collection. Additionally, it is unclear what the ongoing workload associated with analyzing utility data and incorporating it into the inventory is actually going to be until the new rules and procedures are finalized. Therefore, it is unclear what additional staff, if any, would be necessary for these purposes given that ARB currently has staff responsible for monitoring statewide GHG emissions.

- **Need for Additional Position to Consult on Proceeding Is Unclear.** While assisting with CPUC will result in additional workload for the ARB, it is not clear that this additional workload will require one full–time position. Much of ARB's current activities involve coordination with other state agencies (including CPUC) on issues related to GHG emissions. The LAO finds that it would be reasonable for ARB to absorb this additional one–time workload with existing resources.

LAO Recommendation. Reject ARB Request. "We recommend the Legislature reject the ARB request for funding and positions. The request for resources and positions to collect additional leakage data and analyze the new pipeline emissions data is premature. After the data is submitted, if the ARB determines that the data provided by utilities is inadequate or requires a significant additional analysis, the ARB can request additional resources at that time. In addition, it is not clear that the additional workload to assist CPUC on the proceeding requires additional position authority."

Staff Comments. Staff concurs with the LAO assessment. In addition, the legislative analyses of the bill do not include the addition of ARB positions, nor ongoing costs. Specifically, costs are identified as:

- One-time costs *to the CPUC* of approximately $400,000 from the Public Utilities Reimbursement Account (special fund) for the required proceeding.
- Ongoing costs *to the CPUC* of approximately $160,000 from the Public Utilities Reimbursement Account (fund) to perform ongoing evaluations, audits and enforcement.

The activities included in the bill are well within the current scope of the ARB's work with greenhouse gas reduction program. It is possible that this would add a layer of administration that is, at present, unnecessary. As the LAO suggests, evaluation of the effectiveness of this program after one year would allow the Legislature to consider any gaps that need funding, including ongoing ARB costs.

Staff Recommendation. Reject proposal.

Vote.

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

Senator Lois Wolk, Chair
Senator Jim Nielsen
Senator Fran Pavley

Thursday, March 12, 2014
Upon Adjournment of Part A (Joint Oversight Hearing)
Hearing Room 112

Consultant: Catherine Freeman

Part B—OUTCOMES

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.

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 General Fund.

Governor's Budget. The Governor's budget includes $208 million (including $27 million General Fund) and 1,005 positions for support of the DTSC. This is a decrease of $13 million under current year expenditures.

EXPENDITURES BY PROGRAM

Program	Actual 2013-14*	Estimated 2014-15*	Proposed 2015-16*
Site Mitigation and Brownfields Reuse	$103,004	$133,568	$117,342
Hazardous Waste Management	63,904	72,597	73,615
Safer Consumer Products	12,286	12,860	14,346
State Certified Unified Program Agency	1,760	2,572	2,820
Total Expenditures (All Programs)	**$180,953**	**$221,596**	**$208,123**

POSITIONS BY PROGRAM

Program	Actual 2013-14	Estimated 2014-15	Proposed 2015-16
Site Mitigation and Brownfields Reuse	297.0	341.5	341.5
Hazardous Waste Management	335.0	386.0	410.0
Safer Consumer Products	58.6	56.5	64.5
State Certified Unified Program Agency	10.8	14.7	14.7
Administration	178.5	174.9	174.9
Total Positions (All Programs)	**879.9**	**973.6**	**1,005.6**

Items Proposed for Vote-Only

1. **Biomonitoring.** The Governor's Budget requests DTSC requests $600,000 and 2.0 limited-term positions for two years from the Toxic Substances Control Account (TSCA) ($520,000) and the Birth Defects Monitoring Program Fund (BDMPF) ($80,000) to support the Biomonitoring California Program. Under the Program's enabling legislation, DTSC is collaborating with the Office of Environmental Health Hazard Assessment (OEHHA) and the California Department of Public Health (CDPH) to implement Biomonitoring California. CDPH is the program lead. CDPH is submitting a companion proposal.

Recommendation: Approve Item 1.

Vote: HOLD OPEN

Items Proposed for Discussion

Permitting Coordination and Backlog Support

Background. As discussed in Part A (Oversight) of this agenda, the department is responsible for regulating hazardous waste, pursuant according to California law, and administers the state's hazardous waste program, as authorized by the U.S. Environmental Protection Agency. Several divisions and offices within DTSC take a direct role in permitting coordination and support. These include:

- Enforcement Division
- Policy and Program Support Division
- Office of Planning and Environmental Analysis
- Office of Legal Counsel Office of Environmental Information Management

The 2014-15 final budget included the following approved proposals related to permitting and enforcement:

- $1.6 million (Hazardous Waste Control Account [HWCA] and Toxic Substances Control Account), 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, at the time, estimated that this cost recovery backlog includes around $26 million in unbilled or uncollected costs that are recoverable.

- $1.2 million (HWCA), and eight, two-year limited-term positions, to address the hazardous waste permit renewal backlog and to update cost estimates associated with closing hazardous waste facilities in the future.

- $1.3 million (HWCA) in one-time funding to rebuild the Hazardous Waste Tracking System, an information technology system used by the department to track the generation, transportation, and disposal of hazardous waste.

- $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.

2015-16 Budget Proposal. The budget requests $1.6 million (Hazardous Waste Control Account), and sixteen limited-term positions for two years, to address increased workloads in order to: (1) reduce the DTSC inventory of backlogged continued hazardous waste facility permit applications, and (2) streamline and enhance protections in the enforcement and permitting processes.

LAO Assessment of the 2014-15 Budget Proposals. According to the LAO, the Governor's proposals approved by the Legislature in 2014 addressed documented concerns and could allow the department to make progress toward resolving some key issues, including low rates of cost recovery, inconsistent hazardous waste tracking, and permitting backlogs.

The LAO also found that, while the Administration's proposals might be reasonable, they would 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.

Staff Comments. The proposed positions fit into the department's plans to improve planning and permitting. However, there seems to be a lack of a long-term and public plan to address concerns within the department. Over the past few years, the department has submitted multiple proposals that include limited-term positions. The justification for the limited-term nature of the positions was the continued work on the "fixing the foundation" effort to improve internal and structural issues within the department. However, at this time, it seems reasonable that the Legislature should have before it a permanent plan for reducing permit backlogs.

Staff Recommendation:

Vote: HOLD OPEN

Exide 2014 Enforcement Order

Background. Exide Technologies is located in the City of Vernon, about five miles southeast of downtown Los Angeles. The facility occupies 15 acres in a heavy industrial region, with surrounding residential areas about ¾ miles to the north and south. Exide operations include recycling lead-bearing scrap materials obtained from pent lead-acid batteries to produce marketable lead ingots.

The recycling process requires authorization from DTSC, which was granted in 1981 (by a department within the former California Department of Health Services, now residing in DTSC). The authorization, or “Interim Status,” allowed the facility to operate pending approval or denial of a full permit to ensure operations protected public health and the environment. Other agencies, such as local air quality districts, and local jurisdictions, also impose requirements upon the facility.

No change to the permit was recorded until February 2002, when, in response to contamination at Exide, DTSC issued a corrective action consent order that required Exide to conduct a corrective action (investigation and cleanup). This order is still enforceable.

Enforcement Order and Court Proceedings. On March 1, 2013, the South Coast Air Quality Management District (SCAQMD) announced that Exide operations had a significant potential health impact on the surrounding communities. In a subsequent action in April 2013, DTSC, issued an order to Exide that required the immediate suspension of Exide’s operations, pending an administrative hearing. Exide responded by filing a complaint in the superior court to block (enjoin) DTSC’s suspense order. The superior court granted a temporary restraining order against DTSC’s suspension order in June 2013, and subsequently granted a preliminary injunction against the suspension order in July 2013. This, effectively, allowed Exide to continue operations.

Elevated Levels of Lead Found. In early 2014, sampling results from two of the nearest neighborhoods showed elevated levels of lead in the top six inches of soils in all 39 homes sampled. As a consequence, DTSC required Exide to develop a work plan in accordance with the 2002 corrective action order, to remediate soil contamination at homes in those areas, as well as offer additional sampling to the 215 off-site residential properties located in the two nearby residential areas. DTSC required Exide to provide up-front funding to ensure that cleanup occurs and the community is protected during remediation of off-site residential properties. Exide subsequently received approval from a bankruptcy court to comply with the order to set aside funding to clean up contaminated areas surrounding the facility.

The 2014 Enforcement Order (order) against Exide establishes that Exide Technologies is liable for all costs incurred by DTSC in reviewing work plans and overseeing the work required by the order, including all CEQA costs. The work required by the order includes: (1) cleanup of 215 off-site residential properties; (2) investigation and possible cleanup of properties adjacent to the facility; and, (3) development of a corrective measure study and remedy. Exide must fund both the amount necessary to close the site upon termination of activity (post-closure), and any fines or cleanups required by agencies, separately. To date, the state has collected an $11 million post-closure bond, $2.7 million for a post-closure trust fund, and over $1 million in fines and assessments against Exide.

Budget Proposal. The budget requests $734,000 (HWCA) and 5.5 positions to implement the 2014 Enforcement Order (EO) against Exide Technologies. The DTSC request proposes to add staff to:

- Provide oversight and management of the investigations, planning, execution, and completion of the corrective action activities as outlined in the Order.

- Provide a geologist to lead the enforcement effort, to direct technical teams and inform management of potential problems and status of activities.

- Provide CEQA direction, oversight, coordination and review of environmental documents associated with the cleanup order.

- Provide a public liaison to coordinate and facilitate community meetings.

Staff Comments. Staff is concerned about the amount of time Exide operated under a temporary permit, never having obtained a final operating permit from the state. The corrective orders, along with the SCAQMD orders, may not have been necessary if a proper permitting system had been in place at DTSC.

The department should be prepared to discuss, in plain terms, what actions will be taking place in the next six months, 12 months, and ongoing at the Exide facility. For example, Exide Technologies is in bankruptcy court, and is being investigated by a Grand Jury for criminal complaint. What is the contingency plan should the business not be able to pay for the cleanup?

Is there more the state can, and should, be doing to speed up cleanup? How many more "Exide-like" facilities are there in the state and what is being done to identify them?

Staff Recommendation:

Vote: HOLD OPEN

Hazardous Waste Reduction

Background. Hazardous waste siting and planning is partly the responsibility of DTSC. Concerns about incineration and the limited availability of legally operating facilities, led to significant efforts by state and federal regulators, along with the industry, to reduce the generation of hazardous waste, and therefore the need to construct hazardous waste facilities.

The generation and disposal of hazardous wastes in California presents an equity issue for communities where hazardous wastes are generated and where hazardous waste landfills are operated. Only two legal disposal facilities are available in the state. The communities where these facilities are located can bear a disproportionate burden of the legal disposal of these wastes. In 2013, DTSC approved the expansion of one of California's two operating hazardous waste facilities, and will soon review an application for a renewed permit at the second landfill.

The DTSC has initiated an executive-driven proposal to reduce by 50 percent the amount of hazardous waste disposed of in California landfills by 2025. To that end, DTSC proposes an initiative, "The Community Protection and Hazardous Waste Reduction Initiative," that will select up to three pilot-scale projects to reduce hazardous wastes that are generated in significant quantities, that can pose substantial risks or hazards to human health or the environment, and that are treated or disposed of in communities that are disproportionately burdened by multiple sources of pollution. The Administration also proposes to select individuals to sit on an advisory panel that will provide guidance on the initiative.

Budget Proposal. The budget requests an augmentation of $840,000 and six limited-term positions from the Toxic Substances Control Account (TSCA), for two years, to develop, implement, and evaluate projects that reduce the generation of hazardous waste that are treated or disposed of in California.

Staff Comments. The goal of reducing hazardous waste is laudable and consistent with legislative direction in previous years. However, this specific initiative has not been reviewed by legislative policy committees or by the Legislature. Staff has concerns about setting such specific goals, such as the reduction of 50 percent of hazardous waste disposed of, without some form of legislative direction. To compare, reducing California's dependence on specific energy fuels to percentages has been an ongoing topic within California's policy discussion, and is statutorily authorized. While this is a pilot project, given that DTSC is not a public board or commission, it would be prudent for the Legislature to weigh in on the goals set forth by the initiative, and to contribute its directives to the initiative.

Staff Recommendation:

Vote: HOLD OPEN

SB 1249 (Hill), Metal Shredder Regulation

Background. SB 1249 (Hill), Chapter 756, Statutes of 2014, requires DTSC to evaluate the risks and threats posed by metal shredders and the management of metal shredder waste, and to either develop alternative management standards that governmental shredding activities, or to rescind its 1987 era decisions that have allowed metal shredders to be managed as non-hazardous waste. SB 1249 also authorizes DTSC to assess a fee on metal shredders to cover its costs in implementing the bill and for ensuring compliance with its standards in the future. At the time of the final bill analysis, less than 10 operators were identified as legal metal shredding businesses.

Budget Proposal. The budget requests $527,000 (Hazardous Waste Control Account) in 2015-16, $311,000 in 2016-17, $322,000 in 2017-18, and $128,000 ongoing, along six positions over that time period, to implement SB 1249.

Staff Comments. The implementation of this bill will require significant funding from the few metal shredding businesses operating legally in the state. In order to fully fund the department's costs to regulate the industry, and to evaluate risks and threat posed by metal shredders, the department will be required to impose a fee on the industry it is regulating, pursuant to state law. That fee is unknown at this time, but if less than 10 legal metal shredders are identified, the fee on each could be in the tens of thousands of dollars per year. Additionally, it is unclear whether or not mobile metal shredders are covered by the law and/or will be required to pay the fee.

The department should be prepared to discuss how it intends to identify and manage the fee regulation process, and its thoughts about the size of the fee on the industry.

Staff Recommendation:

Vote: HOLD OPEN

3970 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 from various funds for support of CalRecycle in 2015–16. This is about the same level as current–year estimated expenditures.

EXPENDITURES BY PROGRAM

Program	Actual 2013-14*	Estimated 2014-15*	Proposed 2015-16*
Waste Reduction and Management	$174,726	$255,230	$254,536
Loan Repayments	-6,367	-3,385	-3,745
Education and Environment Initiative	1,659	2,562	2,565
Beverage Container Recycling and Litter Reduction	1,262,393	1,285,712	1,278,322
Total Expenditures (All Programs)	**$1,432,411**	**$1,540,119**	**$1,531,678**

POSITIONS BY PROGRAM

Program	Actual 2013-14	Estimated 2014-15	Proposed 2015-16
Waste Reduction and Management	315.9	367.9	374.9
Loan Repayments	-	-	-
Education and Environment Initiative	15.7	11.7	11.7
Beverage Container Recycling and Litter Reduction	217.7	236.0	234.0
Administration	101.0	101.0	101.0
Total Positions (All Programs)	**650.3**	**716.6**	**721.6**

Items Proposed for Vote-Only

1. **Provisional Budget Language for Two-Year Grant Appropriations.** The budget requests provisional language to increase the encumbrance availability of two CalRecycle grant program funds to two years. These include the Farm and Ranch Solid Waste Cleanup and Abatement Account and the Integrated Waste Management Account (Integrated Waste Management Fund). The proposed changes will allow the department additional time to propose, review, award, and manage these grants.

Recommendation: Approve Item 1.

Vote: 2-0 (Wolk, Nielsen Aye)

Implementation of New Single-Use Carryout Bag Law

Background. Beginning July 1, 2015, SB 270 (Padilla), Chapter 850, Statutes of 2014, prohibits stores from providing single–use carryout plastic bags to customers. Stores may sell reusable grocery bags that are made by a certified reusable grocery bag producer and that meet specified requirements with regard to the bag's durability, material, labeling, heavy metal content, and recycled material content. Chapter 850 requires CalRecycle to perform several activities, including: (1) establish and maintain a system for certifications of reusable bags, (2) develop and maintain a web page to post the certifications and re–certifications, (3) develop a fee schedule to charge reusable bag manufacturers for the costs of reviewing proofs of certification, (4) establish the Reusable Grocery Bag Fund to deposit certification fees, (5) provide $2 million in loans from the Recycling Market Development Zone Loan Subaccount to manufacturers of reusable bags, and (6) submit a report to the Legislature by March 1, 2018 on the implementation of the law.

Governor's Proposal. The Governor's budget proposes $268,000 in 2015–16, $264,000 in 2017–18, and $180,000 ongoing, from the Integrated Waste Management Account, to support one limited–term and two permanent positions, in order for CalRecycle to implement the provisions of Chapter 850.

Referendum. In January 2014, opponents of SB 270 submitted signatures to county election offices in an effort to qualify a voter referendum seeking to repeal the law. At the time the budget was prepared, it was unclear whether the referendum would qualify. However, if enough signatures were found to be valid, most provisions of the law would be suspended until the outcome of the referendum was determined at the November 2016 statewide election. Therefore, should the referendum qualify for the ballot, CalRecycle would not require any of the resources requested until at least 2016–17, and should the voters reject the proposed law, it would not be implemented at all.

LAO Recommendation. "We find that the requested resources are reasonable to implement the provisions of Chapter 850 should the referendum effort fail. However, we recommend that the Legislature reject the budget proposal if the Secretary of State determines that the referendum qualifies for the November 2016 ballot because the provisions of SB 270 would no longer be implemented in the budget year."

Staff Comments. Staff concurs with the LAO analysis and recommendation.

Staff Recommendation: Reject Proposal. The referendum qualified for the ballot.

Vote: 2-0 to Reject (Wolk, Nielsen Aye)

Funding the Beverage Container Recycling Program

Background. The Legislative Analyst's Office (LAO), has done extensive research on the Beverage Container Recycling Fund (BCRF), and has provided both background and analysis of issues over several years related to the program, and provides the following background to the program:

Staff Recommendation: Information item, no action necessary.

3930 Department of Pesticide Regulation

The California Department of Pesticide Regulation (CDPR) administers programs to protect 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 $90.1 million and 307 positions for the Department of Pesticide Regulation. This is an increase of about $3 million, mainly due to a proposal for a new information technology system. Funding for the department is derived mainly from an assessment on the sale of pesticides of the state. Other funds include fees on registration of products, federal funds, and the California Environmental License Plate Fund.

EXPENDITURES BY PROGRAM

Program	Actual 2013-14*	Estimated 2014-15*	Proposed 2015-16*
Pesticide Programs	$83,130	$87,742	$90,909
Total Expenditures (All Programs)	**$83,130**	**$87,742**	**$90,911**

POSITIONS BY PROGRAM

Program	Actual 2013-14	Estimated 2014-15	Proposed 2015-16
Pesticide Programs	284.5	304.1	307.1
Administration	82.0	83.7	83.7
Total Positions (All Programs)	**366.5**	**387.8**	**390.8**

Items Proposed for Vote-Only

1. **Implementation of SB 1405 (School and Child Care Integrated Pest Management).** The budget requests $412,000 (Department of Pesticide Regulation Fund), and three positions, to implement SB 1405 (Desaulnier), Chapter 848, Statutes of 2014. SB 1405 expands the School and child care integrated pest management (IPM) program to require development and administration of comprehensive training courses that anyone using pesticides at a school site must take, and a template for a written IPM plan for school districts and child care centers that use certain pesticides (excluding antimicrobials).

Recommendation: Approve Item 1.

Vote: 2-0 (Wolk, Nielsen Aye)

Product Registration Data Management System

Background. The DPR is required to provide a thorough and timely evaluation before a substance is registered for the first time and to place appropriate restrictions on such use, to continuously evaluate all registered pesticide products, and eliminate from use in the state any pesticide that endangers the agricultural or nonagricultural environment. The Pesticide Registration Branch (PBR), which serves as the primary liaison to pesticide product and device registrants, maintains registration for approximately 13,000 pesticide products containing 1,000 different active ingredients and seven devices. PBR receives and processes approximately 5,000 registration submissions each year, as well as managing license renewals and product label and data storage for existing products. At present, several problems have been identified with the current registration process, including:

- Paper-based, manual-intensive registration processes resulting in cumbersome processing, bottlenecks and inefficiencies. Disparate, stand-alone systems limit visibility of workload per station and staff, and no single data source exists to register products.

- Hard-copy product labels limit the ability to efficiently evaluate pesticide product labels and impact stakeholders in the field needing the information. Registrants submit incomplete registration and label amendment submissions.

Budget Proposal. The budget requests $1.9 million (Department of Pesticide Regulation Fund) for two years, and $400,000 in year three, and $163,000 ongoing, to develop and implement a fully integrated information management system for the pesticide product and device registration process. According to the Administration, once completed, the system will offer online functionality and allow for online submission of registration-related materials and electronic payment. The system will make DPR more efficient with accepting, evaluating, processing, and managing pesticide product and device registration materials. The system will also allow the public, including medical professionals, poison control centers, and pesticide enforcement agencies, to access copies of currently registered pesticide products and device labels.

Staff Comments. Staff concurs with the necessity of this proposal. The process of registering pesticides in this state is a long process that needs to be expedited for those pesticides determined to be appropriate for use. There are several outstanding questions:

- Does DPR have a backlog of registrations, and if so, how is this defined and how will this new system improve the defined backlog? Why are we using emergency regulations?

- What issues are on the horizon that are not captured by the current DPR system (wherein we register pesticides for known uses), such as marijuana cultivation or emerging products? How does DPR handle these?

Staff Recommendation: Approve.

Vote: HOLD OPEN

3900 California Air Resources Board (ARB)

In California, air quality regulation is divided between the ARB and 35 local air quality management districts. The local air districts manage the regulation of stationary sources of pollution (such as industrial facilities) and prepare local implementation plans to achieve compliance with the federal Clean Air Act. The ARB is responsible primarily for the regulation of mobile sources of pollution (such as automobiles) and for the review of local district programs and plans. Historically, the ARB's regulations focused on emissions that affect local or regional air quality, such as particulate matter and ozone–forming emissions. More recently, the ARB also began overseeing the state's efforts to reduce GHG emissions.

The Governor's budget proposes $582 million for ARB in 2015–16, a net decrease of $266 million (31 percent) compared to estimated expenditures in the current year. This year–over–year decrease is largely the result of a one–time $240 million appropriation of Proposition 1B bond funds for port modernization that was included in the 2014–15 budget.

EXPENDITURES BY PROGRAM

Program	Actual 2013-14*	Estimated 2014-15*	Proposed 2015-16*
Mobile Source	$314,663	$482,510	$204,278
Stationary Source	34,521	37,867	37,829
Climate Change	66,773	248,877	254,986
Subvention	72,468	79,111	79,111
Total Expenditures (All Programs)	**$488,425**	**$848,365**	**$576,204**

POSITIONS BY PROGRAM

Program	Actual 2013-14	Estimated 2014-15	Proposed 2015-16
Mobile Source	669.0	712.2	712.2
Stationary Source	255.0	271.3	271.3
Climate Change	126.1	134.4	136.4
Subvention	-	-	-
Administration	230.1	244.8	244.8
Total Positions (All Programs)	**1,280.2**	**1,362.7**	**1,364.7**

Item Proposed for Discussion

ARB Southern California Consolidation Project

Budget Proposal. The budget requests $5.9 million to begin the process to consolidate and relocate the ARB's existing motor vehicle and engine emission testing and research facility. Funding includes $3.8 million (Motor Vehicle Account), $1.2 million (Air Pollution Control Fund), and $0.9 million (Vehicle Inspection Repair Fund).

LAO Recommendation. ***Direct Administration to Provide Additional Information.*** "In view of the above concerns, we recommend that the Legislature direct the Administration to provide a more detailed analysis of the needed size and scope of the project, a more complete analysis of reasonable alternatives, more specific information about how the identified funds will support the long-term project costs, and a more detailed justification for the $5.9 million cost estimate. Until the Administration provides such information, we find that the proposal is premature."

Staff Comments. Staff concurs with the LAO's assessment of the proposal. Further, concerns have been raised about the process used to select the site determined by Department of Finance (DOF) and the Department of General Services (DGS). Neither the alternatives analysis, nor budget proposal, includes a discussion of other sites within a 50-mile radius of the current facility. Several other higher education institutions were involved with early discussion regarding the co-location of the ARB facility with their existing programs. The idea of co-location goes beyond the DOF/DGS determination of simply finding the lowest priced piece of land, but goes to the use of programmatic efficiencies. For example, if a university had programs directly related to the ARB functions, these would not be included as cost-factors (and therefore not included in the current determination), but would be extremely important to the program's ongoing use of intellectual capital within the local and university systems.

Staff Recommendation: Deny proposal. Request the Administration return in January with a proposal that addresses the LAO concerns as well as provides a serious alternatives analysis, including a public process for site selection, that goes further than finding the lowest-priced piece of land, but rather includes programmatic efficiencies to be found within possible partnerships based on co-location.

Vote: 2-0 to reject (Wolk, Nielsen Aye)

SB 1371 (Chapter 525, Statutes of 2014)—Natural Gas Leakage Abatement

Budget Proposal. The budget requests a total of $670,000 in 2015-16 from the Public Utilities Reimbursement Account to implement SB 1371. This includes $370,000 annually for two positions, and a one–time allocation of $300,000 for contract funding to independently collect additional pipeline emission data and examine additional methods to estimate emissions. The requested positions would consult with the CPUC on its proceedings, analyze pipeline emission data, and help develop future regulations and policies related to pipeline emissions. (The Governor's budget provides $550,000 and four positions for CPUC to administer the proceeding and develop the rules and procedures.)

LAO Recommendation. Reject ARB Request. "We recommend the Legislature reject the ARB request for funding and positions. The request for resources and positions to collect additional leakage data and analyze the new pipeline emissions data is premature. After the data is submitted, if the ARB determines that the data provided by utilities is inadequate or requires a significant additional analysis, the ARB can request additional resources at that time. In addition, it is not clear that the additional workload to assist CPUC on the proceeding requires additional position authority."

Staff Comments. Staff concurs with the LAO assessment. In addition, the legislative analyses of the bill do not include the addition of ARB positions, nor ongoing costs. Specifically, costs are identified as:

- One-time costs *to the CPUC* of approximately $400,000 from the Public Utilities Reimbursement Account (special fund) for the required proceeding.
- Ongoing costs *to the CPUC* of approximately $160,000 from the Public Utilities Reimbursement Account (fund) to perform ongoing evaluations, audits and enforcement.

The activities included in the bill are well within the current scope of the ARB's work with greenhouse gas reduction program. It is possible that this would add a layer of administration that is, at present, unnecessary. As the LAO suggests, evaluation of the effectiveness of this program after one year would allow the Legislature to consider any gaps that need funding, including ongoing ARB costs.

Staff Recommendation. Reject proposal.

Vote: 2-0 to reject (Wolk, Nielsen Aye)

Senate Budget and Fiscal Review—Senator Mark Leno, Chair

SUBCOMMITTEE NO. 2 **Agenda**

Senator Lois Wolk, Chair
Senator Jim Nielsen
Senator Fran Pavley

Thursday, March 19, 2015
9:30 a.m. or Upon Adjournment of Session
Hearing Room 112

Consultant: Catherine Freeman

Oversight

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.

Managing the Sacramento-San Joaquin Delta System

Special Presentation: Legislative Analyst's Office

Panel Discussion on Implementation of the Delta Plan and Management of the Delta System (invited):

- Patrick Johnston, Member, Delta Stewardship Council
- Erik Vink, Executive Director, Delta Protection Commission
- Campbell Ingram, Executive Officer, Sacramento-San Joaquin Delta Conservancy
- Michael George, Delta Watermaster, State Water Resources Control Board

Background—Sacramento-San Joaquin Delta Management

Numerous reports have been written about the Delta, management of water moving through the Delta, risks inherent in the state's water system, and funding for these water systems. In January 2015, the Legislative Analyst's Office (LAO) released its most recent report, "Achieving State Goals for the Sacramento-San Joaquin Delta." This report provides a good overall background on current issues revolving around the Delta, including prioritizing demand, funding, governance, and implementation of the Delta Plan. The executive summary follows. The full report is available at lao.ca.gov.

LAO Executive Summary: *Achieving State Goals for the Sacramento-San Joaquin Delta.*

> The Sacramento–San Joaquin Delta (Delta) is a biodiverse ecosystem that covers about 1,150 square miles and supports over 700 species of fish and wildlife. The Delta is an important source of water for the state and is used to convey water from Northern California to Southern California. In this report, we (1) provide an overview of the importance of the Delta and describe the problems it faces, (2) review efforts to address these problems, and (3) identify issues for the Legislature to consider to help ensure that its goals and objectives for the Delta are achieved.
>
> **Problems in the Delta.** The Delta faces several significant problems. A variety of factors (such as diversions from the Delta) have led to a decline in key native fish species. This decline has resulted in regulatory actions intended to protect the environment but have reduced the amount of water that can be taken from the Delta. Water pollutants in the Delta are also causing harm to species and increasing treatment costs for users of Delta water. Finally, many of the levees that define the geography of the Delta are at risk of failure, with potential consequences for the Delta itself and the state's water supply. Left unaddressed, these problems could persist or worsen over the next 30 to 50 years and could create significant costs for the state and economy.
>
> **Efforts to Address Delta Problems.** Since 1935, the state has engaged in numerous efforts to address the problems in the Delta. Two principal attempts were (1) building a proposed "peripheral canal" to carry water more reliably around the Delta and (2) a partnership with the federal government to build dams and ecosystem restoration projects to benefit the Delta. These attempts were unsuccessful, leading to the state's current efforts to achieve "coequal goals" for the Delta: water supply reliability and ecosystem restoration. These current efforts include (1) the Delta Plan, which is intended to guide state efforts to achieve the goals over the next 50 years, and (2) the Bay Delta Conservation Plan (BDCP), which would build two tunnels under the Delta to improve water supply reliability (to some beneficiaries), as well as complete habitat restoration projects.
>
> **Issues for Legislative Consideration.** While the current efforts to address Delta problems can progress without additional legislative action, there are many opportunities for the Legislature to improve the success of these efforts. We identified several issues for its consideration, including:

- **Managing and Prioritizing Demands for Delta Water.** The Delta is affected by statewide water use and policies that determine how water is managed in the state, such as groundwater management practices. The Legislature established the goal of reducing reliance on the Delta as a source of water but that goal is open to multiple interpretations, each with different effects on the state's economy and the environment.

- **Funding Sources for Some Key Delta Activities Uncertain.** The BDCP is expected to cost $25 billion dollars over 50 years. However, some sources of funding—such as state bond funds for ecosystem restoration activities—may not materialize. In addition, the costs to implement the Delta Plan are unknown but potentially significant.

- **Current Delta Governance Limits Effectiveness.** Specific provisions of the state's policy for the Delta (the Delta Reform Act of 2009) might restrict the state's ability to enforce the Delta Plan. In addition, there is currently limited integration of regulatory and planning activities that affect the Delta.

- **Slow Implementation of Some Key Activities.** The Delta Plan includes performance measures to track the outcomes related to the state's efforts in the Delta, but that tracking has not yet begun. In addition, there has been slow progress in meeting a statutory requirement to develop a strategy for prioritizing state spending on levee improvements.

- **Challenges to Restoring the Delta Ecosystem**. The numerous factors that harm the Delta—and the complex interaction among them—make it difficult to identify the most cost–effective ways to restore the ecosystem. In addition, many of the planned ecosystem restoration projects have faced challenges, which have delayed their completion.

By addressing some of these issues, the Legislature can improve the likelihood that its goals and objectives for the Delta will be realized.

Staff Comments. This budget subcommittee is charged with monitoring and oversight of the Administrations implementation of statute related to the Delta. To this end, while only two departments have submitted budget proposals (on the following pages), the Delta agencies should be prepared to discuss their current efforts to meet statutory requirements in the Delta, and to address concerns about management of the state's water systems, impacts on local entities from these systems, and priorities for agencies as they move forward to implement the Delta Plan.

Staff Recommendation. Information item, no action necessary.

3885 Delta Stewardship Council

Established in 2009 by the Delta Reform Act, the mission of the Delta Stewardship Council, through a seven-member board, is to further the state's goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Sacramento-San Joaquin Delta ecosystem. The goals are to be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta. In 2013, the council adopted a legally enforceable Delta Plan to further the state's goals and guide state and local agency activities related to the Delta. Under state law, agencies are required to coordinate their actions pursuant to the Delta Plan with the council and the other relevant agencies.

The council is informed by scientific input from the Delta Science Program and the Delta Independent Science Board. The mission of the Delta Science Program is to provide the best possible unbiased scientific information to inform water and environmental decision-making in the Delta. The Delta Stewardship Council is the successor to the California Bay-Delta Authority and CALFED Bay-Delta Program.

Governor's Budget. The Governor's January budget includes $25 million (mostly General Fund), an increase of $7.2 million. The increase is mainly due to a proposal to implement the Delta Plan.

EXPENDITURES BY PROGRAM (in thousands)

Fund	Actual 2013-14	Estimated 2014-15	Proposed 2015-16
General Fund	$6,535	$10,478	$17,118
California Environmental License Plate Fund	677	791	792
Federal Trust Fund	316	1,000	2,749
Reimbursements	3,460	4,600	4,450
Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002	4,318	1,000	-
Total Expenditures (All Funds)	**$15,306**	**$17,869**	**$25,109**

POSITIONS BY PROGRAM

Program	Actual 2013-14	Estimated 2014-15	Proposed 2015-16
Delta Stewardship Council	47.7	67.5	70.5
Total Positions (All Programs)	**47.7**	**67.5**	**70.5**

Items Proposed for Discussion

1. Delta Plan Implementation

Background. The council was created in 2009 as an independent state agency to guide the state's goals of: (1) providing more reliable water supply through the Delta and, (2) restoring the Delta. The Delta Plan, adopted in 2013, is both a regulatory document and a series of recommendations for state and local agencies operating within the Delta. The Delta Plan must, by law, be incorporated into the Bay Delta Conservation Plan (BDCP) when it is completed and permitted—and the council is required to hear appeals of the BDCP approval. The council also manages the Delta Science Program, designed to provide unbiased scientific information to inform water and environmental decision-making in the Delta.

The budget included the conversion of six limited-term positions to permanent, and 12 new positions as well as a baseline increase of $5.8 million ($3.2 million General Fund, $2 million bond funds and $600,000 from other state departments).

Budget Proposal. The Governor's budget requests three new positions, and $9.25 million ($6.6 million General Fund, $850,000 reimbursements, and $1.7 million federal funds), as well as reappropriation of Proposition 50 bond funds. The funds are requested to fulfill the Delta Plan implementation requirements for the following areas:

- **Delta Science Program.** A total of $8 million—of this amount, $5.5 million is General Fund for science contracts and grants ($1 million of which is one-time), $850,000 is Proposition 1E bond funds to support three existing positions through an interagency agreement (reimbursements), and $1.7 million is federal funds. The 2014 budget included 19 positions (six existing and 13 new and permanent).

- **Planning, Performance and Technology.** $1.2 million (General Fund) and two positions, including $1 million for one-time consultants. The 2014 budget included three new positions and funding, and one-time consultant contracts ($900,000), for similar purposes.

Staff Comments. Staff concurs with the need to continue a baseline Delta Science Program and the baseline activities proposed by the council in the current-year's budget. However, it was not anticipated that this council would grow over 100 percent in two years, nor that General Fund would be the proposed for the majority of new funding for workload. At the time, the Council did not indicate that there would be a need for additional and ongoing increase in baseline funding for the programs. Staff has concerns about the ongoing increases in budgeting, particularly from the General Fund, for the Council—and suggests this entity should strive to work with other departments to collaborate with existing resources, rather than continue to increase funding so dramatically.

Staff Recommendation: Approve federal funds, bond reappropriation, and reimbursements. Hold open General Fund augmentation.

Vote:

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 $11.9 million and nine positions for support of the department. This is an increase of $10 million from bond funds.

EXPENDITURES BY FUND (in thousands)

Fund	Actual 2013-14	Estimated 2014-15	Proposed 2015-16
General Fund	$821	$940	$1,006
California Environmental License Plate Fund	71	78	77
Federal Trust Fund	305	286	303
Reimbursements	421	637	637
Water Quality, Supply, and Infrastructure Improvement Fund of 2014	-	-	9,871
Total Expenditures (All Funds)	**$1,618**	**$1,941**	**$11,894**

POSITIONS BY PROGRAM

Program	Actual 2013-14	Estimated 2014-15	Proposed 2015-16
Sacramento-San Joaquin Delta Conservancy	8.1	9.0	13.0
Total Positions (All Programs)	**8.1**	**9.0**	**13.0**

Item Proposed for Discussion

1. Delta Plan Implementation and Baseline Augmentation

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 Proposals. The budget includes two proposals:

1. $9.9 million (Proposition 1 bond funds) in 2015-16 and reduced to $9.7 million in out-years, for four years, to fulfill the requirements of the bond. The proposal includes four full-time and permanent positions and office space.

2. $70,000 permanent baseline increase (General Fund), to cover increased operational costs.

Staff Comments. Staff concurs with the conservancy's need for the bond funds and finds this consistent with the voter-approved Proposition 1 water bond. The need for baseline funding is less clear. As discussed in the oversight hearing on the Environmental License Plate Fund (ELPF), a total of $2.5 million from Proposition 1 is available to the conservancy for state operations. As nearly 100 percent of the conservancy's activities are related to the purposes of the bond, it is unclear why the Administration continues to propose both a baseline General Fund increase and continued reliance on the Environmental License Plate Fund. These may be necessary after all state operations allocations from bond funds have been expended, likely in five to ten years. For the four-year period requested to distribute the $50 million, it would seem that $2.5 million would be sufficient for the staffing of the conservancy.

				Proposition 1 (Full Allocation)	
2015-16	**General Fund (proposed)**	**ELPF (baseline)**	**Prop 1 (proposed)**	**Total**	**5% for State Operations**
Delta Conservancy	$70,000	$77,000	$9.9 million	$50 million	$2.5 million

Staff Recommendation: Approve bond funds. Hold open General Fund. Hold open ongoing Environmental License Plate Fund baseline funds until a final discussion takes place on these funds in budget committee.

Vote:

3860 Department of Water Resources

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

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.

EXPENDITURES BY PROGRAM (in thousands)

Program	Actual 2013-14	Estimated 2014-15	Proposed 2015-16
Continuing formulation of the California Water Plan	$322,103	$706,218	$192,147
Implementation of the State Water Resources Development System	818,526	1,697,954	1,697,591
Public Safety and Prevention of Damage	363,185	1,053,476	566,976
Central Valley Flood Protection Board	5,118	14,671	15,401
Services	2,502	7,706	7,716
California Energy Resources Scheduling	881,211	958,001	961,575
Loan Repayment Program	-1,181	-1,405	-1,405
Administration	94,750	91,452	93,196
Total Expenditures (All Programs)	**$2,391,465**	**$4,436,622**	**$3,440,002**

Items Proposed for Vote-Only

1. **Administration of Truckee River Operating Agreement.** The budget requests $150,000 (General Fund) in 2015-16, and $300,000 annually thereafter, in order to augment the Central California Water Management Program to meet mandated responsibilities under the Truckee River operating agreement.

2. **Sacramento Valley Water Management and Habitat Protection Project.** Due to an inadvertent error, this item must be rejected without prejudice. The department will provide a substitute proposal during the spring budget process.

Staff Recommendation: Approve Item 1. Reject Item 2, without prejudice.

Vote:

Items Proposed for Discussion

1. California Water Commission

Background. The California Water Commission consists of nine members appointed by the Governor and confirmed by the State Senate. Seven members are chosen for their general expertise related to the control, storage, and beneficial use of water and two are chosen for their knowledge of the environment. The commission provides a public forum for discussing water issues, advises the Department of Water Resources (DWR), and takes actions to further the development of policies that support integrated and sustainable water resource management and a healthy environment. Statutory duties include advising the director of DWR, approving rules and regulations, and monitoring and reporting on the construction and operation of the State Water Project.

Proposition 1 dedicated $2.7 billion for investments in water storage projects and designated the California Water Commission as the agency responsible for appropriately allocating these funds. The commission, through the Water Storage Investment Program, will fund the public benefits of these projects. Eligible projects must also provide measurable benefits to the Delta ecosystem or its tributaries. Specifically, the bond states:

> 79751. Projects for which the public benefits are eligible for funding under this chapter consist of only the following:
>
> > (a) Surface storage projects identified in the CALFED Bay-Delta Program Record of Decision, dated August 28, 2000, except for projects prohibited by Chapter 1.4 (commencing with Section 5093.50) of Division 5 of the Public Resources Code.
> > (b) Groundwater storage projects and groundwater contamination prevention or remediation projects that provide water storage benefits.
> > (c) Conjunctive use and reservoir reoperation projects.
> > (d) Local and regional surface storage projects that improve the operation of water systems in the state and provide public benefits.
>
> 79752. A project shall not be funded pursuant to this chapter unless it provides measurable improvements to the Delta ecosystem or to the tributaries to the Delta.
>
> Further, the bond provides a continuous appropriation such that no moneys in any fund that, by any statute other than a Budget Act, are continuously appropriated without regard to fiscal years, may be encumbered unless the Legislature, by statute, specifies that the moneys in the fund are appropriated for encumbrance.

Budget Proposal. The Governor requests eight new, full time positions, and 4.3 existing positions within the Department of Water Resources, to support the commission. The commission intends to expend $3.3 million of the $2.7 billion that was continuously appropriated to the commission to support this budget proposal. A budget action is not necessary to approve the funding.

Staff Comments. As stated above, funds from this bond allocation are *continuously appropriated*, and therefore this subcommittee will not be approving or denying any project, proposals, or activities related to the commission's duties. Staff has no concerns with the positions requested by the commission.

However, staff is concerned about statements made by the Secretary for Natural Resources at its hearing on March 5, 2015. Specifically the Secretary, in response to a question from a member of the subcommittee, implied that these funds *would be* used for surface storage projects identified by the department. This is not accurate and it must be made clear that the commission will act independently to implement Section 79751 and 79752 of the bond.

The commission met on March 18, 2015, where it discussed the commission's role in allocating bond funds. It also took public testimony and allowed for a public dialogue on the allocation of the funds. It is within this arena that the discussion of how, which, and where, projects will be allocated.

The public are encouraged to attend commission meetings. The next meeting of the commission is scheduled for 9:30 a.m. on April 15, 2015, in Fresno. All meetings, agendas and public documents are readily available on the commission's website www.cwc.ca.gov.

Commenters:

1. Joseph Byrne, Member, California Water Commission
2. David Guy, President, Northern California Water Association
3. Danny Merkley, Director of Water Resources, California Farm Bureau
4. Jonas Minton, Water Policy Advisor, Planning and Conservation League

Staff Recommendation: Approve positions. No action necessary on funding.

Vote:

2. FloodSAFE California and Proposition 1E Appropriations

Background. The LAO has done extensive analysis of the state's flood proposals and provides analysis and background of the current Governor's proposal, as follows:

Defining Flood Risk. According to a November 2013 report by DWR, California faces significant risk from flooding. The flood risk for a given area is determined by the amount of damage (such as damage to property and loss of life) that would be caused if a flood occurred, combined with the likelihood that a flood will occur. For example, an urban area along a river might have a relatively high flood risk—even if a flood is unlikely to occur—because the area has high property values and a large number of residents would be affected if flooding happened. In contrast, a rural area might have a lower flood risk—even if a flood is more likely to occur—because property values and populations in the area are lower.

State Role in Flood Protection. Historically, most flooding has occurred in the Central Valley. The state is the primary entity responsible for flood control in this area. The State Plan of Flood Control (SPFC) is the state's system of flood protection in the Central Valley. It includes about 1,600 miles of levees, as well as other flood control infrastructure, such as bypasses and weirs, which are used to divert water at times of high flow.

Within the SPFC, the state funds the construction and repair of flood control infrastructure. Typically, the federal and local governments also provide funding for these projects. The state also provides grants to local governments to support local levee improvements and other activities. For most levee segments, the state has turned over the operations and maintenance to local governments (primarily local flood control districts). Even though some of these local agencies have failed to adequately maintain the levees in the past, the state has been found liable for such levee failures. Outside the SPFC, the state's role in flood management generally consists of providing financial assistance to local governments for flood control projects located throughout the state.

Voters Passed Proposition 1E. In November 2006, California voters approved the Disaster Preparedness and Flood Protection Bond Act of 2006 (Proposition 1E) in order to improve the condition of the state's levees. Proposition 1E authorized the sale of $4.1 billion in general obligation bonds for several broad categories of flood protection activities, such as improvements to the state's flood control system and the construction of bypasses. The measure requires (1) all funds to be appropriated by July 1, 2016, (2) the funds to be directed to projects that achieve maximum public benefits, and (3) the Governor to submit an annual flood prevention expenditure plan that includes the amount of matching federal and local funds.

Central Valley Flood Protection Plan Developed. Subsequently, the Legislature passed the Central Valley Flood Protection Act of 2008 (Chapter 364, Statutes of 2007 [SB 5, Machado]). Chapter 364 required DWR to develop a plan—the Central Valley Flood Protection Plan (CVFPP)—for reducing the risk of flooding throughout the SPFC system, including recommended actions and projects. The CVFPP was developed by DWR in 2012 and identified a total flood control funding need of $14 billion to $17 billion.

State Flood Protection Activities. The state funds several types of flood protection activities. This includes three types of state–managed capital outlay projects:

- **Urban Capital Outlay Projects.** These projects protect urban areas, typically by improving levees. Projects in urban areas often provide large reductions in flood risk for the protected areas because the levees protect high value property and large populations. However, the way urban capital projects have historically been constructed often negatively affect fish habitat for several reasons, such as by reducing native vegetation. Consequently, such projects often require significant environmental mitigation. The federal government often provides most of the funding for these projects because they meet certain federal criteria for reducing flood risk in a cost–effective manner.

- **Rural Capital Outlay Projects.** These projects protect rural areas by repairing levees and making other improvements, such as flood–proofing structures or widening floodplains. The impact of rural flood projects on fish habitat depends on how they are designed. For example, some of these projects include "setback" levees, which are built further back from the bank of the river. This connects the river to its historical floodplain, which creates additional habitat and provides good food sources for fish and other species. Because these projects reduce risk in rural areas—which do not have high populations or property values—they often do not meet the federal government's cost–effectiveness criteria. Thus, the state typically pays over half the cost of these projects, with local governments paying the remainder.

- **System-wide Capital Outlay Projects.** These projects include building or expanding existing bypasses (such as the Yolo Bypass near Davis). Bypasses significantly reduce the chance of flooding for large regions—including urban and rural areas—and improve environmental benefits for fish species that migrate through them. However, because some of the flood benefits accrue to rural areas, these projects may not reduce flood risk as cost–effectively as urban projects. The cost shares among state, federal, and local governments depend on the specific project.

The state also provides funding for other activities, including:

- **Grants to Local Governments.** The state provides grants to support a variety of flood protection activities at the local level. Specifically, the state funds a share of the costs associated with projects that are developed and led by local governments. This includes grant programs focused on reducing flood risk in small communities and supporting local levee maintenance.

- **State Operations.** The state also supports various state flood protection activities, such as updates to the CVFPP, analyses of flood risk, levee maintenance, and purchasing equipment and supplies needed to respond to flood emergencies.

Challenges to Expending Proposition 1E Funds. While the Legislature has appropriated most of the Proposition 1E funds for specific projects, only $1.9 billion of Proposition 1E funds had been expended or committed to projects as of June 2013 (the latest information available). According to DWR, this is because the state has faced some challenges in expending Proposition 1E funds. These challenges include difficulties in (1) securing funding for local and federal shares of certain flood protection projects; (2) identifying projects developed by local agencies that have gone through the required design stages and environmental reviews; and (3) securing other local, state, and federal permits needed to complete projects.

Budget Proposal

The Governor's proposed budget for DWR includes $1.1 billion (nearly all from Proposition 1E) to support various flood control activities. This amount is primarily for capital outlay projects ($738 million), but also includes some funding for local assistance ($222 million) and state operations ($163 million). The proposal would appropriate all remaining Proposition 1E funding and would support 530 existing positions.

2015–16 Proposed Proposition 1E Appropriations
(Dollars in Millions)

Purpose	Amount	Percent of Total
Capital Outlay Projects:	$738	66%
In Urban Areas	(320)[a]	(28)
System-wide	(300)	(27)
In Rural Areas	(118)	(11)
Local Assistance	222	20
State Operations	163	15
Totals	**$1,123**	**100%**

[a] Includes $13.8 million from other bond funds and $52 million in reimbursement authority.

The Governor proposes to give DWR ten years to encumber the funds (commit to projects) and an additional two years to expend them. This significantly exceeds the typical three–year appropriation for capital projects. Unlike with prior appropriations, the proposal does not identify specific projects that would be funded. The proposal would also allow the department to transfer funds between state operations, local assistance, and capital outlay projects as it deems necessary. The Administration has indicated that it will seek legislation to appropriate some funding prior to the passage of the 2015–16 Budget Act with the intent to expedite flood projects. In future years, the Administration also intends to submit an annual report detailing proposed expenditures for the year and progress on past programs.

LAO Analysis. According to the LAO, the Governor's proposal to allow for a ten year appropriation period limits the ability of Legislature's ability to conduct effective oversight over the funds. In addition, they are concerned that, without addressing the underlying reason for the delays in appropriating funds, that delays will continue. In addition, the LAO states that the proposal provides no opportunity for the Legislature to weigh trade-offs. Because the funding is intended to achieve only a portion of the state's flood liabilities, "the Legislature will want to weigh in on which projects and activities are funded in order to ensure that its highest priorities are achieved. However this proposal does not provide the Legislature with such an opportunity."

Staff Comments. Staff concurs with the LAO analysis. It is clear that the department has not been able to spend the bond funds in the manner that the bond measure anticipated. At the time the measure bond was drafted and passed, the Legislature had anticipated that funding would move quickly to necessary projects, given the enormity of the problem. Instead, continued issues with matching funds, both local and federal, caused delays. So, too, the downturn in the economy exacerbated these delays.

Staff Recommendation: Staff recommends the following:

(1) Require the department, by April 1, to present a list of projects and a clear expenditure plan for both the state operations and system-wide allocation pot. This should include specific projects and priorities.

(2) Approve urban and rural capital outlay, and local assistance proposals.

(3) Deny trailer bill language allowing for 10-year appropriation. Require the Administration to return with a proposal for a five-year appropriation period, with reporting language. Additionally, require the department to revise the proposal to allow for shifting between funding categories such that the only type of funding shift would be *from* state operations and system-wide capital outlay *to* local assistance and urban/rural capital outlay.

Vote:

3. Central Valley Flood Protection Board

Background. The Central Valley Flood Protection Board (CVFPB) serves as liaison between the State of California, its residents, property owners, Central Valley agencies, and the federal government. Since 2011, it has worked to provide flood protection within California's Central Valley, while also considering environmental and habitat concerns. Under California law, any modification to the federal/State flood control system, encroachment, or project on, or near, the Sacramento and San Joaquin Rivers or their tributaries, must be approved by the board. The CVFPB is governed by a board consisting of seven Governor-appointed and Senate-confirmed members, plus two non-voting ex-officio members from the California Legislature. The monthly public board meetings provide an open forum where all interests may express their views regarding flood management, and where permits, board-sponsored projects, and other actions are reviewed and approved.

Budget Proposal. The Governor's budget includes two proposals for the CVFPB, as follows:

(1) $800,000 (General Fund) to support five new permanent positions located within the board to fulfill assurances that the state has made to the federal government through formal "Assurance Agreements." Specifically, staff are requested to maintain 116 "Local Maintaining Agencies" in resolving levee deficiencies that caused the federal government to remove more than half of these levees from federal financial assistance to rehabilitee levees after catastrophic failures (so-called "PL84-99" levees). Continued review by federal agents adds to this list as further illegal encroachments and deficiencies in the levees are encountered.

(2) $600,000 (Proposition 1E) to update enforcement and permitting requirements while adopting and overseeing the implementation of the Central Valley Flood Protection Plan. The Administration also requests the ability to transfer these funds between capital outlay, local assistance and state operations.

Staff Comments. Staff concurs with the need to update enforcement and permitting requirements. However concerns have been raised about the need for General Fund to pay for positions that directly benefit specific local entities. In addition, the use of Proposition 1E bond funds for ongoing enforcement and permitting may not be in keeping with the nature of the bond for long-term and mostly capital, projects.

Over a number of years, the Administration, LAO, and others, have suggested any number of fees, assessments and taxes that would directly benefit those entities who receive the benefit of the state's flood efforts. For example, in all other state agencies (whether to a public or private agency), fees pay for the majority of regulatory functions. It is unclear why the Administration has not suggested a focused funding mechanism for at least part of these proposals.

Staff Recommendation: Hold Open—require the board to return in May with a proposal that is not reliant solely on General Fund or bond funds.

Vote:

4. Groundwater Management

Background. On September 16, 2014, the Governor signed into law three groundwater bills: (1) SB 1168 (Pavley), Chapter 346, Statutes of 2014; (2) AB 1739 (Dickenson), Chapter 347, Statutes of 2014; and, (3) SB 1319 (Pavley), Chapter 348, Statutes of 2014. This package of bills significantly expands the directed actions and authority of DWR to implement sustainable groundwater management, statewide. The new legislation suggests local agencies form Groundwater Sustainability Agencies (GSA) to manage groundwater through sustainability plans in high and medium priority basins. Financial and enforcement tools were provided in the legislation, to assist GSAs in carrying out effective sustainable groundwater management. The legislation directs DWR to complete regulations, review sustainability plans, alternatives to these plans, and to conduct groundwater assessments.

Budget Proposal. The Governor's budget requests $6 million (General Fund) in 2015-16, and $8 million for four years from 2016-17 through 2019-20, for DWR to implement the legislation. The proposal includes support of five new, and 26 existing positions, and funding for external consulting and technical assistance.

Fiscal Analysis of the Bills. The legislature passed these bills with the following fiscal analysis:

- SB 1168 (Pavley): "Increased annual General Fund costs to DWR of approximately $4 million *beginning in fiscal year (FY) 2019-20* to collect and manage data, complete evaluations, and assist the State Water Board in developing interim plans. DWR received $22.5 million in the 2014-15 Budget ($2.5 million for FY 2014-15 and $5 million each year from FY 2015-16 through FY 2018-19) which will fund Bulletin 118 (groundwater plans) updates and technical assistance."

- AB 1379 (Dickenson): "No additional state costs for FY 2014-15 through FY 2018-19 to the DWR for initial activities. Annual costs $3.5 to $4 million from the General Fund beginning in FY 2017-18 to DWR to review plans and to provide ongoing technical support."

- SB 1319 (Pavley): "Absorbable General Fund costs for DWR to assist SWRCB in developing interim plans. DWR received $22.5 million in the 2014-15 Budget ($2.5 million for fiscal year FY 2014-15 and $5 million each year from FY 2015-16 through FY 2018-19, which will fund Bulletin 118 updates and technical assistance."

Staff Comments. Staff reviewed correspondence between the Department and the fiscal committees and concurs with the fiscal analysis of the bills, which was based on estimates provided by the department (verified by staff). Groundwater management is critical to the state of California. In keeping with the intent of the bills, the fiscal analyses allow local governments to improve management of their groundwater basins and do not envision a state role (beyond resources already allocated) for at least two years.

Staff Recommendation: Deny Proposal.

Vote:

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 January Budget includes $1.4 billion to support the board's activities, an increase of $221,000 over the current year budget. This change is primarily due to implementation of the Water Bond (Proposition 1) and recent legislation to provide increased cleanup of groundwater contamination statewide. Most of the board's budget is special funds, with $32.7 million of the proposed total funding coming from General Fund.

EXPENDITURES BY PROGRAM (in thousands)

Program	Actual 2013-14*	Estimated 2014-15*	Proposed 2015-16
Water Quality	$400,422	$1,074,439	$1,293,592
Drinking Water Quality	-	35,650	35,030
Water Rights	18,968	25,783	28,948
Department of Justice Legal Services	956	1,217	1,217
Total Expenditures (All Programs)	**$420,344**	**$1,137,089**	**$1,358,787**

* The 2013-14 budget included the shift of the drinking water program from the Department of Public Health to the State Water Resources Control Board.

POSITIONS BY PROGRAM

Program	Actual 2013-14	Estimated 2014-15	Proposed 2015-16
Water Quality	1,132.4	1,291.9	1,391.4
Drinking Water Quality	-	229.7	229.7
Water Rights	116.6	135.5	178.5
Administration	284.8	215.0	215.0
Total Positions (All Programs)	**1,533.8**	**1,872.1**	**2,014.6**

Items Proposed for Vote-Only

1. **Technical Bond Adjustment.** The Governor's budget requests a reduction of state operations authority in Propositions 13 and 50, and an augmentation of Proposition 84 state operations authority; reversions of the specified amounts for various fiscal years of state operations and local assistance funds for Propositions 13, 40, 50 and 84; and the appropriation of funds for Propositions 13, 40, 50, 84 to ensure the purpose of the bonds are met with the funding of new projects. Additionally, the State Water Board requests that these funds be available for encumbrance until June 30, 2018.

2. **SB 985 Stormwater Resource Plan.** The Governor's budget requests $381,000 and 3.0 two-year limited term positions from the Waste Discharge Permit Fund to implement the mandates of SB 985 (Pavley), Chapter 555, Statutes of 2014. The intent of the SB 985 is to promote storm water use projects and dry weather non-storm water runoff use projects through storm water resource plans.

3. **AB 2071 Use of Recycled Water for Livestock.** The Governor proposes a one-time, General Fund increase of $300,000 to implement the requirements of AB 2071 (Levine), Chapter 92, Statutes of 2014. These funds enable the State Water Board to hire contractors to coordinate, oversee, and administer an expert panel to determine if the use of tertiary recycled water for consumption by animals poses a significant health risk to the public or animals.

4. **Small Communities Waste Water Project.** The Governor's budget requests a one-time augmentation of $4 million for 2015-16, [total of $12 million for 2015-16, for the State Water Pollution Control Revolving Fund Small Community Grant Fund to assist small disadvantaged communities (SDACs)] with their wastewater needs. These grants will help SDACs achieve compliance with water quality regulations, protect surface and groundwater quality, and help eliminate threats to public health and safety. The State Water Board requests that the appropriated funds be available for encumbrance until June 30, 2017.

Staff Recommendation: Approve Item 1-4.

Vote:

Items Proposed for Discussion

1. Drinking Water Fee Regulation

Background. The Safe Drinking Water Program is a mandated program to ensure that all small and large public water systems meet the Safe Drinking Water Act standards. Fees are used to support the Safe Drinking Water Program budgetary expenditures. However, for the past two fiscal years, the Safe Drinking Water Program fees have not generated sufficient revenue to support budgetary expenditures. Total revenue for 2012-13 and 2013-14 has fallen short of total program expenditures in the amount of $1.3 million. The shortfall in revenue has been offset by a combination of Public Water System Supervision federal grant and a set-aside from the Drinking Water State Revolving Fund. The use of alternative funding sources is forcing the program to rely on federal funds that are not guaranteed on an annual basis. Currently, in order to amend the fee schedules, the State Water Resources Control Board (State Water Board) is subject to the Office of Administrative Law's review process. This request is to amend the Health and Safety Code to allow the State Water Board to adopt fee regulations by emergency actions to ensure an annual fee schedule is adopted to generate sufficient revenue to support Safe Drinking Water Program annual budgetary expenditures. This will also align the Safe Drinking Water Program fee process with the State Water Boards' Waste Discharge Permit Fees and Water Rights Fees processes.

Budget Proposal. The Governor's budget requests trailer bill language to amend the Health and Safety Code to allow the State Water Board to adopt fee regulations by emergency actions to ensure an adopted annual fee schedule will generate sufficient revenue to support Safe Drinking Water Program annual budgetary expenditures and ensure the immediate preservation of the public peace, health, safety and general welfare. Approving this proposal would to give the State Water Board, through emergency regulations, the ability to adopt a fee schedule that would fully support the Safe Drinking Water Program and eliminate the need for federal fund assistance.

Staff Comments. Staff concurs with the need for this proposal. As part of the transfer of programs to the State Water Board, it was clear that the board would be reviewing the longstanding issues of funding for the various programs. This would result in a sustainable funding source and reduce the risk of relying on federal funds each fiscal year. It is important to note that the total revenue collected each year through annual fees would be set at an amount equal to the revenue levels set forth in the budget act for this activity. Further, this proposal allows for an annual stakeholder process to discuss fee options, present the findings and recommendation to the State Water Board and get their approval.

Staff Recommendation: Approve item.

Vote:

2. SB 445 Implementation—Underground Storage Tank Cleanup Program

Background. This proposal implements the changes placed into law by SB 445 (Hill), Chapter 547, Statutes of 2014, which took effect immediately as an urgency measure on September 25, 2014, and affects the Underground Storage Tank Cleanup Fund (USTCF) and the California Water Boards Groundwater Cleanup programs. SB 445 provides new funding to address the most serious groundwater contamination sources such as solvents (from drycleaners and industries), nitrates (chemical fertilizers), and perchlorate (fireworks, rockets) that have taken thousands of public supply wells out of service in drought-impaired California. The law also supports the continued efforts to address contamination from thousands of petroleum underground storage tanks by requiring removal of single-walled USTs that are likely to have released contaminants into groundwater. The law makes several additions to make funding available to claimants, grantees, and loan recipients. SB 445 provides the State Water Board with the administrative tools to address investigation and timely response to known fraud against the USTCF. This authority will help preserve the funds for their intended purpose. Additional provisions require studies and audits to continue program improvements and accountability.

Budget Proposal. The Governor's budget requests: (1) an increase of authority in USTCF of $39.5 million that will be used to reimburse tank owners and operators for their costs in cleaning up leaking Underground Storage Tanks; (2) an appropriation to the Site Cleanup Subaccount (SCS) of $24.7 million of which $4.9 million is one-time and $19.8 million is ongoing for the investigation and remediation of contaminated sites where there is no viable party; and, (3) an increase of authority in the Petroleum Underground Storage Tank Financing Account (PUSTFA) of $24.7 million of which $4.9 million is one-time and $19.8 million is ongoing for loans and grants for Replacing, Removing, or Upgrading Underground Storage Tanks (RUST).

Additionally, the request includes a one-time appropriation of $100 million from the Expedited Claim Account (ECA), with availability for expenditure until June 30, 2018. The proposal would fund 21 new positions plus a funding shift equivalent to 17 positions and a permanent augmentation of $79 million in baseline authority supported by the SB 445 'mil' tax increase. An increase in state operations authority as outlined in the budget request summary will allow the State Water Board to recognize the storage fee increase as implemented by SB 445, as well as expend the additional revenue to support cleanup of leaking USTs.

Staff Comments. Staff concurs with the need for the proposal.

Staff Recommendation: Approve item.

Vote:

3. Marijuana Cultivation Enforcement Team

Background. California produces more marijuana from outdoor cultivation 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 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, increased threats to endangered species, 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 hundreds of marijuana eradication and reclamation missions. These missions have led to the arrest of over 200 illegal marijuana growers, seizure of firearms and over thousands of pounds of marijuana. The state has collected trash, poly pipe, fertilizer, common pesticides, herbicides, and rodenticides, hazmat containers, and removed 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 Oversight—2014. This subcommittee heard testimony in 2014 on the issue of marijuana enforcement and focused on the possible use of existing departments—the Department of Food and Agriculture, the Department of Fish and Wildlife, and the Department of Pesticide Regulation—to regulate the sale of medical marijuana, as well as the enforcement of environmental laws for illegal cultivation. The budget approved supplemental reporting language requiring the Administration to report back at budget hearings on its recommendations to require "215" growers to comply with regular permitting, and any needs for regulatory changes.

Budget Proposal. The Governor's budget requests $1.5 million General Fund and 11 two-year, limited-term, positions to continue implementation of a task force and priority-driven approach to address the natural resources damages from marijuana cultivation, primarily on private lands in Northern California, but also in targeted partnerships with DFW on high conservation value state public lands. The proposal continues the 11 positions approved in the 2014-15 budget. The multidisciplinary task force assigned to address this issue will develop a long-term scientific monitoring and permitting program in anticipation of future state regulatory changes related to marijuana. The continuation of the current year effort will be focused in the geographic area with the greatest need, which are those counties covered by the North and Central Valley Water Boards Regions.

Staff Comments. The board should provide its update to the subcommittee on the reporting language requested in the 2014 budget.

Staff Recommendation: Approve item.

Vote:

3480 Department of Conservation

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

Governor's Budget. The Governor's budget proposes $92 million for the DOC in 2015–16, a net decrease of $8 million (eight percent) below estimated expenditures in the current year. This decrease is driven primarily by the expiration of one–time funding provided for certain oil and gas regulatory activities.

EXPENDITURES BY PROGRAM (in thousands)

Program	Actual 2013-14*	Estimated 2014-15*	Proposed 2015-16*
Geologic Hazards and Mineral Resources Conservation	$19,438	$24,801	$26,559
Oil, Gas and Geothermal Resources (DOGGR)	37,380	55,009	45,608
Land Resource Protection	32,355	12,041	9,950
Office of Mine Reclamation	7,049	7,420	8,778
State Mining and Geology Board	1,102	1,244	1,244
Total Expenditures (All Programs)	**$97,324**	**$100,515**	**$92,139**

POSITIONS BY PROGRAM

Program	Actual 2013-14	Estimated 2014-15	Proposed 2015-16
Geologic Hazards and Mineral Resources Conservation	101.4	115.0	115.0
Oil, Gas and Geothermal Resources	176.5	244.9	244.9
Land Resource Protection	20.7	23.9	23.9
Office of Mine Reclamation	37.4	40.5	40.5
State Mining and Geology Board	4.0	4.0	4.0
Administration	92.5	112.6	112.6
Total Positions (All Programs)	**432.5**	**540.9**	**540.9**

Items Proposed for Vote-Only

1. **Proposition 50 Watershed Program Implementation Study.** The budget requests one, two-year limited-term appropriation of $200,000 in 2015-16, and $358,000 in 2016-17 from Proposition 50 bond funds. The appropriation is proposed to be used by the Division of Land Resource Protection to fund a comprehensive evaluation to address the effects, benefits, and outcomes resulting from the Proposition 50 watershed program implementation.

Staff Recommendation: Approve Item 1.

Vote:

Items Proposed for Discussion

1. Mine Mapping in California

Background. The DOC has been tasked with tracking and mapping mines throughout the state (both functioning and abandoned). The main focus of the department has been locating abandoned mines through its Abandoned Mine Lands Unit (AMLU). The AMLU estimates of the number of abandoned mines in California include the following:

- Approximately 165,000 mine features (a single human-made object or disturbance associated with mining, tailings, machinery and facilities, etc. A mine can be comprised of one or more features) on more than 47,000 abandoned mine sites exist statewide.

- More than 39,400 abandoned mines (84 percent of 47,000 sites) present physical safety hazards, and approximately 5,200 (11 percent) present environmental hazards.

- More than 62,000 abandoned mine features (38 percent of 165,000 features) are hazardous openings.

- Federal lands contain approximately 67 percent of the abandoned mines in the state (primarily on Bureau of Land Management, National Park Service, and U.S. Forest Service property). Approximately 31 percent are on private lands, and about two percent are on State or local lands.

2014 Budget Actions. In discussions with the department in 2014, it became clear that the department needed to embark on an information-technology project to improve the way it provided information on mines in the state. To that end, the department estimated (and continues to estimate), that a state feasibility study report, and major funding, would be necessary to provide the public with information on mapped mines.

At the time, both budget and policy staff disagreed with this statement and worked with the department to identify a lower-cost, and more timely solution to the problem. It became clear that the department was 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. An allocation of $100,000 (General Fund), for three years, could be used to purchase software (MineTracker) compatible with the existing GeoTracker and EnviroStor software used by the Cal-EPA agencies. This option would save the state the cost of developing a "custom base" option that will take one to two years to develop.

Both Assembly and Senate budget committees approved the proposal. The proposal was subsequently removed at the request of the Governor's office at the end of the budget process citing General Fund issues. Instead, the department was required to report back to budget committees on its efforts to produce a working information management system.

Request to Army Corps of Engineers (February 2015). On February 6, 2015, the DOC Office of Mine Reclamation sent a letter to the U.S. Army Corps of Engineers (USACE) requesting $300,000 for development of a mine reclamation and remediation enterprise data management system (mine mapping). Specifically, the DOC requested an USACE contractor support to assist in completing an analysis and study for the proposed development and implementation of data management system. The request includes assistance with scanning all paper mine records and files to electronic format for the purposes of making report data searchable and retrievable and tracking and reporting statistics for individuals mines, counties. The department intends to digitize mine site and reclamation boundaries from filed reports in ArcView (a readily accessible geographic information system mapping program).

The DOC request to USACE outlines an enterprise data system that would include, but not be limited to:

- An enterprise system that is compatible with the DOC enterprise system, computing platform, and DOC geodatabases.
- An application containing all of DOC's mine related data and associated web application.
- Integration of processes associated with analyzing, prioritizing, managing and implementing mine reclamation and remediation in the state.
- Data access for federal, state, and local agencies, and the public.
- Direct online document and fee submission by mine operators in compliance with state mine reclamation requirements.
- A mobile application for digital field inventory and compliance inspection work providing data download and upload with the system.
- Business workflow management to assist with processing and tracking reclamation and compliance efforts.
- Scan and convert all mine records, reports, and maps to electronic format.
- Digitize in ArcView maps of reclamation and mine site boundaries and geographically based data points from paper documents.

Staff Comments. The need to improve the state's mine mapping has not diminished. For example, during every major wildfire, safety briefings are held to alert those working on the fire to hazards that crews may face. Having clear and accessible information for public and private entities during these discussions would be extremely important to prevent unnecessarily dangerous situations, not only for crews but for private entities also maintaining assets (such as utility crews, cleanup crews, etc.). Through discussions with the department, it is clear that the department maintains that it should embark on a major information technology project, in-house and custom, that would "allow it control" over the development of the system. Staff disagrees that each state agency should maintain multiple custom information technology projects. Rather, state agencies should embrace lower cost and off-the-shelf products that are compatible with existing systems.

Staff concurs with the department's needs, as outlined to the USACE; however, is confused why this proposals is not being made through the budget process. Given the interest of the Legislature, the department should be engaging in a discussion with budget and policy committees about the need for a new enterprise data system. The department's approach will take at least 3-5 years to begin implementation. Staff believes this timeframe could be reduced significantly with a more modest and targeted approach.

Staff Recommendation: Staff recommends approval of $100,000 (General Fund), for three years, for the department to purchase software, to provide immediate management of data that can be made available to public and private agencies.

Vote:

2. Surface Mining Regulation

Background. The Surface Mining and Reclamation Act of 1975 (the act) establishes the state's regulations for surface mining operations. Under the act, surface mining operators are required to have a mining permit, an approved reclamation plan, and secured financial assurances. (Financial assurances are used to pay for any mine reclamation costs in the event that a mine operator defaults on its obligation to reclaim the mine at the end of its useful life.) The act is administered by the DOC's Office of Mine Reclamation (OMR) and the State Mining and Geology Board (SMGB), which is also located within DOC. However, local entities—such as cities and counties—typically operate as the lead agencies in regulating mines within their jurisdictions.

The SMGB is the policy advising and appeal body for the act. Under the act, the SMGB also generally assumes the role of the lead agency if the local entity is not adequately performing its duties under the act. The OMR provides technical assistance to lead agencies and mine operators in the development of reclamation plans and financial assurances. The OMR also works with lead agencies to ensure that mining operations are conducted in accordance with their approved reclamation plans, as well as collects and analyzes data submitted by agencies and mine operators to monitor compliance.

The DOC's regulatory activities related to the act are currently supported by three special funds:

- **Surface Mining and Reclamation Account (SMARA).** The federal government provides states a portion of royalties collected from mining activities on federal land. Under state law, the first $2 million provided to California is deposited in the SMARA, to be used to administer the Act. The remaining federal mining revenues provided to California—estimated to be $93 million in 2015–16—are used to fund K–14 education.

- **Bosco–Keene Renewable Resources Investment Fund (RRIF).** The RRIF receives 30 percent—$1.2 million in 2015–16—of the royalties provided to the state from geothermal leases on federal lands. The remaining federal royalties go to local agencies (40 percent) and the California Energy Commission (30 percent), generally to support geothermal related activities, including exploration, research, and development activities.

- **Mine Reclamation Account (MRA).** The MRA receives revenue from two sources: (1) a $14 daily fee paid by mines in cities and counties where the SMGB acts as the lead agency and (2) annual regulatory fees paid by mine operators (reporting fees). Total annual revenue from the daily fee is about $180,000. For the reporting fees, DOC is required to adopt a fee schedule designed to cover its cost in carrying out the act, including reclamation plan and financial assurance review, mine inspection, and enforcement. However, existing law establishes annual caps on reporting fees for both an individual mine operator (about $5,000 in 2014–15) and total reporting fee revenue (about $4.5 million in 2014–15). Individual mine reporting fees are based on the total value of the minerals extracted. Both caps are adjusted annually for inflation. In 2015–16 total mine reporting fee revenue is expected be $3.5 million, roughly $1 million less than the cap.

- **Funding for Regulatory Activities Is Structurally Imbalanced**. Funding for the department's regulatory activities is structurally imbalanced. While revenues have remained relatively constant over the last few years, a variety of factors have increased costs, including increases in employee compensation and health costs and payments for general statewide administrative costs. Total revenues deposited into the three funds is projected to be about $6.8 million—roughly $2 million less than current costs. In recent years, this deficit was covered by reserves. The deficit is expected to continue, and potentially grow, in future years. Without any changes, these funds are projected to be insolvent in 2016–17.

Budget Proposal. The Administration proposes to address the structural deficit by increasing the amount of revenue deposited into the SMARA by tying the portion of the state's federal mining revenues that go to DOC to the SMARA appropriation in the annual state budget act. Effectively, the amount of federal mining royalties going to SMARA would be increased by the amount needed to make up the difference between costs and revenues—about $2 million 2015-16.

LAO Analysis. The LAO raises several concerns about the Governor's proposal. First, they acknowledge that there are several options available to the Legislature for addressing the structural deficit including: (1) reducing spending; (2) increasing SMARA revenue; (3) increase RRIF revenue; and, (4) increase MRA revenues. Each of these options results in tradeoffs to and policy decisions.

Further, the LAO suggests that MRA is the most appropriate funding source to address the deficit. Specifically, the LAO states:

> **MRA Is Most Appropriate Funding Source to Address Deficit.** In our view, state regulatory activities should generally be funded with revenues from fees paid by the regulated industry. The MRA is funded from reporting fees paid by mine operations and these funds must be used to administer the state's mining regulations, including reclamation plan and financial assurance review, mine inspection, and enforcement. Therefore, in our view, the mine reporting fees are the most appropriate funding source for funding the department's regulatory activities related to the Act.
>
> **Relying on MRA Would Require Raising Caps.** Currently, nearly all mine operators are paying the maximum individual reporting fee. Therefore, in order to generate a significant amount of additional revenue, the Legislature would need to raise or eliminate the maximum individual reporting fee. However, the existing cap on total revenue would only allow the department to collect an additional $1 million in revenue—less than what is needed to fully address the $2 million deficit.
>
> If the Legislature wishes to use MRA funds to fully address the deficit, it would also need to increase or eliminate the cap on total reporting fee revenue. Increasing mine reporting fees to address the entire structural deficit would increase the total amount of fee revenue by more than 50 percent—almost all of which would likely be paid by mine operators who are currently paying the maximum individual reporting fee (currently $5,000). The effect on any individual mine operator would depend on two main factors: (1) how much the Legislature increased the cap and (2) the details of how the department adjusted the fee schedule for individual mine operators.

The LAO recommends rejecting the Governor's proposal and instead recommends the use of MRA to address the deficit.

Staff Comments. Staff agrees that the structural deficit must be addressed. The tradeoff requires the Legislature to either reduce funding to Proposition 98 programs, or to raise fees paid by mine operators. The department should be prepared to discuss what impact a fee increase (either to partially or fully offset the structural deficit), would have on individual mine operators. It may be appropriate for the policy committees to discuss a fee proposal.

Staff Recommendation: Approve as proposed.

Vote:

3. Oversight on the Division of Oil, Gas, and Geothermal Resources (DOGGR)

Background. The Senate Natural Resource and Senate Environmental Quality Committees held a joint oversight hearing on March 10, 2015, titled "Ensuring Groundwater Protection: Is the Underground Injection Control (UIC) Program Working." Since June 2014, when a set of oil and gas waste disposal wells were ordered "shut in" by DOGGR, there have been a number of news stories released, as well as acknowledgements made by DOGGR, that numerous oil and gas related injection wells are improperly sited and present a risk of contamination to good quality groundwater used for drinking water and agricultural irrigation processes. Investigations by the U.S. Environmental Protection Agency and State Water Resources Control Board concur with this assessment and have raised a number of concerns about the way in which DOGGR manages the program, and protects groundwater quality.

Budget Actions. Beginning in 2011-12, the department acknowledged deficiencies in its programs and requested, during the May Revision process (three years in row), major changes to program funding. The budget committees concurred with the need for funds, but, having been given only two weeks to review these major proposals on more than one occasion, split the funding, instead requesting the department return with a long-term and comprehensive proposal.

Between 2011 and 2013, the budget added 53 positions and over $7 million in annual ongoing funding. The budget also required the department to annually provide updates on its UIC program for five years. To date the department has filed only one report.

Budget Request. The budget proposes reappropriation of $1.5 million in unencumbered funds from the Oil, Gas, and Geothermal Administrative Fund. Funding is proposed to be used to implement software development contract services related well stimulation activities.

Staff Comments. Staff continues to be concerned about the department's lack of focus on water resources in the state. The Central Valley Water Quality Control Board is actively reviewing surface and groundwater resources near underground injection wells, and both public and private entities are questioning DOGGR's various water quality exemptions, its record keeping, and its ability to manage this program. The department should be prepared to discuss the budget allocations received by the division and its commitment to managing this program.

Staff Recommendation: Hold Open.

Vote:

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

Senator Lois Wolk, Chair
Senator Jim Nielsen
Senator Fran Pavley

Thursday, March 19, 2015
9:30 a.m. or Upon Adjournment of Session
Hearing Room 112

OUTCOMES

Oversight

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.

Managing the Sacramento-San Joaquin Delta System

Special Presentation: Legislative Analyst's Office

Panel Discussion on Implementation of the Delta Plan and Management of the Delta System (invited):

- Patrick Johnston, Member, Delta Stewardship Council
- Erik Vink, Executive Director, Delta Protection Commission
- Campbell Ingram, Executive Officer, Sacramento-San Joaquin Delta Conservancy
- Michael George, Delta Watermaster, State Water Resources Control Board

No Action--Informational

3885 Delta Stewardship Council

Established in 2009 by the Delta Reform Act, the mission of the Delta Stewardship Council, through a seven-member board, is to further the state's goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Sacramento-San Joaquin Delta ecosystem. The goals are to be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta. In 2013, the council adopted a legally enforceable Delta Plan to further the state's goals and guide state and local agency activities related to the Delta. Under state law, agencies are required to coordinate their actions pursuant to the Delta Plan with the council and the other relevant agencies.

The council is informed by scientific input from the Delta Science Program and the Delta Independent Science Board. The mission of the Delta Science Program is to provide the best possible unbiased scientific information to inform water and environmental decision-making in the Delta. The Delta Stewardship Council is the successor to the California Bay-Delta Authority and CALFED Bay-Delta Program.

Governor's Budget. The Governor's January budget includes $25 million (mostly General Fund), an increase of $7.2 million. The increase is mainly due to a proposal to implement the Delta Plan.

EXPENDITURES BY PROGRAM (in thousands)

Fund	Actual 2013-14	Estimated 2014-15	Proposed 2015-16
General Fund	$6,535	$10,478	$17,118
California Environmental License Plate Fund	677	791	792
Federal Trust Fund	316	1,000	2,749
Reimbursements	3,460	4,600	4,450
Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002	4,318	1,000	-
Total Expenditures (All Funds)	**$15,306**	**$17,869**	**$25,109**

POSITIONS BY PROGRAM

Program	Actual 2013-14	Estimated 2014-15	Proposed 2015-16
Delta Stewardship Council	47.7	67.5	70.5
Total Positions (All Programs)	**47.7**	**67.5**	**70.5**

Items Proposed for Discussion

1. Delta Plan Implementation

Background. The council was created in 2009 as an independent state agency to guide the state's goals of: (1) providing more reliable water supply through the Delta and, (2) restoring the Delta. The Delta Plan, adopted in 2013, is both a regulatory document and a series of recommendations for state and local agencies operating within the Delta. The Delta Plan must, by law, be incorporated into the Bay Delta Conservation Plan (BDCP) when it is completed and permitted—and the council is required to hear appeals of the BDCP approval. The council also manages the Delta Science Program, designed to provide unbiased scientific information to inform water and environmental decision-making in the Delta.

The budget included the conversion of six limited-term positions to permanent, and 12 new positions as well as a baseline increase of $5.8 million ($3.2 million General Fund, $2 million bond funds and $600,000 from other state departments).

Budget Proposal. The Governor's budget requests three new positions, and $9.25 million ($6.6 million General Fund, $850,000 reimbursements, and $1.7 million federal funds), as well as reappropriation of Proposition 50 bond funds. The funds are requested to fulfill the Delta Plan implementation requirements for the following areas:

- **Delta Science Program.** A total of $8 million—of this amount, $5.5 million is General Fund for science contracts and grants ($1 million of which is one-time), $850,000 is Proposition 1E bond funds to support three existing positions through an interagency agreement (reimbursements), and $1.7 million is federal funds. The 2014 budget included 19 positions (six existing and 13 new and permanent).

- **Planning, Performance and Technology.** $1.2 million (General Fund) and two positions, including $1 million for one-time consultants. The 2014 budget included three new positions and funding, and one-time consultant contracts ($900,000), for similar purposes.

Staff Comments. Staff concurs with the need to continue a baseline Delta Science Program and the baseline activities proposed by the council in the current-year's budget. However, it was not anticipated that this council would grow over 100 percent in two years, nor that General Fund would be the proposed for the majority of new funding for workload. At the time, the Council did not indicate that there would be a need for additional and ongoing increase in baseline funding for the programs. Staff has concerns about the ongoing increases in budgeting, particularly from the General Fund, for the Council—and suggests this entity should strive to work with other departments to collaborate with existing resources, rather than continue to increase funding so dramatically.

Staff Recommendation: Approve federal funds, bond reappropriation, and reimbursements. Hold open General Fund augmentation.

Vote: 2-1 (Nielsen no)

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 $11.9 million and nine positions for support of the department. This is an increase of $10 million from bond funds.

EXPENDITURES BY FUND (in thousands)

Fund	Actual 2013-14	Estimated 2014-15	Proposed 2015-16
General Fund	$821	$940	$1,006
California Environmental License Plate Fund	71	78	77
Federal Trust Fund	305	286	303
Reimbursements	421	637	637
Water Quality, Supply, and Infrastructure Improvement Fund of 2014	-	-	9,871
Total Expenditures (All Funds)	**$1,618**	**$1,941**	**$11,894**

POSITIONS BY PROGRAM

Program	Actual 2013-14	Estimated 2014-15	Proposed 2015-16
Sacramento-San Joaquin Delta Conservancy	8.1	9.0	13.0
Total Positions (All Programs)	**8.1**	**9.0**	**13.0**

Item Proposed for Discussion

1. Delta Plan Implementation and Baseline Augmentation

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 Proposals. The budget includes two proposals:

1. $9.9 million (Proposition 1 bond funds) in 2015-16 and reduced to $9.7 million in out-years, for four years, to fulfill the requirements of the bond. The proposal includes four full-time and permanent positions and office space.

2. $70,000 permanent baseline increase (General Fund), to cover increased operational costs.

Staff Comments. Staff concurs with the conservancy's need for the bond funds and finds this consistent with the voter-approved Proposition 1 water bond. The need for baseline funding is less clear. As discussed in the oversight hearing on the Environmental License Plate Fund (ELPF), a total of $2.5 million from Proposition 1 is available to the conservancy for state operations. As nearly 100 percent of the conservancy's activities are related to the purposes of the bond, it is unclear why the Administration continues to propose both a baseline General Fund increase and continued reliance on the Environmental License Plate Fund. These may be necessary after all state operations allocations from bond funds have been expended, likely in five to ten years. For the four-year period requested to distribute the $50 million, it would seem that $2.5 million would be sufficient for the staffing of the conservancy.

2015-16	General Fund (proposed)	ELPF (baseline)	Prop 1 (proposed)	Proposition 1 (Full Allocation)	
				Total	5% for State Operations
Delta Conservancy	$70,000	$77,000	$9.9 million	$50 million	$2.5 million

Staff Recommendation: Approve bond funds. Hold open General Fund. Hold open ongoing Environmental License Plate Fund baseline funds until a final discussion takes place on these funds in budget committee.

Vote: 2-1 (Nielsen no)

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.

EXPENDITURES BY PROGRAM (in thousands)

Program	Actual 2013-14	Estimated 2014-15	Proposed 2015-16
Continuing formulation of the California Water Plan	$322,103	$706,218	$192,147
Implementation of the State Water Resources Development System	818,526	1,697,954	1,697,591
Public Safety and Prevention of Damage	363,185	1,053,476	566,976
Central Valley Flood Protection Board	5,118	14,671	15,401
Services	2,502	7,706	7,716
California Energy Resources Scheduling	881,211	958,001	961,575
Loan Repayment Program	-1,181	-1,405	-1,405
Administration	94,750	91,452	93,196
Total Expenditures (All Programs)	**$2,391,465**	**$4,436,622**	**$3,440,002**

Items Proposed for Vote-Only

1. **Administration of Truckee River Operating Agreement.** The budget requests $150,000 (General Fund) in 2015-16, and $300,000 annually thereafter, in order to augment the Central California Water Management Program to meet mandated responsibilities under the Truckee River operating agreement.

2. **Sacramento Valley Water Management and Habitat Protection Project.** Due to an inadvertent error, this item must be rejected without prejudice. The department will provide a substitute proposal during the spring budget process.

Staff Recommendation: Approve Item 1. Reject Item 2, without prejudice.

Vote: 3-0

Items Proposed for Discussion

1. California Water Commission

Background. The California Water Commission consists of nine members appointed by the Governor and confirmed by the State Senate. Seven members are chosen for their general expertise related to the control, storage, and beneficial use of water and two are chosen for their knowledge of the environment. The commission provides a public forum for discussing water issues, advises the Department of Water Resources (DWR), and takes actions to further the development of policies that support integrated and sustainable water resource management and a healthy environment. Statutory duties include advising the director of DWR, approving rules and regulations, and monitoring and reporting on the construction and operation of the State Water Project.

Proposition 1 dedicated $2.7 billion for investments in water storage projects and designated the California Water Commission as the agency responsible for appropriately allocating these funds. The commission, through the Water Storage Investment Program, will fund the public benefits of these projects. Eligible projects must also provide measurable benefits to the Delta ecosystem or its tributaries. Specifically, the bond states:

> 79751. Projects for which the public benefits are eligible for funding under this chapter consist of only the following:
>
> > (a) Surface storage projects identified in the CALFED Bay-Delta Program Record of Decision, dated August 28, 2000, except for projects prohibited by Chapter 1.4 (commencing with Section 5093.50) of Division 5 of the Public Resources Code.
> > (b) Groundwater storage projects and groundwater contamination prevention or remediation projects that provide water storage benefits.
> > (c) Conjunctive use and reservoir reoperation projects.
> > (d) Local and regional surface storage projects that improve the operation of water systems in the state and provide public benefits.
>
> 79752. A project shall not be funded pursuant to this chapter unless it provides measurable improvements to the Delta ecosystem or to the tributaries to the Delta.
>
> Further, the bond provides a continuous appropriation such that no moneys in any fund that, by any statute other than a Budget Act, are continuously appropriated without regard to fiscal years, may be encumbered unless the Legislature, by statute, specifies that the moneys in the fund are appropriated for encumbrance.

Budget Proposal. The Governor requests eight new, full time positions, and 4.3 existing positions within the Department of Water Resources, to support the commission. The commission intends to expend $3.3 million of the $2.7 billion that was continuously appropriated to the commission to support this budget proposal. A budget action is not necessary to approve the funding.

Staff Comments. As stated above, funds from this bond allocation are *continuously appropriated*, and therefore this subcommittee will not be approving or denying any project, proposals, or activities related to the commission's duties. Staff has no concerns with the positions requested by the commission.

However, staff is concerned about statements made by the Secretary for Natural Resources at its hearing on March 5, 2015. Specifically the Secretary, in response to a question from a member of the subcommittee, implied that these funds *would be* used for surface storage projects identified by the department. This is not accurate and it must be made clear that the commission will act independently to implement Section 79751 and 79752 of the bond.

The commission met on March 18, 2015, where it discussed the commission's role in allocating bond funds. It also took public testimony and allowed for a public dialogue on the allocation of the funds. It is within this arena that the discussion of how, which, and where, projects will be allocated.

The public are encouraged to attend commission meetings. The next meeting of the commission is scheduled for 9:30 a.m. on April 15, 2015, in Fresno. All meetings, agendas and public documents are readily available on the commission's website www.cwc.ca.gov.

Commenters:

1. Joseph Byrne, Member, California Water Commission
2. David Guy, President, Northern California Water Association
3. Danny Merkley, Director of Water Resources, California Farm Bureau
4. Jonas Minton, Water Policy Advisor, Planning and Conservation League

Staff Recommendation: Approve positions. No action necessary on funding.

Vote: **3-0**

2. FloodSAFE California and Proposition 1E Appropriations

Background. The LAO has done extensive analysis of the state's flood proposals and provides analysis and background of the current Governor's proposal, as follows:

Defining Flood Risk. According to a November 2013 report by DWR, California faces significant risk from flooding. The flood risk for a given area is determined by the amount of damage (such as damage to property and loss of life) that would be caused if a flood occurred, combined with the likelihood that a flood will occur. For example, an urban area along a river might have a relatively high flood risk—even if a flood is unlikely to occur—because the area has high property values and a large number of residents would be affected if flooding happened. In contrast, a rural area might have a lower flood risk—even if a flood is more likely to occur—because property values and populations in the area are lower.

State Role in Flood Protection. Historically, most flooding has occurred in the Central Valley. The state is the primary entity responsible for flood control in this area. The State Plan of Flood Control (SPFC) is the state's system of flood protection in the Central Valley. It includes about 1,600 miles of levees, as well as other flood control infrastructure, such as bypasses and weirs, which are used to divert water at times of high flow.

Within the SPFC, the state funds the construction and repair of flood control infrastructure. Typically, the federal and local governments also provide funding for these projects. The state also provides grants to local governments to support local levee improvements and other activities. For most levee segments, the state has turned over the operations and maintenance to local governments (primarily local flood control districts). Even though some of these local agencies have failed to adequately maintain the levees in the past, the state has been found liable for such levee failures. Outside the SPFC, the state's role in flood management generally consists of providing financial assistance to local governments for flood control projects located throughout the state.

Voters Passed Proposition 1E. In November 2006, California voters approved the Disaster Preparedness and Flood Protection Bond Act of 2006 (Proposition 1E) in order to improve the condition of the state's levees. Proposition 1E authorized the sale of $4.1 billion in general obligation bonds for several broad categories of flood protection activities, such as improvements to the state's flood control system and the construction of bypasses. The measure requires (1) all funds to be appropriated by July 1, 2016, (2) the funds to be directed to projects that achieve maximum public benefits, and (3) the Governor to submit an annual flood prevention expenditure plan that includes the amount of matching federal and local funds.

Central Valley Flood Protection Plan Developed. Subsequently, the Legislature passed the Central Valley Flood Protection Act of 2008 (Chapter 364, Statutes of 2007 [SB 5, Machado]). Chapter 364 required DWR to develop a plan—the Central Valley Flood Protection Plan (CVFPP)—for reducing the risk of flooding throughout the SPFC system, including recommended actions and projects. The CVFPP was developed by DWR in 2012 and identified a total flood control funding need of $14 billion to $17 billion.

State Flood Protection Activities. The state funds several types of flood protection activities. This includes three types of state–managed capital outlay projects:

- **Urban Capital Outlay Projects.** These projects protect urban areas, typically by improving levees. Projects in urban areas often provide large reductions in flood risk for the protected areas because the levees protect high value property and large populations. However, the way urban capital projects have historically been constructed often negatively affect fish habitat for several reasons, such as by reducing native vegetation. Consequently, such projects often require significant environmental mitigation. The federal government often provides most of the funding for these projects because they meet certain federal criteria for reducing flood risk in a cost–effective manner.

- **Rural Capital Outlay Projects.** These projects protect rural areas by repairing levees and making other improvements, such as flood–proofing structures or widening floodplains. The impact of rural flood projects on fish habitat depends on how they are designed. For example, some of these projects include “setback” levees, which are built further back from the bank of the river. This connects the river to its historical floodplain, which creates additional habitat and provides good food sources for fish and other species. Because these projects reduce risk in rural areas—which do not have high populations or property values—they often do not meet the federal government’s cost–effectiveness criteria. Thus, the state typically pays over half the cost of these projects, with local governments paying the remainder.

- **System-wide Capital Outlay Projects.** These projects include building or expanding existing bypasses (such as the Yolo Bypass near Davis). Bypasses significantly reduce the chance of flooding for large regions—including urban and rural areas—and improve environmental benefits for fish species that migrate through them. However, because some of the flood benefits accrue to rural areas, these projects may not reduce flood risk as cost–effectively as urban projects. The cost shares among state, federal, and local governments depend on the specific project.

The state also provides funding for other activities, including:

- **Grants to Local Governments.** The state provides grants to support a variety of flood protection activities at the local level. Specifically, the state funds a share of the costs associated with projects that are developed and led by local governments. This includes grant programs focused on reducing flood risk in small communities and supporting local levee maintenance.

- **State Operations.** The state also supports various state flood protection activities, such as updates to the CVFPP, analyses of flood risk, levee maintenance, and purchasing equipment and supplies needed to respond to flood emergencies.

Challenges to Expending Proposition 1E Funds. While the Legislature has appropriated most of the Proposition 1E funds for specific projects, only $1.9 billion of Proposition 1E funds had been expended or committed to projects as of June 2013 (the latest information available). According to DWR, this is because the state has faced some challenges in expending Proposition 1E funds. These challenges include difficulties in (1) securing funding for local and federal shares of certain flood protection projects; (2) identifying projects developed by local agencies that have gone through the required design stages and environmental reviews; and (3) securing other local, state, and federal permits needed to complete projects.

Budget Proposal

The Governor's proposed budget for DWR includes $1.1 billion (nearly all from Proposition 1E) to support various flood control activities. This amount is primarily for capital outlay projects ($738 million), but also includes some funding for local assistance ($222 million) and state operations ($163 million). The proposal would appropriate all remaining Proposition 1E funding and would support 530 existing positions.

2015–16 Proposed Proposition 1E Appropriations
(Dollars in Millions)

Purpose	Amount	Percent of Total
Capital Outlay Projects:	$738	66%
In Urban Areas	(320)[a]	(28)
System-wide	(300)	(27)
In Rural Areas	(118)	(11)
Local Assistance	222	20
State Operations	163	15
Totals	**$1,123**	**100%**

[a] Includes $13.8 million from other bond funds and $52 million in reimbursement authority.

The Governor proposes to give DWR ten years to encumber the funds (commit to projects) and an additional two years to expend them. This significantly exceeds the typical three–year appropriation for capital projects. Unlike with prior appropriations, the proposal does not identify specific projects that would be funded. The proposal would also allow the department to transfer funds between state operations, local assistance, and capital outlay projects as it deems necessary. The Administration has indicated that it will seek legislation to appropriate some funding prior to the passage of the 2015–16 Budget Act with the intent to expedite flood projects. In future years, the Administration also intends to submit an annual report detailing proposed expenditures for the year and progress on past programs.

LAO Analysis. According to the LAO, the Governor's proposal to allow for a ten year appropriation period limits the ability of Legislature's ability to conduct effective oversight over the funds. In addition, they are concerned that, without addressing the underlying reason for the delays in appropriating funds, that delays will continue. In addition, the LAO states that the proposal provides no opportunity for the Legislature to weigh trade-offs. Because the funding is intended to achieve only a portion of the state's flood liabilities, "the Legislature will want to weigh in on which projects and activities are funded in order to ensure that its highest priorities are achieved. However this proposal does not provide the Legislature with such an opportunity."

Staff Comments. Staff concurs with the LAO analysis. It is clear that the department has not been able to spend the bond funds in the manner that the bond measure anticipated. At the time the measure bond was drafted and passed, the Legislature had anticipated that funding would move quickly to necessary projects, given the enormity of the problem. Instead, continued issues with matching funds, both local and federal, caused delays. So, too, the downturn in the economy exacerbated these delays.

Staff Recommendation: Staff recommends the following:

(1) Require the department, by April 1, to present a list of projects and a clear expenditure plan for both the state operations and system-wide allocation pot. This should include specific projects and priorities.

(2) Approve urban and rural capital outlay, and local assistance proposals.

(3) Deny trailer bill language allowing for 10-year appropriation. Require the Administration to return with a proposal for a five-year appropriation period, with reporting language. Additionally, require the department to revise the proposal to allow for shifting between funding categories such that the only type of funding shift would be *from* state operations and system-wide capital outlay *to* local assistance and urban/rural capital outlay.

Vote: **3-0 to approve items 2-3. Hold Open Item 1 for more detailed information from the department.**

3. Central Valley Flood Protection Board

Background. The Central Valley Flood Protection Board (CVFPB) serves as liaison between the State of California, its residents, property owners, Central Valley agencies, and the federal government. Since 2011, it has worked to provide flood protection within California's Central Valley, while also considering environmental and habitat concerns. Under California law, any modification to the federal/State flood control system, encroachment, or project on, or near, the Sacramento and San Joaquin Rivers or their tributaries, must be approved by the board. The CVFPB is governed by a board consisting of seven Governor-appointed and Senate-confirmed members, plus two non-voting ex-officio members from the California Legislature. The monthly public board meetings provide an open forum where all interests may express their views regarding flood management, and where permits, board-sponsored projects, and other actions are reviewed and approved.

Budget Proposal. The Governor's budget includes two proposals for the CVFPB, as follows:

(1) $800,000 (General Fund) to support five new permanent positions located within the board to fulfill assurances that the state has made to the federal government through formal "Assurance Agreements." Specifically, staff are requested to maintain 116 "Local Maintaining Agencies" in resolving levee deficiencies that caused the federal government to remove more than half of these levees from federal financial assistance to rehabilitee levees after catastrophic failures (so-called "PL84-99" levees). Continued review by federal agents adds to this list as further illegal encroachments and deficiencies in the levees are encountered.

(2) $600,000 (Proposition 1E) to update enforcement and permitting requirements while adopting and overseeing the implementation of the Central Valley Flood Protection Plan. The Administration also requests the ability to transfer these funds between capital outlay, local assistance and state operations.

Staff Comments. Staff concurs with the need to update enforcement and permitting requirements. However concerns have been raised about the need for General Fund to pay for positions that directly benefit specific local entities. In addition, the use of Proposition 1E bond funds for ongoing enforcement and permitting may not be in keeping with the nature of the bond for long-term and mostly capital, projects.

Over a number of years, the Administration, LAO, and others, have suggested any number of fees, assessments and taxes that would directly benefit those entities who receive the benefit of the state's flood efforts. For example, in all other state agencies (whether to a public or private agency), fees pay for the majority of regulatory functions. It is unclear why the Administration has not suggested a focused funding mechanism for at least part of these proposals.

Staff Recommendation: Hold Open—require the board to return in May with a proposal that is not reliant solely on General Fund or bond funds.

Vote: 3-0

4. Groundwater Management

Background. On September 16, 2014, the Governor signed into law three groundwater bills: (1) SB 1168 (Pavley), Chapter 346, Statutes of 2014; (2) AB 1739 (Dickenson), Chapter 347, Statutes of 2014; and, (3) SB 1319 (Pavley), Chapter 348, Statutes of 2014. This package of bills significantly expands the directed actions and authority of DWR to implement sustainable groundwater management, statewide. The new legislation suggests local agencies form Groundwater Sustainability Agencies (GSA) to manage groundwater through sustainability plans in high and medium priority basins. Financial and enforcement tools were provided in the legislation, to assist GSAs in carrying out effective sustainable groundwater management. The legislation directs DWR to complete regulations, review sustainability plans, alternatives to these plans, and to conduct groundwater assessments.

Budget Proposal. The Governor's budget requests $6 million (General Fund) in 2015-16, and $8 million for four years from 2016-17 through 2019-20, for DWR to implement the legislation. The proposal includes support of five new, and 26 existing positions, and funding for external consulting and technical assistance.

Fiscal Analysis of the Bills. The legislature passed these bills with the following fiscal analysis:

- SB 1168 (Pavley): "Increased annual General Fund costs to DWR of approximately $4 million *beginning in fiscal year (FY) 2019-20* to collect and manage data, complete evaluations, and assist the State Water Board in developing interim plans. DWR received $22.5 million in the 2014-15 Budget ($2.5 million for FY 2014-15 and $5 million each year from FY 2015-16 through FY 2018-19) which will fund Bulletin 118 (groundwater plans) updates and technical assistance."

- AB 1379 (Dickenson): "No additional state costs for FY 2014-15 through FY 2018-19 to the DWR for initial activities. Annual costs $3.5 to $4 million from the General Fund beginning in FY 2017-18 to DWR to review plans and to provide ongoing technical support."

- SB 1319 (Pavley): "Absorbable General Fund costs for DWR to assist SWRCB in developing interim plans. DWR received $22.5 million in the 2014-15 Budget ($2.5 million for fiscal year FY 2014-15 and $5 million each year from FY 2015-16 through FY 2018-19, which will fund Bulletin 118 updates and technical assistance."

Staff Comments. Staff reviewed correspondence between the Department and the fiscal committees and concurs with the fiscal analysis of the bills, which was based on estimates provided by the department (verified by staff). Groundwater management is critical to the state of California. In keeping with the intent of the bills, the fiscal analyses allow local governments to improve management of their groundwater basins and do not envision a state role (beyond resources already allocated) for at least two years.

Staff Recommendation: Deny Proposal.

Vote: Vote delayed until May Revise

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 January Budget includes $1.4 billion to support the board's activities, an increase of $221,000 over the current year budget. This change is primarily due to implementation of the Water Bond (Proposition 1) and recent legislation to provide increased cleanup of groundwater contamination statewide. Most of the board's budget is special funds, with $32.7 million of the proposed total funding coming from General Fund.

EXPENDITURES BY PROGRAM (in thousands)

Program	Actual 2013-14*	Estimated 2014-15*	Proposed 2015-16
Water Quality	$400,422	$1,074,439	$1,293,592
Drinking Water Quality	-	35,650	35,030
Water Rights	18,968	25,783	28,948
Department of Justice Legal Services	956	1,217	1,217
Total Expenditures (All Programs)	**$420,344**	**$1,137,089**	**$1,358,787**

* The 2013-14 budget included the shift of the drinking water program from the Department of Public Health to the State Water Resources Control Board.

POSITIONS BY PROGRAM

Program	Actual 2013-14	Estimated 2014-15	Proposed 2015-16
Water Quality	1,132.4	1,291.9	1,391.4
Drinking Water Quality	-	229.7	229.7
Water Rights	116.6	135.5	178.5
Administration	284.8	215.0	215.0
Total Positions (All Programs)	**1,533.8**	**1,872.1**	**2,014.6**

Items Proposed for Vote-Only

1. **Technical Bond Adjustment.** The Governor's budget requests a reduction of state operations authority in Propositions 13 and 50, and an augmentation of Proposition 84 state operations authority; reversions of the specified amounts for various fiscal years of state operations and local assistance funds for Propositions 13, 40, 50 and 84; and the appropriation of funds for Propositions 13, 40, 50, 84 to ensure the purpose of the bonds are met with the funding of new projects. Additionally, the State Water Board requests that these funds be available for encumbrance until June 30, 2018.

2. **SB 985 Stormwater Resource Plan.** The Governor's budget requests $381,000 and 3.0 two-year limited term positions from the Waste Discharge Permit Fund to implement the mandates of SB 985 (Pavley), Chapter 555, Statutes of 2014. The intent of the SB 985 is to promote storm water use projects and dry weather non-storm water runoff use projects through storm water resource plans.

3. **AB 2071 Use of Recycled Water for Livestock.** The Governor proposes a one-time, General Fund increase of $300,000 to implement the requirements of AB 2071 (Levine), Chapter 92, Statutes of 2014. These funds enable the State Water Board to hire contractors to coordinate, oversee, and administer an expert panel to determine if the use of tertiary recycled water for consumption by animals poses a significant health risk to the public or animals.

4. **Small Communities Waste Water Project.** The Governor's budget requests a one-time augmentation of $4 million for 2015-16, [total of $12 million for 2015-16, for the State Water Pollution Control Revolving Fund Small Community Grant Fund to assist small disadvantaged communities (SDACs)] with their wastewater needs. These grants will help SDACs achieve compliance with water quality regulations, protect surface and groundwater quality, and help eliminate threats to public health and safety. The State Water Board requests that the appropriated funds be available for encumbrance until June 30, 2017.

Staff Recommendation: Approve Item 1-4.

Vote: ***Items 1, 3, 4 – Vote 2-0 (Pavley absent)***
Item #2 Hold Open

Items Proposed for Discussion

1. Drinking Water Fee Regulation

Background. The Safe Drinking Water Program is a mandated program to ensure that all small and large public water systems meet the Safe Drinking Water Act standards. Fees are used to support the Safe Drinking Water Program budgetary expenditures. However, for the past two fiscal years, the Safe Drinking Water Program fees have not generated sufficient revenue to support budgetary expenditures. Total revenue for 2012-13 and 2013-14 has fallen short of total program expenditures in the amount of $1.3 million. The shortfall in revenue has been offset by a combination of Public Water System Supervision federal grant and a set-aside from the Drinking Water State Revolving Fund. The use of alternative funding sources is forcing the program to rely on federal funds that are not guaranteed on an annual basis. Currently, in order to amend the fee schedules, the State Water Resources Control Board (State Water Board) is subject to the Office of Administrative Law’s review process. This request is to amend the Health and Safety Code to allow the State Water Board to adopt fee regulations by emergency actions to ensure an annual fee schedule is adopted to generate sufficient revenue to support Safe Drinking Water Program annual budgetary expenditures. This will also align the Safe Drinking Water Program fee process with the State Water Boards’ Waste Discharge Permit Fees and Water Rights Fees processes.

Budget Proposal. The Governor's budget requests trailer bill language to amend the Health and Safety Code to allow the State Water Board to adopt fee regulations by emergency actions to ensure an adopted annual fee schedule will generate sufficient revenue to support Safe Drinking Water Program annual budgetary expenditures and ensure the immediate preservation of the public peace, health, safety and general welfare. Approving this proposal would to give the State Water Board, through emergency regulations, the ability to adopt a fee schedule that would fully support the Safe Drinking Water Program and eliminate the need for federal fund assistance.

Staff Comments. Staff concurs with the need for this proposal. As part of the transfer of programs to the State Water Board, it was clear that the board would be reviewing the longstanding issues of funding for the various programs. This would result in a sustainable funding source and reduce the risk of relying on federal funds each fiscal year. It is important to note that the total revenue collected each year through annual fees would be set at an amount equal to the revenue levels set forth in the budget act for this activity. Further, this proposal allows for an annual stakeholder process to discuss fee options, present the findings and recommendation to the State Water Board and get their approval.

Staff Recommendation: Approve item.

Vote: Hold Open

2. SB 445 Implementation—Underground Storage Tank Cleanup Program

Background. This proposal implements the changes placed into law by SB 445 (Hill), Chapter 547, Statutes of 2014, which took effect immediately as an urgency measure on September 25, 2014, and affects the Underground Storage Tank Cleanup Fund (USTCF) and the California Water Boards Groundwater Cleanup programs. SB 445 provides new funding to address the most serious groundwater contamination sources such as solvents (from drycleaners and industries), nitrates (chemical fertilizers), and perchlorate (fireworks, rockets) that have taken thousands of public supply wells out of service in drought-impaired California. The law also supports the continued efforts to address contamination from thousands of petroleum underground storage tanks by requiring removal of single-walled USTs that are likely to have released contaminants into groundwater. The law makes several additions to make funding available to claimants, grantees, and loan recipients. SB 445 provides the State Water Board with the administrative tools to address investigation and timely response to known fraud against the USTCF. This authority will help preserve the funds for their intended purpose. Additional provisions require studies and audits to continue program improvements and accountability.

Budget Proposal. The Governor's budget requests: (1) an increase of authority in USTCF of $39.5 million that will be used to reimburse tank owners and operators for their costs in cleaning up leaking Underground Storage Tanks; (2) an appropriation to the Site Cleanup Subaccount (SCS) of $24.7 million of which $4.9 million is one-time and $19.8 million is ongoing for the investigation and remediation of contaminated sites where there is no viable party; and, (3) an increase of authority in the Petroleum Underground Storage Tank Financing Account (PUSTFA) of $24.7 million of which $4.9 million is one-time and $19.8 million is ongoing for loans and grants for Replacing, Removing, or Upgrading Underground Storage Tanks (RUST).

Additionally, the request includes a one-time appropriation of $100 million from the Expedited Claim Account (ECA), with availability for expenditure until June 30, 2018. The proposal would fund 21 new positions plus a funding shift equivalent to 17 positions and a permanent augmentation of $79 million in baseline authority supported by the SB 445 'mil' tax increase. An increase in state operations authority as outlined in the budget request summary will allow the State Water Board to recognize the storage fee increase as implemented by SB 445, as well as expend the additional revenue to support cleanup of leaking USTs.

Staff Comments. Staff concurs with the need for the proposal.

Staff Recommendation: Approve item.

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

3. Marijuana Cultivation Enforcement Team

Background. California produces more marijuana from outdoor cultivation 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 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, increased threats to endangered species, 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 hundreds of marijuana eradication and reclamation missions. These missions have led to the arrest of over 200 illegal marijuana growers, seizure of firearms and over thousands of pounds of marijuana. The state has collected trash, poly pipe, fertilizer, common pesticides, herbicides, and rodenticides, hazmat containers, and removed 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 Oversight—2014. This subcommittee heard testimony in 2014 on the issue of marijuana enforcement and focused on the possible use of existing departments—the Department of Food and Agriculture, the Department of Fish and Wildlife, and the Department of Pesticide Regulation—to regulate the sale of medical marijuana, as well as the enforcement of environmental laws for illegal cultivation. The budget approved supplemental reporting language requiring the Administration to report back at budget hearings on its recommendations to require "215" growers to comply with regular permitting, and any needs for regulatory changes.

Budget Proposal. The Governor's budget requests $1.5 million General Fund and 11 two-year, limited-term, positions to continue implementation of a task force and priority-driven approach to address the natural resources damages from marijuana cultivation, primarily on private lands in Northern California, but also in targeted partnerships with DFW on high conservation value state public lands. The proposal continues the 11 positions approved in the 2014-15 budget. The multidisciplinary task force assigned to address this issue will develop a long-term scientific monitoring and permitting program in anticipation of future state regulatory changes related to marijuana. The continuation of the current year effort will be focused in the geographic area with the greatest need, which are those counties covered by the North and Central Valley Water Boards Regions.

Staff Comments. The board should provide its update to the subcommittee on the reporting language requested in the 2014 budget.

Staff Recommendation: Approve item.

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

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 proposes $92 million for the DOC in 2015–16, a net decrease of $8 million (eight percent) below estimated expenditures in the current year. This decrease is driven primarily by the expiration of one–time funding provided for certain oil and gas regulatory activities.

EXPENDITURES BY PROGRAM (in thousands)

Program	Actual 2013-14*	Estimated 2014-15*	Proposed 2015-16*
Geologic Hazards and Mineral Resources Conservation	$19,438	$24,801	$26,559
Oil, Gas and Geothermal Resources (DOGGR)	37,380	55,009	45,608
Land Resource Protection	32,355	12,041	9,950
Office of Mine Reclamation	7,049	7,420	8,778
State Mining and Geology Board	1,102	1,244	1,244
Total Expenditures (All Programs)	**$97,324**	**$100,515**	**$92,139**

POSITIONS BY PROGRAM

Program	Actual 2013-14	Estimated 2014-15	Proposed 2015-16
Geologic Hazards and Mineral Resources Conservation	101.4	115.0	115.0
Oil, Gas and Geothermal Resources	176.5	244.9	244.9
Land Resource Protection	20.7	23.9	23.9
Office of Mine Reclamation	37.4	40.5	40.5
State Mining and Geology Board	4.0	4.0	4.0
Administration	92.5	112.6	112.6
Total Positions (All Programs)	**432.5**	**540.9**	**540.9**

Items Proposed for Vote-Only

1. **Proposition 50 Watershed Program Implementation Study.** The budget requests one, two-year limited-term appropriation of $200,000 in 2015-16, and $358,000 in 2016-17 from Proposition 50 bond funds. The appropriation is proposed to be used by the Division of Land Resource Protection to fund a comprehensive evaluation to address the effects, benefits, and outcomes resulting from the Proposition 50 watershed program implementation.

Staff Recommendation: Approve Item 1.

Vote: Hold Open

Items Proposed for Discussion

1. Mine Mapping in California

Background. The DOC has been tasked with tracking and mapping mines throughout the state (both functioning and abandoned). The main focus of the department has been locating abandoned mines through its Abandoned Mine Lands Unit (AMLU). The AMLU estimates of the number of abandoned mines in California include the following:

- Approximately 165,000 mine features (a single human-made object or disturbance associated with mining, tailings, machinery and facilities, etc. A mine can be comprised of one or more features) on more than 47,000 abandoned mine sites exist statewide.

- More than 39,400 abandoned mines (84 percent of 47,000 sites) present physical safety hazards, and approximately 5,200 (11 percent) present environmental hazards.

- More than 62,000 abandoned mine features (38 percent of 165,000 features) are hazardous openings.

- Federal lands contain approximately 67 percent of the abandoned mines in the state (primarily on Bureau of Land Management, National Park Service, and U.S. Forest Service property). Approximately 31 percent are on private lands, and about two percent are on State or local lands.

2014 Budget Actions. In discussions with the department in 2014, it became clear that the department needed to embark on an information-technology project to improve the way it provided information on mines in the state. To that end, the department estimated (and continues to estimate), that a state feasibility study report, and major funding, would be necessary to provide the public with information on mapped mines.

At the time, both budget and policy staff disagreed with this statement and worked with the department to identify a lower-cost, and more timely solution to the problem. It became clear that the department was 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. An allocation of $100,000 (General Fund), for three years, could be used to purchase software (MineTracker) compatible with the existing GeoTracker and EnviroStor software used by the Cal-EPA agencies. This option would save the state the cost of developing a "custom base" option that will take one to two years to develop.

Both Assembly and Senate budget committees approved the proposal. The proposal was subsequently removed at the request of the Governor's office at the end of the budget process citing General Fund issues. Instead, the department was required to report back to budget committees on its efforts to produce a working information management system.

Request to Army Corps of Engineers (February 2015). On February 6, 2015, the DOC Office of Mine Reclamation sent a letter to the U.S. Army Corps of Engineers (USACE) requesting $300,000 for development of a mine reclamation and remediation enterprise data management system (mine mapping). Specifically, the DOC requested an USACE contractor support to assist in completing an analysis and study for the proposed development and implementation of data management system. The request includes assistance with scanning all paper mine records and files to electronic format for the purposes of making report data searchable and retrievable and tracking and reporting statistics for individuals mines, counties. The department intends to digitize mine site and reclamation boundaries from filed reports in ArcView (a readily accessible geographic information system mapping program).

The DOC request to USACE outlines an enterprise data system that would include, but not be limited to:

- An enterprise system that is compatible with the DOC enterprise system, computing platform, and DOC geodatabases.
- An application containing all of DOC's mine related data and associated web application.
- Integration of processes associated with analyzing, prioritizing, managing and implementing mine reclamation and remediation in the state.
- Data access for federal, state, and local agencies, and the public.
- Direct online document and fee submission by mine operators in compliance with state mine reclamation requirements.
- A mobile application for digital field inventory and compliance inspection work providing data download and upload with the system.
- Business workflow management to assist with processing and tracking reclamation and compliance efforts.
- Scan and convert all mine records, reports, and maps to electronic format.
- Digitize in ArcView maps of reclamation and mine site boundaries and geographically based data points from paper documents.

Staff Comments. The need to improve the state's mine mapping has not diminished. For example, during every major wildfire, safety briefings are held to alert those working on the fire to hazards that crews may face. Having clear and accessible information for public and private entities during these discussions would be extremely important to prevent unnecessarily dangerous situations, not only for crews but for private entities also maintaining assets (such as utility crews, cleanup crews, etc.). Through discussions with the department, it is clear that the department maintains that it should embark on a major information technology project, in-house and custom, that would "allow it control" over the development of the system. Staff disagrees that each state agency should maintain multiple custom information technology projects. Rather, state agencies should embrace lower cost and off-the-shelf products that are compatible with existing systems.

Staff concurs with the department's needs, as outlined to the USACE; however, is confused why this proposals is not being made through the budget process. Given the interest of the Legislature, the department should be engaging in a discussion with budget and policy committees about the need for a new enterprise data system. The department's approach will take at least 3-5 years to begin implementation. Staff believes this timeframe could be reduced significantly with a more modest and targeted approach.

Staff Recommendation: Staff recommends approval of $100,000 (General Fund), for three years, for the department to purchase software, to provide immediate management of data that can be made available to public and private agencies.

Vote: **Hold Open**

2. Surface Mining Regulation

Background. The Surface Mining and Reclamation Act of 1975 (the act) establishes the state's regulations for surface mining operations. Under the act, surface mining operators are required to have a mining permit, an approved reclamation plan, and secured financial assurances. (Financial assurances are used to pay for any mine reclamation costs in the event that a mine operator defaults on its obligation to reclaim the mine at the end of its useful life.) The act is administered by the DOC's Office of Mine Reclamation (OMR) and the State Mining and Geology Board (SMGB), which is also located within DOC. However, local entities—such as cities and counties—typically operate as the lead agencies in regulating mines within their jurisdictions.

The SMGB is the policy advising and appeal body for the act. Under the act, the SMGB also generally assumes the role of the lead agency if the local entity is not adequately performing its duties under the act. The OMR provides technical assistance to lead agencies and mine operators in the development of reclamation plans and financial assurances. The OMR also works with lead agencies to ensure that mining operations are conducted in accordance with their approved reclamation plans, as well as collects and analyzes data submitted by agencies and mine operators to monitor compliance.

The DOC's regulatory activities related to the act are currently supported by three special funds:

- **Surface Mining and Reclamation Account (SMARA).** The federal government provides states a portion of royalties collected from mining activities on federal land. Under state law, the first $2 million provided to California is deposited in the SMARA, to be used to administer the Act. The remaining federal mining revenues provided to California—estimated to be $93 million in 2015–16—are used to fund K–14 education.

- **Bosco–Keene Renewable Resources Investment Fund (RRIF).** The RRIF receives 30 percent—$1.2 million in 2015–16—of the royalties provided to the state from geothermal leases on federal lands. The remaining federal royalties go to local agencies (40 percent) and the California Energy Commission (30 percent), generally to support geothermal related activities, including exploration, research, and development activities.

- **Mine Reclamation Account (MRA).** The MRA receives revenue from two sources: (1) a $14 daily fee paid by mines in cities and counties where the SMGB acts as the lead agency and (2) annual regulatory fees paid by mine operators (reporting fees). Total annual revenue from the daily fee is about $180,000. For the reporting fees, DOC is required to adopt a fee schedule designed to cover its cost in carrying out the act, including reclamation plan and financial assurance review, mine inspection, and enforcement. However, existing law establishes annual caps on reporting fees for both an individual mine operator (about $5,000 in 2014–15) and total reporting fee revenue (about $4.5 million in 2014–15). Individual mine reporting fees are based on the total value of the minerals extracted. Both caps are adjusted annually for inflation. In 2015–16 total mine reporting fee revenue is expected be $3.5 million, roughly $1 million less than the cap.

- **Funding for Regulatory Activities Is Structurally Imbalanced**. Funding for the department's regulatory activities is structurally imbalanced. While revenues have remained relatively constant over the last few years, a variety of factors have increased costs, including increases in employee compensation and health costs and payments for general statewide administrative costs. Total revenues deposited into the three funds is projected to be about $6.8 million—roughly $2 million less than current costs. In recent years, this deficit was covered by reserves. The deficit is expected to continue, and potentially grow, in future years. Without any changes, these funds are projected to be insolvent in 2016–17.

Budget Proposal. The Administration proposes to address the structural deficit by increasing the amount of revenue deposited into the SMARA by tying the portion of the state's federal mining revenues that go to DOC to the SMARA appropriation in the annual state budget act. Effectively, the amount of federal mining royalties going to SMARA would be increased by the amount needed to make up the difference between costs and revenues—about $2 million 2015-16.

LAO Analysis. The LAO raises several concerns about the Governor's proposal. First, they acknowledge that there are several options available to the Legislature for addressing the structural deficit including: (1) reducing spending; (2) increasing SMARA revenue; (3) increase RRIF revenue; and, (4) increase MRA revenues. Each of these options results in tradeoffs to and policy decisions.

Further, the LAO suggests that MRA is the most appropriate funding source to address the deficit. Specifically, the LAO states:

> **MRA Is Most Appropriate Funding Source to Address Deficit.** In our view, state regulatory activities should generally be funded with revenues from fees paid by the regulated industry. The MRA is funded from reporting fees paid by mine operations and these funds must be used to administer the state's mining regulations, including reclamation plan and financial assurance review, mine inspection, and enforcement. Therefore, in our view, the mine reporting fees are the most appropriate funding source for funding the department's regulatory activities related to the Act.
>
> **Relying on MRA Would Require Raising Caps.** Currently, nearly all mine operators are paying the maximum individual reporting fee. Therefore, in order to generate a significant amount of additional revenue, the Legislature would need to raise or eliminate the maximum individual reporting fee. However, the existing cap on total revenue would only allow the department to collect an additional $1 million in revenue—less than what is needed to fully address the $2 million deficit.
>
> If the Legislature wishes to use MRA funds to fully address the deficit, it would also need to increase or eliminate the cap on total reporting fee revenue. Increasing mine reporting fees to address the entire structural deficit would increase the total amount of fee revenue by more than 50 percent—almost all of which would likely be paid by mine operators who are currently paying the maximum individual reporting fee (currently $5,000). The effect on any individual mine operator would depend on two main factors: (1) how much the Legislature increased the cap and (2) the details of how the department adjusted the fee schedule for individual mine operators.

The LAO recommends rejecting the Governor's proposal and instead recommends the use of MRA to address the deficit.

Staff Comments. Staff agrees that the structural deficit must be addressed. The tradeoff requires the Legislature to either reduce funding to Proposition 98 programs, or to raise fees paid by mine operators. The department should be prepared to discuss what impact a fee increase (either to partially or fully offset the structural deficit), would have on individual mine operators. It may be appropriate for the policy committees to discuss a fee proposal.

Staff Recommendation: Approve as proposed.

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

3. Oversight on the Division of Oil, Gas, and Geothermal Resources (DOGGR)

Background. The Senate Natural Resource and Senate Environmental Quality Committees held a joint oversight hearing on March 10, 2015, titled "Ensuring Groundwater Protection: Is the Underground Injection Control (UIC) Program Working." Since June 2014, when a set of oil and gas waste disposal wells were ordered "shut in" by DOGGR, there have been a number of news stories released, as well as acknowledgements made by DOGGR, that numerous oil and gas related injection wells are improperly sited and present a risk of contamination to good quality groundwater used for drinking water and agricultural irrigation processes. Investigations by the U.S. Environmental Protection Agency and State Water Resources Control Board concur with this assessment and have raised a number of concerns about the way in which DOGGR manages the program, and protects groundwater quality.

Budget Actions. Beginning in 2011-12, the department acknowledged deficiencies in its programs and requested, during the May Revision process (three years in row), major changes to program funding. The budget committees concurred with the need for funds, but, having been given only two weeks to review these major proposals on more than one occasion, split the funding, instead requesting the department return with a long-term and comprehensive proposal.

Between 2011 and 2013, the budget added 53 positions and over $7 million in annual ongoing funding. The budget also required the department to annually provide updates on its UIC program for five years. To date the department has filed only one report.

Budget Request. The budget proposes reappropriation of $1.5 million in unencumbered funds from the Oil, Gas, and Geothermal Administrative Fund. Funding is proposed to be used to implement software development contract services related well stimulation activities.

Staff Comments. Staff continues to be concerned about the department's lack of focus on water resources in the state. The Central Valley Water Quality Control Board is actively reviewing surface and groundwater resources near underground injection wells, and both public and private entities are questioning DOGGR's various water quality exemptions, its record keeping, and its ability to manage this program. The department should be prepared to discuss the budget allocations received by the division and its commitment to managing this program.

Staff Recommendation: Hold Open.

Vote:

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

Senator Lois Wolk, Chair
Senator Jim Nielsen
Senator Fran Pavley

Thursday, March 26, 2015
9:30 a.m. or Upon Adjournment of Session
Hearing Room 112

Consultants: Farra Bracht and Catherine Freeman

PART A

CAP-AND-TRADE

Resources—Environmental Protection—Energy—Transportation

OVERVIEW OF THE CAP-AND-TRADE PROGRAM

Background. 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 the 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.

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. Select statutory and executive guidance for cap-and-trade expenditures are summarized in the following table.

Select Statutory and Executive Guidance for Cap-and-Trade Expenditures

Statute	Summary
Global Warming Solutions Act 2006, Chapter 488 Statutes of 2006 AB 32 (Núñez and Pavley)	• Established the goal to reduce greenhouse gas emissions to 1990 levels by 2020.
Chapter 830 Statutes of 2012 SB 535 (de León)	• Requires 10 percent of cap and trade proceeds be invested within the most impacted and disadvantaged communities. • Requires 25 percent of auction proceeds to benefit impacted and disadvantaged communities.
Chapter 807 Statutes of 2012 AB 1532 (Pérez)	• Required the Administration to develop a three-year investment plan for auction proceeds.
Chapter 728 Statutes of 2008 SB 375 (Steinberg)	• Directs the Air Resources Board to set regional GHG reduction targets and guides sustainable community strategies.
Chapter 39 Statutes of 2012 SB 1018 (Committee on Budget)	• Provides guidance for collection and allocation of auction funds. • Requires state agencies to provide up-front information on GHG emission reductions prior to expenditure for any proposed auction-revenue funded program.

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. • Establishes a GHG emission reduction target of 80 percent less than 1990 levels in the transportation sector by 2050.

Implementing Benefits to Disadvantaged Communities. All auction revenues are subject to the provisions of SB 535 (de Léon), Chapter 830, Statutes of 2012. As discussed previously, SB 535 requires 10 percent of cap-and-trade proceeds be invested within the most impacted and disadvantaged communities, and 25 percent of auction proceeds to benefit impacted and disadvantaged communities. The Secretary for Environmental Protection (Cal-EPA) and the Air Resources Board (ARB) are charged with overseeing the implementation of this chapter, including identification of disadvantaged communities and reporting on the implementation as funding is distributed.

SB 535 directs the Secretary for Cal-EPA to identify disadvantaged communities. Identification must be based on geographic, socioeconomic, public health, and environmental hazard criteria. The criteria may include, but are not limited to:

- Areas disproportionally affected by environmental pollution and other hazards that can lead to negative public health effects, exposure, or environmental degradation.

- Areas with concentrations of people that are low-income, high unemployment, low levels of homeownership, high rent burden, sensitive populations, or low levels of educational attainment.

The Cal-EPA developed a tool called CalEnviroScreen to identify disadvantaged communities for investment. Through the Office of Environmental Health Hazard Assessment (OEHHA), the tool was developed to assess areas that are disproportionately affected by multiple types of pollution and areas with vulnerable populations. Using this tool, the Cal-EPA provided guidance to state agencies administering all cap-and-trade auction revenues in order to meet the provisions of SB 535.

In November 2014, the ARB released its first SB 535 report and included estimated auction revenue appropriations expected to benefit disadvantaged communities. The table below shows the funding and allocations with their respective benefits to disadvantaged communities. As shown, the Administration is planning to invest at least 33 percent of funds in areas benefiting disadvantaged communities, mainly from low-emission vehicle rebates, incentives for low-emission vehicles, and grants for weatherization and solar installation. For funding specifically targeted to disadvantaged communities, the majority is from the weatherization program and a small amount from the urban forestry program at CalFIRE.

2014-15 Investment in Disadvantaged Communities
As of November 2014

Department	Activity	2014-15 (in millions)	% Targed to DAC	Total Benefiting DAC	Total Located in DAC
High-Speed Rail Authority	Construction of the Phase 1 blended system for high-speed rail	$250	n/a	n/a	n/a
Strategic Growth Council	Affordable housing and sustainable communities	130	50%	$65	n/a
Transportation Agency	Transit and intercity rail capital	25	25%	$6	n/a
State Transit Assistance	Low carbon transit operation	25	32%	$8	n/a
Air Resources Board	Low-emission vehicle rebates and incentives for low emission vehicles	200	50%	$100	n/a
Community Services and Development Department	Grants for weatherization and solar installation including the Low-Income Home Energy Assistance Program	75	100%	$75	$75
Department of Forestry and Fire Protection	Fire prevention and urban forestry	42	n/a	n/a	$10
Department of Fish and Wildlife	Wetlands restoration (state and local assistance)	25	n/a	n/a	n/a
Department of Resources Recycling and Recovery	Waste diversion	25	10%	$3	n/a
Department of General Services	Energy efficiency upgrades in state buildings	20	n/a	n/a	n/a
Department of Food and Agriculture	Reducing agricultural waste	15	n/a	n/a	n/a
Totals		**$832**	**33%**	**$275**	**$85**
				33%	**10%**

(n/a): As of the time of reporting (November 2014), this information is not available.

GOVERNOR'S PROPOSAL

Governor's Cap-and-Trade Expenditure Proposal. The Governor's budget proposes to spend $1.0 billion from cap-and-trade auction revenue in 2015-16. For sixty percent of the funds allocated in 2015-16, the allocation amounts are ongoing, based on percentage allocations established for specific activities in Senate Bill 862 (Committee on Budget and Fiscal Review), Chapter 36, Statutes of 2014, as shown in the table below.

Governor's Cap-and-Trade Expenditures
(Dollars in Millions)

Department	Activity	Percent in Law*	2014-15	2015-16 Proposed
High-Speed Rail Authority	Construction of the Phase 1 blended system	25 %	$250	$250
Strategic Growth Council	Affordable housing and sustainable communities	20 %	130	200
Transportation Agency	Transit and intercity rail capital	10 %	25	100
State Transit Assistance	Low carbon transit operation	5 %	25	50
Air Resources Board	Low-emission vehicle rebates and incentives for low emission vehicles	n/a	200	200
Community Services and Development Department	Grants for weatherization and solar installation including the Low-Income Home Energy Assistance Program	n/a	75	75
Department of Forestry and Fire Protection	Fire prevention and urban forestry	n/a	42	42
Department of Fish and Wildlife	Wetlands restoration (state and local assistance)	n/a	25	25
Department of Resources Recycling and Recovery	Waste diversion	n/a	25	25
California Energy Commission	Energy efficiency upgrades in state buildings	n/a	20	20
Department of Food and Agriculture	Reducing agricultural waste		15	15
Totals			**$832**	**$1,002**

*Other programs receive 40 percent of cap-and-trade funds with allocations to be determined in the future.

Transportation and Sustainable Communities. The Governor proposes $600 million for transportation-related programs and projects.

- **High-Speed Rail Project (High-Speed Rail Authority).** The budget includes $250 million for the state high-speed rail project. Funding will support construction of the Phase 1 blended system which extends from the San Fernando Valley to Los Angeles Union Station, linking the upgraded Metrolink corridor to Anaheim and connecting to commuter and urban rail systems throughout the Los Angeles region. These improvements allow high-speed trains to travel the entire 520 miles between San Francisco, Los Angeles and Anaheim.

- **Affordable Housing and Sustainable Communities (Strategic Growth Council).** The budget proposes $200 million for grants and loans projects that reduce greenhouse gas emissions (GHGs) by creating more compact, infill development patterns, integrating affordable housing, encouraging active transportation and mass transit usage, and protecting agricultural land from sprawl development. Two prototype projects that have been identified to implement this strategy are transit-oriented development (reduce vehicle miles traveled in areas with high-quality transit systems) and integrated connectivity projects (reduce vehicle miles traveled in areas that lack high-quality transit). Funds will be allocated on a competitive basis. Final program guidelines have been published. The process to award projects involves submission of a concept proposal followed by a full application for projects SGC selects. Staff is currently finalizing the review of submitted concept proposals. Applicants will be notified of the results of concept proposal reviews by March 16, 2015. Full applications will be due by April 20, 2015, and projects will be awarded funding in June 2015.

- **Transit and Intercity Rail Capital Program (Transportation Agency).** The budget proposes $100 million as part of a two-year program to fund capital improvements and operational investments that will modernize California's transit systems and intercity, commuter, and urban rail systems to reduce emissions of greenhouse gases by reducing vehicle miles traveled in California. Draft guidelines were released in mid-December 2014. In February 2015, the California State Transportation Agency began accepting applications for the competitive program. Eligible applicants include public agencies that operate existing or planned intercity rail, commuter passenger rail, urban rail transit service, or bus services. Applicants may also partner with other transit operators to better integrate with bus or ferry service. All projects must demonstrate that they will achieve a reduction in greenhouse gas emissions. Grant recipients must also show benefits, such as improved transit ridership, integration with other rail and transit systems, including high-speed rail, and improved rail safety. Applications must be submitted by April 10, 2015, and the Transportation Agency will announce the grant recipients in the Summer of 2015.

- **Low Carbon Transit Operations Program (State Transit Assistance).** The budget includes $50 million to provide operating and capital assistance to transit agencies. The State Controller's Office (SCO) will allocate funding based on a formula to public transit agencies that currently qualify for funding in the State Transit Assistance Program. The SCO distributes allocations as follows: 50 percent of regional entities based on population and 50 percent to transit agencies based on farebox revenue. Eligible expenditures include new or expanded bus or rail services, including operating expenses, such as equipment acquisition, fueling, and maintenance. Funds for this program will go out in April 15, 2015 and June 30, 2015 and beginning in 2015-16 transit agencies will be able to accrue funds over multiple years.

- **Low Carbon Transportation (Air Resources Board).** The budget proposes $200 million to continue 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 previous year investments included: $116 million for the Clean Vehicle Rebate Project, which offers rebates directly to consumers who purchase zero-emission, and near-zero-emission vehicles; $85 million for low carbon trucks and buses with a focus on freight, for advanced technology, heavy duty vehicle and equipment deployments and demonstrations in disadvantaged communities; and, $10 million for continued funding of the Truck Loan Assistance Program, which helps smaller truck fleets that have difficulty obtaining loans to upgrade their trucks, and provides enhanced credit assurance so small fleets can access loans for trucks with clean diesel technologies.

Energy Efficiency and Clean Energy Programs. The Governor proposes $110 million for clean energy programs including:

- **Weatherization Upgrades and Local Energy Efficiency (Community Services and Development Department).** The budget proposes $75 million to continue to support the 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 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.

- **Green State Buildings (California Energy Commission).** The budget provides $20 million to support the expansion of energy efficiency financing programs to reduce GHGs and energy usage in state buildings. Funding is provided through the State Energy Conservation Assistance Account for purposes of tracking and providing loans that may be used by state agencies, including the University of California and California State University.

- **Emission Reductions through Agriculture (Department of Food and Agriculture [CDFA]).** The budget provides $15 million to support the development and implementation of three specific programs at CDFA: (1) 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.

Natural Resources and Waste Diversion. The Governor proposes $92 million for natural resources and waste programs including:

- **Wetland Restoration (Department of Fish and Wildlife).** The budget provides $25 million 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.

- **Forest Management and Fire Prevention (Department of Forestry and Fire Protection [CalFIRE]).** The budget provides $42 million per year 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.

- **Waste Reduction, Recycling, and Composting (CalRecycle).** The budget provides $25 million annually 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 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.

ISSUES TO CONSIDER

Benefits to Disadvantaged Communities. Under state law, cap-and-trade expenditures must benefit disadvantaged communities. Some of these criteria are broad, across all expenditure categories, and others are program-specific. Should the Legislature require each funding pot to adhere to SB 535 guidelines, including transportation and high-speed rail? What would be the impact directly to disadvantaged communities if more funding were allocated for direct benefit within these communities?

Allocation of 40 Percent Unallocated. A significant amount of funding (40 percent) is available to the Legislature annually for allocation. At present, funding is distributed mainly to the Governor's priority areas, including low-emission vehicle rebates and incentives, weatherization programs, and various natural resources programs. To achieve lower emissions; as well as impact low-income areas and areas with greater impacts from climate change, the Legislature should consider options for this funding. For example, does the combination of waste diversion and energy efficiency upgrades in state buildings bring more benefits than, say, investment in clean and efficient drinking water systems? Would urban forestry programs make more of an impact in low-income and green-space poor areas? Should these programs, in particular, target a subset of need that has not yet been identified?

Additional Revenue Likely Available. According to the LAO, future revenues are subject to substantial uncertainty. The amount of future auction revenue will depend on two basic factors: the number of state allowances purchased and the selling price of the allowances. Both of these factors are uncertain because they can be affected by many factors that are difficult to predict, including overall economic activity, covered entities' costs of emission reduction alternatives, market expectations about future allowance prices, industry expectations about future statutory or regulatory changes, and the degree to which other AB 32 policies reduce emissions. The figure below illustrates a range of potential revenues in 2014–15 and 2015–16, based on the LAO's use of different assumptions about the proportion of state allowances sold and the average price of allowances sold.

Range of Estimated Annual Cap–and–Trade Revenue
(In Billions)

		LAO Scenarios		
	Governor's Budget	**Low Revenue**	**Moderate Revenue**	**High Revenue**
2014–15	$0.7	$1.3	$1.5	$2.8
2015–16	1.0	2.0	2.3	4.9
Totals	**$1.7**	**$3.3**	**$3.7**	**$7.7**

To the extent revenues exceed the amount assumed in the budget, those programs that are continuously appropriated specified percentages of auction revenue would receive more funding in 2015–16 than is identified in the Governor's budget. For example, under the moderate revenue scenario, the 60 percent of continuous appropriations in 2015–16 would be allocated as follows:

- $570 million for high–speed rail,
- $456 million for affordable housing and sustainable communities,
- $228 million for transit and intercity rail capital program,
- $114 million for low carbon transit operations.

Under the Governor's proposal, any unanticipated revenue in 2014–15 above the $650 million assumed in the budget, as well as 40 percent of revenue above $1 billion collected in 2015–16, would remain unallocated. For example, an additional $800 million in 2014–15 revenue and $500 million in 2015–16 revenue would remain unallocated under the moderate revenue scenario discussed above.

According to the LAO, the Legislature could use additional auction revenue—relative to what is assumed in the Governor's budget—in many different ways. These options include: (1) waiting to spend funds until future years, (2) allocating funds to existing GGRF programs in 2015–16, and (3) allocating funds to other programs in 2015–16.

TRANSPORTATION AND SUSTAINABLE COMMUNITIES PROPOSALS

Item 0521: Secretary for Transportation Agency
Transit and Intercity Rail Capital Program
Low Carbon Transit Operations Program

The Transportation Agency will provide 1) an overview of the transit and intercity rail capital program and the low carbon transit operations program; 2) an update on the implementation of these two programs and; 3) discuss the timeline for awarding funds for these programs.

Questions for Both Programs:

1. Please discuss how the Transportation Agency is coordinating with the Air Resources Board, the Strategic Growth Council, the California Department of Transportation (Caltrans) and High-Speed Rail when developing these programs and ultimately awarding funds.

2. What mechanisms will be used to evaluate if the grants resulted in GHG emission reductions?

3. What happens if projects that are awarded grants do not achieve the anticipated level of GHG emission reductions?

4. Will the programs try to achieve a geographic balance of projects around the state? How are factors such as (a) the applicant's availability of matching funds, (b) estimated time to project completion, and (c) GHG emission reductions considered when determining who receives funds?

5. Please describe some of the types of projects that have been received in the first round of applications for the Low Carbon Transit Operations Program.

Staff Recommendation: Informational only item. No action necessary.

Item 0650: Governor's Office of Planning and Research, Strategic Growth Council Affordable Housing and Sustainable Communities Program

Background. Pursuant to SB 862, the Strategic Growth Council (SGC) is required to develop and administer the Affordable Housing and Sustainable Communities (AHSC) program (described in more detail above) and to leverage the programmatic and administrative expertise of relevant state agencies and departments in implementing the program. The Council's responsibilities include developing guidelines, reviewing applications, and providing funding as part of greenhouse gas reduction efforts associated with cap-and-trade funds.

The SGC is comprised of ten members representing six state agencies: the secretaries of the Natural Resources Agency; the California Environmental Protection Agency; California State Transportation Agency; the California Health and Human Services Agency; the California Business, Consumer Services and Housing Agency; and the California Department of Food and Agriculture; as well as the director of OPR, one public member appointed by the Governor, one member appointed by the Senate Rules Committee, and one member appointed by the Speaker of the Assembly.

SB 862 also transferred administrative oversight and staffing of the SGC from the Natural Resources Agency to OPR and the 2014 budget act appropriated $800,000 Greenhouse Gas Reduction Funds for six existing staff positions to support the ongoing work of SGC. This work is related to three grant programs funded by Proposition 84. These programs are 1) Sustainable Communities Planning Grant and Incentives Program; 2) Urban Greening for Sustainable Communities Grant Planning and Projects Program; and 3) Modeling Incentive Awards. As of June 30, 2014, the final rounds of funding for these programs will be awarded, committing the last of the Proposition 84 local assistance funding. According to SGC it continues to support existing grantees through program evaluation and technical assistance.

Budget Proposal. The OPR requests $255,000 (Greenhouse Gas Reduction Funds) for two permanent positions—one associate intergovernmental program analyst and one senior intergovernmental program analyst. These staff would directly oversee the administrative requirements associated with transferring, tracking, oversight, audits, and reporting that are related to coordination of the existing SGC programs and the AHSC program.

Staff Comments. The budget request for the two positions did not provide a workload justification. Currently, SGC has six staff working on the Proposition 84 grant programs. This request is for staff to provide more administrative to support existing programs and the BCP request is for staff for both AHSC and existing programs. However, when the six positions were transferred from the Resources Agency last year, there was no indication that additional staff was needed for the Proposition 84 workload.

Questions:

The Strategic Growth Council will provide 1) an overview of the AHSC program; 2) an update on the implementation of this program and; 3) discuss the timeline for awarding funds for the program.

1. Given that all of the Proposition 84 grant funds have been awarded, what specifically are the responsibilities of the current six SGC staff? How many staff are working on Proposition 84-related activities and how many staff are working on the AHSC program?

2. What mechanisms will be used to evaluate if the grants result in GHG emission reductions?

3. What happens if projects that are awarded grants do not achieve the anticipated level of GHG emission reductions?

4. Is the Council looking to fund a single large project to serve as a model for future projects, or many smaller projects? Please describe some of the types of projects that have been proposed.

5. How would active transportation projects compete for funding?

6. What is the Council doing to assess how projects will best implement local Sustainable Communities Strategies and coordinate with local agencies such as Metropolitan Planning Organizations (MPOs)?

Staff Recommendation: Hold open the request for two positions until a workload justification is received.

Item 3900: Low Carbon Transportation—Air Resources Board (ARB)

Budget Proposal

Item 3900: Low Carbon Transportation (Air Resources Board). The budget proposes $200 million for 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.

Background. The ARB has existing programs designed to support low- and zero-emission vehicle technology (clean transportation programs). The ARB has allocated the funding (including 2013-14 and 2014-15) as follows:

- **Zero-Emission Cars and Heavy-Duty Hybrid or Zero-Emission Trucks.** $131 million for zero-emission and plug-in hybrid passenger vehicles (including purchase and lease incentives). $415 million for heavy duty hybrid or zero-emission trucks and buses.

- **Sustainable Freight Technology**. $50 million 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.

- **Clean Trucks and Buses.** $25 million for truck and bus pilot projects in disadvantaged communities. $9 million for light duty pilot projects in disadvantaged communities.

Questions:

1. The zero-emission programs are not competitive, and are allocated on a first-come, first served, basis. Is this the best way to ensure that low-income and disadvantaged communities are able to access these funds? What amount of the funding has directly benefited disadvantaged communities?

2. Over 50 percent of the funds for low carbon transportation was allocated to zero-emission vehicles. What is the comparative metric for emission reductions between reducing emissions from freight or buses versus individual automobiles?

3. Does the ARB have a breakdown of where funding from the various programs is being allocated?

Item 2665: High-Speed Rail Authority

Will be discussed in Part B of this agenda.

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 $75 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.

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. Funding from this program is required to benefit disadvantaged communities. Funding for the weatherization programs are anticipated in March and June of this year. What is the geographic distribution of the projects that have been awarded?

2. Should the program be expanded beyond existing service providers in order to serve a more people in the state?

Energy Efficiency in Public Buildings

Budget Proposal

Item 3360: California Energy Commission: The budget proposes $20 million to provide energy efficiency and energy generation projects in public buildings, including the University of California, the California State University, and courts. Energy savings projects will include lighting systems, energy management systems, and equipment controls. Projects may also include building insulation and heating, ventilation, and air conditioning equipment.

Questions:

1. How does the CEC plan to allocate funds to the various program areas?

2. Can non-state public buildings, such as city halls or local water agencies, compete for the funding?

3. What has been the response to the solicitation? If the Legislature were to expand this category of funding to include public infrastructure (beyond buildings), how would the CEC need to amend the regulations and solicitation?

Natural Resources and Waste Reduction

Wetland and Watershed Restoration

Budget Proposal.
Item 3600: Department of Fish and Wildlife (DFW). The budget proposes $25 million for wetland and watershed restoration. 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. The department plans to allocate funding in three main areas: delta coastal wetlands, mountain meadows, and water efficiency on state lands owned by Department of Fish and Wildlife. How was the solicitation structured so that non-state entities could compete with the state for funding.

2. How will the department measure greenhouse gas emissions? What recourse does the state have if a project proponent is unable to reduce greenhouse gas emissions in the manner they describe for the project?

3. Were state conservancies eligible for funding and if so, how many applied?

Forest Management and Fire Prevention

Budget Proposal

Item 3450: Department of Forestry and Fire Protection (CalFIRE). The budget proposes $42 million per year to support existing and expanded programs at CalFIRE. Of this amount, $18 million is allocated for urban forestry projects. The remaining funds will be allocated to:

(1) demonstration state forests and cooperative wildland research;

(2) 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;

(3) reforestation services under the authority of the state nurseries and reforestation studies statutory guidance;

(4) funding for the forest legacy program to invest in forestlands to prevent future conversion to non-forest use; and,

(5) continued implementation of the forest practice program and forest pest control programs.

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. How did the department prioritize the cap-and-trade funds for additional fuel reduction activities that can be funded by the SRA fee, compared than other forest priorities?

3. The Department of Finance required the department to allocate all of the urban forestry program funding to disadvantaged communities. What communities does this miss? Would it not be more appropriate to set a percentage of all of these funds for disadvantaged communities?

4. Wouldn't 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, be a more appropriate funding agent for the non-urban forestry grant program?

Waste Reduction, Recycling, and Composting

Budget Proposal:
Item 3970: Department of Resources Recycling and Recovery (CalRecycle).
The budget proposes $25 million annually, 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 ($15 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 and to increase recycled manufacturing.

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. What has been the interest in the loan program and how does the department envision this shifting to a self-sustaining fund?

Emission Reductions through Agriculture

Budget Proposal:
Item 8570: Department of Food and Agriculture (CDFA).
The budget proposes $25 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) $10 million for water use efficiency projects; and, (3) $3 million for 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 CO2 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. The department has completed its first round of solicitations for water use efficiency. What projects were funded and how much of a reduction in greenhouse gas emissions and water are these projects anticipated to achieve?

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?

Senator Lois Wolk, Chair
Senator Jim Nielsen
Senator Fran Pavley

Thursday, March 26, 2015
9:30 a.m. or Upon Adjournment of Session
Hearing Room 112

Consultant: Farra Bracht

PART B

OVERSIGHT HEARING: HIGH-SPEED RAIL

PROPOSED DISCUSSION

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. Of this amount, $9.0 billion is for the high-speed rail system and $950 million is to improve the connectivity of existing passenger rail systems with high-speed rail.

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 186 authorized staff positions.

Budget Summary: The Governor's budget for 2015-16 provides capital outlay funding of $1.7 billion to begin construction of the first section of the high-speed rail system extending from Madera to near Bakersfield. The budget also proposes $1.1 billion to provide funds to local agencies for local/regional components of the high-speed train system and $30 million for state operations, as shown below.

High-Speed Rail Expenditures
(Dollars in Millions)

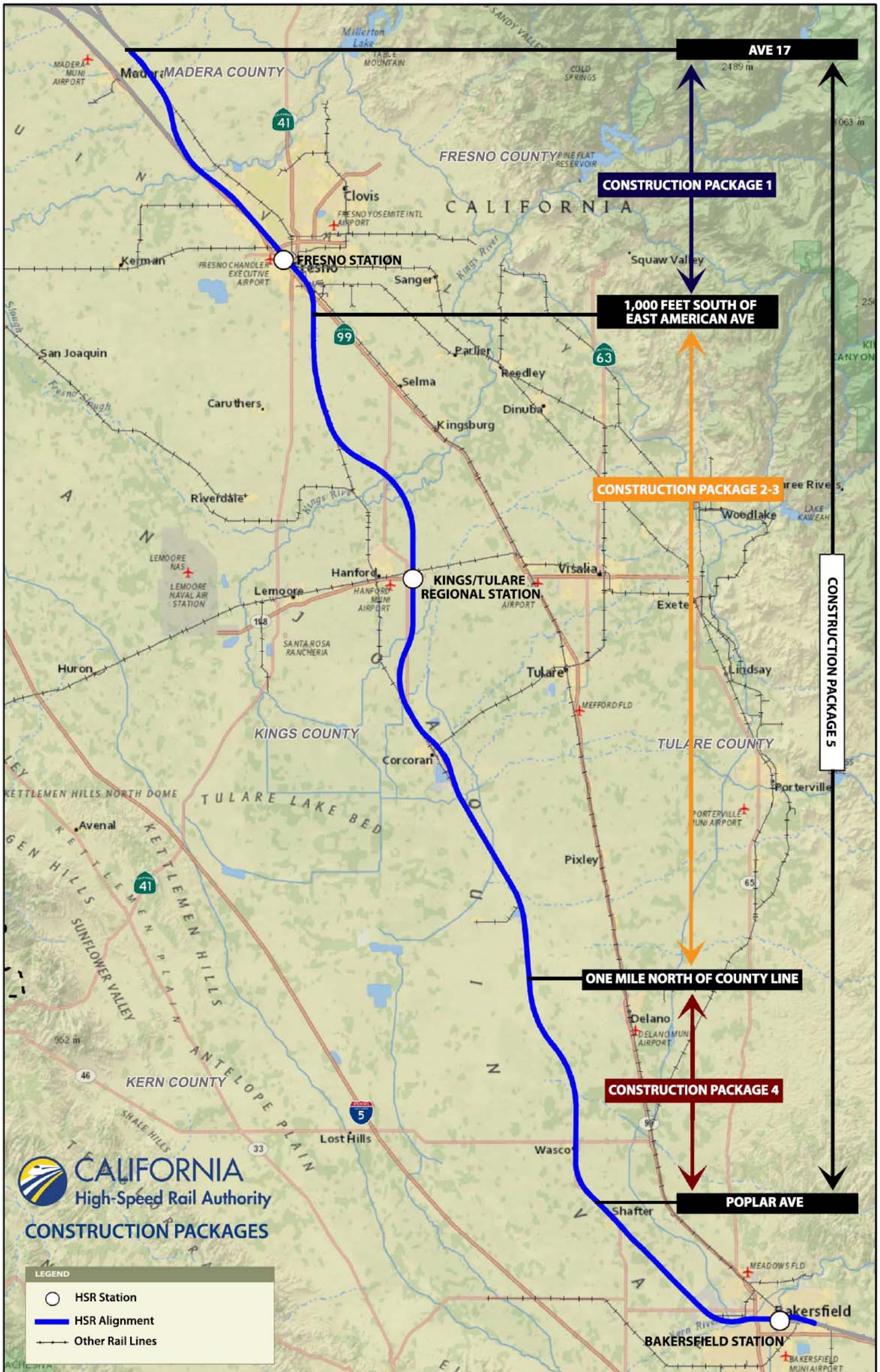
Funding Source	2013-14	2014-15	2015-16
Capital Outlay			
Proposition 1A	$24.6	$20.0	$224.0
Federal funds	1,290.0	616.0	1,192.0
Greenhouse Gas Reduction Fund	0	250.0	250.0
Subtotal capital outlay	1,314.6	886.0	1,666.0
Local Assistance			
Local projects	0	0	1,132.0
State Operations			
Various state funds	23.7	30.2	30.2
Total	**$1,338.3**	**$916.2**	**$2,828.2**

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 Legislature has appropriated approximately $6.0 billion ($2.7 billion in Proposition 1A funds and $3.3 billion federal funds) to begin development, right-of-way acquisition, and construction of the 120-mile Central Valley segment from Madera to just north of Bakersfield. In addition, in the 2014 budget act, the Legislature provided 25 percent of the ongoing cap-and-trade revenues for the project. As a result, high-speed rail faces fewer funding hurdles related to construction of the initial segments of the project. Groundbreaking to start construction of the 120-mile segment was held in Fresno on January 6, 2015.

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.

As part of its 2012 Business Plan, HSRA laid out a plan to implement high-speed rail in a series of phases, starting with an initial operating section (IOS) that is expected to be completed by 2022 and generate revenue based on estimates of ridership, fare box revenue, and operations and maintenance forecasts. The IOS is 300 miles long and runs from Merced to Burbank.



DRAFT - SUBJECT TO CHANGE - JANUARY 2015

Items Proposed for Discussion (Informational Only)

Item 1: Update on Initial Construction Segment (ICS)

Background. The initial construction segment (ICS) is part of the IOS and is where project construction is beginning. The ICS is an up-to-120 mile section (originally estimated by HSRA to be up to 130 miles long) that would run from Avenue 17 in Madera southward to outside of Bakersfield in Kern County. The ICS has been broken into five construction packages as shown on the map above and are described below.

Construction Package 1 (CP 1) is the first significant construction contract on the ICS of the high-speed rail project. The CP1 construction area is a 29-mile stretch between Avenue 17 in Madera County to East American Avenue in Fresno County. It includes 12 grade separations, 2 viaducts, 1 tunnel and a major river crossing over the San Joaquin River. The design-build contract was awarded to Tutor-Perini/Zachry/Parsons (TPZP) for $985.1 million in August 2013. The project and construction management contract, which assures that the technical and contract requirements are met for CP 1, was awarded to PGH Wong Engineering, Inc. and Harris & Associate (Wong+Harris). Currently, pre-construction activities are underway and significant construction is anticipated to begin at the Fresno River Bridge this spring and be completed in January 2018.

Construction Package 2-3 (CP 2-3) represents the continuation of construction on the high-speed rail system south towards Kern County. CP 2-3 will extend 65 miles from the terminus of Construction Package 1 at East American Avenue in Fresno to approximately one mile north of the Tulare-Kern County line. CP 2-3 will include approximately 36 grade separations in the counties of Fresno, Tulare and Kings, including viaducts, underpasses and overpasses. The design-build contractor for CP 2-3 will be responsible for designing and constructing, in coordination with the Authority, the CP 2-3 alignment. Scope of work will include delivering final designs for bridges, culverts, trenches and tunnels, utility relocations, aerial structures, grade separations, security and drainage. In January 2015, the Authority awarded the CP 2-3 design-build contract to Dragados/Flatiron/Shimmick, which bid $1.2 billion. The Authority anticipates executing the contract in spring 2015.The project and construction management contract was awarded to ARCADIS. Construction is expected to be completed in December 2018.

Construction Package 4 will extend 22 miles through the Central Valley beginning one mile north of the Tulare/Kern County to Poplar Avenue north of Bakersfield. The design-build contract is estimated to be between $400 to $500 million. The work will include construction of at-grade and aerial sections of the alignment and the relocation of 4.6 miles of existing Burlington Northern Santa Fe (BNSF) railway tracks. This phase of construction received state and federal approvals in summer 2014. A request for qualifications was issued in November 2014, and statements of qualifications were received on March 13, 2015. The contract is expected to be awarded in early 2016 and construction completed by December 2018.

Construction Package 5 will lay track on the completed sections. The schedule and cost for CP 5 will be determined as progress is made on Construction Packages 1-4.

Many Activities Must Be Completed Before Construction Can Begin. The environmental clearances necessary to begin work on any of the construction packages have been obtained, as shown in the figure below. However, many significant obstacles remain before construction can begin. The key outstanding areas that need to be addressed are 1) obtaining required permits, 2) completing agreements with 3rd parties, such as railroads, and 3) acquisition of right-of-way parcels, as shown in the table below. Addressing these three areas is of particular concern to CP 1.

Update on Activities Related to Beginning Work on Each Construction Package (CP)

	CP 1	**CP 2-3**	**CP 4**	**CP 5**
Environmental Review	Complete	Complete	Complete	Not applicable
Required Permits Obtained	5/5 by HSRA 1/4 by contractor	1/5 by HSRA 0/4 by contractor	0/5 by HSRA 0/4 by contractor	
3rd Party Agreements	40 of 47 completed. 268 remain (design dependent).	41 of 46. 255 remain (design dependent).	14 of 15 completed. 82 remain (design dependent).	
Right-of-way	522 parcels needed. 512 appraised. 483 first written offers. 141 certified for contractor.	544 parcels needed. 498 appraised. 310 first written offers. 11 certified for contractor.	204 parcels needed. 0 appraised. 0 first written offers. 0 certified for contractor.	
Estimated Construction Completion	January 2018	December 2018	December 2018	
Planned Length	29 miles—Madera to Fresno (Ave. 17 to E. American Ave.)	65 miles—Fresno to 1 mile north of Tulare-Kern County line	22 miles—1 miles north of Tulare-Kern County line to Poplar Ave. (City of Wasco)	
Cost	Awarded: $1.02 billion and $226 million for Highway 99 realignment	Awarded: $1.37 billion	$400 to $500 million (estimated)	Unknown
Bid Status	Awarded: Tutor Perini/Zachry/ Parsons	Awarded: Dragos/Flatiron/ Shimmick	RFQ issued November 2014	NA

LAO Recommendation. Given the state's significant investment in the high–speed rail project, the LAO recommends that the Legislature take steps to allow for adequate oversight of HSRA's progress towards completing the ICS—particularly the various nonconstruction activities that need to be completed prior to its construction. Such oversight would enable the Legislature to proactively take any required actions to minimize cost increases or delays. Such steps could include changing how HSRA staff manages the project, modifying staffing levels at HSRA, and holding oversight hearings.

Specifically, the LAO recommends the Legislature require HSRA to provide at budget hearings a plan with benchmarks for completing each non-construction activity required for each construction package. This should include benchmarks for acquiring parcels, permits, and third–party agreements. Second, the LAO recommends that the Legislature require HSRA to periodically report on its progress in meeting the identified benchmarks. Specifically, the LAO recommends the Legislature amend existing statute to require the authority to include specific data in its project update reports to the Legislature every six months. For each construction package, the authority should provide the number and type of permits, third–party agreements, and parcels of land needed and acquired. Such additional information would allow the Legislature to more closely monitor HSRA's progress in completing the ICS.

Staff Comments. Any delays to the beginning of major construction of the project carry significant risks for the state. For example, the state could lose billions in federal funds, and, as a recent LA Times article highlighted, delays can potentially cost the state if contractors are unable to begin construction when anticipated. Requiring HSRA to track and report on metrics that serve as indicators of project progress, could help the Legislature to better ensure project success.

Questions:

1. *What are the major potential delays to beginning construction? Which risk is the greatest? How are these risks being addressed?*

2. *How do delays to construction impact the requirement that the $2.3 billion of the federal dollars that have been awarded to the state must be expended by September 30, 2017? What actions are being taken to ensure that these funds are spent by the deadline? What happens if this money cannot be spent by the deadline?*

3. *Before construction can begin on a given parcel of land, the Authority must obtain legal possession of the parcel. Does the Authority have enough certified contiguous right-of-way parcels at this time to begin construction in June?*

4. *Experts say the projected burn rate is $6 million a day if construction begins in July, which is at least two times faster than most projects. Please comment on how this project would achieve such a high burn rate.*

5. *Which railroad agreements still need to be obtained? Please explain some of the challenges associated with getting these agreements and how they will be resolved.*

Staff Recommendation: Informational item only. No action necessary.

Item 2: Update on Funding to Complete Initial Operating Segment

Background. Last year, the Legislative Analyst's Office found that HSRA lacked a complete funding plan for the IOS. According to the HSRA, the IOS will cost about $31 billion to complete; however its most recent 2014 business plan, only identified roughly $10 billion in funding available for the construction of the IOS. This level of funding consists of $3.3 billion in federal funds already received and $6.9 billion in Proposition 1A bond funds. The plan states that an additional $21 billion, or about two-thirds of the total cost, will need to be identified in order to complete the IOS.

The business plan has not been updated since the enactment of Senate Bill 862 (Committee on Budget and Fiscal Review), Chapter 36, Statutes of 2014, which provides a continuous appropriation of 25 percent of the revenue raised from future cap-and-trade auctions for construction of Phase 1 of the blended system of high-speed rail. In the current year, HSRA will receive $250 million in cap-and-trade funds and the project will receive 25 percent of cap-and-trade revenues (estimated to be $250 million) in the budget year. If cap-and-trade revenues in 2015-16 come in higher than estimated by the Administration, this would result in a greater amount of cap-and-trade funding for the high-speed rail project. Also, beginning in 2015-16 there is $400 million available to the program from a prior year loan of cap and trade funds to the General Fund, however, repayment is not proposed at this time.

Staff Comments. Last year, the LAO concluded the only likely source of funding to fill the $21 billion gap would be state funds. This is because private sector funds to complete the project would likely only become available after the IOS is completed and demonstrated to have a net positive operating cash flow. Additionally, given the federal government's current financial situation, the current focus in Washington on reducing federal spending, and the lack of a federal budget appropriation to support the state's high-speed rail system since 2009-10, it is uncertain at this time that any additional federal funding will become available.

While cap-and trade revenues will provide a significant infusion of funding for the project and help fill the funding gap, even if the amount of funding the project receives beginning in 2018-19 is $1 billion annually (and the program is authorized past 2020) there would still be a funding gap of roughly $15 billion. The authority has been thinking about how to address this gap for many years; however, such a plan has not yet been submitted to the Legislature.

Questions:

1. *What potential funding sources or approaches have been identified to fill the funding gap necessary to complete construction of the IOS?*

2. *What would the state need to do to securitize cap-and-trade revenues? How much money could such an approach generate?*

3. *When will the Legislature receive a funding plan that identifies all of the funding sources by amount and year that would be used to complete the IOS?*

Staff Recommendation: Informational item only. No action necessary.

Item 3: Update on Legal Challenges

The high-speed rail program faces legal challenges primarily related to the California Environmental Quality Act (CEQA) and the use of Proposition 1A funds. Updates on the major challenges are provided below.

CEQA Legal Challenges
On May 7, 2014, the Board certified that the Final EIR/EIS for the Fresno to Bakersfield project section had been completed in compliance with CEQA. Numerous parties thereafter filed lawsuits under CEQA alleging that, among other claims, the Authority certified a legally inadequate EIR, failed to recirculate the revised draft EIR properly, and made inadequate CEQA findings. A few of the lawsuits have minor non-CEQA claims.

<u>Actions Taken:</u> The required CEQA settlement meetings occurred, and the Authority reached settlements with the City of Bakersfield and Coffee-Brimhall LLC (Case Nos. 34-2014-80001865 and 34-2014-80001859). Most of the administrative record has been completed and lodged with the court. The Authority filed a motion to stay the proceeding on February 19, 2015, and the court set a hearing date for March 27, 2015. A stay is requested to allow time for the California Supreme Court to decide the Friends of Eel River v. North Coast Railroad Authority case, which is currently under review. In Eel River, the court will decide whether CEQA is preempted for a publically-owned railroad that is under the jurisdiction of the Surface Transportation Board. Eel River will have implications in the CEQA cases filed against the Authority.

Proposition 1A Legal Challenges
***John Tos, Aaron Fukuda, and the County of Kings v. California High-Speed Rail Authority* (Filed in Sacramento Superior Court on November 14, 2011.)** The Tos lawsuit proceeded in two parts. The first part, regarding the Authority's funding plan required under Prop 1A, was consolidated with the bond validation action, both of which are completed and resolved in the Authority's favor. On the second part, the plaintiffs allege that the high-speed rail project, as proposed, does not meet certain design requirements of Prop 1A; the court has not set a hearing date for these claims.

<u>Actions Taken:</u> As to the first part of the action, The Court of Appeal, Third Appellate District, ruled that the (c) funding plan, developed by the Authority pursuant to SHC Section 2704.08 does not have to be redone. This ruling clears the way for the Authority to develop the (d) funding plan to access and spend Prop 1A proceeds for construction purposes once raised in a bond sale. Tos filed a petition for review, which the California State Supreme Court denied, thus ending this first part of the action. In the second part of the action, the Authority has prepared the administrative record. Plaintiffs filed a motion to augment the record on March 18, 2015, to be heard April 10, 2015. It is anticipated that a hearing date on the merits will occur late summer or fall 2015.

Other Legal Challenges
Transportation Solutions Defense and Education Fund v. California Air Resources Board, and Does 1-10 inclusive, John Chiang, in his official capacity as the Controller of the State of California; the California High-Speed Rail Authority, and Does 11-20

***inclusive, Real Parties in Interest* (Filed in Fresno Superior Court on June 23, 2014, but subsequently transferred to Sacramento.)** The issues to be tried involve the following: inadequate environmental analysis, violation of CEQA; inadequate findings; procedural violation of CEQA; approval in violation of the Global Warming Prevention Act (AB 32); and improper and unlawful appropriation from the Greenhouse Gas Reduction Fund. This litigation challenges the Air Resources Board's (ARB) approval of a 2014 Scoping Plan update to the 2012 Scoping Plan. The 2012 Scoping Plan, and the 2014 update, included high-speed rail as a project that would reduce GHG emissions. This litigation seeks to block the flow of GHG/Cap-and-Trade funding towards construction of the high-speed rail project. These funds are currently being used to match the federal monies allocated to its implementation.

Actions Taken: On July 23, 2014, the Attorney General's Office filed a Stipulation and Proposed Order to Transfer Action, pursuant to Public Utilities Code Section 185038, which provides that "Any legal or equitable action brought against the Authority shall be brought in a court of competent jurisdiction in the County of Sacramento." (Fresno County Superior Court No. 14CECG01788.) The Attorney General's office represents the Authority, as well as ARB, in this lawsuit. On November 12, 2014, this action was assigned to the Sacramento Superior Court Case and will be heard by Judge Chang in Department 24. On December 10, 2014 a Notice of Appearance was filed by the California High-Speed Rail Authority. As of March 2015, the administrative record is in the process of being assembled.

Questions:

1. *Please provide an update of the key legal challenges that present risk to the project.*

Staff Recommendation: Informational item only. No action necessary.

Item 4: Oversight of the High-Speed Rail Project

Ensuring Appropriate Oversight

Development of high-speed rail is the largest, single infrastructure project the state has ever undertaken. To complete the high-speed rail program, the state is relying on a massive team of consultants that includes legal professionals, civil engineers, architects, mechanical-electrical consultants, structural engineers, construction contractors, and construction managers. While the state is paying for all of these consultants, they all have other interests as well, which may conflict with the state's priorities. As the owner of the project and to better ensure successful delivery of the program, the state needs to be very competent in its management of the managers and exercise strong advocacy for the state's interests and priorities.

External, independent oversight and internal oversight are critical for program success. As shown in the figure below, the project currently has various types of oversight that include external oversight, a hybrid model, and internal oversight. External oversight largely consists of the State Auditor, which can be requested to conduct an audit, and the Peer Review Group, which consists of eight staff (currently four because vacancies have not been filled) which have a limited role in reviewing specific project documents. The board of directors provides both internal and external oversight of the project. It is largely a supporter and champion of the project, but as part of its board meetings, it exercises oversight of the project as a whole and raises issues of concern. Contract staff provides services and oversees other project contractors. These include the program management team (PMT) consultant, and project and construction management (PCM). In addition, state staff oversees these consultants, as well as other contractors. Finally, the HSRA has a small audit division which also provides internal oversight of the project.

Current Oversight of the High-Speed Rail Project

Entity	Role	Type
California State Auditor	Conduct periodic audits to ensure use of bond proceeds is consistent with state law.	External
Peer Review Group (8 positions, 4 vacancies)	Reviews and issues analyses of certain reports prepared by the Authority.	External
Board of Directors for the High-Speed Rail Authority	Project supporter that also provides high-level oversight.	Hybrid
Program Management Team (PMT) Consultant	Provides technical and contractual compliance assurance and manages program risks	Hybrid
Project Construction and Management (PCM) Consultants	Identifies, manages, and mitigates project risks and makes sure technical and contract requirements, including costs are met by overseeing design-build and construction contractors.	Hybrid
HSRA Program Management Division (58 positions, 11 vacancies)	Responsible for project development, and direct and indirect oversight of activities conducted by specialists from the private sector.	Internal
HSRA Audit Division (7 positions, 1 vacancy)	Provides evaluations and recommendations concerning operational and programmatic deficiencies, and internal and external risks to the organization; strategies for managing organizational risks; and optimization of the internal control environment.	Internal

In addition, there are many other external agencies that provide oversight in particular areas. Some of these include the Legislature, the U.S. Congress, the Federal Railroad Administration, the federal General Accounting Office, the California State Transportation Agency, and environmental agencies.

Adequacy of Current Oversight

The high-speed rail program is highly visible, expensive, complex, and significant for the development of the transportation system in California; and has implications for the nation's transportation system. It is critical that the owners of this project, in this case the state of California, manage well the risk that is inherent in these types of projects and ensure that there is strong independent, external oversight. Currently, this type of oversight is limited, not coordinated, and sporadic; and moreover, it is unclear if it is adequate to ensure successful delivery of the project. One way the Legislature can better ensure successful delivery of this important project is to improve external oversight.

Models of External Oversight for Large Transportation Projects
External oversight has an important role in ensuring successful project delivery. Below, some external models are described.

Toll Bridge Program Oversight Committee (TBPOC). The TBPOC was established by AB 144 (Hancock), Chapter 71, Statutes of 2005. The committee consists of the executive director of the Bay Area Toll Authority, the director of Caltrans, and the executive director of the California Transportation Commission. Its creation was prompted, in part, by significant cost overruns for the construction of the new east span of the San-Francisco-Oakland Bay Bridge. To help keep the project in check, TBPOC was tasked with performing project status reviews, reviewing program costs and schedules, resolving project issues, evaluating project changes, and developing and updating cost, estimates, risk assessments and cash-flow requirements. The Oversight Committee also reviews project staffing levels and consultant and contractor services, reviews contract bid specifications and documents, reviews and approves all significant change orders and claims, and prepares project reports.

Oversight Coordination Commission. The Central Artery/Tunnel Project in Boston, MA, also known as the “Big Dig”, is the largest completed public works project in the United States. The Big Dig experienced significant cost overruns and it was determined that the structure of the program lacked the mechanisms necessary to ensure that deficient performances would be detected and cost recovery pursued. In 1995, the Legislature established the Central Artery/Tunnel Project Oversight and Coordination Committee to monitor the project, and basically oversee the state overseers of the project. The committee acted as public auditors and was comprised of the Office of the Inspector General, the Massachusetts State Auditor, the Massachusetts House Oversight Committee and the Massachusetts Attorney General.

Oversight Model for a Non-transportation Project. The state’s Financial Information System for California (FI$Cal) project requires the California State Auditor to independently monitor the project. FI$Cal is a business transformation project for state government in the areas of budgeting, accounting, procurement, and cash management. The estimated total project cost is $673 million. The auditor’s independent role includes monitoring the contracts for independent project oversight, independent verification and validation services, and assessing 1) whether concerns about the project are appropriately addressed, and 2) whether the project is progressing timely and within budget.

Other Models. A version of a federal oversight model could be created by installing an inspector general in every secretariat and authority that does private-sector contracting. Florida, for example, uses such an approach, with numerous inspectors general in cabinet offices, state agencies, and the state university system.

Staff Comments. Successful delivery of the high-speed rail system is reliant upon well-managed relationships between public and private organizations driven by different, and at times, conflicting interests. Ensuring that the interests of the owner (the state) are strongly represented is critical to helping deliver a successful program. The Legislature can help to achieve this by improving external oversight of the high-speed rail program. Prior to the expenditure of large amounts of funding for construction is a good time to put such oversight in place. One approach could be for the Legislature to establish performance metrics that could be tracked over time and evaluated. Such performance measures could include comparisons of the estimated scope, cost, performance, and schedule for each of the program phases to actual results. In addition, it would be useful for HSRA to identify all of the funds needed to complete the project and the timing of receipt of these funds and compare that information to the funds actually received. In addition, tracking over time the largest risks to the project, actions proposed to address those risks, and actions actually taken would be important. For specific segments, performance could be tracked for: 1) right-of-way acquisition; 2) necessary permits obtained; 3) third-party agreements obtained; 4) the number and estimated cost of change orders; and 5) how quickly money is actually being spent compared to the estimated rate of expenditure (burn rate).

It is important to point out that the Legislature has required HSRA to produce many reports in order to satisfy various needs that may not be helpful in assessing the success of the project at this time. If the Legislature does add some reporting requirements to existing reports, such as a dashboard that displays performance metrics that can be tracked over time, the Legislature may also wish to consider directing legislative staff to work with HSRA and the Administration over the fall to identify any previously required reports that are less useful and could potentially be eliminated.

In addition, the Legislature could dedicate, within an independent state office, a small unit dedicated to conducting oversight of the program. This approach would allow for continuity and in-depth review of the project's performance on an ongoing basis. In addition, the Legislature may want to establish a Select Committee of High-Speed Rail Oversight that could conduct oversight hearings and hold HSRA accountable for delivering a project that is consistent with the state's expectations.

In discussions with the Peer Review Group, it has emphasized the value of putting in place a reporting mechanism so that the elements of the project, as well as benefits and costs, are subject to regular and simple reports, preferably quarterly or semi-annually. An entity such as the LAO or a legislative oversight committee could oversee and interpret these results.

Currently, the Finance and Audit Committee of the High-Speed Rail Authority Board provides a monthly report on performance metrics for CP 1 and State Route 99 that includes safety, cost, schedule, quality, and economic benefits. It is possible that this report could be expanded upon to provide a "dashboard" that summarizes the status of the project to help improve external oversight of the program.

Finally, as mentioned earlier, the Peer Review Group is an important entity that helps to provide external oversight of the high-speed rail program. The Administration has not worked to fill vacant positions in a timely manner which undermines the efficacy of this group.

Panel:
Lou Thompson, High-Speed Rail Peer Review Group
Anthony Simbol, Deputy Legislative Analyst, Corrections, Transportation, and Environment, Legislative Analyst's Office
Jeff Morales, CEO High-Speed Rail Authority
Jaci Thomson, Department of Finance

Questions:

Lou Thompson:

1. *How does tracking performance metrics over time help to ensure project success?*

2. *Who should be tracking these metrics to help improve external oversight of the project?*

3. *How are vacancies impairing the role that the Peer Review Group plays regarding the high-speed rail project?*

Jeff Morales:

1. *Please discuss your assessment of the adequacy of current oversight efforts for the project. What do you see as areas of improvement?*

2. *Please discuss what efforts have been made to develop a "dashboard" of performance metrics.*

Department of Finance:

1. *What is the Administration's process for filling vacancies on the Peer Review Group?*

2. *What is the status of filling the four (of eight) vacant positions?*

Staff Recommendation. Direct HSRA to report back at the May Revision hearings on what agreements have been reached between the Peer Review Group and HSRA to develop a dashboard that tracks meaningful performance metrics. Also, at that time, have the Administration report on what efforts have been made to fill vacancies on the Peer Review Group.

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

Senator Lois Wolk, Chair
Senator Jim Nielsen
Senator Fran Pavley

OUTCOMES
Thursday, March 26, 2015
9:30 a.m. or Upon Adjournment of Session
Hearing Room 112

Consultants: Farra Bracht and Catherine Freeman

PART A

CAP-AND-TRADE

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

Senator Lois Wolk, Chair
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PART B
OVERSIGHT HEARING: HIGH-SPEED RAIL

PROPOSED DISCUSSION

The Chair directed that three items be reported back on at the time of May Revision hearings:

1) The HSRA and the Peer Review Group's agreed upon metrics for use in a dashboard that the Legislature can use to provide long-term oversight of the project;

2) Efforts of a working group of staff from LAO, DOF, HSRA, and the legislature to simplify or eliminate various HSRA reports currently required in statute that no longer add value;

3) DOF progress on filling the Peer Review Group's four vacancies and any potential changes to statue to amend the specific requirements that various appointees must have.

Resources—Environmental Protection—Energy—Transportation

Senator Lois Wolk, Chair
Senator Jim Nielsen
Senator Fran Pavley

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

Consultant: Catherine Freeman

<u>Items Proposed for Discussion</u>

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3600 Department of Fish and Wildlife

The Department of Fish and Wildlife (DFW) administers programs and enforces laws pertaining to the fish, wildlife, and natural resources of the state. It protects and maintains habitat and manages about one million acres of ecological reserves, wildlife management areas, and fish hatcheries throughout the state. The department also regulates hunting and fishing in conjunction with the Fish and Game Commission.

Governor's Budget. The Governor's 2015–16 budget proposes a total of $518 million from various funds (mainly special funds) for support of the department. This is a net decrease of $33 million, or six percent, compared to projected current-year expenditures. This change primarily reflects reduced bond expenditures, as well as one–time drought–related expenditures from the General Fund in 2014-15.

EXPENDITURES BY PROGRAM (in thousands)

Program	Actual 2013-14*	Estimated 2014-15*	Proposed 2015-16*
Biodiversity Conservation Program	$113,840	$238,434	$198,224
Hunting, Fishing, and Public Use Program	82,077	99,548	102,944
Management of Department Lands and Facilities	54,084	81,143	85,071
Enforcement	72,228	80,003	80,201
Communications, Education and Outreach	3,053	3,725	3,766
Spill Prevention and Response	31,257	45,524	44,183
Fish and Game Commission	1,117	1,634	1,712
Administration	41,998	47,121	47,280
Total Expenditures (All Programs)	**$357,656**	**$550,006**	**$516,101**

Items Proposed for Vote-Only

1. **Federally Funded Projects.** The Governor's budget requests eight positions and $800,000 (federal funds) to: (1) establish a Human Dimensions in Wildlife Program; to conduct the California Recreational Fisheries Survey; and (3) support the data collection, analysis, and science-based decision support tools being developed by the South Coast Region's Resource Assessment Program.

Staff Recommendation: Approve Item 1.

Vote:

Items Proposed for Discussion

1. Payment in Lieu of Taxes to Counties

Background. The Department of Fish and Wildlife (DFW) operates 111 wildlife management areas covering over 700,000 acres throughout the state. The areas are designed to protect natural ecosystems, such as wetlands, and improve habitat for fish and wildlife. These areas often provide hunting, fishing, wildlife viewing, and outdoor education opportunities to visitors. They are typically located in rural areas.

According to the California Constitution, state lands (including wildlife management areas) are exempt from the property tax. However, state law specifies that DFW shall provide those counties containing wildlife management areas with payments from funds available to the department. These "payments in lieu of taxes" (PILT) are designed to offset lost property tax revenues that counties and other local governments would be able to collect on these properties if they were not state–owned. These PILT payments were made between 1957 and 2002 from the General Fund. Beginning in 2002–03, the state stopped providing PILT payments in the budget in order to achieve cost savings.

Budget Proposal. The Governor proposes $644,000 to DFW from the General Fund to resume PILT payments in 2015–16. Under the Governor's proposal, the funding would be allocated to 36 counties containing wildlife management areas. Local county assessors would then be responsible for allocating the funds they receive to the relevant local governments in their jurisdiction. The Governor also proposes budget trailer legislation to articulate that the state is not required to make PILT payments to counties and that counties may not spend the payments on school districts. Figure 14 shows the amount each county would receive in PILT under the Governor's proposal.

The Governor's estimate of PILT includes funding for counties, cities, and special districts, but not school districts. According to the Administration, state General Fund payments to school districts already take into consideration the amount of local property tax collected by the district. Therefore, providing PILT payments to school districts would be duplicative with existing state General Fund payments.

LAO Assessment: The LAO provides this assessment of the proposal:

> **Policy Considerations in Providing PILT.** We find that there are policy trade–offs that should be considered carefully by the Legislature in evaluating the Governor's proposal. On the one hand, providing PILT payments is in line with existing statutory direction and longstanding historical practice before 2002. In addition, some local governments might provide services on state wildlife management areas from which they do not receive property taxes. For example, some counties might incur costs to maintain local facilities on DFW wildlife management areas, and might step in to provide law enforcement services when necessary. However, the Administration has not provided any detail on the extent to which this happens.

> On the other hand, no other state department that we are aware of makes PILT payments to local jurisdictions for state–owned land. This includes other state properties for which local governments might provide some services, such as state buildings owned by the Department of General Services (DGS) and state parks. The Administration has also argued that the lost property taxes can be particularly challenging for rural counties. While there is some variation, on average, PILT payments to these counties would be a fraction of a percent of their non–school property tax revenues.

Staff Comments. Staff concurs with the request for ongoing funding for county PILT payments as calculated by the Department of Finance and confirmed by the LAO. However, several concerns have been raised about two outstanding issues: (1) trailer bill provisions making payments permissive to counties, and (2) payments not paid during previous years.

Questions for the Administration.

- What is the total amount that was unpaid to counties over the past ten years, accounting for the Proposition 98 payments made?
- What is the purpose of the amendments to Fish and Game Code Section 1504 (a), (c), (e) and (f) changing the payments to permissive? Given the DOF position that the payments are already permissive and subject to budget appropriation, why is this necessary?
- How does the department handle applications for PILT funding when there is no budget appropriation? Is payment or debt implied?

Staff Recommendation: Approve budget item as proposed ($644,000 General Fund). Approve trailer bill language as provisional striking language making payments permissive.

Vote:

2. Proposition 1: Water Bond Act Implementation

Background. Proposition 1 allocates $372.5 million to the DFW for watershed restoration projects. Section 79737 of the bond allocates $285 million for eleven program categories including coastal wetland restoration, reconnecting historical floodplains, restoring river channels, improving ecological functions, removing sediment, and conservation easements, among others. Section 79738 of the bond allocates $87.5 million to DFW for projects that benefit the Delta, including water quality improvements, habitat restoration, and scientific studies.

Budget Proposal. The DFW requests $36.5 million and 41.5 positions funded from Proposition 1. The proposal also requests an extended encumbrance period through June 30, 2018, and allowing local assistance funding to be expended as either local assistance or capital outlay.

Staff Comments. Staff concurs with the need for the proposal but has concerns about the provisional language allowing for shifting between program areas without budget approval, and the extended encumbrance period.

Questions for the Department.

1. How does the department plan to allocate the funding across the many program categories? Any one category could use all of the funding. What is the department's priority for funding, what geographic distribution will be used, and what criteria will the department use to identify priorities?

2. Will any funds be used for acquisition of lands for the state? If so, what fund source has been identified for maintenance of these state lands?

3. The proposal requests an extended encumbrance period and the ability to shift funds between major program areas. This proposal is similar to a request under Proposition 1E, the justification of which was an expiring bond. No such justification is proposed. Why has the Administration proposed to circumvent the usual legislative authority to direct appropriations in this case?

Staff Recommendation: Approve funding and positions. Reject budget bill language.

Vote:

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 state. 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. Additionally, the state contracts to provide fire protection and prevention services in six local areas.

Governor's Budget. The Governor's budget proposes $1.8 billion from various funds for support of CalFIRE in 2015-16—about the same level as estimated current–year expenditures. This proposed amount includes $62 million from the General Fund and State Responsibility Area Fire Prevention Fund for heightened fire conditions resulting from the current drought, which is similar to the drought–related funding provided to CalFIRE in 2014-15. In addition, the Governor proposes $2 million from the General Fund for deferred maintenance projects in CalFIRE.

EXPENDITURES BY PROGRAM (in thousands)

Program	Actual 2013-14*	Estimated 2014-15*	Proposed 2015-16*
Office of the State Fire Marshal	$17,882	$25,397	$24,566
Fire Protection	1,176,630	1,564,671	1,575,663
Resource Management	44,193	99,570	102,437
Board of Forestry and Fire Protection	806	1,718	1,518
Department of Justice Legal Services	4,382	6,164	6,164
Administration	72,494	79,471	82,394
Total Expenditures (All Programs)	**$1,244,800**	**$1,700,107**	**$1,710,349**

POSITIONS BY PROGRAM

Program	Actual 2013-14	Estimated 2014-15	Proposed 2015-16
Office of the State Fire Marshal	110.1	124.3	132.8
Fire Protection	5,200.7	6,224.0	6,421.3
Resource Management	292.8	314.5	317.3
Board of Forestry and Fire Protection	4.0	6.0	6.0
Department of Justice Legal Services	-	-	-
Administration	552.9	565.8	574.2
Total Positions (All Programs)	**6,160.5**	**7,234.6**	**7,451.6**

Items Proposed for Vote-Only

1. **Rohnerville Air Attack Base (Humboldt County).** The budget requests $280,000 (Public Buildings Construction Fund [PBCF]) to demolish and replace two concrete loading pads and upgrade security lighting and fencing to FAA/Homeland Security requirements.

2. **Water System Improvements.** The budget requests $775,000 (PBCF) to upgrade or repair water systems at various CalFIRE facilities.

3. **Columbia Air Attack Base.** The budget requests $768,000 (PBCF) to make various improvements related to the support apparatus for the storage of helicopter fuel tender.

4. **San Luis Obispo Unit Headquarters—Facility Replacement.** The budget requests $36.9 million (PBCF) to replace the existing unit headquarters located in San Luis Obispo.

Staff Recommendation: Approve Items 1-4.

Vote:

Item Proposed for Discussion

1. Drought 2015

Background. The state is in its fourth year of a historic drought. The condition of vegetation in California's wild lands is dependent upon annual rainfall. Dry conditions have exacerbated fire conditions and have increased fire risk throughout the year. In 2014, the Legislature included $33 million ($30.8 General Fund and $2.2 million State Responsibility Area [SRA] Fire Prevention Fund), 259 temporary help positions, and two government program analysts, to address heightened fire conditions brought on by drought, on a one-time basis.

Budget Proposals. The Governor's budget requests a one-time appropriation of $59.4 million (General Fund) and $2.4 million (SRA Fire Prevention Fund), and 373 temporary help positions, through December 31, 2015, to continue to address fire conditions brought on by the drought.

Staff Comments. Staff concurs with the nature of the request.

Questions to the department.

- Are there any permanent policy changes being made with the addition of these resources?
- Has there been a corresponding reduction in overtime associated with the current-year proposal?

Staff Recommendation: Approve proposal.

Vote:

2. Hiring and Training Augmentation

Background. Funding for personnel who are responsible for hiring and training CalFIRE's firefighting workforce is based on the traditional "fire season" length. According to the Administration, climate change has, and will continue to, lengthen the fire season in California, requiring more firefighters be hired and trained, and creating the need for staff that can perform these functions. CalFIRE maintains it has been encountering adverse consequences, that are becoming increasingly worse, due to a lack of staff that can hire and train firefighters at the rate and in the time required by the change in fire season.

CalFIRE has requested and received authority over the last several years to augment its firefighting force to deal with the longer and more active fire season, based on what appeared, at the time, to have been temporary conditions. These requests will continue into the foreseeable future given the long-term climate impact on weather and fuel conditions. However, CalFIRE has not received any additional funding or authority for positions responsible for hiring these firefighters. Instead, CalFIRE was provided one-time funding in the 2014 budget to train the additional firefighting resources brought on by the drought.

CalFIRE has addressed the shortfall issue by implementing "forced overtime" at fire stations, mandating existing personnel to stay on duty to cover shifts that would be covered with other personnel. CalFIRE has deferred work, redirected staff, and sacrificed incident command, forest and fire law enforcement, and employee development courses to accommodate the basic fire control training. However, according to CalFIRE, the operational adjustments have created adverse consequences that cannot continue.

Budget Proposals. The Governor's budget proposes $9.2 million ($7.3 million General Fund, $332,720 special funds, and $1.6 million reimbursements), and position authority for 28 limited-term positions and 21 limited-term temporary help positions through June 30, 2017, to address the hiring and training needs resulting from the increased length of fire season.

Staff Comments. Staff concurs with the nature of the request. However, at the same time this request is being made, the department is also requesting $62.8 million (previous proposal) for additional positions. While it is clear that there is a demonstrated increase in wildfire activities, the department's mission has departed significantly from wildland firefighting. The need for the department to be the state's emergency medical response for rural areas challenges the state's budget. This is because the department has adopted an integrated approach to emergency response—with local and federal participants. While there are clearly demonstrated benefits to this model, there are also drawbacks when local and federal partners fail to manage emergency response needs in their jurisdiction, consistent with past practice. the state's CalFIRE steps in—and sometimes permanently. Just last year, due to a reduction in federal funding, the state was forced to increase its budget by $14 million and 62 positions to expand fire protection in areas where federal responsibility was being reduced. In other areas of the state, where local emergency response has been eliminated, CalFIRE has backfilled these reductions in order to maintain both a wildland firefighting and emergency response presence.

Questions for the Department.

- The department has acknowledged that the integrated approach to firefighting and emergency response is only as good as its partners. With the federal government reducing its presence in the state, what cost controls does the department propose that would refocus the department on its primary mission of wildland firefighting?

- The department's training model, the academy in Ione, may be outdated. What other models is the department considering for the long-term?

- The proposal states that the department has been incurring "forced overtime" due to a lack of new, trained, firefighters. What cost savings are proposed from the reduction in overtime that would result from the approval of this proposal?

Staff Recommendation: Approve as proposed. Require the department to submit the total amount of overtime reduced by January 10, 2016, as a negative budget proposal in 2016.

Vote:

3. Office of State Fire Marshall—Safe Burning Cigarette Certification

Background. The OSFM is responsible for the California Cigarette Fire Safety and Firefighter Protection Act. This act requires cigarette manufacturers to certify with the OSFM that their cigarettes have been tested and meet the national fire safety standard as having reduced ignition propensity. Under this act, cigarettes sold in California must meet the following criteria:

- The cigarettes must satisfy the American Society of Testing and Materials (ASTM) Standard "Standard Test Method for Measuring the Ignition Strength of Cigarettes."
- A certification must be submitted by the manufacturer to the OSFM certifying that each cigarette variety listed was tested and satisfies the performance requirements of the Standard Test Method for Measuring the Ignition Strength of Cigarettes.
- The cigarettes must be sold in packaging marked with the letters "FSC," which stands for "Fire Standards Compliant."

The OSFM has insufficient staff to keep up with the workload demands of the California Cigarette Fire Safety and Firefighter Protection Act. According to the Administration, this has created a significant negative impact for the Attorney General's (AG's) Office, who has requested the OSFM take measures to increase its efforts to meet the workload demands of the program.

Budget Proposals. The Governor's budget requests an ongoing $249,653 increase to the spending authority for the Cigarette Fire Safety and Firefighter Protection Fund, and two permanent positions. This proposal would provide the staffing necessary to address the Office of the State Fire Marshal (OSFM) Fire Safe Cigarette Certification Program workload. This proposal includes trailer bill language that establishes the Cigarette Fire Safety and Firefighter Protection Fund and authorizes the State Fire Marshal to adopt emergency regulations to establish an annual certification fee to be paid by manufacturers in an amount sufficient to cover all reasonable costs of administer the program. The current number of styles of cigarettes would require approximately 2,020 cigarette style (e.g., regular, menthol, light, etc.) certifications, and the OSFM is proposing a $150 fee per style certification (new and renewal) to cover the cost involved. Therefore, the projected new revenue stream of $303,000 annually will meet the needs of the funding requested.

Staff Comments. According to the OSFM, there is no federal standard for reduced ignition propensity for cigarettes. However, nearly every state independently establishes criteria and does testing for this purpose. It would be more cost-effective for the OSFM to contract or collaborate with other states develop or adopt criteria for a product that does not change from state to state, and does not require two additional personnel to duplicate activities of other states.

Staff Recommendation: Reject proposal. Require the OSFM to return in 2016 with a proposal that is collaborative with other states to accomplish this goal.

Vote:

4. Helicopter Replacement

Background. When fighting wildland fires, CalFIRE uses helicopters to quickly deliver fire crews and to perform water or retardant drops that slow the fires' spread. Helicopters are also used for other firefighting and fire prevention operations, medical evacuations, cargo transport, mapping, rescues, and other missions. The department currently has 12 helicopters that were acquired in 1990 through the Federal Excess Personal Property Program at no cost to the state. They were originally owned by the U.S. Army from 1963 to 1975 for troop and cargo transport. Once acquired by CalFIRE, these helicopters were modified for wildland firefighting at a cost of about $500,000 per aircraft.

Budget Proposals. The proposed budget includes budget bill language stating that CalFire and the DGS shall work collaboratively on a procurement and contract process for the replacement of CalFIRE's existing helicopter fleet. CalFIRE indicates that newer helicopters are available that have increased capabilities and are able to travel faster, operate at night, carry heavier payloads, and transport more people. Newer helicopters might also be more fuel–efficient and could require less maintenance. Additionally, current generation helicopters are compliant with the Federal Aviation Administration standards that have been updated since the current fleet was manufactured in the 1960s. The Administration anticipates submitting a budget request for these costs in May 2016 as part of the 2016-17 budget.

LAO Assessment. The LAO has reviewed the proposal and raised the following concerns.

> **Very Limited Information Provided.** The Governor's proposal includes very little information on the proposed helicopter replacement. For example, CalFIRE has not provided cost estimates, a procurement schedule, or the desired specifications for the new helicopters. In addition, CalFIRE has not identified what additional support and capital outlay costs might be incurred to support this proposal. Such costs could include increased staffing, training, and modifications to current infrastructure (such as helicopter landing pads and hangars). Depending on the specific details of the procurement, the total procurement, support, and capital outlay costs could be in the range of a couple hundred million dollars. These costs would likely be supported from the General Fund.
>
> Our office has requested the above information, but the department has not provided it, citing legal concerns. We find no compelling rationale for why CalFIRE should not provide the Legislature with the above information. Other departments have included this type of information when submitting budget requests related to large–scale procurements. For example, the California Highway Patrol (CHP) requested helicopters in 2013–14 and 2014-15, and was able to provide such information to the Legislature as part of the budget process.
>
> **Difficult for Legislature to Weigh Trade–Offs.** The lack of information provided makes it difficult for the Legislature to weigh the relative trade–offs associated with the proposed helicopter replacement. While we agree that eventual replacement of CalFIRE's helicopter fleet is reasonable given the capabilities, maintenance needs, and age of the current fleet, we note that there is a wide range of factors that must be

considered prior to replacing the department's fleet. Such factors include (1) the number of helicopters needed, (2) how the helicopters will be used, (3) the desired specifications of each helicopter (such as the size and speed), (4) the need for new facilities, and (5) the timeline for replacement. The Legislature will want to weigh the benefits and costs associated with each factor. For example, night vision capabilities allow helicopters to operate 24 hours a day, which could enable CalFIRE to respond and contain fires more quickly during nighttime hours. However, without knowing the cost of this capability, it is difficult for the Legislature to determine if helicopter night vision should be funded before other competing programs that it may deem to be of higher priority.

It is important for the Legislature to identify, its priorities for the new fleet prior to CalFIRE and DGS moving forward on this procurement. However, the proposed budget bill language would allow DGS and CalFIRE to enter a contract prior to legislative approval and without legislative oversight. While the Legislature would still be able to determine whether to appropriate or not appropriate money for helicopters in future budget processes, the price and specifications would already be set in the contract. Therefore, the department should provide sufficient information for the Legislature to make decisions regarding the procurement before adopting language allowing it to move forward.

LAO Recommendation. We recommend the Legislature withhold action on the proposed request and require CalFire to provide additional information at budget hearings regarding the proposed helicopter replacement, including desired specifications and possible alternatives; cost estimates for helicopters, staff training, personnel, and capital outlay; and the planned procurement schedule. If the department does not provide this information to the Legislature, we would recommend rejecting the proposed budget bill language. If, however, CalFire provides this information, our office will analyze it and make specific recommendations based on our analysis.

Staff Comments. Staff find that the need for a helicopter replacement plan is supportable. However, the Administration has not provided enough information to allow for an informed decision on the proposal. For example, it is unclear what additional costs will be incurred should the department choose night-flying helicopters; or if there will be capital outlay costs associated with one model over another. Without these details, the Legislature would essentially be giving the department a blank check to choose any model without appropriate oversight. Similar to recent years' negotiations with the California Highway Patrol, staff recommends only funding the amount necessary to provide a full set of cost alternatives and a procurement schedule.

Staff Recommendation: Reject budget bill language. Request the department provide the amount necessary to fund the cost analysis and procurement schedule by May 10, 2015.

Vote:

4. Legislative Proposals

Background. The Legislature may wish to consider the following proposals not included in the Governor's budget.

1. **State Responsibility Area (SRA) Local Assistance.** In the 2014-15 budget, the Legislature added $10 million (SRA Fire Prevention Fund) for local assistance pursuant to Public Resources Code 4214 (d), which specifies that 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 activities. The Governor's budget did not continue this funding and no explanation has been given as to why this is not an ongoing baseline expenditure for the SRA Fire Prevention Fund.

2. **Contract County Capital Outlay.** In previous years, contract counties (those counties providing wildland fire services in their respective jurisdictions while not duplicating services), have received minor capital outlay funding as a part of their contracts. According to the Attorney General, the contracts are based on "like" funding, which includes minor capital outlay. This amount totals about $975,000 per year, which were eliminated in 2013. The Department of Finance considers this part of the reductions made to during the fiscal downturn. However, a policy decision was made to eliminate these funds from the contracts that was not related to the fiscal outlook of the state. This cut was not enumerated for the Legislature in budget reduction proposals in previous years, and therefore should be considered as part of the baseline for contract counties.

Staff Recommendation. Staff recommends approving the following:

- $10 million SRA Fire Prevention Fund (baseline) for local grants as a baseline expenditure.
- $975,000 additional funding (General Fund and other funds, as appropriate) to allow baseline capital outlay for contract counties.

Vote.

3970 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 $570 million for state operations and bond expenditures, a decrease of about $100 million from the 2014-15 budget. The decreases are mainly related to a reduction in bond expenditures.

EXPENDITURES BY PROGRAM (in thousands)

Program	Actual 2013-14*	Estimated 2014-15*	Proposed 2015-16*
Support of the Department of Parks and Recreation	$423,651	$501,958	$434,838
Division of Boating and Waterways	20,240	23,871	31,473
Local Assistance Grants	119,815	144,316	104,239
Total Expenditures (All Programs)	**$563,706**	**$670,145**	**$570,550**

POSITIONS BY PROGRAM

Program	Actual 2013-14	Estimated 2014-15	Proposed 2015-16
Support of the Department of Parks and Recreation	3,479.0	3,599.8	3,589.9
Division of Boating and Waterways	46.8	46.8	60.8
Local Assistance Grants	-	-	-
Total Positions (All Programs)	**3,525.8**	**3,646.6**	**3,650.7**

Items Proposed for Vote-Only

1. **Empire Mine State Historic Park.** The budget requests $220,000 (General Fund, baseline), to support the anticipated long-term operation and maintenance costs of the Magenta Drain and Treatment System at the park. This request is in conjunction with a settlement with Newmont Entities, who will be responsible for reimbursing the department for past environmental costs at the mine.

2. **Vessel Operator Education and Certification.** SB 941 (Monning), Chapter 433, Statutes of 2014, requires the department to establish the Vessel Operator Card Program and Harbors and Navigation Code (HNC) Section 678.4 (a) authorizes a transfer totaling $4 million from the Harbors and Watercraft Revolving Fund as a loan to fund the program establishment. The budget requests the transfer of an initial $1 million and an appropriation of $503,000 to establish the program. Future funds will be transferred upon need, within the budget.

3. **Proposition 40 Urban Parks and Recreation Grants.** The budget requests $200,000 (Proposition 40 bond funds) to establish a new grant program to provide active recreation facilities throughout the state, consistent with the bond law. Total funding for the program will be $26.4 million, distributed competitively. Funds are available due to lifetime savings from statewide bond costs.

4. **Local Assistance Program—Grant Funding.** Consistent with past years, the department requests to appropriate special and federal funds to local assistance programs. Programs include: (1) Off-Highway Motor Vehicle Recreation Act of 1988 ($26 million Off-Highway Vehicle Trust Fund); (2) Recreational Trails Program ($5.7 million Recreational Trails Fund); and, (3) Land and Water Conservation Fund Program ($24.5 million Federal Trust Fund).

5. **Capital Outlay Proposals.** The budget requests the following capital outlay proposals:

    a. **El Capitan State Beach.** The budget requests $619,000 (Proposition 84 bond funds) to demolish the existing lifeguard tower located in the El Capitan State Beach campground and construct a new lifeguard operations facility adjacent to the existing El Capitan State Beach maintenance facility. Funding is for the working drawing phase of the project.

    b. **Big River Watershed Restoration Project.** The budget requests $1.7 million reimbursement authority for the design and construction phases of this project to remove two failing culvert crossings and an approximate total of 5,000 cubic yards of fill material at mileposts 0.6 and 0.7 on the Big River haul road, Mendocino Headlands State Park.

c. **Irvine Finch Ramp Repair and Extension (Bidwell-Sacramento River).** The budget requests $53,000 for the working drawings phase of this continuing project from the Harbors and Watercraft Revolving Fund (HWRF). This project will improve the launching and retrieval of recreational boats by repairing a deep hole at the end of the existing boat ramp, extending the boat ramp, and repairing and armoring eroded embankment around the boat ramp.

d. **Angel Island Immigration Station Hospital Rehabilitation Phase 4.** The budget requests $2.9 million reimbursement authority for construction only; plans and specs will be gifted to the department. This project will provide interior building improvements to complete the rehabilitation of the United States Immigration Station Hospital at Angel Island State Park. This project will also include design and build out of state of the art exhibits and conversation space for symposia and educational outreach on the topics of immigration and public health. These dollars are secured by the fundraising efforts of the Angel Island Immigration Station Foundation, a private 501c(3) non-profit agency working in cooperation with the department for the restoration and interpretation of the immigration station site.

e. **Angel Island East Garrison Mooring Field.** The budget requests $38,000 (HWRF) for the working drawings phase of this continuing project. This existing project will improve safety and convenience of recreational boaters by restoring the abandoned mooring field consisting of 32 buoys at the East Garrison location of the park and will clean up the site by removing old concrete block anchors, chains and debris from the bay floor.

f. **MacKerricher State Park Replacement Water Treatment Plant.** The budget requests $2.5 million (Proposition 84 bond funds) for both the working drawings phase and the construction phase of this continuing project. This project will upgrade the drinking water collection and treatment equipment at MacKerricher State Park to allow safe and reliable year-round production of potable water for the park. Due to eutrophication of Lake Cleone and coastal erosion, the park is in jeopardy of losing its existing supply of fresh water. A new source of water will be located and the water treatment plant upgraded to provide the park with an adequate and reliable supply of potable water.

g. **Leo Carrillo Steelhead Trout Barrier Removal.** The budget requests $751,000 (Federal Funds) for the construction phase of this continuing project to cover increased project costs, based on actual bids received. This project will provide two free span bridges to replace two existing in-stream crossings located on Arroyo Sequit Creek within Leo Carrillo State Park. This project will enhance habitat and increase spawning opportunity for a federally-listed endangered fish species and improve impairments to water quality caused by two failing in-stream concrete crossings by removing these crossings and replacing each one with a free span bridge.

h. **McArthur-Burney Falls Memorial State Park—Ramp and Boarding Float Replacement.** The budget requests $53,000 (HWRF) for the working drawings phase of this continuing project. This project will improve safety and convenience for users by completely reconstructing the dilapidated boat launching ramp and boarding float at this location, both of which have exceeded their intended design lives.

i. **Pismo State Beach Sediment Track-Out Prevention Measures.** The budget requests $95,000 (Off-Highway Vehicle Trust Fund [OHVTF]) for the working drawings phase of this continuing project. The project will construct several dirt track-out prevention measures at park exits to help ensure that dirt from vehicles does not track-out from Pismo State Beach on to public roads.

j. **Gaviota State Beach Main Water Supply Upgrades.** The budget requests $215,000 (Proposition 84 bond funds) to develop water supply facilities for the southern portion of the Gaviota State Park to provide a consistent water supply for the public, staff, and fire suppression, to ensure the health and safety of park occupants and avoid significant annual repair costs and intermittent water supply outages. The project includes a new well and water treatment facility or upgrading the existing water supply line, as appropriate.

k. **Malibu Creek—New Stokes Creek Bridge.** The budget requests $232,000 (Proposition 84 bond funds) to replace an existing, undersized arch culvert with a bridge to restore a secondary escape route for park visitors in the event of fire or other emergencies and provide a dedicated service entrance for park staff to access the district office, thereby eliminating the need to travel through the campground.

l. **Heber Dunes State Vehicle Recreation Area Water System Upgrades.** The budget requests $180,000 (OHVTF) to develop a new water treatment and distribution system to: (1) meet current demand for potable water; (2) meet health department standards; (3) provide secure storage to comply with the California Department of Health Services - Drinking Water Field Operations Branch (DHS-DWFOB) water security guidelines; and (4) protect the new water treatment system from the harsh desert climate.

m. **Old Sacramento State Historic Park—Boiler Shop Renovations.** The budget requests $726,000 (Proposition 84 bond funds) for the preliminary plans phase of this project. This project covers critical improvements to the historic boiler shop in the downtown Sacramento Railyards. This project will address hazardous material abatement, structural seismic stabilization, improvements to the building exterior shell, interior core improvements, and related utilities, as needed to bring the boiler shop to a level considered clean and safe.

n. **South Yuba River Historic Bridgeport Covered Bridge.** The budget requests a technical fund swap to shift existing federal funding from design to construction, and move an offsetting amount of state funding from construction to design. The new funding, along with the reversion of existing funding, is needed to utilize the federal funds available for this project, as it was recently discovered that the federal funds can only be used for construction costs. This request does not change the total project funding or scope, but does result in a small reduction in overall state funding.

o. **Torrey Pines State Natural Reserve—Utility Modernization.** The budget requests $287,000 (Proposition 84 bond funds) for preliminary plans and working drawings of this project to connect the park to the local sewer system to address significant public health and safety concerns, to avoid sensitive habitat degradation, and to reduce deferred maintenance and ongoing repair costs. The project also includes associated upgrades to the aging water and utility infrastructure.

p. **Carnegie State Vehicular Recreation Area—Road Construction.** The budget requests $1.2 million (OHVTF) for the construction phase of this project to address increased costs, mainly attributed to additional environmental mitigation efforts required by regulatory agencies, as well as a reappropriation of existing construction funding to ensure timely project completion. These improvements will allow year-round emergency vehicle access and ensure that the park does not exceed its Total Maximum Daily Load of park-generated sediment, as allowed under the Clean Water Act.

Staff Recommendation: Approve Items 1-5 (including listed capital outlay proposals [a-p]).

Vote:

Items Proposed for Discussion

1. Baseline Funding—Maintain Operations and Looking to the Future

Background. The Department of Parks and Recreation has, in recent years, undergone multiple reviews of its funding, including audits stemming from inappropriate accounting and human resources practices. In 2012-13, the department's baseline General Fund was reduced by a net $11 million. At the same time, the department continued to propose and add major state park projects to the system, while building a substantial backlog of deferred maintenance. The Legislature, realizing that the problem was not one of insufficient funds but rather mismanagement of the system, forbade the department from closing parks in 2012-13 and 2013-14 and required the department to develop a new management model, including establishing operating agreements with local entities to help run the parks. At the same time, the Legislature ordered a number of audits and reviews of the department, and passed legislation calling for the formation of a multidisciplinary advisory council to conduct an independent assessment of the current state parks system, and to make recommendations on future management, planning and funding proposals to ensure the long-term sustainability of the system. The Parks Forward Commission was created to fulfill this directive and has reported back to the Governor and Legislature on its findings.

State Parks and Recreation Funding 2010-11 to 2015-16
(dollars in thousands)

	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16
General Fund	$117,458	$121,219	$110,591	$117,579	$121,432	$115,892**
State Parks and Recreation Fund	114,339	136,014	148,146	136,478	173,171	176,465
Other Funds	130,313	148,023	245,505*	338,803	337,964	273,779
Subtotal (Operations)	**$362,110**	**$405,256**	**$504,242**	**$592,860**	**$632,567**	**$566,136**
Bond Funds (One-Time)	116,243	255,309	275,452	84,746	37,578	4,414
Total (including bond funds)	**$478,353**	**$660,565**	**$779,694**	**$563,706**	**$670,145**	**$570,550**

*Reflects the merger of the Department of Boating and Waterways into the Department of Parks and Recreation.
**Reflects the settlement of the Empire Mine State Park with Newmont Enterprises. The state was paying between $2 million and $5 million (General Fund), per year, to clean up toxic materials from the mine site.

As can be seen in the figure above, the baseline support budget for the department has remained relatively stable in recent years. The department has also seen a general increase in the State Parks and Recreation Fund over the past three years, due in part to legislative requirements to be more entrepreneurial where possible in the system. For example, the fund condition was improved through taking credit cards at state parks, adding “smart” meters at state beaches, and refocusing the state parks pass to allow for less expensive and more practical regional passes.

Parks Forward Commission Report Released. On February 24, 2014, the Senate Natural Resources and Water Committee held an oversight hearing on the release of the Parks Forward Commission report. As discussed, the report set a somber tone for its recommendations noting the many difficulties facing the department:

> “(a) department that is debilitated by an outdated organizational structure, underinvestment in technology and business tools, and a culture that doesn’t inspire or reward collaboration or innovation… The department must transform both how it works internally and how it relates to partners and visitors. The Department must seek and implement creative approaches to increase efficiency, vest greater authority at the field level, improve revenue generation, build a well-trained staff that reflects the state’s demographics, provide equitable opportunities for training and promotion, broaden its constituency, and ensure effective management of finances, information and administration.”

The final report added several new recommendations to its previous reports. Among those was the recommendation to enable all parks employees, rather than only peace officers, to be eligible for a pathway to park superintendent.

Transition Team Established. The department responded to the report by adding a transition team to implement some of the Parks Forward recommendations. The team intends to focus on internal management, results-oriented budget and finance systems, maintaining high quality operations and public service, improving park access and relevancy, and protecting and enhancing cultural resources.

Budget Proposals. The budget requests a one-time appropriation of $19.7 million from the State Parks and Recreation Fund (SPRF) to sustain its operations and maintain its baseline support budget. At the same time, the Administration has reduced funding to the department by cutting its Environmental License Plate Funds entirely, a total of about $3 million, backfilled in part by the SPRF appropriation. The budget also requests $20 million (General Fund) for deferred maintenance.

Staff Comments. The department continues to describe a reduction of $22 million in the 2012-13 budget cycle as a transformative moment in the department’s budget history, and one from which it has not fully recovered. However, the results of numerous audits and reviews of the department paint a wholly different picture—a department that is in dire need of a management restructuring, budget and fiscal management changes, and review of its core mission. After the establishment of legislative mandates for revenue generation, the department’s revenues have increased—allowing the department to increase its SPRF expenditures by nearly $40 million since 2013-14.

Questions for the Department:

1. The department continues to operate on a year-by-year funding request model. For the second year in a row, the department is requesting one-time funding to "shore up" its baseline budget. The department has had multiple audits, overall management and structure reviews, and has undergone a park-by-park review of costs. When will the Legislature see a long-term, stable, funding proposal from the department?

2. The budget eliminates the department's Environmental License Plate Fund (ELPF), a total of over $3 million. The Administration suggests the State Parks and Recreation Fund is able to "backfill" this reduction. However, given the long-term needs of the department, including hundreds of millions of dollars of deferred maintenance, how can this be a prudent budget measure?

3. The Transition Team will take multiple years to implement the recommendations of the Parks Forward Commission. What can the Legislature expect to see in the forthcoming year, and the immediate future budgets, that will give it some confidence that the department is seriously shifting to a new management and budgeting model?

4. The budget proposes $20 million for deferred maintenance. In a preliminary list released by the department, it is unclear what the highest priorities are for this funding. Does the department have a list of what will be funded by the $20 million?

Staff Recommendation: Approve one-time baseline increase. Hold open deferred maintenance funding and Environmental License Plate reductions for future budget hearings.

Vote:

2. Local Assistance—Division of Boating and Waterways

Background. Harbors and Navigation Code Section 85.2 (a) states that all moneys in the Harbors and Watercraft Revolving Fund (HWRF) are available, upon appropriation by the Legislature, for expenditure by the department for boating facilities development, boating safety, and boating regulations programs, and for the purposes of Section 656.4, including refunds, and for expenditure for construction of small craft harbor and boating facilities planned, designed and constructed by the department, as specified in subdivision (c) of Section 50, at sites owned or under the control of the state." The department is also allowed to cooperate with local, state, or federal public agencies to study, prepare plans, and to construct projects for stabilization of coastal shoreline and restoration of public beaches.

Budget Proposal. The budget requests $41.6 million (HWRF) for the local assistance program. Portions of this amount are transfers from the HWRF to the Public Beach Restoration Fund and to the Abandoned Watercraft Abatement Fund. Funds are proposed as follows:

1. $34.9 million (HWRF) for launch facility grants, local boat launch facilities grants, statewide boating facilities, invasive species management, boating safety and private loans.
2. $1.7 million for abandoned water craft abatement.
3. $4.8 million for beach replenishment projects

Staff Comments. A consistent argument has been made that the use of the HWRF for public beach replenishment projects is against the nature of the fund. These funds are derived from boaters paying fees—fees that are purported to support the boating community through boating facilities, education, enforcement and other direct boating activities. To date, the department has not established a clear nexus between the HWRF and public beach restoration projects. In addition, it is unclear what the long-term viability of these projects is given the substantiated sea level rise.

Staff Recommendation. Approve $34.9 million for boating facilities and $1.7 million for abandoned watercraft abatement. Reject $4.8 million for beach replenishment projects and require the department to return with a more appropriate funding source that includes state, local and federal funds, and includes a long-term plan for management of state beaches that are subject to sea level rise.

Vote:

Senator Lois Wolk, Chair
Senator Jim Nielsen
Senator Fran Pavley

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

Outcomes

Consultant: Catherine Freeman

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.

3600 Department of Fish and Wildlife

The Department of Fish and Wildlife (DFW) administers programs and enforces laws pertaining to the fish, wildlife, and natural resources of the state. It protects and maintains habitat and manages about one million acres of ecological reserves, wildlife management areas, and fish hatcheries throughout the state. The department also regulates hunting and fishing in conjunction with the Fish and Game Commission.

Governor's Budget. The Governor's 2015–16 budget proposes a total of $518 million from various funds (mainly special funds) for support of the department. This is a net decrease of $33 million, or six percent, compared to projected current-year expenditures. This change primarily reflects reduced bond expenditures, as well as one–time drought–related expenditures from the General Fund in 2014-15.

EXPENDITURES BY PROGRAM (in thousands)

Program	Actual 2013-14*	Estimated 2014-15*	Proposed 2015-16*
Biodiversity Conservation Program	$113,840	$238,434	$198,224
Hunting, Fishing, and Public Use Program	82,077	99,548	102,944
Management of Department Lands and Facilities	54,084	81,143	85,071
Enforcement	72,228	80,003	80,201
Communications, Education and Outreach	3,053	3,725	3,766
Spill Prevention and Response	31,257	45,524	44,183
Fish and Game Commission	1,117	1,634	1,712
Administration	41,998	47,121	47,280
Total Expenditures (All Programs)	**$357,656**	**$550,006**	**$516,101**

Items Proposed for Vote-Only

1. **Federally Funded Projects.** The Governor's budget requests eight positions and $800,000 (federal funds) to: (1) establish a Human Dimensions in Wildlife Program; to conduct the California Recreational Fisheries Survey; and (3) support the data collection, analysis, and science-based decision support tools being developed by the South Coast Region's Resource Assessment Program.

Staff Recommendation: Approve Item 1.

Vote: 2-1 (Nielsen, no)

Items Proposed for Discussion

1. Payment in Lieu of Taxes to Counties

Background. The Department of Fish and Wildlife (DFW) operates 111 wildlife management areas covering over 700,000 acres throughout the state. The areas are designed to protect natural ecosystems, such as wetlands, and improve habitat for fish and wildlife. These areas often provide hunting, fishing, wildlife viewing, and outdoor education opportunities to visitors. They are typically located in rural areas.

According to the California Constitution, state lands (including wildlife management areas) are exempt from the property tax. However, state law specifies that DFW shall provide those counties containing wildlife management areas with payments from funds available to the department. These "payments in lieu of taxes" (PILT) are designed to offset lost property tax revenues that counties and other local governments would be able to collect on these properties if they were not state–owned. These PILT payments were made between 1957 and 2002 from the General Fund. Beginning in 2002–03, the state stopped providing PILT payments in the budget in order to achieve cost savings.

Budget Proposal. The Governor proposes $644,000 to DFW from the General Fund to resume PILT payments in 2015–16. Under the Governor's proposal, the funding would be allocated to 36 counties containing wildlife management areas. Local county assessors would then be responsible for allocating the funds they receive to the relevant local governments in their jurisdiction. The Governor also proposes budget trailer legislation to articulate that the state is not required to make PILT payments to counties and that counties may not spend the payments on school districts. Figure 14 shows the amount each county would receive in PILT under the Governor's proposal.

The Governor's estimate of PILT includes funding for counties, cities, and special districts, but not school districts. According to the Administration, state General Fund payments to school districts already take into consideration the amount of local property tax collected by the district. Therefore, providing PILT payments to school districts would be duplicative with existing state General Fund payments.

LAO Assessment: The LAO provides this assessment of the proposal:

> **Policy Considerations in Providing PILT.** We find that there are policy trade–offs that should be considered carefully by the Legislature in evaluating the Governor's proposal. On the one hand, providing PILT payments is in line with existing statutory direction and longstanding historical practice before 2002. In addition, some local governments might provide services on state wildlife management areas from which they do not receive property taxes. For example, some counties might incur costs to maintain local facilities on DFW wildlife management areas, and might step in to provide law enforcement services when necessary. However, the Administration has not provided any detail on the extent to which this happens.

> On the other hand, no other state department that we are aware of makes PILT payments to local jurisdictions for state–owned land. This includes other state properties for which local governments might provide some services, such as state buildings owned by the Department of General Services (DGS) and state parks. The Administration has also argued that the lost property taxes can be particularly challenging for rural counties. While there is some variation, on average, PILT payments to these counties would be a fraction of a percent of their non–school property tax revenues.

Staff Comments. Staff concurs with the request for ongoing funding for county PILT payments as calculated by the Department of Finance and confirmed by the LAO. However, several concerns have been raised about two outstanding issues: (1) trailer bill provisions making payments permissive to counties, and (2) payments not paid during previous years.

Questions for the Administration.

- What is the total amount that was unpaid to counties over the past ten years, accounting for the Proposition 98 payments made?
- What is the purpose of the amendments to Fish and Game Code Section 1504 (a), (c), (e) and (f) changing the payments to permissive? Given the DOF position that the payments are already permissive and subject to budget appropriation, why is this necessary?
- How does the department handle applications for PILT funding when there is no budget appropriation? Is payment or debt implied?

Staff Recommendation: Approve budget item as proposed ($644,000 General Fund). Approve trailer bill language as provisional striking language making payments permissive.

Vote: 3-0 (Motion to approve staff recommendation and to add $8 million [General Fund] to fund back-payments.

2. Proposition 1: Water Bond Act Implementation

Background. Proposition 1 allocates $372.5 million to the DFW for watershed restoration projects. Section 79737 of the bond allocates $285 million for eleven program categories including coastal wetland restoration, reconnecting historical floodplains, restoring river channels, improving ecological functions, removing sediment, and conservation easements, among others. Section 79738 of the bond allocates $87.5 million to DFW for projects that benefit the Delta, including water quality improvements, habitat restoration, and scientific studies.

Budget Proposal. The DFW requests $36.5 million and 41.5 positions funded from Proposition 1. The proposal also requests an extended encumbrance period through June 30, 2018, and allowing local assistance funding to be expended as either local assistance or capital outlay.

Staff Comments. Staff concurs with the need for the proposal but has concerns about the provisional language allowing for shifting between program areas without budget approval, and the extended encumbrance period.

Questions for the Department.

1. How does the department plan to allocate the funding across the many program categories? Any one category could use all of the funding. What is the department's priority for funding, what geographic distribution will be used, and what criteria will the department use to identify priorities?

2. Will any funds be used for acquisition of lands for the state? If so, what fund source has been identified for maintenance of these state lands?

3. The proposal requests an extended encumbrance period and the ability to shift funds between major program areas. This proposal is similar to a request under Proposition 1E, the justification of which was an expiring bond. No such justification is proposed. Why has the Administration proposed to circumvent the usual legislative authority to direct appropriations in this case?

Staff Recommendation: Approve funding and positions. Reject budget bill language.

Vote: 3-0 to approve staff recommendation and to allocate some percentage of funding for fish screens on the Sacramento River. Staff to determine allocation and bring back to the committee.

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 state. 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. Additionally, the state contracts to provide fire protection and prevention services in six local areas.

Governor's Budget. The Governor's budget proposes $1.8 billion from various funds for support of CalFIRE in 2015-16—about the same level as estimated current–year expenditures. This proposed amount includes $62 million from the General Fund and State Responsibility Area Fire Prevention Fund for heightened fire conditions resulting from the current drought, which is similar to the drought–related funding provided to CalFIRE in 2014-15. In addition, the Governor proposes $2 million from the General Fund for deferred maintenance projects in CalFIRE.

EXPENDITURES BY PROGRAM (in thousands)

Program	Actual 2013-14*	Estimated 2014-15*	Proposed 2015-16*
Office of the State Fire Marshal	$17,882	$25,397	$24,566
Fire Protection	1,176,630	1,564,671	1,575,663
Resource Management	44,193	99,570	102,437
Board of Forestry and Fire Protection	806	1,718	1,518
Department of Justice Legal Services	4,382	6,164	6,164
Administration	72,494	79,471	82,394
Total Expenditures (All Programs)	**$1,244,800**	**$1,700,107**	**$1,710,349**

POSITIONS BY PROGRAM

Program	Actual 2013-14	Estimated 2014-15	Proposed 2015-16
Office of the State Fire Marshal	110.1	124.3	132.8
Fire Protection	5,200.7	6,224.0	6,421.3
Resource Management	292.8	314.5	317.3
Board of Forestry and Fire Protection	4.0	6.0	6.0
Department of Justice Legal Services	-	-	-
Administration	552.9	565.8	574.2
Total Positions (All Programs)	**6,160.5**	**7,234.6**	**7,451.6**

Items Proposed for Vote-Only

1. **Rohnerville Air Attack Base (Humboldt County).** The budget requests $280,000 (Public Buildings Construction Fund [PBCF]) to demolish and replace two concrete loading pads and upgrade security lighting and fencing to FAA/Homeland Security requirements.

2. **Water System Improvements.** The budget requests $775,000 (PBCF) to upgrade or repair water systems at various CalFIRE facilities.

3. **Columbia Air Attack Base.** The budget requests $768,000 (PBCF) to make various improvements related to the support apparatus for the storage of helicopter fuel tender.

4. **San Luis Obispo Unit Headquarters—Facility Replacement.** The budget requests $36.9 million (PBCF) to replace the existing unit headquarters located in San Luis Obispo.

Staff Recommendation: Approve Items 1-4.

Vote: 3-0

Item Proposed for Discussion

1. Drought 2015

Background. The state is in its fourth year of a historic drought. The condition of vegetation in California's wild lands is dependent upon annual rainfall. Dry conditions have exacerbated fire conditions and have increased fire risk throughout the year. In 2014, the Legislature included $33 million ($30.8 General Fund and $2.2 million State Responsibility Area [SRA] Fire Prevention Fund), 259 temporary help positions, and two government program analysts, to address heightened fire conditions brought on by drought, on a one-time basis.

Budget Proposals. The Governor's budget requests a one-time appropriation of $59.4 million (General Fund) and $2.4 million (SRA Fire Prevention Fund), and 373 temporary help positions, through December 31, 2015, to continue to address fire conditions brought on by the drought.

Staff Comments. Staff concurs with the nature of the request.

Questions to the department.

- Are there any permanent policy changes being made with the addition of these resources?
- Has there been a corresponding reduction in overtime associated with the current-year proposal?

Staff Recommendation: Approve proposal.

Vote: 2-1 (Nielsen, no) to approve SRA funding.
3-0 to approve positions and General Fund.

Senator Requests:

(1) Pavley—specific plans needed for expenditure from greenhouse gas emission fund
(2) Nielsen—Nielsen—Report, in writing, on the new policies and procedures that the department has implemented to address employee misconduct that was identified at the Ione Academy.
(3) Nielsen—Documentation of SRA fund allocations

2. Hiring and Training Augmentation

Background. Funding for personnel who are responsible for hiring and training CalFIRE's firefighting workforce is based on the traditional "fire season" length. According to the Administration, climate change has, and will continue to, lengthen the fire season in California, requiring more firefighters be hired and trained, and creating the need for staff that can perform these functions. CalFIRE maintains it has been encountering adverse consequences, that are becoming increasingly worse, due to a lack of staff that can hire and train firefighters at the rate and in the time required by the change in fire season.

CalFIRE has requested and received authority over the last several years to augment its firefighting force to deal with the longer and more active fire season, based on what appeared, at the time, to have been temporary conditions. These requests will continue into the foreseeable future given the long-term climate impact on weather and fuel conditions. However, CalFIRE has not received any additional funding or authority for positions responsible for hiring these firefighters. Instead, CalFIRE was provided one-time funding in the 2014 budget to train the additional firefighting resources brought on by the drought.

CalFIRE has addressed the shortfall issue by implementing "forced overtime" at fire stations, mandating existing personnel to stay on duty to cover shifts that would be covered with other personnel. CalFIRE has deferred work, redirected staff, and sacrificed incident command, forest and fire law enforcement, and employee development courses to accommodate the basic fire control training. However, according to CalFIRE, the operational adjustments have created adverse consequences that cannot continue.

Budget Proposals. The Governor's budget proposes $9.2 million ($7.3 million General Fund, $332,720 special funds, and $1.6 million reimbursements), and position authority for 28 limited-term positions and 21 limited-term temporary help positions through June 30, 2017, to address the hiring and training needs resulting from the increased length of fire season.

Staff Comments. Staff concurs with the nature of the request. However, at the same time this request is being made, the department is also requesting $62.8 million (previous proposal) for additional positions. While it is clear that there is a demonstrated increase in wildfire activities, the department's mission has departed significantly from wildland firefighting. The need for the department to be the state's emergency medical response for rural areas challenges the state's budget. This is because the department has adopted an integrated approach to emergency response—with local and federal participants. While there are clearly demonstrated benefits to this model, there are also drawbacks when local and federal partners fail to manage emergency response needs in their jurisdiction, consistent with past practice. the state's CalFIRE steps in—and sometimes permanently. Just last year, due to a reduction in federal funding, the state was forced to increase its budget by $14 million and 62 positions to expand fire protection in areas where federal responsibility was being reduced. In other areas of the state, where local emergency response has been eliminated, CalFIRE has backfilled these reductions in order to maintain both a wildland firefighting and emergency response presence.

Questions for the Department.

- The department has acknowledged that the integrated approach to firefighting and emergency response is only as good as its partners. With the federal government reducing its presence in the state, what cost controls does the department propose that would refocus the department on its primary mission of wildland firefighting?

- The department's training model, the academy in Ione, may be outdated. What other models is the department considering for the long-term?

- The proposal states that the department has been incurring "forced overtime" due to a lack of new, trained, firefighters. What cost savings are proposed from the reduction in overtime that would result from the approval of this proposal?

Staff Recommendation: Approve as proposed. Require the department to submit the total amount of overtime reduced by January 10, 2016, as a negative budget proposal in 2016.

Vote: 3-0 to approve proposal and report-back language on overtime.

3. Office of State Fire Marshall—Safe Burning Cigarette Certification

Background. The OSFM is responsible for the California Cigarette Fire Safety and Firefighter Protection Act. This act requires cigarette manufacturers to certify with the OSFM that their cigarettes have been tested and meet the national fire safety standard as having reduced ignition propensity. Under this act, cigarettes sold in California must meet the following criteria:

- The cigarettes must satisfy the American Society of Testing and Materials (ASTM) Standard "Standard Test Method for Measuring the Ignition Strength of Cigarettes."
- A certification must be submitted by the manufacturer to the OSFM certifying that each cigarette variety listed was tested and satisfies the performance requirements of the Standard Test Method for Measuring the Ignition Strength of Cigarettes.
- The cigarettes must be sold in packaging marked with the letters "FSC," which stands for "Fire Standards Compliant."

The OSFM has insufficient staff to keep up with the workload demands of the California Cigarette Fire Safety and Firefighter Protection Act. According to the Administration, this has created a significant negative impact for the Attorney General's (AG's) Office, who has requested the OSFM take measures to increase its efforts to meet the workload demands of the program.

Budget Proposals. The Governor's budget requests an ongoing $249,653 increase to the spending authority for the Cigarette Fire Safety and Firefighter Protection Fund, and two permanent positions. This proposal would provide the staffing necessary to address the Office of the State Fire Marshal (OSFM) Fire Safe Cigarette Certification Program workload. This proposal includes trailer bill language that establishes the Cigarette Fire Safety and Firefighter Protection Fund and authorizes the State Fire Marshal to adopt emergency regulations to establish an annual certification fee to be paid by manufacturers in an amount sufficient to cover all reasonable costs of administer the program. The current number of styles of cigarettes would require approximately 2,020 cigarette style (e.g., regular, menthol, light, etc.) certifications, and the OSFM is proposing a $150 fee per style certification (new and renewal) to cover the cost involved. Therefore, the projected new revenue stream of $303,000 annually will meet the needs of the funding requested.

Staff Comments. According to the OSFM, there is no federal standard for reduced ignition propensity for cigarettes. However, nearly every state independently establishes criteria and does testing for this purpose. It would be more cost-effective for the OSFM to contract or collaborate with other states develop or adopt criteria for a product that does not change from state to state, and does not require two additional personnel to duplicate activities of other states.

Staff Recommendation: Reject proposal. Require the OSFM to return in 2016 with a proposal that is collaborative with other states to accomplish this goal.

Vote: 3-0 to reject without prejudice.

4. Helicopter Replacement

Background. When fighting wildland fires, CalFIRE uses helicopters to quickly deliver fire crews and to perform water or retardant drops that slow the fires' spread. Helicopters are also used for other firefighting and fire prevention operations, medical evacuations, cargo transport, mapping, rescues, and other missions. The department currently has 12 helicopters that were acquired in 1990 through the Federal Excess Personal Property Program at no cost to the state. They were originally owned by the U.S. Army from 1963 to 1975 for troop and cargo transport. Once acquired by CalFIRE, these helicopters were modified for wildland firefighting at a cost of about $500,000 per aircraft.

Budget Proposals. The proposed budget includes budget bill language stating that CalFire and the DGS shall work collaboratively on a procurement and contract process for the replacement of CalFIRE's existing helicopter fleet. CalFIRE indicates that newer helicopters are available that have increased capabilities and are able to travel faster, operate at night, carry heavier payloads, and transport more people. Newer helicopters might also be more fuel–efficient and could require less maintenance. Additionally, current generation helicopters are compliant with the Federal Aviation Administration standards that have been updated since the current fleet was manufactured in the 1960s. The Administration anticipates submitting a budget request for these costs in May 2016 as part of the 2016-17 budget.

LAO Assessment. The LAO has reviewed the proposal and raised the following concerns.

> **Very Limited Information Provided.** The Governor's proposal includes very little information on the proposed helicopter replacement. For example, CalFIRE has not provided cost estimates, a procurement schedule, or the desired specifications for the new helicopters. In addition, CalFIRE has not identified what additional support and capital outlay costs might be incurred to support this proposal. Such costs could include increased staffing, training, and modifications to current infrastructure (such as helicopter landing pads and hangars). Depending on the specific details of the procurement, the total procurement, support, and capital outlay costs could be in the range of a couple hundred million dollars. These costs would likely be supported from the General Fund.
>
> Our office has requested the above information, but the department has not provided it, citing legal concerns. We find no compelling rationale for why CalFIRE should not provide the Legislature with the above information. Other departments have included this type of information when submitting budget requests related to large–scale procurements. For example, the California Highway Patrol (CHP) requested helicopters in 2013–14 and 2014-15, and was able to provide such information to the Legislature as part of the budget process.
>
> **Difficult for Legislature to Weigh Trade–Offs.** The lack of information provided makes it difficult for the Legislature to weigh the relative trade–offs associated with the proposed helicopter replacement. While we agree that eventual replacement of CalFIRE's helicopter fleet is reasonable given the capabilities, maintenance needs, and age of the current fleet, we note that there is a wide range of factors that must be

considered prior to replacing the department's fleet. Such factors include (1) the number of helicopters needed, (2) how the helicopters will be used, (3) the desired specifications of each helicopter (such as the size and speed), (4) the need for new facilities, and (5) the timeline for replacement. The Legislature will want to weigh the benefits and costs associated with each factor. For example, night vision capabilities allow helicopters to operate 24 hours a day, which could enable CalFIRE to respond and contain fires more quickly during nighttime hours. However, without knowing the cost of this capability, it is difficult for the Legislature to determine if helicopter night vision should be funded before other competing programs that it may deem to be of higher priority.

It is important for the Legislature to identify, its priorities for the new fleet prior to CalFIRE and DGS moving forward on this procurement. However, the proposed budget bill language would allow DGS and CalFIRE to enter a contract prior to legislative approval and without legislative oversight. While the Legislature would still be able to determine whether to appropriate or not appropriate money for helicopters in future budget processes, the price and specifications would already be set in the contract. Therefore, the department should provide sufficient information for the Legislature to make decisions regarding the procurement before adopting language allowing it to move forward.

LAO Recommendation. We recommend the Legislature withhold action on the proposed request and require CalFire to provide additional information at budget hearings regarding the proposed helicopter replacement, including desired specifications and possible alternatives; cost estimates for helicopters, staff training, personnel, and capital outlay; and the planned procurement schedule. If the department does not provide this information to the Legislature, we would recommend rejecting the proposed budget bill language. If, however, CalFire provides this information, our office will analyze it and make specific recommendations based on our analysis.

Staff Comments. Staff find that the need for a helicopter replacement plan is supportable. However, the Administration has not provided enough information to allow for an informed decision on the proposal. For example, it is unclear what additional costs will be incurred should the department choose night-flying helicopters; or if there will be capital outlay costs associated with one model over another. Without these details, the Legislature would essentially be giving the department a blank check to choose any model without appropriate oversight. Similar to recent years' negotiations with the California Highway Patrol, staff recommends only funding the amount necessary to provide a full set of cost alternatives and a procurement schedule.

Staff Recommendation: Reject budget bill language. Request the department provide the amount necessary to fund the cost analysis and procurement schedule by May 10, 2015.

Vote: 3-0 to approve staff recommendation.

4. Legislative Proposals

Background. The Legislature may wish to consider the following proposals not included in the Governor's budget.

1. **State Responsibility Area (SRA) Local Assistance.** In the 2014-15 budget, the Legislature added $10 million (SRA Fire Prevention Fund) for local assistance pursuant to Public Resources Code 4214 (d), which specifies that 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 activities. The Governor's budget did not continue this funding and no explanation has been given as to why this is not an ongoing baseline expenditure for the SRA Fire Prevention Fund.

2. **Contract County Capital Outlay.** In previous years, contract counties (those counties providing wildland fire services in their respective jurisdictions while not duplicating services), have received minor capital outlay funding as a part of their contracts. According to the Attorney General, the contracts are based on "like" funding, which includes minor capital outlay. This amount totals about $975,000 per year, which were eliminated in 2013. The Department of Finance considers this part of the reductions made to during the fiscal downturn. However, a policy decision was made to eliminate these funds from the contracts that was not related to the fiscal outlook of the state. This cut was not enumerated for the Legislature in budget reduction proposals in previous years, and therefore should be considered as part of the baseline for contract counties.

Staff Recommendation. Staff recommends approving the following:

- 1. $10 million SRA Fire Prevention Fund (baseline) for local grants as a baseline expenditure.
- 2. $975,000 additional funding (General Fund and other funds, as appropriate) to allow baseline capital outlay for contract counties.

Vote.
Item 1: 2-1 (Nielsen, no)
Item 2: 3-0

3970 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 $570 million for state operations and bond expenditures, a decrease of about $100 million from the 2014-15 budget. The decreases are mainly related to a reduction in bond expenditures.

EXPENDITURES BY PROGRAM (in thousands)

Program	Actual 2013-14*	Estimated 2014-15*	Proposed 2015-16*
Support of the Department of Parks and Recreation	$423,651	$501,958	$434,838
Division of Boating and Waterways	20,240	23,871	31,473
Local Assistance Grants	119,815	144,316	104,239
Total Expenditures (All Programs)	**$563,706**	**$670,145**	**$570,550**

POSITIONS BY PROGRAM

Program	Actual 2013-14	Estimated 2014-15	Proposed 2015-16
Support of the Department of Parks and Recreation	3,479.0	3,599.8	3,589.9
Division of Boating and Waterways	46.8	46.8	60.8
Local Assistance Grants	-	-	-
Total Positions (All Programs)	**3,525.8**	**3,646.6**	**3,650.7**

Items Proposed for Vote-Only

1. **Empire Mine State Historic Park.** The budget requests $220,000 (General Fund, baseline), to support the anticipated long-term operation and maintenance costs of the Magenta Drain and Treatment System at the park. This request is in conjunction with a settlement with Newmont Entities, who will be responsible for reimbursing the department for past environmental costs at the mine.

2. **Vessel Operator Education and Certification.** SB 941 (Monning), Chapter 433, Statutes of 2014, requires the department to establish the Vessel Operator Card Program and Harbors and Navigation Code (HNC) Section 678.4 (a) authorizes a transfer totaling $4 million from the Harbors and Watercraft Revolving Fund as a loan to fund the program establishment. The budget requests the transfer of an initial $1 million and an appropriation of $503,000 to establish the program. Future funds will be transferred upon need, within the budget.

3. **Proposition 40 Urban Parks and Recreation Grants.** The budget requests $200,000 (Proposition 40 bond funds) to establish a new grant program to provide active recreation facilities throughout the state, consistent with the bond law. Total funding for the program will be $26.4 million, distributed competitively. Funds are available due to lifetime savings from statewide bond costs.

4. **Local Assistance Program—Grant Funding.** Consistent with past years, the department requests to appropriate special and federal funds to local assistance programs. Programs include: (1) Off-Highway Motor Vehicle Recreation Act of 1988 ($26 million Off-Highway Vehicle Trust Fund); (2) Recreational Trails Program ($5.7 million Recreational Trails Fund); and, (3) Land and Water Conservation Fund Program ($24.5 million Federal Trust Fund).

5. **Capital Outlay Proposals.** The budget requests the following capital outlay proposals:

    a. **El Capitan State Beach.** The budget requests $619,000 (Proposition 84 bond funds) to demolish the existing lifeguard tower located in the El Capitan State Beach campground and construct a new lifeguard operations facility adjacent to the existing El Capitan State Beach maintenance facility. Funding is for the working drawing phase of the project.

    b. **Big River Watershed Restoration Project.** The budget requests $1.7 million reimbursement authority for the design and construction phases of this project to remove two failing culvert crossings and an approximate total of 5,000 cubic yards of fill material at mileposts 0.6 and 0.7 on the Big River haul road, Mendocino Headlands State Park.

c. **Irvine Finch Ramp Repair and Extension (Bidwell-Sacramento River).** The budget requests $53,000 for the working drawings phase of this continuing project from the Harbors and Watercraft Revolving Fund (HWRF). This project will improve the launching and retrieval of recreational boats by repairing a deep hole at the end of the existing boat ramp, extending the boat ramp, and repairing and armoring eroded embankment around the boat ramp.

d. **Angel Island Immigration Station Hospital Rehabilitation Phase 4.** The budget requests $2.9 million reimbursement authority for construction only; plans and specs will be gifted to the department. This project will provide interior building improvements to complete the rehabilitation of the United States Immigration Station Hospital at Angel Island State Park. This project will also include design and build out of state of the art exhibits and conversation space for symposia and educational outreach on the topics of immigration and public health. These dollars are secured by the fundraising efforts of the Angel Island Immigration Station Foundation, a private 501c(3) non-profit agency working in cooperation with the department for the restoration and interpretation of the immigration station site.

e. **Angel Island East Garrison Mooring Field.** The budget requests $38,000 (HWRF) for the working drawings phase of this continuing project. This existing project will improve safety and convenience of recreational boaters by restoring the abandoned mooring field consisting of 32 buoys at the East Garrison location of the park and will clean up the site by removing old concrete block anchors, chains and debris from the bay floor.

f. **MacKerricher State Park Replacement Water Treatment Plant.** The budget requests $2.5 million (Proposition 84 bond funds) for both the working drawings phase and the construction phase of this continuing project. This project will upgrade the drinking water collection and treatment equipment at MacKerricher State Park to allow safe and reliable year-round production of potable water for the park. Due to eutrophication of Lake Cleone and coastal erosion, the park is in jeopardy of losing its existing supply of fresh water. A new source of water will be located and the water treatment plant upgraded to provide the park with an adequate and reliable supply of potable water.

g. **Leo Carrillo Steelhead Trout Barrier Removal.** The budget requests $751,000 (Federal Funds) for the construction phase of this continuing project to cover increased project costs, based on actual bids received. This project will provide two free span bridges to replace two existing in-stream crossings located on Arroyo Sequit Creek within Leo Carrillo State Park. This project will enhance habitat and increase spawning opportunity for a federally-listed endangered fish species and improve impairments to water quality caused by two failing in-stream concrete crossings by removing these crossings and replacing each one with a free span bridge.

h. **McArthur-Burney Falls Memorial State Park—Ramp and Boarding Float Replacement.** The budget requests $53,000 (HWRF) for the working drawings phase of this continuing project. This project will improve safety and convenience for users by completely reconstructing the dilapidated boat launching ramp and boarding float at this location, both of which have exceeded their intended design lives.

i. **Pismo State Beach Sediment Track-Out Prevention Measures.** The budget requests $95,000 (Off-Highway Vehicle Trust Fund [OHVTF]) for the working drawings phase of this continuing project. The project will construct several dirt track-out prevention measures at park exits to help ensure that dirt from vehicles does not track-out from Pismo State Beach on to public roads.

j. **Gaviota State Beach Main Water Supply Upgrades.** The budget requests $215,000 (Proposition 84 bond funds) to develop water supply facilities for the southern portion of the Gaviota State Park to provide a consistent water supply for the public, staff, and fire suppression, to ensure the health and safety of park occupants and avoid significant annual repair costs and intermittent water supply outages. The project includes a new well and water treatment facility or upgrading the existing water supply line, as appropriate.

k. **Malibu Creek—New Stokes Creek Bridge.** The budget requests $232,000 (Proposition 84 bond funds) to replace an existing, undersized arch culvert with a bridge to restore a secondary escape route for park visitors in the event of fire or other emergencies and provide a dedicated service entrance for park staff to access the district office, thereby eliminating the need to travel through the campground.

l. **Heber Dunes State Vehicle Recreation Area Water System Upgrades.** The budget requests $180,000 (OHVTF) to develop a new water treatment and distribution system to: (1) meet current demand for potable water; (2) meet health department standards; (3) provide secure storage to comply with the California Department of Health Services - Drinking Water Field Operations Branch (DHS-DWFOB) water security guidelines; and (4) protect the new water treatment system from the harsh desert climate.

m. **Old Sacramento State Historic Park—Boiler Shop Renovations.** The budget requests $726,000 (Proposition 84 bond funds) for the preliminary plans phase of this project. This project covers critical improvements to the historic boiler shop in the downtown Sacramento Railyards. This project will address hazardous material abatement, structural seismic stabilization, improvements to the building exterior shell, interior core improvements, and related utilities, as needed to bring the boiler shop to a level considered clean and safe.

n. **South Yuba River Historic Bridgeport Covered Bridge.** The budget requests a technical fund swap to shift existing federal funding from design to construction, and move an offsetting amount of state funding from construction to design. The new funding, along with the reversion of existing funding, is needed to utilize the federal funds available for this project, as it was recently discovered that the federal funds can only be used for construction costs. This request does not change the total project funding or scope, but does result in a small reduction in overall state funding.

o. **Torrey Pines State Natural Reserve—Utility Modernization.** The budget requests $287,000 (Proposition 84 bond funds) for preliminary plans and working drawings of this project to connect the park to the local sewer system to address significant public health and safety concerns, to avoid sensitive habitat degradation, and to reduce deferred maintenance and ongoing repair costs. The project also includes associated upgrades to the aging water and utility infrastructure.

p. **Carnegie State Vehicular Recreation Area—Road Construction.** The budget requests $1.2 million (OHVTF) for the construction phase of this project to address increased costs, mainly attributed to additional environmental mitigation efforts required by regulatory agencies, as well as a reappropriation of existing construction funding to ensure timely project completion. These improvements will allow year-round emergency vehicle access and ensure that the park does not exceed its Total Maximum Daily Load of park-generated sediment, as allowed under the Clean Water Act.

Staff Recommendation: Approve Items 1-5 (including listed capital outlay proposals [a-p]).

Vote:
Item #2: 2-1 (Nielsen, no)
Items #1, 3, 4, 5: 3-0

Items Proposed for Discussion

1. Baseline Funding—Maintain Operations and Looking to the Future

Background. The Department of Parks and Recreation has, in recent years, undergone multiple reviews of its funding, including audits stemming from inappropriate accounting and human resources practices. In 2012-13, the department's baseline General Fund was reduced by a net $11 million. At the same time, the department continued to propose and add major state park projects to the system, while building a substantial backlog of deferred maintenance. The Legislature, realizing that the problem was not one of insufficient funds but rather mismanagement of the system, forbade the department from closing parks in 2012-13 and 2013-14 and required the department to develop a new management model, including establishing operating agreements with local entities to help run the parks. At the same time, the Legislature ordered a number of audits and reviews of the department, and passed legislation calling for the formation of a multidisciplinary advisory council to conduct an independent assessment of the current state parks system, and to make recommendations on future management, planning and funding proposals to ensure the long-term sustainability of the system. The Parks Forward Commission was created to fulfill this directive and has reported back to the Governor and Legislature on its findings.

State Parks and Recreation Funding 2010-11 to 2015-16
(dollars in thousands)

	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16
General Fund	$117,458	$121,219	$110,591	$117,579	$121,432	$115,892**
State Parks and Recreation Fund	114,339	136,014	148,146	136,478	173,171	176,465
Other Funds	130,313	148,023	245,505*	338,803	337,964	273,779
Subtotal (Operations)	**$362,110**	**$405,256**	**$504,242**	**$592,860**	**$632,567**	**$566,136**
Bond Funds (One-Time)	116,243	255,309	275,452	84,746	37,578	4,414
Total (including bond funds)	**$478,353**	**$660,565**	**$779,694**	**$563,706**	**$670,145**	**$570,550**

*Reflects the merger of the Department of Boating and Waterways into the Department of Parks and Recreation.
**Reflects the settlement of the Empire Mine State Park with Newmont Enterprises. The state was paying between $2 million and $5 million (General Fund), per year, to clean up toxic materials from the mine site.

As can be seen in the figure above, the baseline support budget for the department has remained relatively stable in recent years. The department has also seen a general increase in the State Parks and Recreation Fund over the past three years, due in part to legislative requirements to be more entrepreneurial where possible in the system. For example, the fund condition was improved through taking credit cards at state parks, adding "smart" meters at state beaches, and refocusing the state parks pass to allow for less expensive and more practical regional passes.

Parks Forward Commission Report Released. On February 24, 2014, the Senate Natural Resources and Water Committee held an oversight hearing on the release of the Parks Forward Commission report. As discussed, the report set a somber tone for its recommendations noting the many difficulties facing the department:

> "(a) department that is debilitated by an outdated organizational structure, underinvestment in technology and business tools, and a culture that doesn't inspire or reward collaboration or innovation… The department must transform both how it works internally and how it relates to partners and visitors. The Department must seek and implement creative approaches to increase efficiency, vest greater authority at the field level, improve revenue generation, build a well-trained staff that reflects the state's demographics, provide equitable opportunities for training and promotion, broaden its constituency, and ensure effective management of finances, information and administration."

The final report added several new recommendations to its previous reports. Among those was the recommendation to enable all parks employees, rather than only peace officers, to be eligible for a pathway to park superintendent.

Transition Team Established. The department responded to the report by adding a transition team to implement some of the Parks Forward recommendations. The team intends to focus on internal management, results-oriented budget and finance systems, maintaining high quality operations and public service, improving park access and relevancy, and protecting and enhancing cultural resources.

Budget Proposals. The budget requests a one-time appropriation of $19.7 million from the State Parks and Recreation Fund (SPRF) to sustain its operations and maintain its baseline support budget. At the same time, the Administration has reduced funding to the department by cutting its Environmental License Plate Funds entirely, a total of about $3 million, backfilled in part by the SPRF appropriation. The budget also requests $20 million (General Fund) for deferred maintenance.

Staff Comments. The department continues to describe a reduction of $22 million in the 2012-13 budget cycle as a transformative moment in the department's budget history, and one from which it has not fully recovered. However, the results of numerous audits and reviews of the department paint a wholly different picture—a department that is in dire need of a management restructuring, budget and fiscal management changes, and review of its core mission. After the establishment of legislative mandates for revenue generation, the department's revenues have increased—allowing the department to increase its SPRF expenditures by nearly $40 million since 2013-14.

Questions for the Department:

1. The department continues to operate on a year-by-year funding request model. For the second year in a row, the department is requesting one-time funding to "shore up" its baseline budget. The department has had multiple audits, overall management and structure reviews, and has undergone a park-by-park review of costs. When will the Legislature see a long-term, stable, funding proposal from the department?

2. The budget eliminates the department's Environmental License Plate Fund (ELPF), a total of over $3 million. The Administration suggests the State Parks and Recreation Fund is able to "backfill" this reduction. However, given the long-term needs of the department, including hundreds of millions of dollars of deferred maintenance, how can this be a prudent budget measure?

3. The Transition Team will take multiple years to implement the recommendations of the Parks Forward Commission. What can the Legislature expect to see in the forthcoming year, and the immediate future budgets, that will give it some confidence that the department is seriously shifting to a new management and budgeting model?

4. The budget proposes $20 million for deferred maintenance. In a preliminary list released by the department, it is unclear what the highest priorities are for this funding. Does the department have a list of what will be funded by the $20 million?

Staff Recommendation: Approve one-time baseline increase. Hold open deferred maintenance funding and Environmental License Plate reductions for future budget hearings.

Vote: 3-0

2. Local Assistance—Division of Boating and Waterways

Background. Harbors and Navigation Code Section 85.2 (a) states that all moneys in the Harbors and Watercraft Revolving Fund (HWRF) are available, upon appropriation by the Legislature, for expenditure by the department for boating facilities development, boating safety, and boating regulations programs, and for the purposes of Section 656.4, including refunds, and for expenditure for construction of small craft harbor and boating facilities planned, designed and constructed by the department, as specified in subdivision (c) of Section 50, at sites owned or under the control of the state." The department is also allowed to cooperate with local, state, or federal public agencies to study, prepare plans, and to construct projects for stabilization of coastal shoreline and restoration of public beaches.

Budget Proposal. The budget requests $41.6 million (HWRF) for the local assistance program. Portions of this amount are transfers from the HWRF to the Public Beach Restoration Fund and to the Abandoned Watercraft Abatement Fund. Funds are proposed as follows:

1. $34.9 million (HWRF) for launch facility grants, local boat launch facilities grants, statewide boating facilities, invasive species management, boating safety and private loans.
2. $1.7 million for abandoned water craft abatement.
3. $4.8 million for beach replenishment projects

Staff Comments. A consistent argument has been made that the use of the HWRF for public beach replenishment projects is against the nature of the fund. These funds are derived from boaters paying fees—fees that are purported to support the boating community through boating facilities, education, enforcement and other direct boating activities. To date, the department has not established a clear nexus between the HWRF and public beach restoration projects. In addition, it is unclear what the long-term viability of these projects is given the substantiated sea level rise.

Staff Recommendation. Approve $34.9 million for boating facilities and $1.7 million for abandoned watercraft abatement. Reject $4.8 million for beach replenishment projects and require the department to return with a more appropriate funding source that includes state, local and federal funds, and includes a long-term plan for management of state beaches that are subject to sea level rise.

Vote: 3-0 to approve $34.9 million and to hold open $4.8 million for public beach restoration for further discussion.

Senate Budget and Fiscal Review— Mark Leno, Chair

SUBCOMMITTEE NO. 2 Agenda

Senator Lois Wolk, Chair
Senator Jim Nielsen
Senator Fran Pavley

Thursday, April 16, 2015
9:30 a.m. or Upon Adjournment of Session
Room: 112

Consultant: Farra Bracht

Transportation

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.

PROPOSED DISCUSSION / VOTE

Overview of Transportation Funding

Presentation by the Legislative Analyst's Office

Transportation Budget Summary—Selected Funding Sources

(Dollars in Millions)

	Actual 2013–14	Estimated 2014–15	Proposed 2015–16	Change From 2014–15	
				Amount	Percent
Department of Transportation					
General Fund	$83.4	$83.4	$84.0	$0.6	0.7%
Special funds	4,854.5	3,735.4	3,633.6	–101.8	–2.7
Bond funds	1,334.7	559.2	562.4	3.1	0.6
Federal funds	3,771.4	4,759.8	4,627.1	–132.7	–2.8
Local funds	819.3	1,139.4	1,595.3	455.9	40.0
Totals	**$10,863.4**	**$10,277.2**	**$10,502.3**	**$225.1**	**2.2%**
High–Speed Rail Authority					
Bond funds	$48.4	$50.2	$1,354.5	$1,304.3	2,597.5%
Federal funds	1,291.1	616.1	1,224.0	608.3	98.7
Greenhouse Gas Reduction Fund	—	250	250.0	—	0.0
Reimbursements	—	1.0	—	—	—
Totals	**$1339.5**	**$917.3**	**$2,828.9**	**$1,911.6**	**208.4%**
California Highway Patrol					
Motor Vehicle Account	$1,836.9	$2,043.9	$2,174.3	$130.4	6.4%
Other special funds	164.7	180.1	182.9	2.8	1.5
Federal funds	15.5	19.9	19.8	—	-0.1
Totals	**$2,017.1**	**$2,243.9**	**$2,377.0**	**$133.1**	**5.9%**
Department of Motor Vehicles					
Motor Vehicle Account	$975.1	$1,058.7	$1,049.8	–$8.9	–0.8%
Other special funds	46.7	48.1	47.2	–0.9	–1.9
Federal funds	4.1	4.1	2.9	–1.2	–29.7
Totals	**$1,025.9**	**$1,110.8**	**$1,099.9**	**–$11.0**	**–1.0%**
State Transit Assistance					
Public Transportation Account	$408.1	$385.9	$387.8	$1.9	0.5%
Bond funds	278.4	649.2	150.0	–499.2	–76.9
Greenhouse Gas Reduction Fund	—	25.0	50.0	25.0	100.0
Totals	**$686.5**	**$1,060.1**	**$587.8**	**–$472.3**	**–44.6%**

INFORMATIONAL ITEMS PROPOSED FOR DISCUSSION

0521 Secretary for the California State Transportation Agency (CalSTA)
2600 California Department of Transportation

Agency Overview: The CalSTA has jurisdiction over 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 oversees 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 $201.3 million from a combination of special funds, federal trust funds and reimbursements. Of this amount, $97.0 million is for the California Traffic Safety Program and $100 million is for grants to encourage low carbon transit operations as part of the Transit, Affordable Housing, and Sustainable Communities Program. Administrative costs of the agency are $4.3 million in the budget year.

Item 1: Caltrans Reform

Independent Review of Operations. As part of establishing the CalSTA in 2013, the Administration contracted with experts from the independent State Smart Transportation Initiative (SSTI) to conduct an expert review of Caltrans' operations. The SSTI has reviewed 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 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 focused 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 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.

The report recommended Caltrans and CalSTA complete four tasks in the next six months:

- 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.

- Work to ensure the success of California Environmental Quality Act (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.

- Modernize the state's transportation design guidance.

Update from Caltrans on Reform. Caltrans has adopted a new mission, vision, and set of goals that encompasses a larger set of outcomes around economy, livability, and environment, in addition to the traditional goals of improving mobility. Further reform efforts focus on accountability, including the release of new management and employee handbooks and the launch of an ethics hotline for employees.

In an effort to increase the construction of multimodal local streets and roads, Caltrans endorsed National Association of City Transportation Officials' guidelines that include innovations such as buffered bike lanes and improved pedestrian walkways. Last year, California made the list of the top 10 most bike-friendly states in the nation. In addition, Caltrans is implementing a new state law that empowers local governments to establish their own standards for local bicycling facilities, rather than relying on a single statewide standard. This allows local agencies the flexibility to make innovative design decisions incorporating alternative modes of transportation, as well as the tools and support necessary to make the best planning and design decisions for their local area. California also launched the $350 million Active Transportation Program and Amtrak California is setting record ridership numbers, even as gas prices fall.

To improve communication and community outreach, Caltrans publishes a periodic performance journal, *The Mile Marker*, which tracks how Caltrans is performing and where it needs to improve. Caltrans is increasing partnerships in transportation by focusing on mutual goals and benefits. For example, Caltrans and the San Diego Association of Governments worked extensively with the Coastal Commission to receive one of the largest consolidated permits for multimodal improvements on Interstate 5. Caltrans is also supporting California's high-speed rail project by integrating the system into state rail planning and working with the Air Resources Board on sustainable freight planning.

In addition to promoting active transportation and public transit, Caltrans is working to help reduce greenhouse gas emissions. Caltrans and CalSTA are hosting public workshops on the state's low-carbon transit programs, which are part of a statewide effort to invest cap-and-trade proceeds in ways that reduce emissions and improve air quality. Caltrans is also cutting greenhouse gas emissions by improving transit, increasing opportunities for active transportation, and embracing new technology in construction materials, alternative fuels, efficient lighting and renewable energy. Finally, Caltrans has hired Dr. Steven Cliff as Assistant Director of Sustainability, who is helping incorporate sustainability into all programs, policies, and projects.

The department's forthcoming strategic plan will incorporate the department's new objectives with performance measures to improve multi-modal transportation corridors and preserve existing assets with a "fix it first" approach. Caltrans is also testing a performance management method, known as Lean Six Sigma, which strives to improve management by systematically fixing wasteful or unnecessary practices and processes.

Staff Comment: The state's transportation system faces significant 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. Caltrans is working to reform the organization so that it can better address all modes of the state's transportation needs.

Questions:

1) *Please discuss the agency's and Caltrans' efforts to reform the department. What are the plans for 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?*

2) *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.*

3) *How would the reform efforts at Caltrans change if the state were to receive a significant amount of additional revenues for transportation projects? What steps would be taken to ensure that new funding is used to address shortfalls for all modes of transportation in the state?*

4) *Has Caltrans identified any responsibilities that should be devolved to the counties? Are there responsibilities that Caltrans is not currently performing that it should be?*

Staff Recommendation: Informational item. No action necessary.

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 $10.5 billion ($84.0 million General Fund) and 19,463.5 positions. This is $255 million, or about two percent, greater than the estimated current-year expenditures. 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 $6.5 billion of the total available resources.

Item 1: Legal Program Zero-Based Budget

Governor's Proposal: The Legal Program's zero-based budget (ZBB) was developed to provide the baseline for workload and staffing levels. The baseline has been determined to be 270.6 positions and $119.7 million.

Background: 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, Aeronautics, Legal, and an initial review of the Capital Outlay Support (COS) Program. Five programs remain—Maintenance, Operations, COS-Indirect, Programming, and Administration. In July 2015, Caltrans plans to begin a ZBB review of the Maintenance Program. In spring of 2016, Caltrans is planning to conduct a ZBB review of Traffic Operations Program. The ZBB schedule is not finalized at this time.

Caltrans is the only state agency that handles all its own legal affairs. The legal program has four offices in Sacramento, San Francisco, Los Angeles and San Diego, with district claims offices in each of the twelve Caltrans district offices and Headquarters.

Utilized by all Caltrans' programs, the Legal Program advises on federal and state statutes, regulations, and case law and how those laws impact Caltrans policy makers, operational needs and associated risks. Given the close proximity and availability of counsel, attorneys meet with and advise Caltrans personnel, which, allows for expedited program decisions and responses to local partners, stakeholders, Agency, the Legislature or the Governor's Office.

Caltrans is required by law to review every contract for legal sufficiency and compliance with the State Administrative Manual and Public Contracting Code. Accordingly, the Legal Program reviews Architecture & Engineering contracts, service contracts, procurement contracts, interagency agreements, and cooperative and maintenance agreements with our local partners.

The Legal Program is funded through the State Highway Account, State Transportation Fund, and receives smaller allocations from Seismic Retrofit Bond Funds, Federal Trust Fund and Reimbursements. The Legal Program's base budget is approximately $120 million; legal services have remained consistent over the past five years. The Legal Program has realized significant cost savings over the years due to collaborative and strategic analysis of potential exposure in tort law where single incidents can translate into multi-million dollar verdicts. The single largest area of litigation is tort defense actions involving the dangerous condition of public property. The Legal Program's ability to mitigate risks by engaging with the client at all levels in each program is a valuable resource for Caltrans.

Staff Comment: Staff has no concerns with the level of resources proposed for the Legal Program.

Staff Recommendation: Approve as budgeted.

Vote:

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 $2.4 billion (no General Fund) and 11,059 funded positions, an increase of roughly $49 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: Relocation of Chico and Stockton Area Offices

Governor's Proposal: The Governor's budget proposal includes a $5.8 million (Motor Vehicle Account) augmentation to complete the relocation of the Chico and Stockton Area Offices to new, build-to-suit facilities. The relocation of these offices was approved in past-year budgets (Chico in 2009-10 and Stockton in 2012-13).

Background: The Chico area office opened in 1979 and has been identified as having serious seismic structural issues. The Stockton area office opened in 1967 and also has serious seismic issues. The current project schedule anticipates occupancy for the new Chico facility to occur around June 2016 and the Stockton facility to occur around March 2016.

Staff Comment: The requested funding will support the final steps necessary for relocation.

Staff Recommendation: Approve as budgeted.

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 Governor's Budget proposes expenditures of $3.8 million and 20.0 positions for the administration of the CTC, 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: Department of Transportation: Goals and Performance Measures

Governor's Budget Proposal: The CTC requests $136,000 for a two-year limited-term position to support the expanded role of the CTC in developing, adopting, and monitoring of the State Highway Operation and Protection Program, the California Transportation Plan, the state's Interregional Transportation Strategic Plan, and the Interregional Improvement Program, as required by SB 486 (DeSaulnier), Chapter 917, Statutes of 2014.

Background: The SSTI review, completed in 2014, found that Caltrans has not kept pace with changes in transportation policy and calls for reforms to modernize Caltrans's mission, strengthen its performance, and help align Caltrans with the state's policy goals. Existing law requires the regional transportation planning agencies to engage in a transportation planning process that moves from a longer-term vision, represented by the regional transportation plan, to a short-term list of specific projects that implement the long-term vision. Caltrans, responsible for the maintenance and operation of the state highway system and for the state's interregional transportation system, does not currently have in place a similarly inclusive planning process that moves from vision to implementation.

Developing a process for Caltrans to follow in the development of the state's interregional and highway maintenance and operations programs, similar to the regional transportation planning process can create a framework for Caltrans to begin to address the flaws identified in the SSTI report and allow the state to catch up with the changes in transportation policy, so that Caltrans can once again align its work with the state's policy goals.

Staff Comment: Staff has no concerns with this proposal.

Staff Recommendation: Approve as budgeted.

<u>Vote:</u>

ITEMS PROPOSED FOR DISCUSSION AND VOTE

2660 Department of Transportation

Item 1: Fleet Greening for Air Quality

Governor's Budget Proposal: The Governor requests a permanent increase of $12.0 million in State Highway Account funds to replace equipment with lower and "cleaner" emissions in order to reduce the impact to the environment and comply with air quality regulations.

Background and Detail: Caltrans owns and operates a statewide equipment fleet of nearly 12,000 vehicles used to deliver capital projects, incident response, and the preservation, maintenance, and operation of the state transportation system. Caltrans' current equipment replacement budget is $28 million annually for replacing aged equipment that is beyond its useful life (based on replacement criteria of age, usage, and high repair costs). Caltrans has recently established guiding principles to prioritize the replacement process to ensure that the "worst of the worst" equipment is replaced first.

The focus of the Caltrans' proactive greening efforts are based on two regulations that have upcoming compliance deadlines. These regulations are:

1. In-Use Off-Road Diesel Vehicles (Off-Road): On July 26, 2007, the California Air Resources Board (CARB) adopted the off-road regulation to reduce diesel particulate matter and nitrogen oxide emissions from off-road diesel-fueled equipment in California. The regulation requires replacing older diesel-fueled equipment with newer, less polluting models; and it imposes specific reporting, labeling, and sales disclosure requirements; in addition to idle limitation requirements.

On December 14, 2011, the Office of Administrative Law approved amendments to the off-road regulation, which replaced fleet maximum average targets for particulate matter and nitrogen oxide emissions with a simplified, single annual fleet average structure. Fleets now have only one fleet average target to meet based on the nitrogen oxide emissions of all engines within their fleet. As shown in the table below, if the fleet average is not less than or equal to the required fleet average target for a given year, actions must be taken to reduce fleet emissions until the required target is met.

Required Fleet Target and Average Emission Rates for Caltrans

Target Year	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Target Emission Rate	6.4	6.0	5.5	4.9	4.3	3.7	3.1	2.5	1.9	1.5
Average (current)	**4.9**									

On September 13, 2013, CARB received authorization from the U.S. Environmental Protection Agency to begin enforcing the Off-Road Rule's emission performance requirements. Under this regulation, fleets must implement a replacement cycle to meet increasingly stringent annual emission milestones. The regulation requires Caltrans to meet specific annual emission milestones that are calculated based on the number, horsepower, and age of all equipment in its fleet. As of May 2014, Caltrans' off-road equipment fleet count is 893 active units, and Caltrans is projecting the need to replace over 475 pieces of off-road equipment worth approximately $85 million (based on current costs) for compliance with the final fleet emission target.

2. Air Toxic Control Measures: Effective March 11, 2005, CARB adopted the Air Toxic Control Measures to reduce diesel exhaust emissions produced by portable diesel-fueled engines having a rated brake-horsepower of 50 and greater. The Air Toxic Control Measures impose engine, fleet emission rate, and record keeping requirements.

The Air Toxic Control Measures regulate engines that are either the secondary engine (non-propulsion) on a two-engine piece of equipment, or mounted on a piece of equipment such as a trailer. The CARB categorizes all portable engines based on their brake-horsepower ratings and emission levels.

172 pieces of equipment in Caltrans' fleet are subject to the Air Toxic Control Measures. To comply with this regulation, Caltrans must replace approximately 120 of these pieces of equipment worth approximately $40 million (based on current costs) by calendar year 2020. The first component of the rule starting January 1, 2010, requires affected engines to meet state and federal emission standards for newly manufactured engines. The second component of the rule establishes the compliance schedule for fleet emission rate limits. Average emission rates from the portable engine fleet must stay below these rates. The following table shows the requirements of the Air Toxic Control Measures regulation. Caltrans is currently in compliance with these regulations.

2020 Maximum Average Fleet Emission Rates for Air Toxic Control Measures
(In Grams Per Brake-horsepower Hour)

< 175 Hp	175-749 Hp	≥ 750 Hp
0.04	0.02	0.02

Staff Comment: This request allows Caltrans to modernize and green its diesel fueled fleet in order to comply with regulation deadlines. Beginning ahead of the regulatory deadlines will allow Caltrans adequate time to procure new equipment—it would not be feasible to procure them all in a limited amount of time.

Questions:

1. *Why is Caltrans proposing to "green" its fleet ahead of ARB deadlines?*

Staff Recommendation: Approve as budgeted.

Vote:

Item 2: Project Initiation Document Program

Governor's Budget Proposal: The Governor's budget requests 362 positions and $53.8 million (State Highway Account) for Caltrans to develop roughly 600 PIDs in 2015–16. (Under the proposal, the same level of PID resources would be provided in 2016–17.) This reflects a net increase of 25 new positions and $3.4 million from the levels provided to the department in 2014–15. Specifically, the budget reflects the following changes.

- $2.6 million and 18 additional positions to develop roughly 40 additional PIDs resulting from an estimated annual increase in SHOPP funding of $300 million.

- $2 million and 14 additional positions to develop additional PIDs for projects with a total estimated cost to complete construction of $500 million. According to Caltrans, this would provide them with a shelf of projects to the extent that additional funding above what is currently estimated for SHOPP unexpectedly becomes available (such as unanticipated federal funds). If such funding does not become available, the developed PIDs would be programmed as part of the next SHOPP cycle. Under the Administration's plan, Caltrans would add new PIDs to the shelf when the existing shelf of projects is programmed, such that the department will continually maintain a $500 million shelf of PIDs.

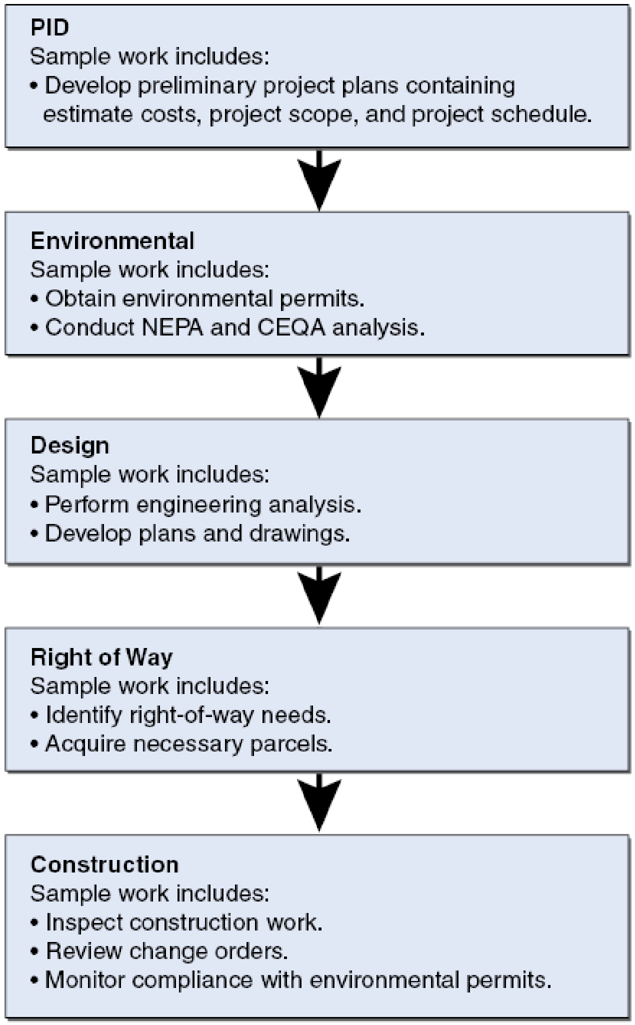
- $1.2 million reduction and seven fewer positions due to various other workload adjustments.

Background and Detail: Most of the $10.5 billion for Caltrans in 2015-16 supports the department's highway program, which primarily includes $3.9 billion for capital outlay, $2 billion for local assistance, $1.8 billion for highway maintenance and operations, and $1.7 billion to provide the support necessary to deliver capital projects.

At various stages throughout the development of a highway capital project, Caltrans estimates the cost and scope of the work required to complete the project. When this estimate is completed during the preparation of the initial plan for a project it is commonly referred to as a PID. The PID contains information about the proposed project, including the identification of the transportation problem that is to be addressed and an evaluation of alternatives to address the problem, as shown in the figure below. In addition to the estimated cost and scope, the PID also includes the estimated schedule of the project.

Figure 3

Development of PID Is First Step in Building Highway Projects



PID = project initiation document; NEPA = National Environmental Policy Act; and CEQA = California Environmental Quality Act.

Source: Legislative Analyst's Office

According to Caltrans, the above PID information is needed to decide if, how, and when to fund a particular project. Specifically, state law requires a PID be completed before a project can be programmed in the State Transportation Improvement Program (STIP), which is a five–year program that funds new highway construction projects that add capacity to the highway system. Caltrans and the CTC administratively require a PID also be completed before a project can be programmed for funding in the State Highway Operations and Protection Program (SHOPP), which is a four–year program of projects to improve the state highway system (such as pavement rehabilitation and safety improvements). Caltrans develops PIDs to provide the necessary information to add new projects to the STIP and

SHOPP when these programs are updated every other year to account for two additional years of funding. As a result, Caltrans budgets for PID workload on two–year cycles to align the development of PIDs with the need for such documents to program new projects in the STIP and the SHOPP. In addition, local transportation agencies develop PIDs for STIP projects and locally funded state highway projects. Caltrans oversees and must approve these locally developed PIDs before the related projects can be programmed. After a PID is completed and a project is programmed, a more refined cost estimate is made based on the specific project scope and design.

The number of PIDs Caltrans needs to prepare in a given year depends on the estimated level of funding that will be available to add new projects to the SHOPP and the STIP. Caltrans develops estimates of the amount of available funding on two–year cycles so that updated estimates are available each time the SHOPP and STIP programs are updated. In the most recent estimate in 2014, Caltrans projected a $300 million annual increase in funding available for the SHOPP, increasing funding for the program from $2 billion (based on the 2012 SHOPP) to $2.3 billion each year.

Over the last several years, the Legislature has directed Caltrans to make several improvements to the PID program. In response, Caltrans has developed several streamlined PID documents that better tailor the amount of workload required to complete a PID with the size and risk of a project. For example, for a capital project under $3 million in value, the department completes a streamlined PID that reflects only the studies and preparatory work required based on the scope of the project (rather than the full list of studies required in a traditional PID). As a result, the streamlined PID typically requires less work than a traditional PID.

In addition, due to concerns about the lack of data regarding the types of PIDs completed and the level of workload involved, the Legislature adopted supplemental report language as part of the 2013–14 budget package requiring Caltrans to report specific workload data for the PID program by January 31 of each year for five years, beginning in 2014. Such data includes the time and resources required to complete PIDs, as well as the impact of the PID process on overall project cost. In response to this requirement, the department began developing a database to track the actual workload required to complete each PID.

LAO Comments: The LAO has the following concerns with the Governor's proposal: (1) the lack of robust PID cost and workload data makes it difficult to assess the appropriateness of the level of resources being requested, (2) existing resources may be available to meet increased workload, (3) there is no need to create a shelf of SHOPP PIDs because Caltrans has been able to program projects in the past when there were increases in funding, (4) and it would result in an increased cost per PID.

The LAO recommends Caltrans report at budget hearings this spring on (1) the reasons why it has not provided the requested PIDs data, (2) when the department plans to provide the data, and (3) the steps it is taking to ensure the necessary data is collected and reported. It also recommends the Legislature withhold action on the proposed $2.6 million and 18 additional positions so that the Legislature can consider the request in conjunction with the department's COS budget request (the Legislature will receive this information April 15).

Finally, the LAO recommends the Legislature reject the proposed increase in funding and positions to create a shelf of SHOPP PIDs (14 positions and about $2 million).

Staff Comments: Since the LAO report, Caltrans has provided the PIDs report. It would be useful for the LAO to review the data in this report, in conjunction with the COS budget request that will be submitted on April 15th, and provide an assessment of the Administration's requests for resources for both the PID and COS program at May Revision hearings.

Questions for Caltrans:

1. *Please respond to the LAO's concern that existing resources may be available to meet increased PIDs workload.*

2. *Has Caltrans experienced any challenges in programing projects in a timely manner when the state has received unexpected funding increases in the past? Why or why not?*

Staff Recommendation: Hold open and direct the LAO to review the recently submitted PIDs data in conjunction with Caltrans' April 15th capital outlay support (COS) request and at the May Revision hearings make recommendations about the level of resources requested for both the PIDs and COS programs.

Vote:

Item 3: Transportation Management Systems (TMS) Maintenance and Engineering

Governor's Budget Proposal: The Governor's budget proposes $6.6 million from the SHA and 64 permanent positions for Caltrans to support the TMS. The request includes:

- $3.9 million and 44 positions to the Maintenance program to help adequately maintain and preserve the TMS, specifically related to maintenance needs for the increase in TMS components since 2007.
- $2.7 million and 20 positions to the Traffic Operations program to implement two TMS pilot projects on two highway corridors—one in Northern California and one in Southern California—to measure changes in traffic mobility and safety outcomes resulting from maintaining a TMS in accordance to federal requirements. The proposal also funds a report on the two selected corridors to show the effectiveness and value-added functionality of the TMS.

Background and Detail: In order to anticipate and clear traffic incidents, provide traveler information, and manage traffic in a given corridor, Caltrans maintains a transportation management system (TMS) for the state's highways. Currently, the TMS consists of more than 24,000 individual components, including numerous traffic signals, ramp meters, changeable messaging signs, highway advisory radios, closed circuit TV cameras (CCTVs), vehicle detection systems, and weather stations. This is an increase of 5,000 components since 2007. The department's Traffic Operations and Maintenance programs are responsible for operating and maintaining the various components of the TMS.

Federal regulations require monitoring of existing traffic and travel conditions with 85 percent accuracy and 90 percent information availability. These standards needed to be met for interstate highways by November 2012 and must be met for non–interstate routes on the state highway system by November 2016. Caltrans indicates that it is currently meeting these standards as they pertain to the interstate highways, but is not certain, at this time, whether it is meeting the requirements for non–interstate routes. The department is in the process of collecting data to determine its current rate. If Caltrans fails to meet the above federal requirements, it could be sanctioned by the Federal Highway Administration, such as by withholding project approval or making the department ineligible for certain federal transportation funds.

LAO Comments. A well maintained TMS could help the state make more efficient use of the state's existing highway system, which could reduce the need for additional highway capacity. While the number of components added to the TMS (such as ramp meters and traffic signals) has increased in recent years, the level of resources available to maintain the accuracy and operability of the different TMS components has been relatively flat. As a result, several required operational checks and preventative measures have not been completed. Such deferred maintenance has caused the current TMS to operate at less than full functionality, and can expedite the need to replace certain TMS components. For example, certain TMS components such as CCTV cameras, require regular inspection to ensure proper operation and identify any failures or physical damage that may have occurred—such as from extensive use, an accident, or vandalism.

In addition, if implemented effectively, the two pilot programs proposed by the department could provide information on the most cost–effective TMS components, best practices in operating the TMS, the measurable benefits that can be achieved within a given corridor from maintaining an accurate and functional TMS system, and any implementation challenges.

The LAO recommends the Legislature approve the proposed funding and 44 positions for the Maintenance program. This would allow Caltrans to make needed repairs and replacements to ensure that the components of the TMS are working as intended and in accordance to federal standards, improving the overall functionality of the system.

The LAO finds that the proposal for the pilot projects lacks detailed information, making it difficult to assess the appropriate level of resources needed for implementation and recommends that the Legislature not take action on this item until more information is provided.

Staff Comment: Staff agrees with the LAO recommendation to approve the resources for TMS management, which will enable Caltrans to better ensure the TMS components are working as intended. Staff understands that due to the timing of this request some information is not available that would help the Legislature to assess the resources needed to implement the pilot programs. However, given the lack of funding for system expansions and the critical need to use the current system as effectively and efficiently as possible, staff recommends approval of the resources to implement the pilot project.

Questions for Caltrans:

1) *What corridors are being considered for the pilot project and what criteria are being used to select them?*
2) *What types of TMS components will be used on the selected pilot corridors?*
3) *What metrics will be used to evaluate the effectiveness of the pilot project and what is the timeline for completion?*

Staff Recommendation: Approve as budgeted the requested 64 permanent positions and $6.6 million from the State Highway Account to support the TMS.

<u>Vote:</u>

Item 4: Highway Relinquishments (trailer bill language)

Governor's Budget Proposal: The Governor proposes trailer bill language that would expand the role of the California Transportation Commission and Caltrans in order to streamline the state process for relinquishing portions of the state highway system that primarily serve regional or local purposes.

Staff Comment. Given the complexity and policy nature of this proposal, staff finds that consideration of the trailer bill language is more appropriate for the Senate Transportation and Housing Committee.

Staff Recommendation. Reject, without prejudice, the proposed trailer bill language, so that the policy committee can consider this proposal.

Vote.

Item 5: Highway Tolling (trailer bill language)

Governor's Budget Proposal: The Governor proposes trailer bill language that would provide a process for proposing and approving toll lane projects, including both new toll lanes and the conversion of existing high-occupancy vehicle lanes to toll lanes. The legislation would also expand the authority of the California Transportation Commission to approve these toll road projects.

Staff Comment. Given the complexity and policy nature of this proposal, staff finds that consideration of the trailer bill language is more appropriate for the Senate Transportation and Housing Committee.

Staff Recommendation. Reject, without prejudice, the proposed trailer bill language, so that the policy committee can consider this proposal.

Vote.

Item 6: Road Usage Charge (RUC) Pilot Program

Governor's Budget Proposal: The Governor's budget includes several proposals—totaling $9.6 million from the State Highway Account (SHA)—related to the implementation of SB 1077, DeSaulnier, Chapter 835, Statutes of 2014. These are:

- $8.8 million for Caltrans to contract with consultants to both provide technical assistance and to conduct the RUC pilot program, and provisional language to provide Caltrans the flexibility to encumber these funds through June 2018.

- $618,000 annually for three years to support five limited–term positions at Caltrans to (1) assist the Technical Advisory Committee (TAC), and (2) manage the contract for the implementation of the pilot program.

- $162,000 annually for three years for the California Transportation Commission (CTC) to support one limited–term position to provide day–to–day support and coordination for the TAC, such as helping to organize and manage a number of meetings to gather public comment on issues and concerns related to the pilot program.

Background: Over time, changes in the type and fuel efficiency of vehicles have eroded the relationship between fuel taxes and road usage. In addition, revenues from fuel taxes are projected to decline, while at the same time construction costs have risen and the overall cost of the aging highway system is increasing. In light of these issues, the Legislature enacted SB 1077, to study the feasibility of charging individuals for each mile they drive. Such a charge is also sometimes referred to as a "mileage-based user fee." Several states have begun exploring the idea of funding their transportation systems with a road usage charge as an alternative to the fuel excise taxes. Currently, Oregon is the only state that has implemented a RUC program.

SB 1077 requires that several steps be taken to design and implement a pilot program to test the concept of a road usage charge in California as an alternative to the current gas tax system. First, the legislation requires the CTC, in consultation with CalSTA, to create a technical advisory committee (TAC) to guide the design, development, and evaluation of the pilot program. The TAC shall consist of 15 members appointed by the chairperson of the CTC who are representative of specified groups, including highway user groups, the telecommunications industry, the data security and privacy industry, and privacy rights advocates. According to the legislation, the TAC may request Caltrans to perform such work as it deems necessary to carry out its duties and responsibilities. Specifically, the TAC is required to consider and gather public comment on various issues such as:

- Availability of methods to record and report on the number of miles that individuals drive in the state and the costs to obtain such data.
- Ease and cost associated with collecting and enforcing a road usage charge.
- Various privacy issues related to the collection and reporting of travel data, including privacy protection, data security, and law enforcement access to data.

The TAC is required to make recommendations to CalSTA on the structure and specific features of the design and implementation of a road usage charge pilot program, including potentially determining the state department best suited to administer the pilot and the ideal number of participants. Chapter 835 requires that these recommendations be included in CTC's annual report to the Legislature.

Based on the recommendations of the TAC, CalSTA shall implement a road usage charge pilot program by January 1, 2017. The pilot program is required to (1) analyze various methods for collecting road usage data (including at least one method that does not rely on electronic vehicle location data), (2) collect a minimum of personal information from pilot participants, and (3) protect the privacy and integrity of driver data. Upon completion of the pilot program, CalSTA must submit its findings on the feasibility of implementing a RUC to the TAC, the CTC, and the Legislature by June 30, 2018. In January 2015, the CTC chairperson appointed the members of the TAC, which held its first meeting on January 23, 2015.

LAO Comments: The LAO raises the following concerns: (1) the budget assumes that Caltrans will administer the pilot program, (2) the budget assumes certain design features of the pilot, (3) Caltrans recently signed a contract to commit some of the funds proposed in the budget, and (4) the Administration has not provided a complete plan for the requested contract funds.

Staff Comments: The LAO raises concerns about assumptions Caltrans had to make and actions it took to begin work on the RUC. However, given the relatively short timeline for implementation of a pilot program—by January 1, 2017—and the importance of doing the pilot project well, Caltrans' early actions seem reasonable and consistent with the implementation of a successful pilot. Accordingly, Caltrans has developed a detailed project plan identifying the timeline and each of the steps that need to be taken to implement the pilot.

Questions for Caltrans:

1. *Why does Caltrans need the flexibility to encumber the funds for the contract through June 2018 when the project is expected to be completed and a final study report issued by June 2018?*

Staff Recommendation. Approve as budgeted the request for $9.4 million (State Highway Account) at Caltrans and $162,000 annually at CTC for one three-year limited term position. In addition, approve the provisional language to provide Caltrans the flexibility to encumber the funds through June 2018.

Vote.

Item 7: Fish Passages

Governor's Budget Proposal: The Governor has no proposal for this item.

Background: SB 857 (Kuehl), Chapter 589, Statutes of 2005 requires the Department of Transportation (Caltrans) to construct projects in a manner that does not present barriers to anadromous (salmon and steelhead) fish passage, to develop an approach to remediate existing barriers, to prepare and present its assessment for any repair project using state or federal transportation funds that affects anadromous fish to the Department of Fish and Wildlife (DFW), and to annually report to the Legislature on its progress in locating, assessing, and remediating existing barriers to anadromous fish passage.

Existing law intends the removal of man-made barriers to salmonid migration that have been created by the state highway system and for those barriers to be remediated as repairs are made. Road and stream crossings are extremely numerous, and may prevent the use of available habitat, a situation that is worsening as the current drought continues. Many salmon species in California are federally or state-listed endangered or threatened species, and the barriers posed by highways and roads have scientifically-validated limiting effects on the stream flows available to these fish.

The 2014 Coastal Anadromous Fish Passage Assessment and Remediation Progress Report states the estimated number of fish barriers in the state is 569 and, since 2006, only 31 fish passage barriers have been remediated. In 2013, four barrier remediations and four passage assessments were completed. In coordination with DFW, Caltrans has completed a review of all state highway locations within the passage assessment database and found that 36 of the 569 barriers are considered to be priority locations, as shown in the figure below.

Caltrans Fish Passage Barriers by District

Caltrans District	Estimated Fish Passage Barriers	2013 Priority Locations
1 – Eureka	322	11
2 - Redding	56	9
3 - Marysville	6	0
4 - Oakland	72	10
5 – San Luis Obispo	87	2
6 – Fresno	0	0
7 – Los Angeles	23	2
10 – Stockton	0	0
11 – San Diego	2	2
12 - Orange	1	0
Total	**569**	**36**

Source: Passage Assessment Database (PAD)

However, none of these 36 projects have a Construction Contract Acceptance (CCA) date. Caltrans has ongoing work at 27 other barriers that do have CCA dates, however none of those are on the joint DFW-Caltrans list of priority projects.

Staff Comments: Despite efforts by Caltrans to assess migratory fish barriers and to co-operate with DFW in identifying priorities for remediation, the progress in actually remediating these barriers has been minimal. There are several options the Legislature may want to consider to increase the rate of progress for the remediation of fish passage barriers. Specifically:

1. Direct Caltrans to standardize one or more designs that are acceptable to the state agencies (including other funding partners such as the Coastal Conservancy) so that when funding is available, projects can immediately move toward implementation, rather than re-hashing design issues;

2. Have Caltrans consider using DFW as the lead agency for a number of projects. This could result in using the DFW CEQA process which often results in a negative declaration thereby expediting the approval process, the use of the technical review committee that DFW has in place, and improved outreach to the federal fisheries and streambed regulatory agencies (Army Corps of Engineers and US Fish and Wildlife Service).

3. Explore the use of Proposition 1 funding that may be available to DFW through partnership arrangements with Caltrans.

4. Directly allocate, for the purpose of remediation, sufficient funds to complete 2-3 projects each year. Caltrans estimates the average cost per project is $1.5 million. A potential funding source is the federal Transportation Alternatives Program which provides funding for environmental mitigation, in additional to many other transportation alternatives, such as safe routes to schools projects.

5. Consider other permit consolidation or efficiency steps, much like AB 2193 (Gordon), Chapter 604, Statutes of 2014, did in 2014 for small-scale habitat restoration projects by consolidating various permits.

Questions for Caltrans and DFW:

1) *Please describe the Fish Creek project in Mendocino County and what contributed to this ultimately being a successful fish passage project.*

2) *What are the primary obstacles to completing the backlog of fish passage projects and what needs to be done to insure that these projects are a priority within Caltrans?*

3) *Which department is best to serve as the lead on these projects, especially for CEQA purposes? What is being done to ensure coordination between DFW and Caltrans?*

4) *How does repairing culverts fit into work done on fish passages? Does having a fish passage associated with a culvert needing maintenance increase the priority of the project?*

5) *Please provide an update on efforts to streamline permitting for fish passage.*

6) *What potential sources of funding could be used for fish passage projects?*

Staff Recommendation:

<u>Vote:</u>

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 9,022.8 positions; which, is slightly less than the level of funding and number of positions provided in 2014-15. There are three capital outlay requests for 2015-16.

Item 1: Oversight of the Motor Vehicle Account (MVA) Fund Condition

Background: The MVA was created to support the state's activities related to the administration and enforcement of laws regulating the operation or registration of vehicles used on public streets and highways, as well as to mitigate the environmental effects of vehicle emissions.

In 2014–15, $3.1 billion is estimated to be deposited into the MVA with vehicle registration fees accounting for $2.7 billion (85 percent) and driver license fees accounting for $299 million (10 percent). The remaining revenue primarily comes from identification card fees, late fees associated with renewals, and miscellaneous fees for special permits and certificates. Between 2009–10 and 2014–15, revenues have increased at an average rate of five percent annually.

Vehicle registration fees consist of two components—a base fee of $46, and an additional fee of $24 that directly benefits CHP. The base vehicle registration fee was last increased in 2011, from $34 to $46. In 2014, the CHP fee increased from $23 to $24 and was indexed to the Consumer Price Index (CPI), allowing the fee to automatically increase with inflation. The current driver license fee is $33 and was last increased by $1 in 2014. The driver license fee is also indexed to the CPI.

The MVA primarily provides funding to three state departments—DMV, CHP, and the Air Resources Board (ARB)—to support activities authorized in the California Constitution. In recent years, expenditures from the MVA have increased. The major cost drivers include:

- ***CHP Officers' Salary Increases.*** The state and the union representing CHP officers negotiated a memorandum-of-understanding (MOU) in 2013 that provides salary increases for CHP officers annually from 2013–14 through 2018–19. The MOU specifies that the increases are determined by calculating the weighted average of the salaries of the state's five largest local police agencies. In 2013–14 and 2014–15, CHP officers received average salary increases of five percent—adding $110 million in costs for the MVA.

- ***CHP Air Fleet Replacement.*** As part of an ongoing air fleet replacement plan for CHP's air fleet of 26 aircraft, the Legislature approved $17 million in 2013–14, $16 million in 2014–15 and annually ongoing, to fund the replacement of CHP aircraft.

- ***CHP Field Office Replacement.*** In 2013–14, the Legislature approved a total of $6.4 million to initiate a multiyear plan to replace existing CHP field offices. The funding supported the acquisition of land for one new office and the advanced planning to replace five additional offices. In 2014–15, the Legislature approved $32.4 million to fund the acquisition of land for the five new offices initiated in the prior year, as well as $1.7 million for advanced planning for five additional replacement projects.

- ***Implementation of AB 60.*** In 2014–15, the Legislature provided resources for DMV to implement Chapter 524, Statutes of 2013 (AB 60, Alejo), which specifies that beginning January 1, 2015, DMV accept driver license applications from persons who are unable to submit satisfactory proof of legal presence in the U.S. Specifically, $67.4 million was provided in 2014–15 and $57.1 million in 2015–16.

In order to help the state meet its spending priorities during the recent recession, $480 million was loaned from the MVA to the General Fund—$300 million in 2010–11 and $180 million in 2012–13.

In recent years, MVA expenditures have increased at a higher rate than revenues deposited into the fund. As a result, beginning in 2014–15, expenditures from the MVA are estimated to exceed the amount of revenues deposited in the fund—thereby resulting in an operational shortfall. Specifically, the MVA is estimated to have revenues of $3.1 billion and expenditures of $3.3 billion in the current year. This would leave an ongoing operational shortfall of about $200 million that will require the use of the MVA's fund balance, which amounted to $415 million at the start of 2014–15. Such operational shortfalls are likely to continue in 2015–16 and future budget years.

Governor's Proposals: The budget proposes to repay $480 million in loans that were previously made from the MVA to the General Fund. Specifically, the Administration proposes to repay $300 million in 2015–16 and $180 million in 2016–17. These loan repayments would provide the MVA with additional revenues that can be used to address operational shortfalls identified above—delaying when the MVA becomes insolvent.

The budget also includes proposals that would increase expenditures from the MVA in 2015–16, as well as in subsequent years. The CHP and DMV proposals are discussed in greater detail later in this agenda and include the following:

- ***Additional CHP Field Office Replacements ($136 Million).*** The Governor's budget proposes $135 million for construction activities for five previously approved CHP area offices and $1 million for planning and site selection activities for up to five CHP area offices. These proposals are part of the Administration's plan to replace many CHP field offices over several years.

- ***Initiate Multiyear DMV Office Replacement Plan ($4.7 Million).*** The Governor's budget proposes $4.7 million for pre–construction activities to replace three DMV offices. The out-year replacement cost of these three facilities is roughly $42 million. This proposal is the initial phase of the Administration's plan to replace eight DMV offices over the next several years.

- ***New ARB Research Facility ($3.8 Million).*** The Governor's budget proposes $3.8 million from the MVA to partially support the costs of evaluating a site and developing performance criteria for a new ARB research facility in Southern California. (Total costs of these activities are $5.9 million, with the remaining $2.1 million supported with other fund sources.) The total cost of the project is estimated to be $366 million and the Administration indicates that a portion of this cost would be supported by the MVA. (The LAO, in its recent report, *The 2015–16 Budget: Resources and Environmental Protection*, finds that the proposal is premature, as the Administration has not yet provided information that justifies the scope, costs, and need for the facility.)

- ***CHP Salary Increase.*** The Governor's budget assumes a salary increase for CHP officers of 3.3 percent for 2015–16 and provides $41 million from the MVA to support these costs. Based on the MOU discussed above, CHP officers will likely receive additional salary increases in 2016–17, 2017–18, and 2018–19.

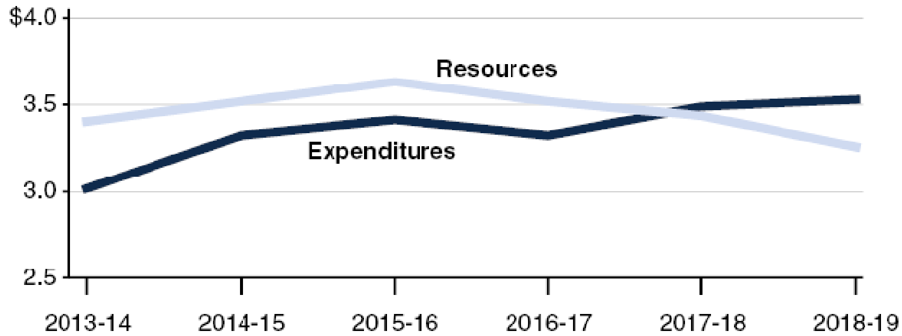
LAO Comments: While the Governor's proposed loan repayments from the General Fund to the MVA would offset operational shortfalls in the MVA in 2015–16 and 2016–17, the LAO's forecast of MVA revenues and expenditures indicates that the MVA's fund balance will still be depleted by 2017–18—resulting in insolvency. This forecast includes revenue estimates based on historical trends and expenditure estimates based on proposals already approved by the Legislature (such as the multiyear replacement of CHP's aircraft) and those proposed in the Governor's budget (such as the proposed replacement of DMV offices), as well as assumed in the Administration's 2015 Five–Year Infrastructure Plan. The forecast also includes out–year expenditures related to the annual CHP officer salary increases discussed above.

The figure below compares total MVA resources (revenues, proposed loan repayments, and fund balances) with expenditures from 2013–14 through 2018–19. As shown in the figure, absent any corrective actions, the forecast indicates that the MVA would become insolvent in 2017–18 with a shortfall of about $50 million that grows to roughly $250 million by 2018–19. As previously indicated, existing reserves and the loan repayments help prevent the fund from becoming insolvent prior to 2017–18. The LAO also notes that various additional cost pressures could further impact the solvency of the MVA over the next few years, such as possible information technology system replacements being considered by the DMV.

Figure 2

MVA Projected to Be Insolvent Beginning in 2017-18

(In Billions)



MVA = Motor Vehicle Account.

Given the projected insolvency of the MVA in the near future—assuming approval of the various proposals in the Governor's budget from the MVA—the Legislature will want to establish its priorities for the MVA and determine how best to address the projected insolvency based on these priorities. While the MVA is not projected to become insolvent until 2017–18, the LAO recommends that the Legislature begin to take steps now to help prevent this insolvency, especially given that the Governor's budget proposals for 2015–16 have fiscal implications in subsequent years. Below, are some of the options the LAO recommends the Legislature consider.

- *Reject Some of the Governor's Capital Proposals.* The Legislature could reject some of the Governor's capital outlay proposals as a way to reduce MVA expenditures in 2015–16 and in future years. For example, the Legislature could not approve any new projects but allow previously approved projects to continue as planned (such as the CHP field offices approved for replacement in the 2014–15 budget). We note that such actions would leave various safety and operational challenges facing certain offices unaddressed.

- *Reduce Other Expenditures.* The Legislature could choose to reduce or delay other expenditures—meaning the base programs supported by the MVA. For example, by delaying expenditures to replace CHP aircraft in future years or reducing CHP salary increases in future years. In addition, the Legislature could reduce base operational costs for CHP and DMV, such as the replacement of equipment or ending certain programs. We note that during the recent recession, CHP delayed vehicle replacements in order to reduce MVA expenditures.

- *Increase Fees.* The Legislature could choose to generate additional revenues by increasing vehicle registration or driver license fees to mitigate the shortfall in the MVA. For example, the LAO estimates that roughly $30 million in additional revenue could be generated annually from a $1 increase in the base vehicle registration fee.

Questions:

LAO:

1. *Please present your concerns about the fund condition of the MVA and recommendations to the Legislature to address the future shortfall.*

DOF:

1. *How does the Administration intend to address the shortfall that the LAO estimates will begin in 2017-18?*

2. *How should the Administration's requests to fund budget proposals that have negative out-year effects on the MVA's fund condition be considered and prioritized?*

Staff Recommendation: Hold open the repayment of the $300 million loan from the MVA to the General Fund. Direct the Administration to come back at the time of May Revision hearings with a prioritization of its 2015-16 budget requests and a strategy for ensuring the long-term solvency of the MVA.

Vote:

Item 2: Update on the Implementation of AB 60

Background: AB 60 (Alejo), Chapter 524, Statutes of 2013 expanded to whom DMV can issue a license 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 establishing identity and residency.

As shown in the figure below, last year's budget provided 822 positions and $64.7 million and established five temporary offices in Santa Clara, Santa Barbara, Los Angeles, Orange, and San Diego counties to implement AB 60. The level of resources requested in 2015-16 is somewhat less, and in 2016-17 the level of resources needed to implement AB 60 are anticipated to drop significantly.

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**

AB 60 is anticipated to result in approximately 1.4 million additional people receiving drivers' licenses (DL) over the next three years. From January 2, 2015 to April 3, 2015, over half-of-a-million Californians have applied for a driver license under AB 60. Most applicants, about 91 percent, are providing the necessary identity and residency documents to obtain a license without further review and 217,000 have obtained a license through this process. A small percentage of these applications, about six percent potentially require additional review, and a smaller percentage of these applicants have not had the necessary documents and were given the option to schedule a Secondary Review Referral to obtain a license.

Staff Comment: It appears that the level of resources and amount of preparation directed towards the implementation of AB 60 has contributed to the smooth roll-out of the program. In addition, post-AB 60 the Statewide Knowledge Test pass rate is roughly the same as the pre AB-60 pass rate. Overall, the average wait times have increased somewhat since last year, however, this is to be expected due to the increase in customer volume at field offices and processing centers.

Staff Recommendation: Informational item only. No action necessary.

Item 3: Licensing: Driver's License and Identification Cards

Governor's Proposal. The Governor's budget proposes an increase of 3.5 one-year limited-term positions ($633,000 Motor Vehicle Account) and two permanent positions ($148,000 reimbursements from the California Department of Corrections and Rehabilitation (CDCR)) to implement the following licensing bills:

- AB 935 (Frazier), Chapter 644, Statutes of 2014
- AB 1733 (Quirk-Silva), Chapter 764, Statutes of 2014
- AB 2308 (Stone), Chapter 607, Statutes of 2014

Background: AB 95 allows personnel who served in the United State Armed Forces to request, during an original, duplicate, or in-person renewal of a driver license or identification card a designator with the word VETERAN to indicate an individual's service. The bill would allow the DMV to charge a $5 fee for the indicator. The DMV requests 2.5 positions and $525,000 for one-time implementation costs.

AB 1733 provides an identification card free of charge to an applicant who verifies that he or she is homeless. It is assumed that 40 percent of California's homeless population of 136,826 will apply. The DMV requests one position and $92,333 for one year only.

AB 2308 expands an interagency agreement between DMV and CDCR to provide ID cards to all eligible inmates being released from a state prison. The program will expand from 13 to 34 CDCR institutions. The DMV requests two permanent positions and ongoing reimbursement authority from CDCR to expand the existing program.

Staff Comment: Staff has no concerns with these proposals. The requested resources are reasonable and consistent with these recently enacted state laws.

Staff Recommendation: Approve as budgeted.

<u>Vote:</u>

Item 4: Capital Outlay: Field Office Replacements

Governor's Proposal. The Governor's budget requests a total of $4.7 million from the MVA for DMV to begin replacement of several of its facilities, specifically those most in need of replacement. This request reflects the initial phase of the Administration's multiyear plan to replace eight DMV facilities over the next several years. Specifically, the budget proposes:

- $1 million to fund the acquisition plan phase of the Delano field office replacement project. The proposed facility would be 10,718 square feet with a total cost of $11.5 million. The current Delano field office is in a leased facility of 3,386 square feet that was built in 1954.
- $1 million to fund the preliminary plan phase of the Inglewood field office replacement project. The proposed facility would be 15,042 square feet with a total cost of $14.9 million. The current Inglewood field office of 20,824 square feet was built in 1972, which includes DMV investigations offices that will not be included in the new facility—resulting in the smaller square footage.
- $2.6 million to fund the acquisition plan phase of the Santa Maria field office replacement project. The proposed facility would be 13,342 square feet with a total cost of $15.5 million. The current Santa Maria field office of 4,387 square feet was built in 1969.

Background: The DMV operates 313 facilities, which include customer service field offices, telephone service centers, commercial licensing facilities, headquarters, and driver safety and investigations offices. Over half of DMV facilities are customer service field offices. According to DMV, most of its field offices are programmatically deficient. For example, the department reports that many customer service field offices were built in the 1960s and 1970s and are not sufficiently sized to accommodate the number of customers who currently use the offices. This is primarily because of population increases in the areas served by the offices. In addition, DMV reports that certain customer service field offices are seismically deficient, creating safety risks.

The Administration's Five-Year Infrastructure Plan proposes $116.5 million from the MVA over the next five years to address critical infrastructure and workload space deficiencies at six existing field offices and at DMV's 62-year old headquarters in West Sacramento. This plan includes the $4.7 million requested for 2015-16.

LAO Comment: The LAO's review of the Governor's proposals, finds that certain DMV field offices face significant programmatic and seismic safety challenges that merit their replacement in the near future. For example, according to data from the department, the Delano and Santa Maria customers service field offices—compared to the other 167 field offices—face some of the most significant space shortages to accommodate their customers and carry out their programmatic responsibilities. In addition, according to a study conducted by the Department of General Services, the Inglewood field office is seismically deficient and faces severe safety risks, compared to most other DMV offices—particularly since the office is located in close proximity to two fault lines.

The LAO notes that while it is reasonable to replace the most deficient DMV customers service field offices, such replacements creates cost pressures on the MVA which is problematic given the LAO's projected insolvency of the MVA beginning in 2017–18. This projection is based in part on approval of the Governor's proposed expenditures from the MVA in 2015–16 and their impact in subsequent years, which includes the proposed replacement of field offices. Thus, the LAO notes the Legislature will want to consider the $4.7 million proposed in the budget for DMV office replacement in the context of meeting its other priorities for MVA funding.

The LAO recommends the Legislature withhold action on the Governor's proposal pending consideration of its various priorities regarding expenditures from the MVA, given the fund's projected insolvency beginning in 2017–18.

Staff Comment: Staff concurs with the LAO analysis and recommendation.

Staff Recommendation: Hold open and direct the Administration to come back at the time of May Revise hearings with a prioritization of its 2015-16 budget requests and a strategy for ensuring the long-term solvency of the MVA.

Vote:

2720 Department of California Highway Patrol

INFORMATIONAL ITEM ONLY

Item 1: Air Fleet Replacement Update

Background: The CHP's Air Operations Program 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.

The 2014 Budget Act approved multi-year funding from the Motor Vehicle Account (MVA) to establish an on-going replacement program for the CHP air fleet. The plan involved replacing aircraft that exceeded 10,000 flight hours and maintaining an air fleet of 26 aircraft. Prior to this, most of CHP's aircraft were acquired using federal funds. The figure below shows the approved funding and replacement schedule.

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

Fiscal Year	Quantity of Aircraft	Funding
2013-14	4 (1 plane and 3 helicopters)	$17
2014-15	4 (2 airplanes and 2 helicopters anticipated)	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

Last year, CHP estimated that, when department specifications are met, an airplane would cost $3.5 million and a helicopter would cost $4.5 million. Actual costs for the airplanes have been in line with estimates; however, future costs may be higher if and when a turbine-powered airplane is identified. Actual costs per helicopter have been higher than estimated—$6.1 million rather than $4.5 million. The higher costs resulted from seeking a single price over the three-year life of the contract, plus the addition of a new, larger fuel cell. According to CHP, due to these higher costs, the number of aircraft purchased in a given fiscal year may be less and the time needed to replace all aircraft may be longer than initially estimated.

Staff Comment: The CHP has begun to replace its air fleet using MVA funds. As noted above, in the past, CHP's fleet was funded with mostly federal funds. Given that there might be federal funds available in the future and the future insolvency of the MVA forecast by the LAO, it would be prudent to consider options that reduce cost pressures on the MVA, such as finding alternative funding sources or slowing down the replacement schedule.

Questions for CHP:

1) *Has there been any indication that federal funds might be available in the future for the purchase of aircraft?*

2) *What are the trade-offs to consider when weighing slowing down the air fleet replacement program to reduce pressure on the MVA?*

Staff Recommendation: Informational only item. No action necessary.

ITEMS PROPOSED FOR DISCUSSION AND VOTE

Item 2: Integrated Database Management Systems Funding

Governor's Proposal. The Governor's budget proposes one-time funding of $894,000 from the Motor Vehicle Account (MVA) to cover cost increases associated with CHP's use of the California Department of Technology's (CDT) Integrated Database Management System (IDMS). The CHP uses this database to support several legacy applications that support key CHP business processes.

Background and Detail: Costs for the 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.

The CHP has begun the process to migrate its databases from the IDMS to a replacement system; they are currently revising a Stage 1 Business Analysis at the direction of CDT. If approved, CHP will proceed with a Feasibility Study Report. The FSR is expected to be completed and submitted in time for the 2016-17 budget cycle. The CDT anticipates that one-time funding for the IDMS replacement project may be requested as early as 2016-17 and that on-going costs would be absorbed within CHP's budget.

Staff Comment: The requested one-time funds are necessary to continue the operation of CHP's legacy systems on IDMS.

Questions for CHP:

1) *Is the FSR still on track to be completed in time for the 2016-17 budget cycle?*

Staff Recommendation: Approve as budgeted.

Vote:

Item 3: Capital Outlay: Statewide Planning and Site Identification, and Funding for Five Area Office Replacements

Governor's Proposal. The Governor's budget requests $135 million from the MVA to fund the design and construction of five CHP area offices in Crescent City, Quincy, San Diego, Santa Barbara, and Truckee. The Legislature previously allocated funding for the planning, site selection, and acquisition of parcels for these facilities. The Governor's budget also provides $1 million from the MVA for advanced planning and site selection to replace five additional area offices. The budget does not identify the specific five area offices that would be replaced. The figure below summarizes these proposals including estimated total project costs.

Governor's Budget Proposal for CHP Capital Outlay
(Dollars in Millions)

Proposed Item	2015-16 Request	Estimated Total Project Cost
Statewide Planning and Site Identification Study	$1.0	NA
Crescent City: Replacement Facility	21.3	$23.7
Quincy: Replacement Facility	27.3	29.4
San Diego: Replacement Facility	32.9	45.0
Santa Barbara: Replacement Facility	24.3	34.2
Truckee: Replacement Facility	29.4	35.5
Total	**$136.2**	**$167.8**

In addition, the proposal includes provisional budget language to allow the Department of Finance to provide an augmentation from the MVA of up $2 million to CHP to secure purchase options for parcels. The purchase option would provide the state the exclusive right to purchase a parcel if the project is authorized. The cost of the purchase option is estimated to be about 10 percent of the parcel's value, which the state would lose if the project is not authorized. The language also allows for the use of the design-build procurement method for these facilities.

Background. The CHP operates 103 area offices across the state. These offices typically include a main office building for CHP staff, CHP vehicle parking and service areas, and a dispatch center. Beginning in 2013–14, the Administration initiated a plan to replace five CHP field offices each year for the next several years. For both the current year and prior year, the Legislature has approved funding in accordance to this plan. Specifically, the 2013–14 budget included $1.5 million for advanced planning and site selection to replace up to five unspecified CHP area offices. Based on the results of this advanced planning, the 2014–15 budget provided (1) $32.4 million to fund the acquisition and design for five new CHP area offices in Crescent City, Quincy, San Diego, Santa Barbara, and Truckee, and (2) $1.7 million for advanced planning and site selection to replace up to five unspecified additional CHP area offices.

The Administration's Five-Year Infrastructure Plan proposes $712 million from the MVA over the next five years to replace the five facilities described above in addition to developing budget packages and selecting sites for up to 25 area office projects. The plan notes that the ability to fund these projects is a function of the resources available in the MVA.

LAO Comments: The LAO projects the MVA will become insolvent beginning in 2017–18 based in part on the Governor's proposed expenditures from the MVA in 2015–16 and their impact in subsequent years, which includes the proposed replacement of CHP field offices. Thus, the Legislature will want to consider the $136 million proposed in the budget for CHP office replacement in the context of meeting its other priorities for MVA funding.

In addition, the LAO finds that the proposed budget bill language would limit the type of legislative oversight that is typically provided in the traditional facility replacement process. This is because the proposed language would not allow the Legislature to adequately review and approve the specific offices to be replaced, as well as the proposed scope and estimated cost of each office, before the state commits funding to purchase the actual property. This is problematic because making changes to the scope of the project, after the property is chosen and secured, becomes more challenging.

The LAO recommends the Legislature withhold action on the Governor's proposal pending consideration of its various priorities regarding expenditures from the MVA, given the fund's projected insolvency beginning in 2017–18. To the extent that the Legislature decides to approve the proposed funding for CHP office replacements, the LAO recommends rejecting the proposed budget bill language authorizing CHP to secure purchase options for parcels, as it would circumvent legislative oversight.

Staff Comments: Staff concurs with the LAO analysis and recommends withholding action at this time.

Staff Recommendation: Direct the Administration to come back at the time of May Revision hearings with a prioritization of its 2015-16 budget requests and a strategy for ensuring the long-term solvency of the MVA. In addition, direct the Administration to modify the proposed BBL to reflect a smaller high-priority list of projects for which purchase options for parcels might need to be secured, and a process allowing for legislative notification and justification prior to locking into a site.

Vote:

Senate Budget and Fiscal Review— Mark Leno, Chair

SUBCOMMITTEE NO. 2 Agenda

Senator Lois Wolk, Chair
Senator Jim Nielsen
Senator Fran Pavley

Thursday, April 16, 2015
9:30 a.m. or Upon Adjournment of Session
Room: 112

Consultant: Farra Bracht

Transportation

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.

PROPOSED DISCUSSION / VOTE

Senator Lois Wolk, Chair
Senator Jim Nielsen
Senator Fran Pavley

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

Consultant: Catherine Freeman

Departments Proposed for Vote-Only

Departments Proposed for Discussion

Resources—Environmental Protection—Energy—Transportation

ITEMS PROPOSED FOR VOTE ONLY

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

3100 California Science Center and Exposition Park

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

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

3110 Tahoe Regional Planning Agency

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

(Multiple departments) Secretary for Natural Resources

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

3460 Colorado River Board

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

3940 State Water Resources Control Board

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

VOTE (Items 1-6):

State Conservancies

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

1. Proposition 1

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

Figure 2

State Conservancies

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

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

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

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

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

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

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

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

Questions for the Administration.

- How will the Administration address concerns that conservancies may not be able to provide assistance to project proponents within competitive grant programs?

- Are conservancies able to continue their land acquisition programs with the Proposition 1 funding?

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

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

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

Vote:

3640 Wildlife Conservation Board

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

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

EXPENDITURES BY FUND (in thousands)

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

Items Proposed for Vote-Only

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

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

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

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

Staff Recommendation: Approve Items 1-4.

Vote:

Items Proposed for Discussion

2. Proposition 1 Bond Funds

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

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

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

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

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

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

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

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

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

Questions for the Administration.

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

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

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

Staff Recommendation: Approve budget item as proposed.

Vote:

3360 California Energy Commission

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

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

EXPENDITURES BY PROGRAM (in thousands)

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

EXPENDITURES BY FUND (in thousands)

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

Items Proposed for Vote-Only

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

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

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

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

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

Staff Recommendation: Approve items 1-5.

Vote:

Items Proposed for Discussion

1. Siting Fee Authority to Power Plant Certifications

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

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

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

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

Questions for the Administration.

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

Staff Recommendation: Approve as proposed.

Vote:

2. Energy Conservation Assistance Account (ECAA) Program Support

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

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

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

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

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

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

Staff Comments. Staff concurs with the request for funding.

Questions for the Administration.

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

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

Staff Recommendation: Approve budget item as proposed.

Vote:

3. International Relations Senior Advisor on Greenhouse Gas Emission Reduction

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

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

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

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

Questions for the Administration.

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

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

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

Vote:

8660 California Public Utilities Commission

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

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

EXPENDITURES BY PROGRAM (in thousands)

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

EXPENDITURES BY FUND (in thousands)

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

Items Proposed for Vote-Only (Adopted Legislation)

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

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

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

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

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

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

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

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

Administration Proposals (Workload)

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

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

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

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

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

Staff Recommendation: Approve Items 1-13.

Vote:

Items Proposed for Discussion

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Questions for the Commission:

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

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

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

Staff Recommendation:

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

Vote:

2. Universal Lifeline Telecommunications Program

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

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

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

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

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

Questions for the Commission.

- What is the legislative direction, other than the 1984 initiating statutes, that directs the CPUC to increase participation to wireless communication devices?

- Will lifeline participants be able to text and access the internet? Is there statutory direction for what is included in the mobile device lifeline program?

- How many persons per household are allowed an eligible device? Could there be more than one per household?

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

Staff Recommendation: Approve as proposed.

Vote:

3. Safety Division Requests

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

Budget Proposals.

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

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

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

Questions for the Commission.

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

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

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

Staff Recommendation: Approve budget items as proposed.

Vote:

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

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

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

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

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

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

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

Questions for the Commission.

- The CPUC has directed an outside program that utilizes ratepayer funds. How is this different from directing ratepayer funds to a nonprofit, a practice that was statutorily prohibited in 2013?

- How has CAETFA spent the $4.4 million allocated in the 2014 budget for this program?

- Given that the CPUC is the lead, what oversight will the CPUC conduct of the program? Will there be audits of the expenditures and if so, using what resources?

- The CAETFA is requesting permanent positions. Does the CPUC believe that this program will be permanent? In discussion with the budget subcommittees, this program was always described as temporary.

- When will be the next discussion of program funding at the CPUC? Will the Legislature be asked to determine if it wishes to continue this program prior to the CPUC renewing it?

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

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

Vote:

Senator Lois Wolk, Chair
Senator Jim Nielsen
Senator Fran Pavley

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

Consultant: Catherine Freeman

OUTCOMES

Departments Proposed for Vote-Only

Departments Proposed for Discussion

Resources—Environmental Protection—Energy—Transportation

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling 916-651-1505. 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. These include technical budget adjustments requested through April Finance Letters.

3100 California Science Center and Exposition Park

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

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

3110 Tahoe Regional Planning Agency

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

(Multiple departments) Secretary for Natural Resources

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

3460 Colorado River Board

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

3940 State Water Resources Control Board

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

VOTE (Items 1-6): 3-0

State Conservancies

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

1. Proposition 1

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

Figure 2

State Conservancies

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

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

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

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

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

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

Proposition 1 Proposals for Conservancy Restoration Projects

(Dollars in Millions)

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

Questions for the Administration.

- How will the Administration address concerns that conservancies may not be able to provide assistance to project proponents within competitive grant programs?

- Are conservancies able to continue their land acquisition programs with the Proposition 1 funding?

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

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

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

Vote:

(1) **2-1 (Nielsen, no)** to approve Prop 1 budget proposals for: Santa Monica Mountains Conservancy, Baldwin Hills Conservancy, San Joaquin River Conservancy, Delta Conservancy.

(2) **3-0** to approve Prop 1 budget proposals for: State Coastal Conservancy, Ocean Protection Council, San Gabriel Conservancy, Sierra Nevada Conservancy, California Tahoe Conservancy, Coachella Valley Mountains Conservancy.

(3) **2-1 (Nielsen, no)** to approve trailer bill language (above)

3640 Wildlife Conservation Board

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

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

EXPENDITURES BY FUND (in thousands)

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

Items Proposed for Vote-Only

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

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

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

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

Staff Recommendation: Approve Items 1-4.

Vote: 2-1 (Nielsen, no

Items Proposed for Discussion

2. Proposition 1 Bond Funds

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

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

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

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

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

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

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

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

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

Questions for the Administration.

- What will be the process for allocation of the instream flow funding?
- Will the Administration's approach consider long-term benefits to the state and, if so, what are these benefits and how far out will the board be looking?
- Given the drought, it is possible that the board will be evaluating proposals that include inflated pricing? If so, how will the board address these concerns?

Staff Recommendation: Approve budget item as proposed.

Vote: 3-0

3360 California Energy Commission

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

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

EXPENDITURES BY PROGRAM (in thousands)

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

EXPENDITURES BY FUND (in thousands)

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

Items Proposed for Vote-Only

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

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

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

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

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

Staff Recommendation: Approve items 1-5.

Vote: Items 1, 4 (2-1 [Nielsen, no] to approve)
Items 2, 3, 5 (3-0 to approve)

Items Proposed for Discussion

1. Siting Fee Authority to Power Plant Certifications

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

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

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

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

Questions for the Administration.

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

Staff Recommendation: Approve as proposed.

Vote: 2-1 (Nielsen, no) to approve as proposed and to amend trailer bill to allow for direct costs less than $5,000.

2. Energy Conservation Assistance Account (ECAA) Program Support

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

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

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

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

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

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

Staff Comments. Staff concurs with the request for funding.

Questions for the Administration.

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

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

Staff Recommendation: Approve budget item as proposed.

Vote: **2-1 (Nielsen, no) to approve as proposed and to allow GGRF to be used for program administration.**

3. International Relations Senior Advisor on Greenhouse Gas Emission Reduction

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

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

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

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

Questions for the Administration.

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

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

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

Vote: **2-1 (Nielsen, no) to approve as one-year, limited-term position, and to require the CEC to report back next year with the ARB on the accomplishments of the international advisors.**

8660 California Public Utilities Commission

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

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

EXPENDITURES BY PROGRAM (in thousands)

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

EXPENDITURES BY FUND (in thousands)

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

Items Proposed for Vote-Only (Adopted Legislation)

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

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

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

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

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

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

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

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

Administration Proposals (Workload)

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

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

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

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

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

Staff Recommendation: Approve Items 1-13.

Vote: **Items 1, 5, 8: 2-1 (Nielsen, no)**
Items 2, 3, 4, 6, 7, 9-13: (3-0)

Items Proposed for Discussion

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Questions for the Commission:

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

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

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

Staff Recommendation:

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

Vote: 3-0 to:

(1) Approve January budget and spring finance letter audit positions.

(2) Hold open: Require the CPUC to return funding from vacant positions annually to ratepayers, rather continue to allow the funding for these positions to be used for other purposes.

2. Universal Lifeline Telecommunications Program

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

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

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

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

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

Questions for the Commission.

- What is the legislative direction, other than the 1984 initiating statutes, that directs the CPUC to increase participation to wireless communication devices?

- Will lifeline participants be able to text and access the internet? Is there statutory direction for what is included in the mobile device lifeline program?

- How many persons per household are allowed an eligible device? Could there be more than one per household?

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

Staff Recommendation: Approve as proposed.

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

3. Safety Division Requests

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

Budget Proposals.

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

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

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

Questions for the Commission.

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

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

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

Staff Recommendation: Approve budget items as proposed.

Vote: 3-0 to approve as proposed

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

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

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

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

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

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

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

Questions for the Commission.

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

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

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

Vote:

(1) 2-1 (Nielsen, no) to approve funding recommendation to Sub#4
(2) **3-0 to approve trailer bill recommendation and to reject permanent positions.**

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

Senator Lois Wolk, Chair
Senator Jim Nielsen
Senator Fran Pavley

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

Consultant: Catherine Freeman

Items Proposed for Vote-Only

Departments Proposed for Discussion

Resources—Environmental Protection—Energy—Transportation

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

ITEMS PROPOSED FOR VOTE ONLY

3560 State Lands Commission

1. **Royalty Recovery and Revenue Assurance.** The Governor's budget requests $472,000 (General Fund), ongoing, for the conversion of four limited-term auditor positions, to permanent. These positions were provided to address workload needs as identified by a 2010 State Auditor report of commission revenue operations. Prior audit staffing levels were only able to react on a “crisis” basis which resulted in a large backlog and potentially millions of dollars in underreported royalties. The four expiring auditor positions are necessary to ensure accuracy and timely processing of reported royalties, as well as ensuring the state is receiving revenue in accordance with the terms of its leases, contracts and applicable laws. The revenue findings associated with the costs of these auditors is at least a two-to-one ratio, bringing a minimum of one million dollars to the General Fund annually.

2. **Lease Compliance and Enforcement Continuation.** The Governor's budget requests $535,000 (General Fund), ongoing, for the conversion of five limited-term positions, to permanent to continue the implementation of the Lease Compliance, Enforcement and Revenue Recovery program which ensures compliance with lease terms and conditions resulting in increased revenues to the General Fund.

3820 Bay Conservation Development Commission (BCDC)

3. **Baseline Adjustment for Rent Increase.** The Governor's budget requests $85,000 (General Fund) to cover the additional lease costs due to the BCDC office relocation to the Hiram Johnson State Building in San Francisco. The move was prompted by the Department of General Services in order to save overall state funds due to vacancies in state buildings. The Legislature approved this proposal on a one-time basis last year and required BCDC to submit a proposal in January 2015, for a move to the Metropolitan Transportation Commission (MTC) building, including cost estimates. According to BCDC’s report, the space in the MTC building will not be available until August of 2016. Therefore, it is not necessary to consider or budget for the move until the 2016-17 budget cycle. Consistent with the previous year’s action, the provisional language continuing the requirement for BCDC to submit a proposal to move to space in the MTC building is included in this item and shifted to January 2016.

4. **Stable Base Funding.** The Governor's budget requests additional baseline General Fund to fully fund the core functions of the BCDC’s existing staff, to fill its vacancies, and to enable it to begin a rulemaking process to increase its permit fees in order to supplement General Fund funding. In addition, BCDC requests that the state establish a special fund into which the additional annual permit fee collections will be placed that exceed the past eleven-year average of annual permit fee collections. Funds from the special fund would be allocated to BCDC through the budget process to augment BCDC’s General Fund.

3720 Coastal Commission

5. **Whale Tail License Plate Coastal and Marine Education Program.** The budget proposes an increase to the local assistance baseline budget of $44,000 (Coastal Beach and Coastal Enhancement Account [CBCEA]) for coastal and marine education grants to nonprofits, schools, and government agencies. The budget also proposes an increase to state baseline operations of $45,000 for outreach and promotion of Whale Tail license plates.

6. **Protect our Coast and Oceans Fund—Local Assistance Grants and Outreach.** The budget proposes a one-time appropriation of $315,000 (Protect our Coast and Oceans Fund) from voluntary contributions on the state tax return. Of this amount, $250,000 is proposed to augment the Whale Tail grant program and $65,000 is proposed to support outreach and promotion of the voluntary contribution program.

376 Coastal Conservancy

7. **Continuing Bond Funded Local Assistance and Capital Outlay.** The budget proposes continued funding from three previous bond funds for continued local assistance and capital outlay programs. These include $12.4 million (Proposition 84), $12.4 million (Proposition 40), $8 million (reimbursement authority, specific to San Francisco Bay programs), $15 million (Proposition 1), and $1.3 million (Proposition 19). This includes a Spring Finance Letter for a technical reversion of funds from Proposition 19.

8. **Coastal Local Assistance and Capital Outlay Proposals.** The budget proposes $500,000 (Coastal Access Account) for ongoing implementation of the conservancy's public access, education, and related programs. The conservancy also proposes $1.6 million (Violation Remediation Account) for associated public access and coastal resource enhancement grants, and $180,000 (Violation Remediation Account) for program delivery, consistent with approved programs.

9. **Habitat Conservation Fund Transfers and Reappropriations.** The budget proposes $3.7 (Proposition 50) to provide for the transfer of the unliquidated balances of funds that reverted prior to being transferred to the Habitat Conservation Fund.

3110 Tahoe Regional Planning Agency

10. **Spring Finance Letter: Invasive Species Program.** The budget proposes $375,000 (Harbors and Watercraft Revolving Fund) to continue a bi-state invasive species boat inspection program at Lake Tahoe.

VOTE (Items 1-10):

8570 California Department of Food and Agriculture

The California Department of Food and Agriculture (CDFA) serves Californians 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.

Governor's Budget. The Governor's budget includes $384 million ($65.8 million General Fund) for support of the CDFA, a decrease of approximately $6 million, mainly due to one-time costs.

EXPENDITURES BY PROGRAM (in thousands)

Program	Actual 2013-14	Estimated 2014-15	Proposed 2015-16
Agricultural Plant and Animal Health; Pest Prevention; Food Safety Services	$182,738	$227,102	$228,015
Marketing; Commodities and Agricultural Services	56,658	70,796	71,897
Assistance to Fair and County Agricultural Activities	2,859	1,300	4,392
General Agricultural Activities	59,235	91,701	80,503
Administration	19,259	21,806	21,952
Total Expenditures (All Programs)	**$301,619**	**$391,078**	**$384,985**

POSITIONS BY PROGRAM

Program	Actual 2013-14	Estimated 2014-15	Proposed 2015-16
Agricultural Plant and Animal Health; Pest Prevention; Food Safety Services	904.5	1,032.4	1,033.9
Marketing; Commodities and Agricultural Services	275.9	305.8	309.8
Assistance to Fair and County Agricultural Activities	5.2	8.0	10.0
General Agricultural Activities	3.9	36.7	36.7
Administration	181.1	189.8	189.8
Total Positions (All Programs)	**1,370.6**	**1,572.7**	**1,580.2**

Items Proposed for Vote-Only

1. **Certified Farmers Markets (AB 1871).** The budget requests $1 million (ongoing, reimbursements) and four permanent positions, to enhance the existing Certified Farmers Market Program, as required by AB 1871 (Dickinson), Chapter 579, Statutes of 2014. The department will contract with county agricultural commissioners for enforcement work along the program to align with industry growth.

Staff Recommendation: Approve item 1.

Vote:

Items Proposed for Discussion

1. California Animal Health and Food Safety Laboratory System (CAHSF)

Background. The CAHSF Laboratory System is operated by the University of California (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 $4.3 million (General Fund), to both offset the employee compensation increases, causing a baseline deficiency ($3 million, ongoing), and to add additional resources required to operate the new South Valley Animal Health Laboratory in Tulare ($1.3 million, ongoing). The laboratory is intended to prevent, detect, and respond to animal health disease outbreaks.

Staff Comments. Staff concurs with the need to provide funding for the employee compensation costs and for the new laboratory. In 2014, this subcommittee discussed 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 Legislature funded employee compensation increases on a one-time basis and asked the department to return with a baseline adjustment sufficient to fund the animal health laboratory program. The department should be prepared to discuss the following:

(1) Will the provisional language (below) be sufficient to allow the baseline to be adjusted for compensation increases, in a similar manner to regular department compensation increases?

(2) The proposal identifies increased detection of animal health disease outbreaks. How will the new laboratory reduce the impact of these outbreaks and what other actions is the Administration taking to reduce the number of outbreaks?

Staff Recommendation: Approve as proposed with provisional language (below) requiring the department to annually adjust for University of California compensation increases, as it would for baseline operations.

> *The amount appropriated in this item for the agreement with the Regents of the University of California to operate poultry and livestock disease laboratories shall be adjusted annually, as necessary, for University of California negotiated employee compensation and benefit adjustments.*

Vote:

2. Fairs and Expositions—Allocation and Training Program

Background. California hosts one of the largest fair systems in the nation, consisting of 78 active fairs operating under a variety of governance structures. This includes six county-operated fairs, 17 nonprofit operated fairs, two citrus fruit fairs, 54 statutorily created District Agricultural Associations (DAAs), and the California State Fair. For 76 years prior to 2009-2010, funding support for the fairs was generated through pari-mutuel horse racing licensing fees, a funding source established in 1933 that legalized gambling on horse racing. In 2009-10, the Legislature shifted the revenues to the General Fund, in part due to the continuing decline of horse racing revenues. General Fund support for the fair industry continued at $32 million for two years until it was eliminated in the 2011-12 budget. The fairs continued to receive funding from local revenues, fees and fair revenues.

Budget Proposal. The budget proposes a restoration of $3.1 million (General Fund), and two permanent positions, for the Division of Fairs and Expositions to provide operational and training support to the fair network. This request is intended to support fairs and reduce the potential high cost closure of fairgrounds. The funding will provide operational support for 64 small to medium fairs, provide staff and board training to all 78 fairs, and support an audit component to ensure fairs are adhering to state rules and regulations.

LAO Analysis: The LAO reviewed this proposal and raised the following concerns:

> **Target Funding to At-Risk Fairs.** The proposal does not address the main problem identified, specifically to ensure the continued operation of the fairs at risk of closure. This is because the proposal does not target funding among the fairs based on their financial condition. Instead, fairs would receive a set amount of funding based on how much revenue they generate regardless of their financial condition. For example, under the proposal, the five Class I fairs that reported operating deficits in 2013 would receive the same amount of funding as the six Class I fairs that reported an operating surplus.
>
> **Provide Incentive to Improve Fair Operations.** The way that the proposal would distribute funding does not provide fairs that run an operating deficit an incentive to improve their operations. Specifically, providing an ongoing lump sum payment annually to all fairs in the same class would allow those fairs that are running deficits to continue to do so without having to make any changes to their management or operations.
>
> **Include Analysis of Constraints or Challenges Faced by Certain Fairs**. The proposal also does not include a fair-by-fair analysis of the causes of the financial constraints or challenges faced by those fairs at risk of closure. Given the number of fairs and the range of operating circumstances (such as location, regional population, and amenities offered), each fair may experience unique challenges. For example, some fairs may have creative and entrepreneurial management but may face challenging markets and competition from other entertainment venues. In other cases, better fiscal management might be sufficient to ensure financial sustainability. Without information on the specific drivers of the

various fairs' financial conditions, the Legislature is unable to identify the best ways to address their challenges.

LAO Recommendations. We recommend that the Legislature modify the Governor's proposal to provide funding to the fairs on a one-time basis and target that funding to the fairs at highest risk of closure. We also recommend that this funding be structured in such a way as to incentivize improved management. This could be done in a couple of ways. For example, the funding could be provided as a low- or no-interest loan. Alternatively, the funding could be tied to a percentage of the fair's operating deficit. In 2013, 29 of the fairs had operating deficits totaling $2.8 million. The Legislature could appropriate funding to meet 75 percent of those fairs' deficits, at a cost of $2.1 million ($500,000 less than the Governor's proposal).

We also recommend the Legislature pass budget bill language requiring CDFA to provide a report with the 2016-17 budget that identifies the fairs at greatest risk of closure due to their financial conditions, the main reasons that each of those fairs face challenges earning enough revenue to support their operations, and recommendations for addressing the specific challenges faced by those fairs. The purpose of this report is to provide the Legislature with the information it needs to determine how best to address the needs of the fairs.

Finally, we note that this proposal raises questions about the most appropriate role of the state in supporting fairs. These fairs are on state properties and its employees are state employees. However, they provide primarily local benefits and, until recent years, have not been reliant on the General Fund to operate. To the extent that the Fairs and Exposition Fund continues to be a limited revenue source and some fairs persistently run operating deficits, the Legislature may wish to consider whether these fairs should continue to receive state funds. In fact, in 1997-98, CDFA closed two fairs that it determined were not financially viable.

Staff Comments. The Legislature, in reducing General Fund appropriations to fairs, made a policy statement that forced all fairs to review their operations and determine if they are able to increase revenue while still maintaining the nature of the fair as authorized by statute. As the LAO stated, this proposal does not differentiate between fairs that have successfully accomplished this task and those that have not. However, the state has a vested interest in the fair network, and particularly the assets of the fairs, including real property. Staff concurs that this proposal, particularly the audit function, will help to maintain these assets. However, the question of how many fairs the state should support is still an open policy issue.

Questions for the Department.

(1) How does the department differentiate compensation for fairs that are failing due to natural market causes versus those that have attempted to be entrepreneurial and have not been successful?

(2) Has the department considered reducing the number of fairs supported, and assisting these fairs with the sale of property, in order to streamline the fair network?

(3) Has the state considered transferring any fair to a local entity—including property and employee compensation, in order to effectively allow local management of these local enterprises?

Staff Recommendation: Approve as proposed with both provisional and reporting language. Approve LAO recommendations for reporting language and additionally provisional language requiring the department to target 2015-16 funding to the fairs at highest risk of closure.

Vote:

7300 Agriculture Labor Relations Board

The Agricultural Labor Relations Board (ALRB) is responsible for: (1) carrying out the policies of the State of California to encourage and protect the associational rights of agricultural employees; (2) 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 (3) investigating, prosecuting, and adjudicating unfair labor practice disputes.

Governor's Budget. The Governor's budget includes $9.5 million ($8.3 million General Fund) for support of the ALRB. This includes an increase of $1.6 million and 13 positions proposed to expand ALRB services to farmworkers.

EXPENDITURES BY PROGRAM

Program	Actual 2013-14*	Estimated 2014-15*	Proposed 2015-16*
Board Administration	$2,280	$2,964	$3,626
General Counsel Administration	3,702	5,333	5,831
Administration	541	681	877
Total Expenditures (All Programs)	**$5,982**	**$8,297**	**$9,457**

POSITIONS BY PROGRAM

Program	Actual 2013-14	Estimated 2014-15	Proposed 2015-16
Board Administration	12.0	13.5	16.5
General Counsel Administration	27.9	31.0	40.0
Administration	3.8	6.0	7.0
Total Positions (All Programs)	**43.7**	**50.5**	**63.5**

EXPENDITURES BY FUND

Fund	Actual 2013-14*	Estimated 2014-15*	Proposed 2015-16*
General Fund	$4,983	$7,204	$8,290
Labor and Workforce Development Fund	999	1,093	1,167
Total Expenditures (All Funds)	**$5,982**	**$8,297**	**$9,457**

Items Proposed for Discussion

1. Board and General Counsel Support Program

Background. The Agricultural Labor Relations Act was signed into law by Governor Jerry Brown in 1975 to "encourage and protect the rights of agricultural employees to full freedom of association, self-organization and to be free from interference, restraint, or coercion." Consistent with this purpose, the ALRB's role is to ensure peace and justice in the fields by providing stability in agricultural labor relations implementation, protection, and enforcement of the rights and responsibilities of employers, employees, and unions in their relation with each other.

The ALRB operates as two independent bodies: the Office of the General Counsel and the Office of the Board:

- The Office of General Counsel acts as the prosecutorial branch of the agency with the responsibility to process, investigate, and prosecute unfair labor practice charges.

- The Office of the Board acts in a quasi-judicial capacity—reviews on appeal the interlocutory motions in ongoing cases, reviews the record de novo of all cases appealed to the board, and defends the board's final decisions when review is sought in the Court of Appeal. The board also promulgates regulations and policies necessary to implementing the act and oversees the conduct of representation elections through which farmworkers can choose whether or not to be represented by a union.

Budget Proposal. The Governor's budget requests $1.6 million (General Fund) and 13 positions to support and expand the Agricultural Labor Relations Board (ALRB) services to farmworkers, to improve the timeliness of hearings, and increase efficiency and accountability. Specifically, the proposal includes:

> **Office of General Counsel.** The ALRB requests about $778,000 and nine positions for the General Counsel Program to staff two new regional offices. The positions will help the ARLB address current workload demands, improve the ARLB's services to underserved areas, reduce travel for investigations, and track workload data and program outcomes.

- **Six Positions to Establish Two New Regional Offices.** The two new offices will be located in Northern California and a desert regional office to expand access for farmworkers and enhance agency efficiency by reducing travel times for investigation of charges by regional attorneys and field examiners. Offices are intended to be co-located within existing state facilities in those areas. The Northern California office will be supervised and supported by the Salinas regional office. ARLB investigations are often conducted in the fields because travel to the regional offices can be cost prohibitive for farmworkers. The use of fleet vehicles (versus personal mileage and/or rental vehicle use) is the most cost-effective method of conducting mission-critical work. This proposal requests one fleet vehicle in each new office. The total one-time costs for two vehicles is $50,000.

- **Three Positions to Staff Existing Locations.** The ARLB requests two staff services analysts to support the Visalia and Salinas regional offices and to track workload data and program outcomes. The analysts will primarily be responsible for collecting and analyzing workload data and will also provide additional administrative support to each regional office. The ARLB requests one legal secretary to support the Oxnard regional office, to format, file, and serve legal pleadings in multiple jurisdictions, perform complex clerical work, and coordinate and scheduled court-related services for the Oxnard regional office.

Office of the Board

- **Two limited-term Administrative Law Judges (ALJs) to Address Hearing Workload.** The ARLB currently has 1.5 full-time equivalent ALJs. One full-time judge is currently assigned to a case that is expected to occupy ALJs time through 2014-15 and the majority of 2015-16. The 0.5 ALJ is assigned to a second case that will occupy the rest of the fiscal year. The General Counsel has requested ten additional hearings, and anticipates that the General Counsel is likely to request another eight hearings, in addition to the two cases mentioned above. The two new positions will help to address the current hearing workload.

- **One Limited-Term Attorney IV to Address Litigation Workload**. In recent years, parties before the board have become increasingly litigious and petitions for review of board decisions have become increasingly common, significantly increasingly the board counsel's workload. To address the increased state and federal court litigation workload, in January 2014, the Labor and Workforce Development Agency temporarily redirected resources to provide an Attorney IV to the ARLB to oversee, coordinate, and assist board counsel and attorneys assigned from the Office of the Attorney General. The ARLB requests position authority and funding to establish this position as a two-year limited-term position.

Administrative Oversight

- **One Chief of Administration to Perform Administrative Oversight.** To support the operational needs of the board and the General Counsel, the ALRB requires a Chief of Administration to oversee budgeting, accounting, procurement, business services, personnel, and information technology activities.

LAO Recommendation. The LAO offers the following recommendation:

"Approve Governor's Proposal, But Make Staff for New Regional Offices Limited-Term. We find that (1) additional temporary resources are appropriate to enable the Board to address increased hearings and appeals workload, (2) the request for additional administrative staff is reasonable and could result in increased accountability and transparency, and (3) while creating

> new regional offices may have merit, approving permanent positions is not justified at this time on a workload basis. Accordingly, we recommend that the Legislature approve the Governor's proposal, with the exception that six positions intended to staff proposed new regional offices be approved on a two-year limited-term basis."
>
> **"Require Budget Process.** To better assess the ongoing need for additional resources to staff new regional offices, and to evaluate the effectiveness of recent reforms to General Counsel staffing practices, we recommend that the Legislature require ALRB to report on workload and outcomes at each of the regional offices at the end of the limited-term for the new positions (as part of the 2017-18 budget process)."

Staff Comments. On March 17, the Assembly adopted the proposal as budgeted and added, to address the concerns to continue to monitor the success of the new offices, adopted the LAO proposal to have the ARLB report on workload and administrative efficiency as part of the 2017-18 budget process. Staff concurs with this action.

Questions for the Administration.

- How does the ALRB estimate workload in the within the Office of General Counsel versus the Office of the Board? Who drives the discussion?

- The board, in recent years, has sustained funding and increased its expenditures from $5.9 million and 43 positions in 2013-14 to the proposed level of $9.4 million and 63 positions. How should the Legislature forecast future growth of the ALRB?

Staff Recommendation: Approve as budgeted and adopt LAO proposal for the ALRB to report back to the subcommittee in 2017-18 on outcomes at each regional office.

Vote:

Coastal Climate Adaptation—State Investment and Response

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 experience regular 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 four climate change assessments. The first assessment, in 2006, examined the broad impacts of climate change on California's assets. The second 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 third assessment, completed in 2012, focused on vulnerability and adaptation discussed in the 2009 Climate Adaptation Strategy (described below). This assessment focused on more specific types of response needs related to ground exposure, sensitivity, and natural and human systems. The fourth assessment, funded by the Environmental License Plate Fund (ELPF), was approved in the 2014 budget. Due to the shortfall in the ELPF, this assessment has been delayed by a year.

As discussed in 2014 budget hearings, 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 Climate Ready Program. The SCC's Climate Ready program provides a focus for SCC work in 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, 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 sectorial;
- 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. The SLC collects and monitors tidelands oil revenues.

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.

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. The Legislature, in 2015, appropriated funding to continue 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 appellate role for coastal land use decisions. Dedicated funding has accelerated the development and approval of LCPs.

LITTLE HOOVER COMMISSION (LHC) REPORT ON CLIMATE ADAPTATION

Governing California Through Climate Change. The LHC began a climate change study process in August 2013 to review state government preparedness for what risk experts now widely foresee as a long-term and "slow-moving emergency." After three hearings, an advisory committee meeting, and dozens of interviews with experts and interested stakeholders, the LHC concluded that:

- California state government has no single-stop administrative structure in place to create statewide climate adaptation policy, overcome institutional barriers and govern the state's response to climate change impacts. Many state adaptation initiatives continue to be scattered among individual departments, agencies, commissions and councils.

- The state's adaptation strategies are still unfolding and relatively new, remain advisory in nature and require continuing evolution to assure comprehensive statewide responses to climate impacts. State government adaptation processes also have been conducted without widespread consultation of local governments and the private sector. The status quo is slow, understaffed and inwardly focused on state agencies.

- No single authoritative source of standardized information about climate risks in California currently exists within state government. Cities, counties, regional governing agencies and even the state lack reliable, consistent information to guide decision-making, particularly regarding long-range infrastructure investments and land-use choices. Local government leaders understand they are vulnerable to climate impacts, but lack more specific risk assessment capacity that would help guide planning decision-making.

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. In addition to baseline tidelands oil revenues, the SLC also collects rents from coastal leases that could be dedicated to coastal climate adaptation.

2014 BUDGET ACTION ON CLIMATE ADAPTATION.

The Legislature approved the following direct climate adaptation proposals in the 2014 budget. The Assembly and Senate budget subcommittees had approved funding from tidelands oil revenue for the Sea Level Rise Proposal (below), but this was shifted to the ELPF at the request of the Governor's Office.

- **Sea Level Rise Proposal.** As part of the "Sea Level Rise" legislative proposal put forth by the respective Assembly and Senate budget subcommittees, the 2014 budget included the establishment of the Climate Resilience Account in statute to provide additional funding to specifically address the risks and impacts of climate change, sea level rise, and associated extreme events. Of the $2.5 million appropriated for this purpose from the ELPF, $500,000 is allocated to the Coastal Commission; $1.5 million is allocated to the State Coastal Conservancy, and $500,000 is allocated to the Bay Conservation Development Commission. Funding is directed to existing efforts, including the Climate Ready Program, with updated statutory requirements. A portion of this funding was shifted one year later to address the shortfall in the ELPF.

- **Local Coastal Plan Updates.** The 2014 budget included $3 million (General Fund carryover, Coastal Act Services Fund and the ELPF) per year, for five years, for state operations in the CCC budget to work in partnership with local governments to accelerate the completion and updates of LCPs. The budget also included $1 million (General Fund) for LCP-related local assistance.

- **Fourth Climate Assessment.** The 2014 budget included $5 million (one-time, two-year appropriation, [ELPF]), and one position at the California Natural Resources Agency, to carry out a fourth climate change assessment. The majority of funds will be used for contracts to conduct the scientific research needed for the assessment. Provisional language restricts the use of funds by allowing only $2.5 million to be spent in the budget year, with the remainder available in the second year, in order to preserve the fund balance in the ELPF. Trailer bill language allows the ELPF to be used for this purpose. The program was delayed one year to address the shortfall in the ELPF.

ISSUES FOR LEGISLATIVE CONSIDERATION:

What is the Long-Term Strategy for the State's Approach to Climate Adaptation? According to research conducted by those working on climate adaptation in the state, climate adaptation is one of the most serious emerging threats to California's economy and well-being. The list is long—sea level rise, increased wildfire threats, lengthening and increased occurrence of drought, increased instances of vector-borne illnesses, among other threats.

The Administration continues to study the impacts of climate change through its fourth climate assessment but has not funded direct actions to reduce the impacts of climate change, with the exception of a proposal to increase fire suppression activities at CalFIRE. The Administration did not propose continued funding for the climate-ready grants approved by the Legislature in 2014, nor does it require state agencies to incorporate adaptation of climate change strategies into their overarching planning functions. No state agency has been identified as the lead on climate adaptation, which contrasts with the identification of the Air Resources Board as the lead on greenhouse gas reductions.

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, 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.

Questions for the Coastal Departments:

- In 2014, during final budget negotiations, the Administration shifted funding for both the Sea Level Rise proposal (climate-ready grants) from the approved tidelands oil revenue to the Environmental License Plate (ELPF), and at the same time restored the denied Fourth Climate Assessment using the same fund. It now appears that there was not a robust evaluation of the ELPF fund balance, and that there was not sufficient funding to accommodate these changes. Should the Administration and the Legislature consider a more permanent source of funding for climate adaptation, such as tidelands oil revenue?

- The state continues to assess and evaluate the impacts of climate change, and focuses efforts on tools for local communities, businesses and individuals. What is the state doing to incorporate climate adaptation to state agencies overall?

- What are the results of the climate ready grants at various departments, and how can the state better serve local communities attempting to prevent coastal climate adaptation impacts?

- What is the Administration's long-term approach to coastal climate adaptation and who in state government is in charge of this effort?

Staff Recommendation:

(1) Recommend approval of $2.5 million, directly from Tidelands Oil Revenue, on a one-time basis, to sustain the existing Climate-Ready grant program. The Administration should prioritize funding received from rent revenues in coastal areas for this purpose.

(2) Shift $2.5 million for the Fourth Climate Assessment to tidelands oil revenue and require that a portion of the research be focused on coastal climate adaptation.

(3) Approve budget bill language requiring Administration to consider climate adaptation for all infrastructure, capital outlay, and other state investments including regulatory actions.

(4) Require all greenhouse gas emission reduction fund grant programs to consider climate adaptation as a secondary benefit.

(5) Require the Strategic Growth Council to report to the appropriate budget and policy committees on, or before, January 10, 2016, and annually thereafter, on actions taken by state agencies to prepare the state for climate change impacts.

Vote:

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

Senator Lois Wolk, Chair
Senator Jim Nielsen
Senator Fran Pavley

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

Consultant: Catherine Freeman

OUTCOMES

Items Proposed for Vote-Only

Departments Proposed for Discussion

Resources—Environmental Protection—Energy—Transportation

ITEMS PROPOSED FOR VOTE ONLY

3560 State Lands Commission

1. **Royalty Recovery and Revenue Assurance.** The Governor's budget requests $472,000 (General Fund), ongoing, for the conversion of four limited-term auditor positions, to permanent. These positions were provided to address workload needs as identified by a 2010 State Auditor report of commission revenue operations. Prior audit staffing levels were only able to react on a “crisis” basis which resulted in a large backlog and potentially millions of dollars in underreported royalties. The four expiring auditor positions are necessary to ensure accuracy and timely processing of reported royalties, as well as ensuring the state is receiving revenue in accordance with the terms of its leases, contracts and applicable laws. The revenue findings associated with the costs of these auditors is at least a two-to-one ratio, bringing a minimum of one million dollars to the General Fund annually.

2. **Lease Compliance and Enforcement Continuation.** The Governor's budget requests $535,000 (General Fund), ongoing, for the conversion of five limited-term positions, to permanent to continue the implementation of the Lease Compliance, Enforcement and Revenue Recovery program which ensures compliance with lease terms and conditions resulting in increased revenues to the General Fund.

3820 Bay Conservation Development Commission (BCDC)

3. **Baseline Adjustment for Rent Increase.** The Governor's budget requests $85,000 (General Fund) to cover the additional lease costs due to the BCDC office relocation to the Hiram Johnson State Building in San Francisco. The move was prompted by the Department of General Services in order to save overall state funds due to vacancies in state buildings. The Legislature approved this proposal on a one-time basis last year and required BCDC to submit a proposal in January 2015, for a move to the Metropolitan Transportation Commission (MTC) building, including cost estimates. According to BCDC’s report, the space in the MTC building will not be available until August of 2016. Therefore, it is not necessary to consider or budget for the move until the 2016-17 budget cycle. *Consistent with the previous year’s action, the provisional language continuing the requirement for BCDC to submit a proposal to move to space in the MTC building is included in this item and shifted to January 2016.*

4. **Stable Base Funding.** The Governor's budget requests additional baseline General Fund to fully fund the core functions of the BCDC’s existing staff, to fill its vacancies, and to enable it to begin a rulemaking process to increase its permit fees in order to supplement General Fund funding. In addition, BCDC requests that the state establish a special fund into which the additional annual permit fee collections will be placed that exceed the past eleven-year average of annual permit fee collections. Funds from the special fund would be allocated to BCDC through the budget process to augment BCDC’s General Fund.

3720 Coastal Commission

5. **Whale Tail License Plate Coastal and Marine Education Program.** The budget proposes an increase to the local assistance baseline budget of $44,000 (Coastal Beach and Coastal Enhancement Account [CBCEA]) for coastal and marine education grants to nonprofits, schools, and government agencies. The budget also proposes an increase to state baseline operations of $45,000 for outreach and promotion of Whale Tail license plates.

6. **Protect our Coast and Oceans Fund—Local Assistance Grants and Outreach.** The budget proposes a one-time appropriation of $315,000 (Protect our Coast and Oceans Fund) from voluntary contributions on the state tax return. Of this amount, $250,000 is proposed to augment the Whale Tail grant program and $65,000 is proposed to support outreach and promotion of the voluntary contribution program.

3760 Coastal Conservancy

7. **Continuing Bond Funded Local Assistance and Capital Outlay.** The budget proposes continued funding from three previous bond funds for continued local assistance and capital outlay programs. These include $12.4 million (Proposition 84), $12.4 million (Proposition 40), $8 million (reimbursement authority, specific to San Francisco Bay programs), $15 million (Proposition 1), and $1.3 million (Proposition 19). This includes a Spring Finance Letter for a technical reversion of funds from Proposition 19.

8. **Coastal Local Assistance and Capital Outlay Proposals.** The budget proposes $500,000 (Coastal Access Account) for ongoing implementation of the conservancy's public access, education, and related programs. The conservancy also proposes $1.6 million (Violation Remediation Account) for associated public access and coastal resource enhancement grants, and $180,000 (Violation Remediation Account) for program delivery, consistent with approved programs.

9. **Habitat Conservation Fund Transfers and Reappropriations.** The budget proposes $3.7 (Proposition 50) to provide for the transfer of the unliquidated balances of funds that reverted prior to being transferred to the Habitat Conservation Fund.

3110 Tahoe Regional Planning Agency

10. **Spring Finance Letter: Invasive Species Program.** The budget proposes $375,000 (Harbors and Watercraft Revolving Fund) to continue a bi-state invasive species boat inspection program at Lake Tahoe.

VOTE (Items 1-10):

Items 1, 2, 5, 6, 7 and 10: **3-0 to approve**

Items 4, 8, and 9: **2-1 (Nielsen, no) to approve**

Item 3 (BCDC)

- Vote on the funding: **3-0 to approve**
- Vote on the budget bill language: **2-1 (Nielsen, no) to approve**

8570 California Department of Food and Agriculture

The California Department of Food and Agriculture (CDFA) serves Californians 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.

Governor's Budget. The Governor's budget includes $384 million ($65.8 million General Fund) for support of the CDFA, a decrease of approximately $6 million, mainly due to one-time costs.

EXPENDITURES BY PROGRAM (in thousands)

Program	Actual 2013-14	Estimated 2014-15	Proposed 2015-16
Agricultural Plant and Animal Health; Pest Prevention; Food Safety Services	$182,738	$227,102	$228,015
Marketing; Commodities and Agricultural Services	56,658	70,796	71,897
Assistance to Fair and County Agricultural Activities	2,859	1,300	4,392
General Agricultural Activities	59,235	91,701	80,503
Administration	19,259	21,806	21,952
Total Expenditures (All Programs)	**$301,619**	**$391,078**	**$384,985**

POSITIONS BY PROGRAM

Program	Actual 2013-14	Estimated 2014-15	Proposed 2015-16
Agricultural Plant and Animal Health; Pest Prevention; Food Safety Services	904.5	1,032.4	1,033.9
Marketing; Commodities and Agricultural Services	275.9	305.8	309.8
Assistance to Fair and County Agricultural Activities	5.2	8.0	10.0
General Agricultural Activities	3.9	36.7	36.7
Administration	181.1	189.8	189.8
Total Positions (All Programs)	**1,370.6**	**1,572.7**	**1,580.2**

Items Proposed for Vote-Only

1. **Certified Farmers Markets (AB 1871).** The budget requests $1 million (ongoing, reimbursements) and four permanent positions, to enhance the existing Certified Farmers Market Program, as required by AB 1871 (Dickinson), Chapter 579, Statutes of 2014. The department will contract with county agricultural commissioners for enforcement work along the program to align with industry growth.

Staff Recommendation: Approve item 1.

Vote: ***3-0 to approve***

Items Proposed for Discussion

1. California Animal Health and Food Safety Laboratory System (CAHSF)

Background. The CAHSF Laboratory System is operated by the University of California (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 $4.3 million (General Fund), to both offset the employee compensation increases, causing a baseline deficiency ($3 million, ongoing), and to add additional resources required to operate the new South Valley Animal Health Laboratory in Tulare ($1.3 million, ongoing). The laboratory is intended to prevent, detect, and respond to animal health disease outbreaks.

Staff Comments. Staff concurs with the need to provide funding for the employee compensation costs and for the new laboratory. In 2014, this subcommittee discussed 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 Legislature funded employee compensation increases on a one-time basis and asked the department to return with a baseline adjustment sufficient to fund the animal health laboratory program. The department should be prepared to discuss the following:

(1) Will the provisional language (below) be sufficient to allow the baseline to be adjusted for compensation increases, in a similar manner to regular department compensation increases?

(2) The proposal identifies increased detection of animal health disease outbreaks. How will the new laboratory reduce the impact of these outbreaks and what other actions is the Administration taking to reduce the number of outbreaks?

Staff Recommendation: Approve as proposed with provisional language (below) requiring the department to annually adjust for University of California compensation increases, as it would for baseline operations.

> *The amount appropriated in this item for the agreement with the Regents of the University of California to operate poultry and livestock disease laboratories shall be adjusted annually, as necessary, for University of California negotiated employee compensation and benefit adjustments.*

Vote: 3-0 to approve as proposed with BBL.

2. Fairs and Expositions—Allocation and Training Program

Background. California hosts one of the largest fair systems in the nation, consisting of 78 active fairs operating under a variety of governance structures. This includes six county-operated fairs, 17 nonprofit operated fairs, two citrus fruit fairs, 54 statutorily created District Agricultural Associations (DAAs), and the California State Fair. For 76 years prior to 2009-2010, funding support for the fairs was generated through pari-mutuel horse racing licensing fees, a funding source established in 1933 that legalized gambling on horse racing. In 2009-10, the Legislature shifted the revenues to the General Fund, in part due to the continuing decline of horse racing revenues. General Fund support for the fair industry continued at $32 million for two years until it was eliminated in the 2011-12 budget. The fairs continued to receive funding from local revenues, fees and fair revenues.

Budget Proposal. The budget proposes a restoration of $3.1 million (General Fund), and two permanent positions, for the Division of Fairs and Expositions to provide operational and training support to the fair network. This request is intended to support fairs and reduce the potential high cost closure of fairgrounds. The funding will provide operational support for 64 small to medium fairs, provide staff and board training to all 78 fairs, and support an audit component to ensure fairs are adhering to state rules and regulations.

LAO Analysis: The LAO reviewed this proposal and raised the following concerns:

> **Target Funding to At-Risk Fairs.** The proposal does not address the main problem identified, specifically to ensure the continued operation of the fairs at risk of closure. This is because the proposal does not target funding among the fairs based on their financial condition. Instead, fairs would receive a set amount of funding based on how much revenue they generate regardless of their financial condition. For example, under the proposal, the five Class I fairs that reported operating deficits in 2013 would receive the same amount of funding as the six Class I fairs that reported an operating surplus.
>
> **Provide Incentive to Improve Fair Operations.** The way that the proposal would distribute funding does not provide fairs that run an operating deficit an incentive to improve their operations. Specifically, providing an ongoing lump sum payment annually to all fairs in the same class would allow those fairs that are running deficits to continue to do so without having to make any changes to their management or operations.
>
> **Include Analysis of Constraints or Challenges Faced by Certain Fairs**. The proposal also does not include a fair-by-fair analysis of the causes of the financial constraints or challenges faced by those fairs at risk of closure. Given the number of fairs and the range of operating circumstances (such as location, regional population, and amenities offered), each fair may experience unique challenges. For example, some fairs may have creative and entrepreneurial management but may face challenging markets and competition from other entertainment venues. In other cases, better fiscal management might be sufficient to ensure financial sustainability. Without information on the specific drivers of the

various fairs' financial conditions, the Legislature is unable to identify the best ways to address their challenges.

LAO Recommendations. We recommend that the Legislature modify the Governor's proposal to provide funding to the fairs on a one-time basis and target that funding to the fairs at highest risk of closure. We also recommend that this funding be structured in such a way as to incentivize improved management. This could be done in a couple of ways. For example, the funding could be provided as a low- or no-interest loan. Alternatively, the funding could be tied to a percentage of the fair's operating deficit. In 2013, 29 of the fairs had operating deficits totaling $2.8 million. The Legislature could appropriate funding to meet 75 percent of those fairs' deficits, at a cost of $2.1 million ($500,000 less than the Governor's proposal).

We also recommend the Legislature pass budget bill language requiring CDFA to provide a report with the 2016-17 budget that identifies the fairs at greatest risk of closure due to their financial conditions, the main reasons that each of those fairs face challenges earning enough revenue to support their operations, and recommendations for addressing the specific challenges faced by those fairs. The purpose of this report is to provide the Legislature with the information it needs to determine how best to address the needs of the fairs.

Finally, we note that this proposal raises questions about the most appropriate role of the state in supporting fairs. These fairs are on state properties and its employees are state employees. However, they provide primarily local benefits and, until recent years, have not been reliant on the General Fund to operate. To the extent that the Fairs and Exposition Fund continues to be a limited revenue source and some fairs persistently run operating deficits, the Legislature may wish to consider whether these fairs should continue to receive state funds. In fact, in 1997-98, CDFA closed two fairs that it determined were not financially viable.

Staff Comments. The Legislature, in reducing General Fund appropriations to fairs, made a policy statement that forced all fairs to review their operations and determine if they are able to increase revenue while still maintaining the nature of the fair as authorized by statute. As the LAO stated, this proposal does not differentiate between fairs that have successfully accomplished this task and those that have not. However, the state has a vested interest in the fair network, and particularly the assets of the fairs, including real property. Staff concurs that this proposal, particularly the audit function, will help to maintain these assets. However, the question of how many fairs the state should support is still an open policy issue.

Questions for the Department.

(1) How does the department differentiate compensation for fairs that are failing due to natural market causes versus those that have attempted to be entrepreneurial and have not been successful?

(2) Has the department considered reducing the number of fairs supported, and assisting these fairs with the sale of property, in order to streamline the fair network?

(3) Has the state considered transferring any fair to a local entity—including property and employee compensation, in order to effectively allow local management of these local enterprises?

Staff Recommendation: Approve as proposed with both provisional and reporting language. Approve LAO recommendations for reporting language and ~~additionally provisional language requiring the department to target 2015-16 funding to the fairs at highest risk of closure.~~

Vote: 3-0 to approve as proposed with budget bill language requiring CDFA to provide a report with the 2016-17 budget that identifies the fairs at greatest risk of closure due to their financial conditions

7300 Agriculture Labor Relations Board

The Agricultural Labor Relations Board (ALRB) is responsible for: (1) carrying out the policies of the State of California to encourage and protect the associational rights of agricultural employees; (2) 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 (3) investigating, prosecuting, and adjudicating unfair labor practice disputes.

Governor's Budget. The Governor's budget includes $9.5 million ($8.3 million General Fund) for support of the ALRB. This includes an increase of $1.6 million and 13 positions proposed to expand ALRB services to farmworkers.

EXPENDITURES BY PROGRAM

Program	Actual 2013-14*	Estimated 2014-15*	Proposed 2015-16*
Board Administration	$2,280	$2,964	$3,626
General Counsel Administration	3,702	5,333	5,831
Administration	541	681	877
Total Expenditures (All Programs)	**$5,982**	**$8,297**	**$9,457**

POSITIONS BY PROGRAM

Program	Actual 2013-14	Estimated 2014-15	Proposed 2015-16
Board Administration	12.0	13.5	16.5
General Counsel Administration	27.9	31.0	40.0
Administration	3.8	6.0	7.0
Total Positions (All Programs)	**43.7**	**50.5**	**63.5**

EXPENDITURES BY FUND

Fund	Actual 2013-14*	Estimated 2014-15*	Proposed 2015-16*
General Fund	$4,983	$7,204	$8,290
Labor and Workforce Development Fund	999	1,093	1,167
Total Expenditures (All Funds)	**$5,982**	**$8,297**	**$9,457**

Items Proposed for Discussion

1. Board and General Counsel Support Program

Background. The Agricultural Labor Relations Act was signed into law by Governor Jerry Brown in 1975 to "encourage and protect the rights of agricultural employees to full freedom of association, self-organization and to be free from interference, restraint, or coercion." Consistent with this purpose, the ALRB's role is to ensure peace and justice in the fields by providing stability in agricultural labor relations implementation, protection, and enforcement of the rights and responsibilities of employers, employees, and unions in their relation with each other.

The ALRB operates as two independent bodies: the Office of the General Counsel and the Office of the Board:

- The Office of General Counsel acts as the prosecutorial branch of the agency with the responsibility to process, investigate, and prosecute unfair labor practice charges.

- The Office of the Board acts in a quasi-judicial capacity—reviews on appeal the interlocutory motions in ongoing cases, reviews the record de novo of all cases appealed to the board, and defends the board's final decisions when review is sought in the Court of Appeal. The board also promulgates regulations and policies necessary to implementing the act and oversees the conduct of representation elections through which farmworkers can choose whether or not to be represented by a union.

Budget Proposal. The Governor's budget requests $1.6 million (General Fund) and 13 positions to support and expand the Agricultural Labor Relations Board (ALRB) services to farmworkers, to improve the timeliness of hearings, and increase efficiency and accountability. Specifically, the proposal includes:

> **Office of General Counsel.** The ALRB requests about $778,000 and nine positions for the General Counsel Program to staff two new regional offices. The positions will help the ARLB address current workload demands, improve the ARLB's services to underserved areas, reduce travel for investigations, and track workload data and program outcomes.
>
> - **Six Positions to Establish Two New Regional Offices.** The two new offices will be located in Northern California and a desert regional office to expand access for farmworkers and enhance agency efficiency by reducing travel times for investigation of charges by regional attorneys and field examiners. Offices are intended to be co-located within existing state facilities in those areas. The Northern California office will be supervised and supported by the Salinas regional office. ARLB investigations are often conducted in the fields because travel to the regional offices can be cost prohibitive for farmworkers. The use of fleet vehicles (versus personal mileage and/or rental vehicle use) is the most cost-effective method of conducting mission-critical

work. This proposal requests one fleet vehicle in each new office. The total one-time costs for two vehicles is $50,000.

- **Three Positions to Staff Existing Locations.** The ARLB requests two staff services analysts to support the Visalia and Salinas regional offices and to track workload data and program outcomes. The analysts will primarily be responsible for collecting and analyzing workload data and will also provide additional administrative support to each regional office. The ARLB requests one legal secretary to support the Oxnard regional office, to format, file, and serve legal pleadings in multiple jurisdictions, perform complex clerical work, and coordinate and scheduled court-related services for the Oxnard regional office.

Office of the Board

- **Two limited-term Administrative Law Judges (ALJs) to Address Hearing Workload.** The ARLB currently has 1.5 full-time equivalent ALJs. One full-time judge is currently assigned to a case that is expected to occupy ALJs time through 2014-15 and the majority of 2015-16. The 0.5 ALJ is assigned to a second case that will occupy the rest of the fiscal year. The General Counsel has requested ten additional hearings, and anticipates that the General Counsel is likely to request another eight hearings, in addition to the two cases mentioned above. The two new positions will help to address the current hearing workload.

- **One Limited-Term Attorney IV to Address Litigation Workload**. In recent years, parties before the board have become increasingly litigious and petitions for review of board decisions have become increasingly common, significantly increasingly the board counsel's workload. To address the increased state and federal court litigation workload, in January 2014, the Labor and Workforce Development Agency temporarily redirected resources to provide an Attorney IV to the ARLB to oversee, coordinate, and assist board counsel and attorneys assigned from the Office of the Attorney General. The ARLB requests position authority and funding to establish this position as a two-year limited-term position.

Administrative Oversight

- **One Chief of Administration to Perform Administrative Oversight.** To support the operational needs of the board and the General Counsel, the ALRB requires a Chief of Administration to oversee budgeting, accounting, procurement, business services, personnel, and information technology activities.

LAO Recommendation. The LAO offers the following recommendation:

"Approve Governor's Proposal, But Make Staff for New Regional Offices Limited-Term. We find that (1) additional temporary resources are appropriate to enable the Board to address increased hearings and appeals workload, (2) the request for additional administrative staff is reasonable and could result in increased accountability and transparency, and (3) while creating new regional offices may have merit, approving permanent positions is not justified at this time on a workload basis. Accordingly, we recommend that the Legislature approve the Governor's proposal, with the exception that six positions intended to staff proposed new regional offices be approved on a two-year limited-term basis."

"**Require Budget Process.** To better assess the ongoing need for additional resources to staff new regional offices, and to evaluate the effectiveness of recent reforms to General Counsel staffing practices, we recommend that the Legislature require ALRB to report on workload and outcomes at each of the regional offices at the end of the limited-term for the new positions (as part of the 2017-18 budget process)."

Staff Comments. On March 17, the Assembly adopted the proposal as budgeted and added, to address the concerns to continue to monitor the success of the new offices, adopted the LAO proposal to have the ARLB report on workload and administrative efficiency as part of the 2017-18 budget process. Staff concurs with this action.

Questions for the Administration.

- How does the ALRB estimate workload in the within the Office of General Counsel versus the Office of the Board? Who drives the discussion?
- The board, in recent years, has sustained funding and increased its expenditures from $5.9 million and 43 positions in 2013-14 to the proposed level of $9.4 million and 63 positions. How should the Legislature forecast future growth of the ALRB?

Staff Recommendation: Approve as budgeted and adopt LAO proposal for the ALRB to report back to the subcommittee in 2017-18 on outcomes at each regional office.

Vote:

2-1 (Nielsen, no) to approve Governor's proposal as proposed.
3-0 to approve LAO reporting recommendation.

Coastal Climate Adaptation—State Investment and Response

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 experience regular 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 four climate change assessments. The first assessment, in 2006, examined the broad impacts of climate change on California's assets. The second 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 third assessment, completed in 2012, focused on vulnerability and adaptation discussed in the 2009 Climate Adaptation Strategy (described below). This assessment focused on more specific types of response needs related to ground exposure, sensitivity, and natural and human systems. The fourth assessment, funded by the Environmental License Plate Fund (ELPF), was approved in the 2014 budget. Due to the shortfall in the ELPF, this assessment has been delayed by a year.

As discussed in 2014 budget hearings, 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 Climate Ready Program. The SCC's Climate Ready program provides a focus for SCC work in 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, 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 sectorial;
- 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. The SLC collects and monitors tidelands oil revenues.

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.

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. The Legislature, in 2015, appropriated funding to continue 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 appellate role for coastal land use decisions. Dedicated funding has accelerated the development and approval of LCPs.

LITTLE HOOVER COMMISSION (LHC) REPORT ON CLIMATE ADAPTATION

Governing California Through Climate Change. The LHC began a climate change study process in August 2013 to review state government preparedness for what risk experts now widely foresee as a long-term and "slow-moving emergency." After three hearings, an advisory committee meeting, and dozens of interviews with experts and interested stakeholders, the LHC concluded that:

- California state government has no single-stop administrative structure in place to create statewide climate adaptation policy, overcome institutional barriers and govern the state's response to climate change impacts. Many state adaptation initiatives continue to be scattered among individual departments, agencies, commissions and councils.

- The state's adaptation strategies are still unfolding and relatively new, remain advisory in nature and require continuing evolution to assure comprehensive statewide responses to climate impacts. State government adaptation processes also have been conducted without widespread consultation of local governments and the private sector. The status quo is slow, understaffed and inwardly focused on state agencies.

- No single authoritative source of standardized information about climate risks in California currently exists within state government. Cities, counties, regional governing agencies and even the state lack reliable, consistent information to guide decision-making, particularly regarding long-range infrastructure investments and land-use choices. Local government leaders understand they are vulnerable to climate impacts, but lack more specific risk assessment capacity that would help guide planning decision-making.

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. In addition to baseline tidelands oil revenues, the SLC also collects rents from coastal leases that could be dedicated to coastal climate adaptation.

2014 BUDGET ACTION ON CLIMATE ADAPTATION.

The Legislature approved the following direct climate adaptation proposals in the 2014 budget. The Assembly and Senate budget subcommittees had approved funding from tidelands oil revenue for the Sea Level Rise Proposal (below), but this was shifted to the ELPF at the request of the Governor's Office.

- **Sea Level Rise Proposal.** As part of the "Sea Level Rise" legislative proposal put forth by the respective Assembly and Senate budget subcommittees, the 2014 budget included the establishment of the Climate Resilience Account in statute to provide additional funding to specifically address the risks and impacts of climate change, sea level rise, and associated extreme events. Of the $2.5 million appropriated for this purpose from the ELPF, $500,000 is allocated to the Coastal Commission; $1.5 million is allocated to the State Coastal Conservancy, and $500,000 is allocated to the Bay Conservation Development Commission. Funding is directed to existing efforts, including the Climate Ready Program, with updated statutory requirements. A portion of this funding was shifted one year later to address the shortfall in the ELPF.

- **Local Coastal Plan Updates.** The 2014 budget included $3 million (General Fund carryover, Coastal Act Services Fund and the ELPF) per year, for five years, for state operations in the CCC budget to work in partnership with local governments to accelerate the completion and updates of LCPs. The budget also included $1 million (General Fund) for LCP-related local assistance.

- **Fourth Climate Assessment.** The 2014 budget included $5 million (one-time, two-year appropriation, [ELPF]), and one position at the California Natural Resources Agency, to carry out a fourth climate change assessment. The majority of funds will be used for contracts to conduct the scientific research needed for the assessment. Provisional language restricts the use of funds by allowing only $2.5 million to be spent in the budget year, with the remainder available in the second year, in order to preserve the fund balance in the ELPF. Trailer bill language allows the ELPF to be used for this purpose. The program was delayed one year to address the shortfall in the ELPF.

ISSUES FOR LEGISLATIVE CONSIDERATION:

What is the Long-Term Strategy for the State's Approach to Climate Adaptation? According to research conducted by those working on climate adaptation in the state, climate adaptation is one of the most serious emerging threats to California's economy and well-being. The list is long—sea level rise, increased wildfire threats, lengthening and increased occurrence of drought, increased instances of vector-borne illnesses, among other threats.

The Administration continues to study the impacts of climate change through its fourth climate assessment but has not funded direct actions to reduce the impacts of climate change, with the exception of a proposal to increase fire suppression activities at CalFIRE. The Administration did not propose continued funding for the climate-ready grants approved by the Legislature in 2014, nor does it require state agencies to incorporate adaptation of climate change strategies into their overarching planning functions. No state agency has been identified as the lead on climate adaptation, which contrasts with the identification of the Air Resources Board as the lead on greenhouse gas reductions.

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, 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.

Questions for the Coastal Departments:

- In 2014, during final budget negotiations, the Administration shifted funding for both the Sea Level Rise proposal (climate-ready grants) from the approved tidelands oil revenue to the Environmental License Plate (ELPF), and at the same time restored the denied Fourth Climate Assessment using the same fund. It now appears that there was not a robust evaluation of the ELPF fund balance, and that there was not sufficient funding to accommodate these changes. Should the Administration and the Legislature consider a more permanent source of funding for climate adaptation, such as tidelands oil revenue?

- The state continues to assess and evaluate the impacts of climate change, and focuses efforts on tools for local communities, businesses and individuals. What is the state doing to incorporate climate adaptation to state agencies overall?

- What are the results of the climate ready grants at various departments, and how can the state better serve local communities attempting to prevent coastal climate adaptation impacts?

- What is the Administration's long-term approach to coastal climate adaptation and who in state government is in charge of this effort?

Staff Recommendation:

(1) Recommend approval of $2.5 million, directly from Tidelands Oil Revenue, on a one-time basis, to sustain the existing Climate-Ready grant program. The Administration should prioritize funding received from rent revenues in coastal areas for this purpose.

(2) Shift $2.5 million for the Fourth Climate Assessment to tidelands oil revenue and require that a portion of the research be focused on coastal climate adaptation.

(3) Approve budget bill language requiring Administration to consider climate adaptation for all infrastructure, capital outlay, and other st ate investments including regulatory actions.

(4) Require all greenhouse gas emission reduction fund grant programs to consider climate adaptation as a secondary benefit.

(5) Require the Strategic Growth Council to report to the appropriate budget and policy committees on, or before, January 10, 2016, and annually thereafter, on actions taken by state agencies to prepare the state for climate change impacts.

Vote: Item heard and public testimony taken. Vote will take place on May 7.

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

Senator Lois Wolk, Chair
Senator Jim Nielsen
Senator Fran Pavley

Thursday, May 7, 2015
9:30 a.m. or Upon Adjournment of Session
Hearing Room 112

Consultant: Catherine Freeman

Part A—Resources, Environmental Protection and Energy

Items Proposed for Vote-Only

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.

ITEMS PROPOSED FOR VOTE ONLY

Items Previously Heard

	Item	Department	Issue	Recommendation
1	3480	Department of Conservation	**Proposition 50 Watershed Program Implementation Study**. The budget requests one two-year limited-term appropriation of $200,000 in 2015-16, and $358,000 in 2016-17, from Proposition 50 bond funds, to fund a comprehensive evaluation to address the effects, benefits, and outcomes resulting from the Proposition 50 watershed program implementation.	Approve
2	3790	Department of Parks and Recreation	**Public Beach Restoration.** The budget requests $4.8 million (Harbors and Watercraft Revolving Fund) for this ongoing program. The subcommittee previously discussed nexus issues. *Staff recommends reporting language to require the department to return on Jan 10, 2016, with a plan to improve the competitiveness of the program and to require, as a criteria for grant approval, the determination of a nexus to damage caused by up-coast harbors (as opposed to sea level rise or local planning issues).*	Approve as proposed with supplemental reporting language.
4	3930	Department of Pesticide Regulation	**Product Registration Data Management**. The budget requests $1.9 million (Department of Pesticide Regulation Fund) for two years, and $400,000 in year three, and $163,000 ongoing, to develop and implement a fully integrated information management system for the pesticide product and device registration process. According to the Administration, once completed, the system will offer online functionality and allow for online submission of registration-related materials and electronic payment.	Approve
4	3940	State Water Resources Control Board	**SB 985 Stormwater Resource Plan**. The Governor's budget requests $381,000 and three two-year, limited-term, positions from the Waste Discharge Permit Fund to implement the mandates of SB 985 (Pavley), Chapter 555, Statutes of 2014. The intent of the SB 985 is to promote storm water use projects and dry weather non-storm water runoff use projects through storm water resource plans.	Approve
5	3940	State Water Resources Control Board	**Drinking Water Fee Increase.** The Governor's budget requests trailer bill language to amend the Health and Safety Code to allow the State Water Board to adopt fee regulations by emergency actions to ensure an adopted annual fee schedule will generate sufficient revenue to support Safe Drinking Water Program annual budgetary expenditures.	Approve

	Item	Department	Issue	Recommendation
	6	(multiple)	**Climate Adaptation (April 30 hearing).** (1) Recommend approval of $2.5 million, directly from Tidelands Oil Revenue, on a one-time basis, to sustain the existing Climate-Ready grant program and Climate Resilience Account using the same department distribution formula as in 2014. (2) Shift $2.5 million for the Fourth Climate Assessment to tidelands oil revenue from Environmental License Plate Fund and require that a portion of the research be focused on coastal climate adaptation. (3) Require all greenhouse gas emission reduction fund grant programs to consider climate adaptation as a secondary benefit. (4) Require the Office of Planning and Research to report to the appropriate budget and policy committees on, or before, January 10, 2016, and annually thereafter, on actions taken by state agencies to prepare the state for climate change impacts.	Approve

VOTE (Items 1-6):

Spring Finance Letters

0540 Secretary for Natural Resources

1. **Proposition 13 River Parkways Program.** The Spring Finance Letter requests appropriation of all remaining Proposition 13 bond funds ($4.4 million) to continue the multi-benefit acquisition and development of river parkways and urban stream protection.

2. **Reappropriations.** The Spring Finance Letter requests reappropriation of local assistance from various funds due to the accumulation of residual funds from projects that were unsuccessful or came in under budget. This reappropriation allows for new and ongoing projects to reach completion and for remaining bond balances to be awarded to new projects.

3340 California Conservation Corps (CCC)

3. **Enterprise Resource Management System (C^3 System).** The Spring Finance Letter requests $392,000 (Collins-Dugan Reimbursement Account) to provide funding for an expedited project schedule for the in-progress C^3 information technology system. The request will accommodate additional consulting hours and an expedited schedule for project deliverables.

4. **Emergency Overtime Services.** The Spring Finance Letter requests $1.9 million (Collins-Dugan Reimbursement Account) to reflect increased reimbursements related to providing emergency overtime services for the United States Forestry Service and state Department of Forestry and Fire Protection.

5. **Technical Fund Shift.** The Spring Finance Letter requests a shift of $5 million from Proposition 40 to State Responsibility Area (SRA) Fire Fee to correct an over—allocation of bond funding and to allow the CCC to continue fire hazard reduction services in the SRA.

3480 Department of Conservation

6. **Abandoned Mine Remediation and Mine Mapping.** The Governor's budget requests $300,000 (Abandoned Mine Reclamation and Minerals Fund) to be used for activities involved with remediation and closure of hazardous abandoned mines on California Public lands. On March 19, the subcommittee held open a proposal to approve $100,000 (Abandoned Mine Reclamation and Minerals Fund) for three years, for the department to purchase software, to provide immediate management of data that can be made available to public and private agencies. Staff recommends approval of both proposals ($400,000) with the following budget bill language: *Of the amount appropriated in this item, $300,000 shall be approved as a baseline increase and $100,000 shall be approved, annually, through 2017-18, for the purchase of software and immediate management of data that can be made available to public and private agencies, for the purpose of mapping mine data.*

7. **Sustainable Communities Planning Grants.** The Spring Finance Letter requests that Item 3480-491 (reimbursements), be added to extend the liquidation period for sustainable communities local assistance planning grants to June 30, 2017, in order to align the reversion date of the funding with the term of the grants.

3540 Department of Forestry and Fire Protection (CalFIRE)

8. **Capital Outlay Spring Finance Letters.** The Spring Finance Letters requests funding to continue the following capital outlay projects:

    a. $461,000 (General Fund) for site improvements at the Cuyamaca Fire Station in San Diego County which has been damaged due to poor drainage and water intrusion.

    b. $4.8 million (Public Buildings Construction Fund [PBCF]) for working drawings and construction phase of the academy dormitory project in Ione due to cost increases, fund shifts, and restart costs from the suspension of the project in 2008.

    c. $963,000 (PBCF) to supplement the San Mateo/Santa Cruz Unit Headquarters automotive shop relocation due to cost increases, fund shifts, and restart costs from the suspension of the project in 2008.

    d. $2 million (PBCF) to accommodate a scope change to remove the existing helicopter hanger and reduce the apparatus building from a three to two bays. The project also requires funding due to cost increases, fund shifts, and restart costs from the suspension of the project in 2008.

    e. $1.5 million (PBCF) for the Altaville Forest Fire Station automotive shop replacement due to cost increases, fund shifts, and restart costs from the suspension of the project in 2008.

    f. $4.8 million (PBCF) for the working phase and construction phase of the Las Posadas Fire Station replacement project. This is a technical adjustment due to the natural reversion of funding for the working drawings and construction financing in March 2015.

3600 Department of Fish and Wildlife

9. **Hatcheries and Inland Fisheries Fund Capital Outlay.** The Spring Finance Letter requests $460,000 (Hatcheries and Inland Fisheries Fund) for two minor capital outlay projects:

    a. $220,000 for the design, construction and installation of a new 12 foot high bird enclosure for the trout nursery ponds at the Mount Shasta Hatchery in Siskiyou County.

b. $240,000 for design and construction to add walls, with windows and doors, to the existing roofed structure that surrounds the Heritage Trout fish ponds at the San Joaquin Hatchery in Friant, Fresno, County.

10. **Fish and Wildlife Dedicated Programs.** The Spring Finance Letter requests $1 million (Hatcheries and Inland Fisheries Fund) annually for three years, to support trout fish hatcheries, and $270,000 ongoing for the Land Visitor Pass Fee Recovery Program, to implement expansion of this program effective January 1, 2015.

11. **Kern River Hatchery Raceway Deferred Maintenance.** The Spring Finance Letter requests $740,000 (Hatcheries and Inland Fisheries Fund), one-time, to repair the Kern River rainbow trout concrete raceways/rearing ponds.

12. **Reappropriation.** The Spring Finance Letter request reappropriation of the balance of the Timber Regulation and Forest Restoration Fund to make funds available for encumbrance through June 30, 2017, in order to meet the public grant process for Forest Legacy Anadromous Restoration.

3790 Department of Parks and Recreation

13. **Onyx Ranch.** The Spring Finance Letter requests $70,000 (Off-Highway Vehicle Fund [OHVF]) to provide full year costs for Onyx Ranch implementation activities. These funds were inadvertently omitted from the Governor's January budget.

14. **Treasure Island Marina (Capital Outlay).** The Spring Finance Letter requests $1.9 million (federal funds) to reflect an extension of a federal boating infrastructure grant from June 30, 2015 to December 31, 2018. The grant is intended to allow the acquisition and development of a marina at the former naval station on Treasure Island.

15. **Hearst San Simeon State Historical Monument (Capital Outlay).** The Spring Finance Letter requests reappropriation of Proposition 84 bond funds an extension of encumbrance period to June 30, 2018, to allow more time for the restoration of historic fabric in culturally sensitive areas while minimizing disruption of visitor services.

16. **Leo Carrillo State Park—Steelhead Trout Barrier Removal Project.** The Spring Finance Letter requests to shift $351,000 from State Parks and Recreation Fund to reimbursements. This will complement a $400,000 federal grant and allow additional reimbursements from the Santa Monica Bay Restoration Commission.

17. **Bidwell-Sacramento River State Park—Irvine Finch Ramp Repair and Replacement Project.** The Spring Finance Letter requests a decrease of $53,000 (Harbors and Watercraft Fund) to reflect the elimination of this project which was deemed prohibitively expensive.

18. **Hollister Hills State Vehicular Recreation Area—Waterline Expansion Project.** The Spring Finance Letter requests an increase of $1.4 million (OHVF) to provide funding for the working drawings and construction phases of the waterline expansion project.

19. **Reappropriations.** The Spring Finance Letter requests technical reappropriations for ongoing projects underway from bond funds, State Parks and Recreation Fund and the Off-Highway Vehicle Trust Fund.

20. **State Park System Acquisition Program Staffing.** The Spring Finance Letter requests $700,000 (Proposition 40 bond funds) to staff the acquisition program for projects that do not require additional state funding.

3860 Department of Water Resources

21. **San Joaquin River Projects.** The Spring Finance Letter requests an increase of reimbursement authority from the Wildlife Conservation Board of $4.8 million (Propositions 40 and 84), and $2.1 million (federal funds), to continue to the San Joaquin River restoration project intended to return salmon to the river.

22. **Reappropriations, Extension of Liquidation, and Technical Adjustments.** The Spring Finance Letter requests reappropriation of various funds for ongoing programs due to state and federal permitting delays, adjustments in regulatory timelines, and delays in agreement executions.

3810 Santa Monica Mountains Conservancy

23. **Technical Adjustment.** The Spring Finance Letter requests $850,000 increase to its baseline fund (Environmental License Plate Fund) to include reimbursements provided by capital outlay projects. The reimbursements were inadvertently omitted from the Governor's January budget.

3900 Air Resources Board (ARB)

24. **Technical Adjustment for the Enhanced Fleet Modernization Program.** The Spring Finance Letter requests to shift from a memorandum of understanding with the Department of Consumer Affairs and Bureau of Automotive Repair to a direct appropriation of $2.8 million from the Enhanced Fleet Modernization Subaccount, to continue to manage the Enhanced Fleet Modernization Program.

25. **Electric Vehicle Charging Station Open Access Act.** The Spring Finance Letter requests $175,000 (Motor Vehicle Account) and one position to implement SB 454 (Corbett), Chapter 418, Statutes of 2013. SB 454 requires the ARB to work with station network providers and industry standards-setting organizations to assess standards-setting efforts for the interoperability of the electric vehicle charging network.

26. **Low Carbon Fuel Standard (LCFS) Oversight**. The Spring Finance Letter requests $700,000 (Cost of Implementation Account) and four positions to enhance oversight and accountability in the LCFS program. These positions will provide daily review of increased transactions reported in the LCFS program, develop and deploy market surveillance routines, and collaborate with the U.S. Environmental Protection Program and California Board of Equalization on fuel sales data.

27. **Greenhouse Gas Emission Monitoring Network Enhancement**. The Spring Finance Letter requests $1.1 million (Cost of Implementation Account) and one position to provide greenhouse gas monitoring equipment, maintenance costs and leased space to improve the existing greenhouse gas air monitoring network.

3940 State Water Resources Control Board

28. **Drinking Water Regulation.** The Governor's budget requests $347,000 (Safe Drinking Water Account) and two limited-term positions, to address the existing drinking water regulation backlog and to ensure timely development of key drinking water regulations in the future. This item is consistent with a January proposal related to the drinking water program.

VOTE (Items 1-28):

3210 Environmental License Plate Fund (ELPF)

The subcommittee heard this item on March 5 and held the proposal open in order to receive further information from the Natural Resources Agency.

Governor's Budget Proposal

The Governor's budget proposes $38.8 million in expenditures and $42 million in revenues. After required transfers to the Motor Vehicle Account ($2.4 million), the amount available for expenditure is $39 million. The figure below outlines ELPF expenditure proposals for the current year and budget year.

Environmental License Plate Fund
2015-16 Proposed Expenditures
(Dollars in Thousands)

Function	2014-15 (Estimate)	2015-16 (Proposed)	% Change
Department of Fish and Wildlife	$15,511	$9,468	-39%
Conservancies	$10,235	$11,408	11%
Secretary for Natural Resources	$4,561	$6,703	47%
Natural Resource Agency Departments	$5,380	$5,330	-1%
Tahoe Regional Planning Agency	$3,998	$3,998	0%
Department of Parks and Recreation	$3,058	$0	-100%
Cal-EPA boards and Departments	$1,454	$1,456	0%
Department of Education	$414	$410	-1%
Total	**$44,611**	**$38,773**	

Staff Comments. As discussed on March 5, concerns have been raised about the equity of the allocation of ELPF funds, the appropriateness of Administration choices for funding, the need for an increase in statutory fees to cover program costs, and the statutory requirements for funds. In addition to actions taken at the April 30 hearing, which shifted $2.5 million from ELPF to Tidelands Oil Revenue for the Fourth Climate Assessment, and $2.5 million for budget year climate ready grants, staff recommends approval of the Governor's January proposal with the following changes and additions:

(1) Restore $3 million to the Department of Parks and Recreation. Additionally, amend PRC 21190 as follows: *Purchase of real property for state and local parks and d<u>eferred maintenance of state parks.</u>*

(2) Approve $800,000 for the Education and the Environment Initiative, consistent with the subcommittee's actions in 2014, and to conform with Resources Code 21190, priority No. 3.

(3) Shift $1.3 million for the Ocean Protection Council to Tideland's Oil revenue.

(4) Approve an additional $2.5 million from Tidelands Oil Revenue to allow the Fourth Climate Assessment to be completed in 2015-16.

(5) Reject trailer bill language increasing license plate fees.

(6) Approve uncodified trailer bill language requiring the department, in conjunction with Senate and Assembly staff, to convene a working group in fall 2015, in order to adjust the priorities of the ELPF to: (1) update PRC 21190 priorities; (2) equalize conservancy funding; (3) prioritize funding from specialty plates to those areas purchasing those plates (such as Tahoe); (4) reduce staffing costs attributed to ELPF and focus funding on projects; and, (5) reduce reliance on the ELPF for regulatory programs that are more appropriately funded by the General Fund.

Staff Recommendation: Approve items 1-6 above.

Vote:

Marine Protected Areas

The subcommittee heard this item on March 5 and held the proposal open in order to require the Ocean Protection Council (OPC) to return with a full analysis of management costs for the Marine Life Protection Act (MLPA) program, including funding sources, staffing and department management designations. The OPC was able to give a clear cost-accounting of the current- and budget-years, and should be prepared to discuss long-term funding in 2016.

Background. The California Natural Resources Agency (CNRA) implements Fish and Game Code Section 2853 (c)(3), the Marine Life Protection Act (MLPA). The MLPA established a statewide network of marine protected areas (MPAs) designed, created, and managed through public-private partnerships. The Ocean Protection Council (OPC), within the CNRA, expended $16 million to create a baseline characterization of ecosystem status for four regions.

Budget Proposal. The Governor's budget requests $2.5 million (Proposition 84 bond funds), one-time, to continue to support monitoring to inform the ongoing management of the network of MPAs. The budget does not specify a long-term funding source for management of the MPAs, and specifically states that, "as the OPC's appropriation of Proposition 84 bond funds draw to a close, a new source of funding is needed to continue monitoring the MPAs."

LAO Analysis. The LAO testified that the proposed monitoring activities seem reasonable and are consistent with the MLPA, but that bond funds are not an appropriate fund source for the proposed activities because bond funds should be used only for capital improvements or activities that provide benefits over many years to taxpayers who finance the bonds.

Staff Recommendation: After further review, staff offers the following recommendation:

(1) Deny Governor's proposal to use bond funds.

(2) Approve $2.5 million from Tidelands Oil Revenue, one-time, for the MPA program.

(3) Require the Administration to report on January 10, 2016, with a full analysis of management costs for the MLPA program, including funding sources, staffing and department management designations. The report should accompany a budget proposal identifying ongoing funding for the program that is not based on one-time allocations or bond funds.

Vote:

Timber Regulation and Forest Restoration Program

Background. AB 1492 (Committee on Budget), Chapter 289, Statutes of 2012, enacted a one-percent assessment on the sale of lumber products, to be deposited in the Timber Regulation and Forest Restoration Fund (TRF). These revenues are intended to fully fund the timber harvest regulatory program, and eliminate any regulatory fees associated with the approval of timber harvest plans. AB 1492 specifies that once all regulatory costs are funded and a $4 million reserve is established, revenue from the TRF may be spent on the specific programs, consistent with Section 4629.6 of the Public Resources Code. The projected balance in 2015-16 from TRF is $15 million.

Budget Proposal. The Spring Finance Letter requests resources for activities associated with forest improvement and restoration, and the timber regulatory program, as follows:

- **Department of Conservation**. The Spring Finance Letter requests $597,000 ongoing, to provide funding for monitoring and data collection on multiple watershed pilot projects, and to support the analysis and dissemination of the data consistent with AB 1492 and timber regulatory activities.

- **Department of Forestry and Fire Protection (CalFIRE)**. The Spring Finance Letter requests $2.3 million and eleven positions in 2015-16, decreasing to $1.8 million and eleven positions in 2016-17, and $478,000 and three positions in 2017-18 and ongoing, to provide additional staff for data collection and management of the effect of timber harvesting at the watershed level, as well as grant management. The department also requests $2.9 million in 2015-16 and $3.5 million in 2016-17 for grants related to the Forest Restoration and Improvement Program.

- **Department of Fish and Wildlife**. The Spring Finance Letter requests $285,000 ongoing, to monitor the effects of timber harvesting activities on fish and wildlife, and to assist in timber harvest plan review, species consultations, and lake or streambed alteration agreement notifications.

- **State Water Resources Control Board**. The Spring Finance Letter requests $551,000 and four positions for state operations, and $2 million for local assistance, to provide additional staff and local assistance grants on a two-year, limited-term basis, for planning and implementing projects that address water quality problems in surface waters and groundwater resulting from nonpoint source pollution. The focus is on pollution caused by rainfall or snowmelt moving over and through the ground, and exacerbated by vegetation removal and topsoil disruption related to timber harvesting activities.

LAO Assessment. The LAO provides the following assessment: “We find the administration’s proposed activities and requested level of resources to be reasonable. However, the Legislature should ensure that the proposed distribution of funding is in line with legislative priorities. For example, the administration’s proposal provides $3 million for California Forest Improvement Program (CFIP) grants and $2 million for forest restoration projects though the State Water Resources Control Board.

The Legislature could choose to adjust how those dollars are distributed between programs. Additionally, the Legislature could direct the departments to prioritize certain activities or objectives within the grant programs. For example, given the heightened risk of wildland fire during the drought, the Legislature might wish to prioritize CFIP projects that primarily reduce wildland fire risk in the short term. Finally, we recommend that the Legislature adopt supplemental reporting language requiring the administration to report on the progress of the proposed pilot projects, including selected projects at a focused scale and the project to use the State Water Board's bioassessment methods, by March 1, 2016."

The Administration has responded that:

- Regarding the distribution of grant funding, the Department of Fish and Wildlife has an existing $4 million in place for DFW for fisheries restoration for this in 2015-16 and 2016-17. The Administration is likely to request its extension in the 2016-17 budget process.

- Regarding the pilot projects reporting requirement, the Administration believes it will only have initial information to report by March 1, 2016. If the reporting is shifted to 2017, they will be able to provide more meaningful information.

Staff Recommendation. Staff concurs with the LAO assessment and response from the Administration. Staff recommends the following actions:

(1) Approve the budget amounts, as proposed.

(2) Require the Resources Agency to include an advisory council to review and oversee granting programs, to include public, state agency, and scientific members who are independent of the departments implementing grant programs. Provide up to $100,000 (TRF), to allow those public and scientific members to be paid per diem. Require that the Senate and Assembly make one appointment each to the advisory council.

(3) Approve LAO reporting language to include: (1) an interim status report on March 1, 2016 and a final report on January 10, 2017.

Vote:

3100 California Science Center

Background. The California Science Center (Science Center) is located in Exposition Park, south of downtown Los Angeles. The Science Center is home to the Space Shuttle Endeavor and is currently undergoing development of a proposal to increase the size of the display area and to include additional multimedia and hands-on education exhibits featuring aeronautics and space exploration. The expansion is also proposed to include space for educational programs, facility support areas, restrooms and storage.

Budget Proposal. The Governor's January proposal includes two components: (1) a request for trailer bill language to authorize Phase III for the purposes of the Science Center Foundation developing, constructing, equipping, and furnishing the project known as the Phase III Air and Space Center; and (2) acknowledgement of the future state operating costs upon completion of the Phase III project. The Administration estimates future operating costs for staffing, facility support, and exhibit maintenance at $2 million and 10.5 positions in 2017-18, and $4 million and 254 positions in 2018-19, and ongoing. The proposal does not include a revenue source for this funding and it is anticipated any request would be made in a future budget proposal.

Staff Comments. Concerns were raised about the trailer bill language after the proposal was released in January. Staff convened a meeting of the Science Center, its foundation, the Administration and legislative staff to consider the language. At this time, the Administration has revised the language to accommodate issues raised by the foundation.

Questions for the Administration.

- What concerns were addressed in the changes to the trailer bill language?
- What accommodation was given to the California African-American Museum, also currently undergoing a possible expansion, and other Exposition Park tenants, that may be impacted by the Science Center construction?

Staff Comments. Staff concurs with the need for the trailer bill language and acknowledges the costs will increase for the Science Center. Given the likelihood of a budget proposal in 2016, staff proposes the following reporting language, in addition to approval of the budget request:

> *On or before September 15, 2016, the Administration, in conjunction with the Science Center and Science Center Foundation, shall report to the Assembly and Senate budget committees, and the Legislative Analyst's Office, on actual operating, maintenance and position costs associated with the Phase III project. The report shall also include revenue alternatives to the General Fund for ongoing operating costs for the California Science Center.*

Staff Recommendation: Approve as proposed, with supplemental reporting language.

Vote:

CalRecycle—Beverage Container Recycling Program (BCRP)

The subcommittee heard this item on March 12, as an informational item and discussed the structural imbalance in the Beverage Container Recycling Fund (BCRF), audit results recommending continued financial recovery efforts through fraud prevention, and continued statutory efforts to reform the program in the long-term.

Background. 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.

Spring Finance Letters. The department has submitted three Spring Finance Letters that address concerns raised by the Legislature and State Auditor related to audits and compliance.

(1) **Beverage Container Recycling Program: Targeted Activities to Improve Program Integrity**. The Spring Finance Letter requests $357,000 (BCRF) and three positions, and $717,000 (BCRF penalty account) and seven two-year limited-term positions, to implement targeted activities to enhance program integrity, reduce expenditures, and mitigate potential program funding shortfalls. The request also includes conversion of eight existing limited-term positions to permanent for ongoing program certification workload.

(2) **Beverage Container Recycling Program: Processor Oversight Activities.** The Spring Finance Letter requests $933,000 and ten two-year limited-term positions to establish a pilot program with dedicated on-site investigation resources at certified processor facilities. These positions will create a new pilot program to expand current fraud investigation activities on recyclers to processing facilities as well.

(3) **Rigid Plastic Packaging Container Program.** The Spring Finance Letter requests $296,000 (BCRF) and three positions, to conduct annual rigid plastic packaging container compliance certification reviews pursuant to recently adopted regulations and provide additional compliance assistance tools.

Staff Recommendation: Staff concurs with the need for the positions and finds that the request is in line with previous audit and legislative recommendations.

Vote:

California Conservation Corps—Tahoe Base Center

The subcommittee heard this item on March 5, as an informational item and discussed an LAO recommendation to reject the proposal and seek a more cost-effective option for the center. The subcommittee recommended the LAO, CCC staff, and Department of Finance visit the Tahoe Base Center to review the site and discuss the development of the funding model with the Department of Finance capital outlay staff.

Background. The Tahoe Base Center is a residential and operational facility for corpsmembers. Completed in 2013, the center includes dorm rooms, a multipurpose kitchen building, and administrative offices. In addition, the CCC currently uses a total of 8,600 square feet of storage space at two facilities for various equipment used by corpsmembers at the center. This storage space includes 5,100 square feet of lease space and 3,500 square feet at a facility owned by CCC that was formerly a California Highway Patrol field office.

Governor's Proposal. The Governor's budget proposes to establish a consolidated storage facility of 12,500 square feet to serve the Tahoe Base Center. This would be accomplished by acquiring and renovating the entire facility currently leased by the CCC. The Governor's budget includes $2.5 million in lease-revenue bonds to fund the estimated cost of the project. The Administration estimates that annual debt-service payments would be about $180,000. The Administration provides several reasons for needing the proposed storage facility. First, the facility would provide additional storage space, as is recommended in a warehouse prototype design developed by the DGS for new CCC facilities. This design is based on 10,700 square feet. Second, the proposed location is about a half mile closer to the Tahoe Base Center than the current CCC–owned storage facility. Third, CCC states that it has had to limit the frequency and times that it accesses this facility due to neighborhood complaints.

Staff Comments. Given the compelling issue of neighborhood complaint, staff believes that this project is required and the proposal should move forward. Staff has met with the CCC staff to review their process for determining the site requirements and concurs with their request. The options available to the subcommittee include:

- Reduce lease-revenue bond costs by funding all, or a portion, of the construction with General Fund.
- Reject the proposal and requiring CCC to develop a new model.
- Approve the project as proposed.

Staff Recommendation. Approve as proposed.

Vote:

Senate Budget and Fiscal Review—Senator Mark Leno, Chair

SUBCOMMITTEE NO. 2 **Agenda**

Senator Lois Wolk, Chair
Senator Jim Nielsen
Senator Fran Pavley

Thursday, May 7, 2015
9:30 a.m. or Upon Adjournment of Session
Hearing Room 112

Consultant: Catherine Freeman

Part A—Resources, Environmental Protection and Energy

OUTCOMES

Items Proposed for Vote-Only

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.

ITEMS PROPOSED FOR VOTE ONLY

Items Previously Heard

	Item	Department	Issue	Recommendation
1	3480	Department of Conservation	**Proposition 50 Watershed Program Implementation Study**. The budget requests one two-year limited-term appropriation of $200,000 in 2015-16, and $358,000 in 2016-17, from Proposition 50 bond funds, to fund a comprehensive evaluation to address the effects, benefits, and outcomes resulting from the Proposition 50 watershed program implementation.	Approve
2	3790	Department of Parks and Recreation	**Public Beach Restoration.** The budget requests $4.8 million (Harbors and Watercraft Revolving Fund) for this ongoing program. The subcommittee previously discussed nexus issues. *Staff recommends reporting language to require the department to return on Jan 10, 2016, with a plan to improve the competitiveness of the program and to require, as a criteria for grant approval, the determination of a nexus to damage caused by up-coast harbors (as opposed to sea level rise or local planning issues).*	Approve as proposed with supplemental reporting language.
3	3930	Department of Pesticide Regulation	**Product Registration Data Management**. The budget requests $1.9 million (Department of Pesticide Regulation Fund) for two years, and $400,000 in year three, and $163,000 ongoing, to develop and implement a fully integrated information management system for the pesticide product and device registration process. According to the Administration, once completed, the system will offer online functionality and allow for online submission of registration-related materials and electronic payment.	Approve
4	3940	State Water Resources Control Board	**SB 985 Stormwater Resource Plan**. The Governor's budget requests $381,000 and three two-year, limited-term, positions from the Waste Discharge Permit Fund to implement the mandates of SB 985 (Pavley), Chapter 555, Statutes of 2014. The intent of the SB 985 is to promote storm water use projects and dry weather non-storm water runoff use projects through storm water resource plans.	Approve
5	3940	State Water Resources Control Board	**Drinking Water Fee Increase.** The Governor's budget requests trailer bill language to amend the Health and Safety Code to allow the State Water Board to adopt fee regulations by emergency actions to ensure an adopted annual fee schedule will generate sufficient revenue to support Safe Drinking Water Program annual budgetary expenditures.	Approve

	Item	Department	Issue	Recommendation
	6	(multiple)	**Climate Adaptation (April 30 hearing).** (1) Recommend approval of $2.5 million, directly from Tidelands Oil Revenue, on a one-time basis, to sustain the existing Climate-Ready grant program and Climate Resilience Account using the same department distribution formula as in 2014. (2) Shift $2.5 million for the Fourth Climate Assessment to tidelands oil revenue from Environmental License Plate Fund and require that a portion of the research be focused on coastal climate adaptation. (3) Require all greenhouse gas emission reduction fund grant programs to consider climate adaptation as a secondary benefit. (4) Require the Office of Planning and Research to report to the appropriate budget and policy committees on, or before, January 10, 2016, and annually thereafter, on actions taken by state agencies to prepare the state for climate change impacts.	Approve

VOTE (Items 1-6):

2-1 (Nielsen, no)

Spring Finance Letters

0540 Secretary for Natural Resources

1. **Proposition 13 River Parkways Program.** The Spring Finance Letter requests appropriation of all remaining Proposition 13 bond funds ($4.4 million) to continue the multi-benefit acquisition and development of river parkways and urban stream protection.

2. **Reappropriations.** The Spring Finance Letter requests reappropriation of local assistance from various funds due to the accumulation of residual funds from projects that were unsuccessful or came in under budget. This reappropriation allows for new and ongoing projects to reach completion and for remaining bond balances to be awarded to new projects.

3340 California Conservation Corps (CCC)

3. **Enterprise Resource Management System (C^3 System).** The Spring Finance Letter requests $392,000 (Collins-Dugan Reimbursement Account) to provide funding for an expedited project schedule for the in-progress C^3 information technology system. The request will accommodate additional consulting hours and an expedited schedule for project deliverables.

4. **Emergency Overtime Services.** The Spring Finance Letter requests $1.9 million (Collins-Dugan Reimbursement Account) to reflect increased reimbursements related to providing emergency overtime services for the United States Forestry Service and state Department of Forestry and Fire Protection.

5. **Technical Fund Shift.** The Spring Finance Letter requests a shift of $5 million from Proposition 40 to State Responsibility Area (SRA) Fire Fee to correct an over—allocation of bond funding and to allow the CCC to continue fire hazard reduction services in the SRA.

3480 Department of Conservation

6. **Abandoned Mine Remediation and Mine Mapping.** The Governor's budget requests $300,000 (Abandoned Mine Reclamation and Minerals Fund) to be used for activities involved with remediation and closure of hazardous abandoned mines on California Public lands. On March 19, the subcommittee held open a proposal to approve $100,000 (Abandoned Mine Reclamation and Minerals Fund) for three years, for the department to purchase software, to provide immediate management of data that can be made available to public and private agencies. Staff recommends approval of both proposals ($400,000) with the following budget bill language: *Of the amount appropriated in this item, $300,000 shall be approved as a baseline increase and $100,000 shall be approved, annually, through 2017-18, for the purchase of software and immediate management of data that can be made available to public and private agencies, for the purpose of mapping mine data.*

7. **Sustainable Communities Planning Grants.** The Spring Finance Letter requests that Item 3480-491 (reimbursements), be added to extend the liquidation period for sustainable communities local assistance planning grants to June 30, 2017, in order to align the reversion date of the funding with the term of the grants.

3540 Department of Forestry and Fire Protection (CalFIRE)

8. **Capital Outlay Spring Finance Letters.** The Spring Finance Letters requests funding to continue the following capital outlay projects:

    a. $461,000 (General Fund) for site improvements at the Cuyamaca Fire Station in San Diego County which has been damaged due to poor drainage and water intrusion.

    b. $4.8 million (Public Buildings Construction Fund [PBCF]) for working drawings and construction phase of the academy dormitory project in Ione due to cost increases, fund shifts, and restart costs from the suspension of the project in 2008.

    c. $963,000 (PBCF) to supplement the San Mateo/Santa Cruz Unit Headquarters automotive shop relocation due to cost increases, fund shifts, and restart costs from the suspension of the project in 2008.

    d. $2 million (PBCF) to accommodate a scope change to remove the existing helicopter hanger and reduce the apparatus building from a three to two bays. The project also requires funding due to cost increases, fund shifts, and restart costs from the suspension of the project in 2008.

    e. $1.5 million (PBCF) for the Altaville Forest Fire Station automotive shop replacement due to cost increases, fund shifts, and restart costs from the suspension of the project in 2008.

    f. $4.8 million (PBCF) for the working phase and construction phase of the Las Posadas Fire Station replacement project. This is a technical adjustment due to the natural reversion of funding for the working drawings and construction financing in March 2015.

3600 Department of Fish and Wildlife

9. **Hatcheries and Inland Fisheries Fund Capital Outlay.** The Spring Finance Letter requests $460,000 (Hatcheries and Inland Fisheries Fund) for two minor capital outlay projects:

    a. $220,000 for the design, construction and installation of a new 12 foot high bird enclosure for the trout nursery ponds at the Mount Shasta Hatchery in Siskiyou County.

   b. $240,000 for design and construction to add walls, with windows and doors, to the existing roofed structure that surrounds the Heritage Trout fish ponds at the San Joaquin Hatchery in Friant, Fresno, County.

10. **Fish and Wildlife Dedicated Programs.** The Spring Finance Letter requests $1 million (Hatcheries and Inland Fisheries Fund) annually for three years, to support trout fish hatcheries, and $270,000 ongoing for the Land Visitor Pass Fee Recovery Program, to implement expansion of this program effective January 1, 2015.

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3860 Department of Water Resources

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23. **Technical Adjustment.** The Spring Finance Letter requests $850,000 increase to its baseline fund (Environmental License Plate Fund) to include reimbursements provided by capital outlay projects. The reimbursements were inadvertently omitted from the Governor's January budget.

3900 Air Resources Board (ARB)

24. **Technical Adjustment for the Enhanced Fleet Modernization Program.** The Spring Finance Letter requests to shift from a memorandum of understanding with the Department of Consumer Affairs and Bureau of Automotive Repair to a direct appropriation of $2.8 million from the Enhanced Fleet Modernization Subaccount, to continue to manage the Enhanced Fleet Modernization Program.

25. **Electric Vehicle Charging Station Open Access Act.** The Spring Finance Letter requests $175,000 (Motor Vehicle Account) and one position to implement SB 454 (Corbett), Chapter 418, Statutes of 2013. SB 454 requires the ARB to work with station network providers and industry standards-setting organizations to assess standards-setting efforts for the interoperability of the electric vehicle charging network.

26. **Low Carbon Fuel Standard (LCFS) Oversight**. The Spring Finance Letter requests $700,000 (Cost of Implementation Account) and four positions to enhance oversight and accountability in the LCFS program. These positions will provide daily review of increased transactions reported in the LCFS program, develop and deploy market surveillance routines, and collaborate with the U.S. Environmental Protection Program and California Board of Equalization on fuel sales data.

27. **Greenhouse Gas Emission Monitoring Network Enhancement**. The Spring Finance Letter requests $1.1 million (Cost of Implementation Account) and one position to provide greenhouse gas monitoring equipment, maintenance costs and leased space to improve the existing greenhouse gas air monitoring network.

3940 State Water Resources Control Board

28. **Drinking Water Regulation.** The Governor's budget requests $347,000 (Safe Drinking Water Account) and two limited-term positions, to address the existing drinking water regulation backlog and to ensure timely development of key drinking water regulations in the future. This item is consistent with a January proposal related to the drinking water program.

VOTE (Items 1-28): (motions to approve)

Item #6:

- Governor’s proposal **3-0**
- Mine Mapping proposal **2-1 (Nielsen, no)**

Item #9

- Mount Shasta Hatchery Project **3-0**
- San Joaquin Hatchery Project **2-1 (Nielsen, no)**

Items 1-5, 8, 13-19, and 22: **3-0**
Items 7, 10-12, 20, 21, 23-28: **2-1 (Nielsen, no)**

3210 Environmental License Plate Fund (ELPF)

The subcommittee heard this item on March 5 and held the proposal open in order to receive further information from the Natural Resources Agency.

Governor's Budget Proposal

The Governor's budget proposes $38.8 million in expenditures and $42 million in revenues. After required transfers to the Motor Vehicle Account ($2.4 million), the amount available for expenditure is $39 million. The figure below outlines ELPF expenditure proposals for the current year and budget year.

Environmental License Plate Fund
2015-16 Proposed Expenditures
(Dollars in Thousands)

Function	2014-15 (Estimate)	2015-16 (Proposed)	% Change
Department of Fish and Wildlife	$15,511	$9,468	-39%
Conservancies	$10,235	$11,408	11%
Secretary for Natural Resources	$4,561	$6,703	47%
Natural Resource Agency Departments	$5,380	$5,330	-1%
Tahoe Regional Planning Agency	$3,998	$3,998	0%
Department of Parks and Recreation	$3,058	$0	-100%
Cal-EPA boards and Departments	$1,454	$1,456	0%
Department of Education	$414	$410	-1%
Total	**$44,611**	**$38,773**	

Staff Comments. As discussed on March 5, concerns have been raised about the equity of the allocation of ELPF funds, the appropriateness of Administration choices for funding, the need for an increase in statutory fees to cover program costs, and the statutory requirements for funds. In addition to actions taken at the April 30 hearing, which shifted $2.5 million from ELPF to Tidelands Oil Revenue for the Fourth Climate Assessment, and $2.5 million for budget year climate ready grants, staff recommends approval of the Governor's January proposal with the following changes and additions:

(1) Restore $3 million to the Department of Parks and Recreation. Additionally, amend PRC 21190 as follows: *Purchase of real property for state and local parks and deferred maintenance of state parks.*

(2) Approve $800,000 for the Education and the Environment Initiative, consistent with the subcommittee's actions in 2014, and to conform with Resources Code 21190, priority No. 3.

(3) Shift $1.3 million for the Ocean Protection Council to Tideland's Oil revenue.

(4) Approve an additional $2.5 million from Tidelands Oil Revenue to allow the Fourth Climate Assessment to be completed in 2015-16.

(5) Reject trailer bill language increasing license plate fees.

(6) Approve uncodified trailer bill language requiring the department, in conjunction with Senate and Assembly staff, to convene a working group in fall 2015, in order to adjust the priorities of the ELPF to: (1) update PRC 21190 priorities; (2) equalize conservancy funding; (3) prioritize funding from specialty plates to those areas purchasing those plates (such as Tahoe); (4) reduce staffing costs attributed to ELPF and focus funding on projects; and, (5) reduce reliance on the ELPF for regulatory programs that are more appropriately funded by the General Fund.

Staff Recommendation: Approve items 1-6 above.

Vote:

Items 1, 5: **3-0**
Items 2-4, 6: **2-1 (Nielsen, no)**

Marine Protected Areas

The subcommittee heard this item on March 5 and held the proposal open in order to require the Ocean Protection Council (OPC) to return with a full analysis of management costs for the Marine Life Protection Act (MLPA) program, including funding sources, staffing and department management designations. The OPC was able to give a clear cost-accounting of the current- and budget-years, and should be prepared to discuss long-term funding in 2016.

Background. The California Natural Resources Agency (CNRA) implements Fish and Game Code Section 2853 (c)(3), the Marine Life Protection Act (MLPA). The MLPA established a statewide network of marine protected areas (MPAs) designed, created, and managed through public-private partnerships. The Ocean Protection Council (OPC), within the CNRA, expended $16 million to create a baseline characterization of ecosystem status for four regions.

Budget Proposal. The Governor's budget requests $2.5 million (Proposition 84 bond funds), one-time, to continue to support monitoring to inform the ongoing management of the network of MPAs. The budget does not specify a long-term funding source for management of the MPAs, and specifically states that, "as the OPC's appropriation of Proposition 84 bond funds draw to a close, a new source of funding is needed to continue monitoring the MPAs."

LAO Analysis. The LAO testified that the proposed monitoring activities seem reasonable and are consistent with the MLPA, but that bond funds are not an appropriate fund source for the proposed activities because bond funds should be used only for capital improvements or activities that provide benefits over many years to taxpayers who finance the bonds.

Staff Recommendation: After further review, staff offers the following recommendation:

(1) Deny Governor's proposal to use bond funds.

(2) Approve $2.5 million from Tidelands Oil Revenue, one-time, for the MPA program.

(3) Require the Administration to report on January 10, 2016, with a full analysis of management costs for the MLPA program, including funding sources, staffing and department management designations. The report should accompany a budget proposal identifying ongoing funding for the program that is not based on one-time allocations or bond funds.

Vote:

Items 1 & 3: **3-0**
Item 2: **2-1 (Nielsen, no)**

Timber Regulation and Forest Restoration Program

Background. AB 1492 (Committee on Budget), Chapter 289, Statutes of 2012, enacted a one-percent assessment on the sale of lumber products, to be deposited in the Timber Regulation and Forest Restoration Fund (TRF). These revenues are intended to fully fund the timber harvest regulatory program, and eliminate any regulatory fees associated with the approval of timber harvest plans. AB 1492 specifies that once all regulatory costs are funded and a $4 million reserve is established, revenue from the TRF may be spent on the specific programs, consistent with Section 4629.6 of the Public Resources Code. The projected balance in 2015-16 from TRF is $15 million.

Budget Proposal. The Spring Finance Letter requests resources for activities associated with forest improvement and restoration, and the timber regulatory program, as follows:

- **Department of Conservation**. The Spring Finance Letter requests $597,000 ongoing, to provide funding for monitoring and data collection on multiple watershed pilot projects, and to support the analysis and dissemination of the data consistent with AB 1492 and timber regulatory activities.

- **Department of Forestry and Fire Protection (CalFIRE)**. The Spring Finance Letter requests $2.3 million and eleven positions in 2015-16, decreasing to $1.8 million and eleven positions in 2016-17, and $478,000 and three positions in 2017-18 and ongoing, to provide additional staff for data collection and management of the effect of timber harvesting at the watershed level, as well as grant management. The department also requests $2.9 million in 2015-16 and $3.5 million in 2016-17 for grants related to the Forest Restoration and Improvement Program.

- **Department of Fish and Wildlife**. The Spring Finance Letter requests $285,000 ongoing, to monitor the effects of timber harvesting activities on fish and wildlife, and to assist in timber harvest plan review, species consultations, and lake or streambed alteration agreement notifications.

- **State Water Resources Control Board**. The Spring Finance Letter requests $551,000 and four positions for state operations, and $2 million for local assistance, to provide additional staff and local assistance grants on a two-year, limited-term basis, for planning and implementing projects that address water quality problems in surface waters and groundwater resulting from nonpoint source pollution. The focus is on pollution caused by rainfall or snowmelt moving over and through the ground, and exacerbated by vegetation removal and topsoil disruption related to timber harvesting activities.

LAO Assessment. The LAO provides the following assessment: “We find the administration’s proposed activities and requested level of resources to be reasonable. However, the Legislature should ensure that the proposed distribution of funding is in line with legislative priorities. For example, the administration’s proposal provides $3 million for California Forest Improvement Program (CFIP) grants and $2 million for forest restoration projects though the State Water Resources Control Board.

The Legislature could choose to adjust how those dollars are distributed between programs. Additionally, the Legislature could direct the departments to prioritize certain activities or objectives within the grant programs. For example, given the heightened risk of wildland fire during the drought, the Legislature might wish to prioritize CFIP projects that primarily reduce wildland fire risk in the short term. Finally, we recommend that the Legislature adopt supplemental reporting language requiring the administration to report on the progress of the proposed pilot projects, including selected projects at a focused scale and the project to use the State Water Board's bioassessment methods, by March 1, 2016."

The Administration has responded that:

- Regarding the distribution of grant funding, the Department of Fish and Wildlife has an existing $4 million in place for DFW for fisheries restoration for this in 2015-16 and 2016-17. The Administration is likely to request its extension in the 2016-17 budget process.

- Regarding the pilot projects reporting requirement, the Administration believes it will only have initial information to report by March 1, 2016. If the reporting is shifted to 2017, they will be able to provide more meaningful information.

Staff Recommendation. Staff concurs with the LAO assessment and response from the Administration. Staff recommends the following actions:

(1) Approve the budget amounts, as proposed.

(2) Require the Resources Agency to include an advisory council to review and oversee granting programs, to include public, state agency, and scientific members who are independent of the departments implementing grant programs. Provide up to $100,000 (TRF), to allow those public and scientific members to be paid per diem. Require that the Senate and Assembly make one appointment each to the advisory council.

(3) Approve LAO reporting language to include: (1) an interim status report on March 1, 2016 and a final report on January 10, 2017.

Vote:

Items 1 & 2: **2-1** **(Nielsen, no)**
Item 3: **3-0**

Senator Nielsen requested the LAO review timber harvest plan position increases and changes in THP processing/review times since the enactment of AB 1492, with a report back to the subcommittee members.

3100 California Science Center

Background. The California Science Center (Science Center) is located in Exposition Park, south of downtown Los Angeles. The Science Center is home to the Space Shuttle Endeavor and is currently undergoing development of a proposal to increase the size of the display area and to include additional multimedia and hands-on education exhibits featuring aeronautics and space exploration. The expansion is also proposed to include space for educational programs, facility support areas, restrooms and storage.

Budget Proposal. The Governor's January proposal includes two components: (1) a request for trailer bill language to authorize Phase III for the purposes of the Science Center Foundation developing, constructing, equipping, and furnishing the project known as the Phase III Air and Space Center; and (2) acknowledgement of the future state operating costs upon completion of the Phase III project. The Administration estimates future operating costs for staffing, facility support, and exhibit maintenance at $2 million and 10.5 positions in 2017-18, and $4 million and 254 positions in 2018-19, and ongoing. The proposal does not include a revenue source for this funding and it is anticipated any request would be made in a future budget proposal.

Staff Comments. Concerns were raised about the trailer bill language after the proposal was released in January. Staff convened a meeting of the Science Center, its foundation, the Administration and legislative staff to consider the language. At this time, the Administration has revised the language to accommodate issues raised by the foundation.

Questions for the Administration.

- What concerns were addressed in the changes to the trailer bill language?
- What accommodation was given to the California African-American Museum, also currently undergoing a possible expansion, and other Exposition Park tenants, that may be impacted by the Science Center construction?

Staff Comments. Staff concurs with the need for the trailer bill language and acknowledges the costs will increase for the Science Center. Given the likelihood of a budget proposal in 2016, staff proposes the following reporting language, in addition to approval of the budget request:

> *On or before September 15, 2016, the Administration, in conjunction with the Science Center and Science Center Foundation, shall report to the Assembly and Senate budget committees, and the Legislative Analyst's Office, on actual operating, maintenance and position costs associated with the Phase III project. The report shall also include revenue alternatives to the General Fund for ongoing operating costs for the California Science Center.*

Staff Recommendation: Approve as proposed, with supplemental reporting language.

Vote: 3-0

CalRecycle—Beverage Container Recycling Program (BCRP)

The subcommittee heard this item on March 12, as an informational item and discussed the structural imbalance in the Beverage Container Recycling Fund (BCRF), audit results recommending continued financial recovery efforts through fraud prevention, and continued statutory efforts to reform the program in the long-term.

Background. 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.

Spring Finance Letters. The department has submitted three Spring Finance Letters that address concerns raised by the Legislature and State Auditor related to audits and compliance.

(1) **Beverage Container Recycling Program: Targeted Activities to Improve Program Integrity**. The Spring Finance Letter requests $357,000 (BCRF) and three positions, and $717,000 (BCRF penalty account) and seven two-year limited-term positions, to implement targeted activities to enhance program integrity, reduce expenditures, and mitigate potential program funding shortfalls. The request also includes conversion of eight existing limited-term positions to permanent for ongoing program certification workload.

(2) **Beverage Container Recycling Program: Processor Oversight Activities.** The Spring Finance Letter requests $933,000 and ten two-year limited-term positions to establish a pilot program with dedicated on-site investigation resources at certified processor facilities. These positions will create a new pilot program to expand current fraud investigation activities on recyclers to processing facilities as well.

(3) **Rigid Plastic Packaging Container Program.** The Spring Finance Letter requests $296,000 (BCRF) and three positions, to conduct annual rigid plastic packaging container compliance certification reviews pursuant to recently adopted regulations and provide additional compliance assistance tools.

Staff Recommendation: Staff concurs with the need for the positions and finds that the request is in line with previous audit and legislative recommendations.

Vote: 3-0

California Conservation Corps—Tahoe Base Center

The subcommittee heard this item on March 5, as an informational item and discussed an LAO recommendation to reject the proposal and seek a more cost-effective option for the center. The subcommittee recommended the LAO, CCC staff, and Department of Finance visit the Tahoe Base Center to review the site and discuss the development of the funding model with the Department of Finance capital outlay staff.

Background. The Tahoe Base Center is a residential and operational facility for corpsmembers. Completed in 2013, the center includes dorm rooms, a multipurpose kitchen building, and administrative offices. In addition, the CCC currently uses a total of 8,600 square feet of storage space at two facilities for various equipment used by corpsmembers at the center. This storage space includes 5,100 square feet of lease space and 3,500 square feet at a facility owned by CCC that was formerly a California Highway Patrol field office.

Governor's Proposal. The Governor's budget proposes to establish a consolidated storage facility of 12,500 square feet to serve the Tahoe Base Center. This would be accomplished by acquiring and renovating the entire facility currently leased by the CCC. The Governor's budget includes $2.5 million in lease-revenue bonds to fund the estimated cost of the project. The Administration estimates that annual debt-service payments would be about $180,000. The Administration provides several reasons for needing the proposed storage facility. First, the facility would provide additional storage space, as is recommended in a warehouse prototype design developed by the DGS for new CCC facilities. This design is based on 10,700 square feet. Second, the proposed location is about a half mile closer to the Tahoe Base Center than the current CCC–owned storage facility. Third, CCC states that it has had to limit the frequency and times that it accesses this facility due to neighborhood complaints.

Staff Comments. Given the compelling issue of neighborhood complaint, staff believes that this project is required and the proposal should move forward. Staff has met with the CCC staff to review their process for determining the site requirements and concurs with their request. The options available to the subcommittee include:

- Reduce lease-revenue bond costs by funding all, or a portion, of the construction with General Fund.
- Reject the proposal and requiring CCC to develop a new model.
- Approve the project as proposed.

Staff Recommendation. Approve as proposed.

Vote: 3-0

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

Senator Lois Wolk, Chair
Senator Jim Nielsen
Senator Fran Pavley

Thursday, May 7, 2015
9:30 a.m. or Upon Adjournment of Session
Hearing Room 112

Consultant: Farra Bracht

PART B: Transportation

Items Proposed for 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 Discussion and Vote

ITEMS PROPOSED FOR VOTE ONLY

0650 Governor's Office of Planning and Research (OPR), Strategic Growth Council (SGC)

Item 1: Administrative, Monitoring, and Evaluation Support (January Budget)

Governor's Proposal: The OPR requests $255,000 (Greenhouse Gas Reduction Funds) for two permanent positions—one associate intergovernmental program analyst and one senior intergovernmental program analyst. These staff would oversee the administrative requirements associated with transferring, tracking, oversight, audits, and reporting related to coordination of existing SGC programs and the Affordable Housing and Sustainable Communities (AHSC) program.

Background: Pursuant to SB 862 (Committee on Budget and Fiscal Review), Chapter 36, Statutes of 2004, the SGC is required to develop and administer the AHSC program and to leverage the programmatic and administrative expertise of relevant state agencies and departments. The Council's responsibilities include developing guidelines, reviewing applications, and providing funding as part of greenhouse gas reduction efforts associated with cap-and-trade funds.

SB 862 also transferred administrative oversight and staffing of the SGC from the Natural Resources Agency to OPR and the 2014 budget act appropriated $800,000 Greenhouse Gas Reduction Funds for six existing staff positions to support the ongoing work of SGC. This work is related to three grant programs funded by Proposition 84. These programs are 1) Sustainable Communities Planning Grant and Incentives Program; 2) Urban Greening for Sustainable Communities Grant Planning and Projects Program; and 3) Modeling Incentive Awards. As of June 30, 2014, the final rounds of funding for these programs will be awarded, committing the last of the Proposition 84 local assistance funding. According to SGC it continues to support existing grantees through program evaluation and technical assistance.

Staff Comments: This item was first heard on March 26th and held open because the budget request for the two positions did not provide a workload justification. Since that time, a workload justification for the existing positions and the two proposed positions has been provided which validates the need for additional staff.

Staff Recommendation: Approve as budgeted.

Vote:

2660 California Department of Transportation (Caltrans)

Item 1: Increased Amtrak Intercity Rail Operating Costs (April Finance Letter)

Governor's Proposal: Caltrans requests an increase of $7.6 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), as well as adding additional train service to the San Joaquin Intercity Rail route.

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 requested increase includes $3.9 million to continue the current levels of intercity passenger rail operations for a year. The amount requested for operating costs is less than in past years because a credit of several million dollars was applied towards the total cost.

The request also includes $3.7 million to expand passenger rail service on the San Joaquin route. The seventh San Joaquin train will run from Bakersfield to Oakland, bringing the number of round trips from four to five on the Stockton to Oakland segment, and from six to seven total round trips between Stockton and Bakersfield. There will continue to be two round trips from Bakersfield to Sacramento. This expansion is part of the 2013 California State Rail Plan and this request provides funding for six months of expanded service.

Staff Comment: Staff has no concerns with this request.

Staff Recommendation: Approve as proposed.

Vote:

Item 2: Legal Services for the California High-Speed Rail Authority (April Finance Letter)

Governor's Proposal: The Governor requests 16 two-year limited-term positions (six attorneys, four paralegals, four legal secretaries, and two staff services analysts) and $1.8 million 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 expired on June 30, 2014. As part of last year's budget, this agreement was extended another two years at a cost of $3.1 million.

The high-speed rail project has moved into development and implementation, including parcel acquisition, which is resulting in an increased need for legal services beyond what was anticipated last year. It is anticipated that over 1,200 parcels of land will be acquired for the first phases of construction by June 2017. The HSRA estimates that 75 percent of those parcels will go through eminent domain lawsuits. These cases will be assigned to Caltrans' four legal offices on a rotational basis and the proposed staff will be allocated evenly across the four offices.

Under the interagency agreement, Caltrans provides legal services for HSRA on a broad range of topics that include:

- 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 HSRA's use of Caltrans' legal services is a cost-effective way to provide some of HSRA's legal services, especially given Caltrans expertise in certain areas, such as right-of-way acquisition. Staff has no concerns with this proposal.

Staff Recommendation: Approve as proposed.

Vote:

Item 3: Proposal to Abolish the Transportation Investment Fund (Fund 3008) and the Pedestrian Safety Account (Fund 2500) (April Finance Letter)

Governor's Proposal: Caltrans requests the transfer of all the Transportation Investment Fund (TIF), Fund 3008 remaining assets and liabilities to the State Highway Account (SHA) by June 30, 2016 and for the fund to be abolished effective January 1, 2017. This proposal also requests the abolishment of the Pedestrian Safety Account, Fund 2500, by January 1, 2016. Trailer bill is proposed to enact these changes.

Background: The TIF was established by the Traffic Congestion Relief Act of 2000 to facilitate General Fund transfers of the state portion of the sales tax on gasoline to supplement the Traffic Congestion Relief Fund and to fund transportation programs such as local streets and roads, transit operations, and intercity rail. With the gas tax swap enacted as part of the 2009-10 budget package, the state sales tax on gasoline was eliminated, which was the only revenue source for this fund. All existing TIF resources ($224.9 million in the Governor's budget) have been committed to existing projects.

The Pedestrian Safety Account was established in 2000 to make grants available to local government agencies for pedestrian safety projects. The initial grant of $8 million was transferred from the SHA in 2002-03. As part of the 2014 budget, the Pedestrian Safety Account will transfer the remaining $2 million in the fund to the SHA. The account no longer receives any revenue and all related projects have been completed.

Staff Comment: Staff has no concerns with this proposal.

Staff Recommendation: Approve as proposed.

<u>Vote:</u>

2720 Department of California Highway Patrol

Item 1: Modified Limousines: Inspection Program (April Finance Letter)

Governor's Proposal: The Governor proposes $383,000 from the Motor Vehicle Account (MVA) to purchase equipment to implement SB 611 (Hill), Chapter 860, Statutes of 2014, which requires the California Highway Patrol (CHP) to establish a modified limousine inspection program. Seven positions will be redirected from existing resources to staff the program. Budget bill language is requested to allow for the authorization of additional positions and funding in 2015-16 should program participation be greater than estimated.

Background: The CHP provides safety oversight of commercial vehicle operations, including large portions of the passenger and property transportation industry. This includes on- and off-highway inspection programs conducted by uniformed and non-uniformed personnel. SB 611 requires that by July 1, 2016, the CHP shall conduct safety inspections of modified limousine terminals that are operated by passenger stage corporations at least once every 13 months. A "modified limousine" is any vehicle that has been modified, altered, or extended in a manner that increases the overall wheelbase of the vehicle, exceeding the original equipment manufacturer's published wheelbase dimension for the base model and year of the vehicle, to accommodate additional passengers with a seating capacity of not more than 10 passengers including the driver, and is used in the transportation of passengers for hire.

The inspection program shall include the safe operation of the vehicle, the installation of safety equipment, the retention of maintenance logs, accident reports, and records of driver discipline, compliance with federal and state motor vehicle safety standards, the examination of a preventative maintenance program, and, if ownership of the modified limousine has been transferred, the transmission of relevant safety and maintenance information of the limousine.

The CHP has prepared a workload estimate based on preliminary data collected by the Public Utilities Commission (PUC). The PUC is currently working on improving its data collection which may result in a revised workload estimate in 2015-16. Based on the three-year renewal cycle of passenger transportation operating authority, a better estimate of workload should be known three years after implementation of this program.

The department is in the process of developing emergency regulations which are expected to be implemented in June 2015. As part of the regulations, a fee will be established and the revenues will reimburse the MVA for the initial expenses for staff and equipment, so that the operation of this program is revenue neutral to CHP.

Staff Comments: Staff has no concerns with this proposal.

Staff Recommendation: Approve as proposed.

Vote:

Item 2: Radio Console Replacement Reappropriation (April Finance Letter)

Governor's Proposal: The Governor requests reappropriation of $4.9 million approved from the MVA in 2014-15, for the first year of a multi-year project to replace dispatch radio consoles at CHP's 25 statewide call centers.

Background: The CHP's call centers are equipped with dispatch radio console systems to facilitate mission critical voice communications between dispatchers, CHP patrol personnel, and allied agencies. 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. Much of CHP's existing equipment is no longer supported by the manufacturer and is considered obsolete.

This project would ultimately replace the radio console systems (177 existing consoles plus acquiring an additional 22) at all 25 centers by 2020-21, at an estimated cost of $51.8 million, as shown in the table below. The proposal will allow for the installation of the new consoles at CHP's dispatch training facility and resources at the Public Safety Communications Office (PSCO) for testing, evaluation, and trouble-shooting of issues that may arise. Funding to continue the project will be requested in 2017-18.

Radio Console Project Costs
(Dollars in Millions)

Year	Equipment Cost	# of Radio Consoles	PSCO Costs	Total Cost
2015-16	$2.9	12	$2.0	$4.9
2016-17	**Evaluation**			
2017-18	10.2	42	1.2	11.4
2018-19	9.1	37	1.1	11.2
2019-20	10.2	64	1.9	12.3
2020-21	9.6	44	2.0	11.9
Grand Total	**$42.1**	**199**	**$8.0**	**$51.8**

Totals may not add due to rounding.

Vendor responses to the initial request for information led the CHP, working with the California Department of Technology, and the California Office of Emergency Services, to delay the release of a request for proposal until March 2015, with contract to be awarded by November 2015, and purchase in December 2015.

Staff Comment: Staff has no concerns with this proposal.

Staff Recommendation: Approve as proposed.

Vote:

Item 3: Mountain Pass Commercial Vehicle Enforcement Facility Staffing (April Finance Letter)

Governor's Proposal: The Governor requests $1.9 million from the MVA to fund 24 existing non-uniformed positions and 25 existing uniformed positions to be assigned to the new Mountain Pass Commercial Vehicle Enforcement Facility (CVEF).

Background: The CVEF's help to ensure public safety and preserve the state's highways. Highway pavement and structure life depends on the weight and frequency of the traffic using the roads. Heavy trucks cause far greater damage to the pavement and bridges than cars. It has been estimated that it takes approximately 9,600 cars to equal the pavement damage caused by one legal truck weighing 80,000 pounds, and a 10 percent overload roughly increases pavement damage by as much as 40 percent.

The CHP has primary regulatory responsibility over the commercial vehicle industry in California and, as a result, it operates CVEFs. There are 51 CVEFs in 37 locations throughout the state, plus 73 mini-sites. Four of these are Class A facilities, and Mountain Pass will be the fifth Class A facility. Class A facilities are located at strategic ports of entry into the state and have independent CHP command identity. The facilities normally operate 24 hours per day, seven days per week. Class A facilities may also be used by other agencies, such as the Air Resources Board, Board of Equalization, Department of Motor Vehicles, and the county court clerk, and at some sites the Department of Food and Agriculture is co-located.

These facilities generally have weigh-in-motion and static scales for weighing vehicles, and covered areas for inspection of vehicles and equipment. The facility has open areas for storage, and a parking area. Class A facilities are typically commanded by a lieutenant and staffed by sergeants, officers, commercial vehicle inspection specialists, clerical staff, maintenance workers, and/or custodians.

Operation of the Mountain Pass CVEF is anticipated to begin July 2015. The facility will operate 24/7 due to its isolated nature and anticipated volume of traffic of 1.25 million trucks annually. It is located in a rural area of San Bernardino County on Interstate 15, 40 miles south of Las Vegas, between Yates Well Road and Nipton Road, 4.5 miles south of the California/Nevada border. The uniformed staff requested for the facility includes a lieutenant, sergeants, and officers. The non-uniformed staff includes commercial vehicle inspection specialists, office technicians, maintenance workers, and an automotive technician.

Staff Comment: Staff has no concerns with this proposal. The level of staff requested is consistent with the other four Class A facilities and is necessary to operate this facility, which will help to ensure the safe and efficient operation of California's roadways.

Staff Recommendation: Approve as proposed.

Vote:

Item 4: Reappropriations
(May Capital Outlay Finance Letter)

Governor's Proposal: The Governor requests budget bill language be added to reappropriate the 1) California Highway Patrol Enhanced Radio System (CHPERS): Replace Towers and Vaults Phase 1-Premliminary Plans and Working Drawings and 2) CHPERS: Replace Towers and Vaults Phase 2-Construction and to extend the encumbrance period through June 30, 2018.

Background: The CHPERS is a project to replace CHP's towers for their radio systems. Of the 15 sites in Phase 1, two have encountered difficulties necessitating the reappropriation of funding for preliminary plans and working drawings. Because of the complexities facing these two sites, it is anticipated that design authority will need to be available through June 30, 2018.

Of the six sites comprising Phase 2, one site, Truckee, is no longer needed. Two other sites recently completed the environmental review process, will have signed leases by the United States Forest Service by the end of May, and are starting on working drawings. These two sites should proceed to bid by the end of the calendar year. In order to keep these sites on schedule, it is requested that construction authority be reappropriated.

Staff Comment: Staff has no concerns with this proposal.

Staff Recommendation: Approve as proposed.

Vote:

2740 Department of Motor Vehicles

Item 1: Centralized Customer Flow Management and Appointment Systems Reappropriation (April Finance Letter)

Governor's Proposal: The Governor proposes the reappropriation of nearly $10.0 million (MVA) from 2014-15 to 2015-16 for the Centralized Customer Flow Management and Appointment Systems (CCFMAS) project.

Background and Detail: The DMV provides services to the public through many portals that include mail, telephone, internet, and in-person. There are 174 field offices and 13 industry partners that support in-person visits. The ability to manage workload in the field office depends on the ability to manage resources, processing time, and workload. Field operations in 137 offices currently rely on a software-based queue management tool.

In 2011, the department began a technology project to replace the existing tool with a more modern and integrated appointment and queue management system. This project—the CCFMAS project—was approved by the California Technology Agency in December 2011. The CCFMAS will be a new centralized web-based customer flow management system with an interfacing appointment application that will enable the department to manage customers through a "virtual queue". The project was approved and funded in the 2012 budget act for a total of $11.5 million, of which nearly $10.0 million was appropriated in 2014-15 associated with the contract award.

In October 2012, a consultant was used to develop a request for proposal (RFP) to procure the new system. The RFP was released in January 2014 with solicitations due back in August 2014. The project experienced a set-back because the final bid submissions were determined to be non-responsive and the procurement was cancelled. The DMV issued a new RFP on January 16, 2015 and is scheduled to award the contract in June 2015. The project is expected to be implemented by September 21, 2017.

Staff Comment: Staff has no concerns with this proposal. This adjustment is necessary in case there is delay in the current year in awarding the contract.

Staff Recommendation: Approved as proposed.

ITEMS PROPOSED FOR DISCUSSION AND VOTE

2660 California Department of Transportation (Caltrans)

Item 1:	Capital Outlay Support: Project Delivery Workload (April Finance Letter) & Project Initiation Document Program (previously discussed on 4/16/2016)

Proposal: The Administration proposes a decrease of $25.2 million from various transportation funding sources and 178 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 the approved fiscal year 2014-15 workload levels of 197 FTEs, which is approximately two percent less.

In addition, the subcommittee discussed the Governor's budget request for 362 positions and $53.8 million (State Highway Account) for Caltrans to develop roughly 600 PIDs in 2015–16. This reflects a net increase of 25 new positions and $3.4 million from the levels provided to the department in 2014–15. Specifically, the budget reflects the following changes.

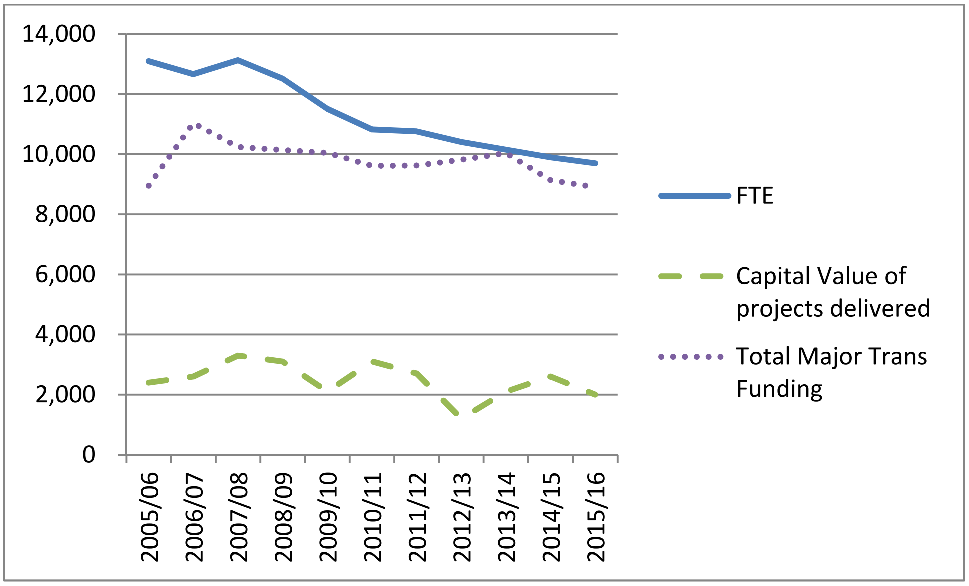
- $2.6 million and 18 additional positions to develop roughly 40 additional PIDs resulting from an estimated annual increase in SHOPP funding of $300 million.

- $2 million and 14 additional positions to develop additional PIDs for projects with a total estimated cost of $500 million to complete construction. According to Caltrans, this would provide them with a shelf of projects to the extent that additional funding above what is currently estimated for SHOPP unexpectedly becomes available. If such funding does not become available, the developed PIDs would be programmed as part of the next SHOPP cycle. Under the Administration's plan, Caltrans would add new PIDs to the shelf when the existing shelf of projects is programmed, such that the department will continually maintain a $500 million shelf of PIDs.

- $1.2 million reduction and seven fewer positions due to other workload adjustments.

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. 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 by 3,231 FTEs since its peak in 2007-08, as shown in the figure below.

Capital Outlay Support Full-Time Equivalents Decreasing Over Time



Positions are based on full-time equivalents (FTE).

<u>Efforts to Align Investments and Resources</u>

In recent years, Caltrans has made efforts to better align its investments and resources with the amount of funding that is available for transportation projects. As the figure above shows, staffing levels have generally declined as the amount of funding available for transportation projects has declined. In addition, technology projects have given the department better tools for managing resources. For example, the recently implemented Project Resourcing and Schedule Management project (PRSM) contains resource-loaded workplans for all active projects which are the basis for COS workload estimates. Quality assurance processes are underway to ensure that the quality of the data in this system continues to improve. Caltrans has also delegated full authority to districts in the final processing of construction contracts to improve project delivery and streamline decision-making.

<u>Implementation of COS Zero-Based Budget Review Recommendations</u>

Caltrans provided with its COS request an update of its implementation of recommendations that were issued as part of the zero-based budget review conducted in 2014-15. Caltrans has addressed many of these recommendations. In addition, some key recommendations which should help to further improve Caltrans' management of its staff resources, are anticipated to be implemented by December 2015. These include developing a predictive tool for developing a range of project budget estimates, developing a framework for when districts should use a corridor director at a district to deliver many concurrent projects located within a defined roadway segment, and development of a centralized project management statewide web portal that will help to eliminate duplication and inconsistencies between districts.

The position changes for the COS budget request are shown below.

Capital Outlay Support Program Workload Changes (FTEs)

Workload Categories	**Jan. 10 2015-16**	**May Revise 2015-16**	**Change 2015-16**
State Highway Operation and Protection Program	4,250	4,713	463
SHOPP Candidates	0	90	90
State Transportation Improvement Program	1,337	1,131	(206)
Partnership (Includes Measure/Locally Funded)	1,239	1,133	(106)
Phase II / Toll Seismic / Other Toll	315	291	(24)
Real Property Services	97	97	0
Proposition 1B Bond	612	297	(315)
American Recovery and Reinvestment Act	24	2	(22)
Traffic Congestion Relief Program	12	12	10
High Speed Rail	41	41	0
Highway Users Tax Account (HUTA)	55	0	(55)
West Mission Bay Drive Bridge	0	1	1
Geotechnical Borehole Mitigation	0	12	12
Materials Engineering & Testing Services	27	27	0
Overhead and Corporate	1,866	1,840	(26)
Total Capital Outlay Support Workload	**9,875**	**9,697**	**(178)**

Staff Comment: As transportation funding has declined, the anticipated workload for the COS program has declined. Caltrans is also making concerted efforts to better manage its COS resources to better align resources with workload. The COS request has taken into consideration reduced workload stemming from the reduction of funding available for transportation projects and the needs for staff resources to complete projects that are currently underway. At some point in the near future, however, how to deliver Caltrans' projects successfully will become a critical issue considering that 56 percent of Caltrans' engineers are eligible for retirement (age 50 or older). Options include focusing on succession and workforce planning within Caltrans or increasing state contracting for this type of work.

The LAO raised concerns on April 16th regarding the 14 proposed positions for the project initiation document program to build a shelf of projects that could be used were additional funding available. However, committee staff finds that it is reasonable for Caltrans develop a modest shelf especially when legislative proposals are under consideration that would increase funding for transportation projects. Such an increase in funding may necessitate an increase in COS resources in the future.

Questions:

Caltrans:

1) Please provide a summary of your April 15th COS request.

2) Please explain how PRSM is improving the management of staff resources and describe any areas that need improvement to ensure the efficient use of staff resources.

Staff Recommendation: 1) Approve as proposed the April finance letter for the Capital Outlay Support program and 2) approved as proposed the Governor's request for the Project Initiation Document program.

<u>Vote:</u>

Item 2: State Transit Assistance Transit Funding Eligibility (Legislative Proposal)

Proposal. The subcommittee will consider a one-year extension of the suspension of certain eligibility criteria for transit operators to receive funding, while a policy bill on the issue moves through the legislative process.

Background and Detail. Current law includes a provision (Public Utility Code Section 99314.6) that imposes a restriction of the use of State Transit Assistance (STA) funds by local transit operators if the operator's total operating cost per revenue vehicle hour is more than the previous year's cost, as adjusted by the Consumer Price Index. If an agency exceeds this threshold, funds provided by the STA program can only be used for capital expenditures and not for operations. This provision was suspended from January 2010 until the end of the 2014-15 fiscal year, as the Legislature was enacting the gas tax swap and reducing other sources of transit funding. Many agencies that receive STA funding anticipate being subject to this restriction because of recent increases in health care benefits and pension costs. As a result, some operators will face reduced STA funds in 2015-16 that can only be used for capital purposes.

Staff Comments. The California Transit Association has requested the extension of the current suspension of certain eligibility criteria to receive funding for one fiscal year to allow the policy process time to consider options for eliminating or adjusting the eligibility criteria. SB 508 (Beall) has been introduced to adjust the eligibility criteria for STA funding, but that bill would not be effective until January 1, 2016. The bill would change the eligibility criteria by making it more of a "sliding-scale" so the restriction of the funding reflects the degree of increase in operation costs.

The following draft trailer bill language is proposed to accomplish the California Transit Association's request for a one-year extension of the exemption:

Section 99314.6 of the Public Utilities Code is amended to read:
(a) Except as provided in Section 99314.7, the following eligibility standards apply:
(1) Except as provided in paragraph (2), (3), funds shall not be allocated for operating or capital purposes pursuant to Sections 99313 and 99314 to an operator unless if the operator meets either of the following efficiency standards:
(A) The operator shall receive its entire allocation, and any or all of this allocation may be used for operating purposes, if the operator's total operating cost per revenue vehicle hour in the latest year for which audited data are available does not exceed the sum of the preceding year's total operating cost per revenue vehicle hour and an amount equal to the product of the percentage change in the Consumer Price Index for the same period multiplied by the preceding year's total operating cost per revenue vehicle hour.
(B) The operator shall receive its entire allocation, and any or all of this allocation may be used for operating purposes, if the operator's average total operating cost per revenue vehicle hour in the latest three years for which audited data are available does not exceed the sum of the average of the total operating cost per revenue vehicle hour in the three years preceding the latest year for which audited data are available and an amount equal to the

product of the average percentage change in the Consumer Price Index for the same period multiplied by the average total operating cost per revenue vehicle hour in the same three years.
(2) If an operator does not meet either efficiency standard under paragraph (1), the operator shall receive its entire allocation and the funds shall be allocated pursuant to this paragraph. The portion of the allocation that the operator may use for operations shall be the total allocation to the operator reduced by the lowest percentage by which the operator's total operating cost per revenue vehicle hour for the applicable year or three-year period calculated pursuant to subparagraph (A) or (B) of paragraph (1) exceeded the target amount necessary to meet the applicable efficiency standard. The remaining portion of the operator's allocation may shall be used only for capital purposes.
(2) (3) The transportation planning agency, county transportation commission, or the San Diego Metropolitan Transit Development Board, as the case may be, shall adjust the calculation of operating costs and revenue vehicle hours pursuant to paragraph (1) to account for either or both of the following factors:
(A) Exclusion of costs cost increases beyond the change in the Consumer Price Index for fuel; alternative fuel programs; power, including electricity; insurance premiums and payments in settlement of claims arising out of the operator's liability; or health insurance premiums or contributions to self-insurance programs; pension contributions or related defined benefit programs; or state or federal mandates, including the additional operating costs required to provide comparable complementary paratransit service as required by Section 37.121 of Title 49 of the Code of Federal Regulations, pursuant to the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), as identified in the operator's paratransit plan pursuant to Section 37.139 of Title 49 of the Code of Federal Regulations.
(B) Exclusion of startup costs for new services for a period of not more than two years.
(3) Funds withheld from allocation to an operator pursuant to paragraph (1) shall be retained by the transportation planning agency, county transportation commission, or the San Diego Metropolitan Transit Development Board, as the case may be, for reallocation to that operator for two years following the year of ineligibility. In a year in which an operator's funds are allocated pursuant to paragraph (1), funds withheld from allocation during a preceding year shall also be allocated. Funds not allocated before the commencement of the third year following the year of ineligibility shall be reallocated to cost effective high priority regional transit activities, as determined by the transportation planning agency, county transportation commission, or the San Diego Metropolitan Transit Development Board, as the case may be. If that agency or commission, or the board, determines that no cost effective high priority regional transit activity exists, the unallocated funds shall revert to the Controller for reallocation.
(b) As used in this section, the following terms have the following meanings:
(1) "Operating cost" means the total operating cost as reported by the operator under the Uniform System of Accounts and Records, pursuant to Section 99243 and subdivision (a) of Section 99247.
(2) "Revenue vehicle hours" has the same meaning as "vehicle service hours," as defined in subdivision (h) of Section 99247.
(3) "Consumer Price Index," as applied to an operator, is the regional Consumer Price Index for that operator's region, as published by the United States Bureau of Labor Statistics. If a regional index is not published, the index for the State of California applies.

(4) "New service" has the same meaning as "extension of public transportation services" as defined in Section 99268.8.
(c) The restrictions in this section do not apply to allocations made for capital purposes.
(d) The exclusion of costs cost increases described in paragraph (2) (3) of subdivision (a) applies solely for the purpose of calculating an operator's eligibility to claim funds pursuant to this section and does not authorize an operator to report an operating cost per revenue vehicle hour other than as described in this section and in Section 99247, to any of the following entities:
(1) The Controller pursuant to Section 99243.
(2) The entity conducting the fiscal audit pursuant to Section 99245.
(3) The entity conducting the performance audit pursuant to Section 99246.
(e) The restrictions in this section shall not apply to the allocation of funds made pursuant to Sections 99313 and 99314 after January 1, 2010, and through the ~~2014–15~~ 2015-16 fiscal year.

Question for the Department of Finance:

1. If the extension of the exemption is not adopted, will the funds that public transit operators receive through the cap-and-trade program also be subject to these restrictions?

Staff Recommendation: Adopt placeholder trailer bill language to extend the suspension of the State Transit Assistance eligibility criteria for one year.

Vote:

Item 3: Fresno County Proposition 42 Maintenance of Effort

Proposal: The Subcommittee will consider eliminating an obligation that requires Fresno County to make an expenditure of $5.5 million Proposition 42 maintenance of effort (MOE) on streets after 2020.

Background and Detail: Proposition 42, approved by voters in March of 2002, continued the Traffic Congestion Relief Act which allocated the sales tax on motor vehicle fuel as Traffic Congestion Relief Funds (TCRF) for transportation programs and road maintenance. The measure included a MOE for cities and counties to receive these funds, which was the equivalent of the amount expended by the entity for street purposes during the 1996-97, 1997-98 and 1998-99 fiscal years.

In 2010, the Legislature adopted SB 524 (Cogdill), Chapter 716, Statutes of 2010, which exempted Fresno County from the MOE requirement for Proposition 42 for 2008-09 and 2009-10. As part of last year's budget package, action was taken to extend the sunset for this exemption to June 20, 2020 at which time Fresno County's General Fund would have to repay its road fund approximately $5.5 million. As part of that discussion, the County discussed making an offsetting investment to continue funding current indigent health services that would have otherwise had to be reduced to fund expenditures on streets.

On November 14, 2014, the Fresno County Board of Supervisors adopted a policy to invest $5.5 million in funding to continue indigent health services and to seek forgiveness of the Proposition 42 MOE obligation.

Staff Comments: The County will incur costs that equal the amount of the original MOE requirement and thus it could be argued that County has satisfied its obligation to the state by continuing existing indigent health care.

Staff Recommendation: Adopt placeholder trailer bill language to permanently eliminate the $5.5 million Proposition 42 maintenance of effort requirement for Fresno County.

Vote:

2665 High-Speed Rail Authority

Item 1: Program Management Staffing (April Finance Letter)

Governor's Proposal. The Budget Act of 2014, gave HSRA the authority to add up to 35 staff provided adequate justification was submitted to the Department of Finance and the Legislature. Pursuant to this, a notification of plans to establish the equivalent of 8.8 positions (partial-year funding for the 35 positions) was submitted to the Legislature on January 23, 2015. This request is for $6.6 million from the High-Speed Rail Bond Fund to permanently establish these 35 positions beginning in 2015-16.

Background. High-speed rail is the largest, single infrastructure project the state has ever undertaken. The department has 209 authorized positions, including the 35 positions in this request. The staffing model being used to deliver the high-speed rail project is in stark contrast to the approach used at Caltrans. Rather than relying on a large number of permanent staff, the HSRA is relying on a massive team of consultants that includes legal professionals, civil engineers, architects, mechanical-electrical consultants, structural engineers, construction contractors, and construction managers.

The workload related to the 35 positions includes planning and design activities, right-of-way acquisition, and environmental work. The 35 positions being proposed span across most areas of the department and are as follows:

- Planning and Integration Division (3 positions),
- Project Management Division (4 positions),
- Engineering Division (3 positions),
- Environmental Planning Division (1 position),
- Real Property Division (6 positions),
- Design and Construction Division (6 positions),
- Operations/Maintenance Division (2 positions),
- Contract Compliance Division (4 positions),
- Risk Management and Project Controls Division (2 positions), and
- Positions to assist the three Regional Directors (4 positions).

As of April 2015, the overall vacancy rate at HSRA is nearly 30 percent, as shown in the figure below, and in a key area—the program management office—the vacancy rate is nearly 30 percent. A high vacancy rate is not a new issue for HSRA and the program has been plagued by this problem for many years.

Authorized and Vacant Positions at HSRA as of April 2015

Division	**Positions Authorized**	**Vacant Positions**	**Vacancy Rate**
Executive Office	16	4	25.0%
Administrative Office	26	3	11.5%
External Affairs Office	43	24	55.8%
Financial Office	42	5.5	13.1%
Legal Office	6	0	0%
Program Management Office	76	26	34.2%
Total	209	62.5	29.9%

Staff Comment: While, it may be reasonable to use a project delivery model that relies heavily on contractors and relatively few state staff, it is critical that the state has an adequate number of staff to oversee contractors and guide the project, and that those positions are filled with well-qualified experienced staff. The addition of staff in key programmatic areas should help to better ensure successful delivery of the project.

Questions:

HSRA:

1. What is HSRA doing to fill currently authorized, but vacant positions?

2. Why does a high vacancy rate persist at HSRA?

Staff Recommendation: Approved as proposed.

Vote:

Item 2: Project Delivery Positions (April Finance Letter)

Governor's Proposal: The HSRA is requesting $3.5 million in High-Speed Rail Bond Funds to establish ten permanent positions and interdepartmental contract funding ($1.8 million of the total) for the Department of Transportation (Caltrans). These positions will provide additional legal, project management, and oversight of the high-speed rail project and assist with the planning, development, and execution of upcoming phases.

Background and Detail: (See the write up for the previous Issue No. 1.) The ten permanent positions being requested are in the following areas:

- Legal Division (five positions),
- Office of Human Resources (one position), and
- Program Management Division (four positions).

The $1.8 million request for funding for legal services corresponds to the request from Caltrans for 16 two-year limited-term positions to provide a variety of legal services for HSRA.

Staff Comment: Staff has no concerns with this proposal beyond those discussed in the previous item related to HSRA filling vacant positions.

Staff Recommendation: Approve as proposed.

Vote:

2740 Department of Motor Vehicles

Item 1: Information Technology Security Resources (April Finance Letter)

Governor's Proposal: The Governor requests eight permanent positions; two two-year limited-term positions; and $2.5 million (MVA) to strengthen the security of its information technology (IT) systems. This amount includes $750,000 in one-time funds for an assessment of the ability of the Privacy Protection Office (PPO) and the Information Securities Office (ISO) to collectively address the protection and appropriate management of personal information and $200,000 (one-time) for network tools and equipment.

Background and Detail: The DMV is responsible for the administration of statewide programs that use and rely on electronically stored and hard copy information. The DMV and millions of Californians query and update information in these records through transactions that result in the collection of over $7 billion in revenue for the state each year ($1.5 billion on-line). According to the DMV, it maintains records on 38 million Californians in its various databases. Last year, there was an alleged breach of DMV systems, citing DMV as the common point of purchase for many fraudulent credit cards. The DMV initiated a six-month long investigation which cost about $1.1 million. The DMV estimates that if it had had to notify all of its customers via mail, the cost would have been about $14 million. This investigation yielded positive results for DMV, as no evidence of a breach was identified, but it also identified several areas that needed improvement for the security of DMV information systems.

Today, DMV relies heavily on automated systems to monitor information systems and provide notifications to technical personnel for further processing. This is a post-incident process, occurring after incidents have been registered by automated systems and notifications have been sent to technical personnel.

The DMV does not have an effective real-time security monitoring and remediation program with a focus on protecting DMV's information assets on the department's internet connected systems. To counter the threats to DMV's information assets, it would like to establish a 24 hours a day/seven days a week Security Operations Center. This would be the first in California state service. The idea is that this approach would shift DMV from its current "reactive" approach to a "proactive" approach. The DMV asserts the benefits of a real-time system include the ability to manage attacks as they are in process, actively manage and route network traffic and protect information assets. The permanent staff proposed to operate the center would not be performing day-to-day maintenance and operations functions; rather, they would focus on protecting DMV's information assets through monitoring, analysis, and reporting. Also, these staff will remediate deficiencies and address outstanding items from DMV's 2014 risk assessment. The two limited-term positions will focus primarily on remediating DMV's firewall systems.

The budget request includes $750,000 to hire an external party to assess the organizational structure and workload of the ISO and PPO.

LAO Comments: The LAO finds the request for the two limited-term positions and contract funding for an assessment reasonable and recommends approval. These resources would allow DMV to address previously identified issues and conduct an assessment of the resources needed to make further increases in information system security.

Regarding the request for the eight permanent positions, the LAO finds this request is premature because DMV's actual need for additional staff will not be known until after the completion of the assessment. As a result, the request might provide too few or too many resources. In addition, the Legislature approved a pilot program, as part of the 2014-15 budget, to evaluate information system security issues more broadly across state government. The results of this pilot, expected in the next year or two, may also inform decisions on how best to improve information system security, including strategies on how to develop additional expertise using state staff. The LAO recommends that the Legislature reject the requested eight permanent positions and instead direct DMV to report at budget hearings on the level of funding necessary to provide the additional level of information system security by contracting out for these services. The LAO also recommends that the Legislature have DMV report back after the completion of the assessments with a comprehensive plan for increasing information system security.

Staff Comments: This proposal raises legitimate concerns about the security of the data at the DMV, in addition to raising questions about how to best ensure the security of data at other departments that collect and retain personal information, such as the Franchise Tax Board and the Department of Consumer Affairs. Generally, these services can be provided in-house, or they can be provided by a vendor, or a combination of the two.

The LAO raises the issue that the appropriate level of staff needed to provide these services may be better known after the assessment is complete and recommends rejection of the eight permanent positions. However, not approving any resources to provide real-time monitoring and remediation potentially could result in the DMV not being able to quickly address and minimize the damage of a security breach. Approving the eight positions that would perform real-time monitoring on a two-year limited term basis would help to address this risk; however it is difficult to attract qualified applicants for these positions when they are advertised as limited-term. In addition, according to the Administration, any assessment is almost certain to include staff at the department and eight staff, is the minimum necessary to provide 24 hours a day/ 7 days a week operations.

Questions:

For DMV:

1. How is this proposal different from what DMV currently does to protect data?

2. Why has DMV chosen to provide these security services using state staff rather than contracting out for these services? What would be the cost to contract out for these services?

For the Administration:

1. What do other state departments that maintain databases of personal identifying information do to ensure the security of that data?

Staff Recommendation: Approve as proposed and adopt supplemental reporting language that has DMV report back after the completion of the assessments with a comprehensive plan for increasing information system security.

Vote:

Senator Lois Wolk, Chair
Senator Jim Nielsen
Senator Fran Pavley

Thursday, May 7, 2015
9:30 a.m. or Upon Adjournment of Session
Hearing Room 112

Consultant: Farra Bracht

PART B: Transportation

Items Proposed for Vote-Only

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.

Approve as proposed 3-0

Approve as proposed 3-0

Approve as proposed 3-0

Approve as proposed 3-0

Items Proposed for Discussion and Vote

COS request: Approve as proposed 3-0
PID request: Approve as budgeted 2-1

Adopt placeholder TBL to extend the suspension of the STA eligibility criteria for one Year: vote 2-1

No action taken

Approve as proposed 2-1

Approve as proposed 2-1

Approve as proposed and adopt supplemental report language that has DMV report back after the completion of the assessment in the Spring of 2017 with a comprehensive plan for increasing information system security: vote 3-0

Senator Lois Wolk, Chair
Senator Jim Nielsen
Senator Fran Pavley

Tuesday, May 19, 2015
9:00 a.m.
Hearing Room 112

Consultant: Farra Bracht

Transportation

Items Proposed for Vote-Only

Items Proposed for Discussion and Vote

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

Issue 1:	**Proposal to Abolish the Clean Renewable Energy Bonds Subaccount (May Revision)**

Governor's Proposal: Caltrans requests the transfer of all remaining moneys in the Clean Renewable Energy Bonds (CREB) Subaccount in the Special Deposit Funds to be transferred to the State Highway Account in the State Transportation Fund by July 1, 2015. Trailer bill is proposed to enact this change.

Background: The CREBs program was authorized as part of the federal Tax Incentives Act of 1995, to encourage energy conservation, develop energy infrastructure, increase domestic energy production, and the use of alternative energy sources. The CREBs program is administered by the United States Internal Revenue Service (IRS). CREBs are a type of tax credit bond in which interest on the bonds is paid in the form of tax credits by the United States government. The proceeds for the issuance of the CREBs are available to finance renewable energy and clean coal facilities projects.

On November 13, 2006, the IRS approved 93 CREBs applications submitted by Caltrans, with a total value of $45.6 million. Caltrans subsequently initiated efforts to re-evaluate and approve facilities for conceptual soundness and adjusted the scope, as necessary at each facility. The re-evaluation criteria consisted of the age and condition of the roof and design; the long-term building retention; structural integrity; and a cost-benefit analysis. Through this process, the number of photovoltaic projects was reduced to 70, with construction and installation costs estimated at $19.9 million. A Banc of America Bond sale for capital outlay costs was obligated for a total of $20 million, plus interest of $2.2 million (1.45% rate) over a 15-year period.

As of January 2013, the 70 projects funded under the CREBs program have been constructed and have a generating capacity of approximately 2.4 megawatts (MW) solar power. The photovoltaic panels have a life expectancy of at least 25 years.

It was Caltrans' anticipation that the CREBs program would begin generating electricity one year after the sale of the bonds and that the bond debt service be fully paid through avoided energy costs before the maturity of the bond. Although Caltrans has not met the original projected cost saving of the CREBs Program, after 25 years the bond debt and costs associated with the photovoltaic projects will be paid off. For the life of the system, it is projected that Caltrans will save approximately $6.4 million.

Staff Comment: Staff has no concerns with this proposal.

Staff Recommendation: Approve as proposed.

Vote:

Issue 2: Capital Outlay Support Provisional Language (Legislative Proposal)

Proposal: Adopt provisional budget language to restore reporting on the amount of funding allocated for external consultant and professional services related to project delivery.

Background and Detail: By long standing practices, Capital Outlay Support staffing at Caltrans is split, with state staff performing 90 percent of the work and outside consultants performing approximately 10 percent of the work. The 2015-16 budget retains this split in resources.

In previous years, the budget bill contained a provision that specified the 10 percent of costs for contracted staffing. This provision was not included in the Governor's budget.

Staff Comments: Restoring this provision would increase budgeting transparency. Staff has no concerns with this proposal.

Staff Recommendation: Adopt budget bill language to specify the amount of Capital Outlay Support staffing that is done through contracts.

Vote:

2740 Department of Motor Vehicles

Issue 1: Motor Vehicle Account (MVA) Fund Condition and Related Budget Requests

Background: The MVA was created to support the state's activities related to the administration and enforcement of laws regulating the operation or registration of vehicles used on public streets and highways, as well as to mitigate the environmental effects of vehicle emissions.

In 2014–15, $3.1 billion is estimated to be deposited into the MVA with vehicle registration fees accounting for $2.7 billion (85 percent) and driver license fees accounting for $299 million (10 percent). The remaining revenue primarily comes from identification card fees, late fees associated with renewals, and miscellaneous fees for special permits and certificates. Between 2009–10 and 2014–15, revenues have increased at an average rate of five percent annually.

Vehicle registration fees consist of two components—a base fee of $46, and an additional fee of $24 that directly benefits CHP. The base vehicle registration fee was last increased in 2011, from $34 to $46. In 2014, the CHP fee increased from $23 to $24 and was indexed to the Consumer Price Index (CPI), allowing the fee to automatically increase with inflation. The current driver license fee is $33 and was last increased by $1 in 2014. The driver license fee is also indexed to the CPI.

The MVA primarily provides funding to three state departments—DMV, CHP, and the Air Resources Board (ARB)—to support activities authorized in the California Constitution. In recent years, expenditures from the MVA have increased. The major cost drivers include:

- ***CHP Officers' Salary Increases.*** The state and the union representing CHP officers negotiated a memorandum-of-understanding (MOU) in 2013 that provides salary increases for CHP officers annually from 2013–14 through 2018–19. The MOU specifies that the increases are determined by calculating the weighted average of the salaries of the state's five largest local police agencies. In 2013–14 and 2014–15, CHP officers received average salary increases of five percent—adding $110 million in costs for the MVA.
- ***CHP Air Fleet Replacement.*** As part of an ongoing air fleet replacement plan for CHP's air fleet of 26 aircraft, the Legislature approved $17 million in 2013–14, $16 million in 2014–15 and annually ongoing, to fund the replacement of CHP aircraft.
- ***CHP Field Office Replacement.*** In 2013–14, the Legislature approved a total of $6.4 million to initiate a multiyear plan to replace existing CHP field offices. The funding supported the acquisition of land for one new office and the advanced planning to replace five additional offices. In 2014–15, the Legislature approved $32.4 million to fund the acquisition of land for the five new offices initiated in the prior year, as well as $1.7 million for advanced planning for five additional replacement projects.

- ***Implementation of AB 60.*** In 2014–15, the Legislature provided resources for DMV to implement AB 60 (Alejo), Chapter 524, Statutes of 2013, which specifies that beginning January 1, 2015, DMV accept driver license applications from persons who are unable to submit satisfactory proof of legal presence in the U.S. Specifically, $67.4 million was provided in 2014-15 and $57.1 million in 2015–16.

In order to help the state meet its spending priorities during the recent recession, $480 million was loaned from the MVA to the General Fund—$300 million in 2010-11 and $180 million in 2012-13.

In recent years, MVA expenditures have increased at a higher rate than revenues deposited into the fund. Specifically, the MVA is estimated to have revenues of $3.1 billion and expenditures of $3.3 billion in 2014-15 resulting in operational shortfall of about $200 million that will require the use of the MVA's fund balance, which amounted to $415 million at the start of 2014–15. Such operational shortfalls are likely to continue in future budget years.

Governor's Proposals: The budget proposes to repay $480 million in loans that were previously made from the MVA to the General Fund. Specifically, the Administration proposes to repay $300 million in 2015–16 and $180 million in 2016–17. These loan repayments would provide the MVA with additional revenues that can be used to address operational shortfalls identified above—delaying when the MVA becomes insolvent.

The budget also includes proposals that would increase expenditures from the MVA in 2015–16, as well as in subsequent years. These proposals include the following:

- ***CHP Field Office Replacements ($136 Million).*** The Governor's budget proposes $135 million for construction activities for five previously approved CHP area offices and $1 million for planning and site selection activities for up to five CHP area offices. The out-year costs to complete these projects are $31.6 million.

- ***Initiate Multiyear DMV Office Replacement Plan ($4.7 Million).*** The Governor's budget proposes $4.7 million for pre–construction activities to replace three DMV offices. The out-year replacement cost of these three facilities is roughly $42 million. This proposal is the initial phase of the Administration's plan to replace eight DMV offices over the next several years. Specifically, the budget proposes:
  - $1 million to fund the acquisition plan phase of the Delano field office replacement project. The proposed facility would be 10,718 square feet with a total cost of $11.5 million. The current Delano field office is in a leased facility of 3,386 square feet that was built in 1954.
  - $1 million to fund the preliminary plan phase of the Inglewood field office replacement project. The proposed facility would be 15,042 square feet with a total cost of $14.9 million. The current Inglewood field office of 20,824 square feet was built in 1972, which includes DMV investigations offices that will not be included in the new facility—resulting in the smaller square footage.
  - $2.6 million to fund the acquisition plan phase of the Santa Maria field office replacement project. The proposed facility would be 13,342 square feet with a total

cost of $15.5 million. The current Santa Maria field office of 4,387 square feet was built in 1969.

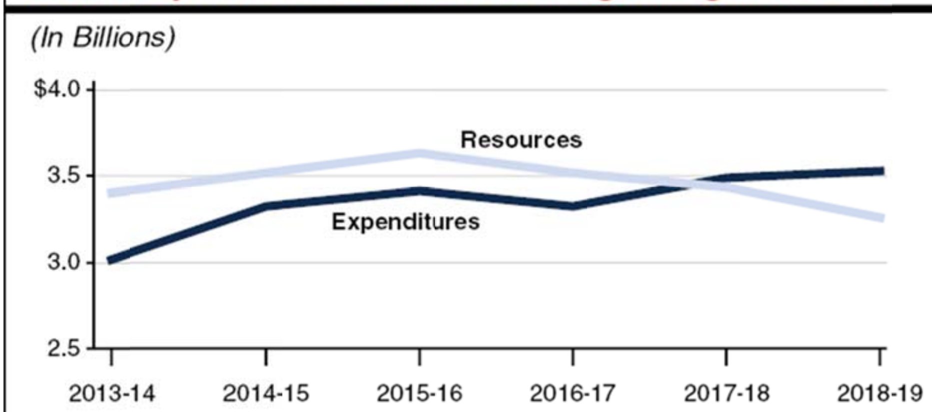
- ***New ARB Research Facility ($3.8 Million).*** The Governor's budget proposes $3.8 million from the MVA to partially support the costs of evaluating a site and developing performance criteria for a new ARB research facility in Southern California. (Total costs of these activities are $5.9 million, with the remaining $2.1 million supported with other fund sources.) The total cost of the project is estimated to be $366 million and the Administration indicates that a portion of this cost would be supported by the MVA. The LAO finds that the proposal is premature, as the Administration has not yet provided information that justifies the scope, costs, and need for the facility.

- ***CHP Salary Increase.*** The Governor's budget assumes a salary increase for CHP officers of 3.3 percent for 2015–16 and provides $41 million from the MVA to support these costs. Based on the MOU discussed above, CHP officers will likely receive additional salary increases in 2016–17, 2017–18, and 2018–19.

LAO Comments: While the Governor's proposed loan repayments from the General Fund to the MVA would offset operational shortfalls in the MVA in 2015–16 and 2016–17, the LAO's forecast of MVA revenues and expenditures indicates that the MVA's fund balance will be depleted by 2017–18—resulting in insolvency, as shown in the figure below. This forecast includes revenue estimates based on historical trends and expenditure estimates based on proposals already approved by the Legislature (such as the multiyear replacement of CHP's aircraft) and those proposed in the Governor's budget (such as the proposed replacement of DMV offices), as well as assumed in the Administration's 2015 Five–Year Infrastructure Plan. The forecast also includes out–year expenditures related to the annual CHP officer salary increases discussed above.

Figure 2

MVA Projected to Be Insolvent Beginning in 2017-18



MVA = Motor Vehicle Account.

Given the projected insolvency of the MVA in the near future—the LAO recommends that the Legislature begin to take steps now to help prevent this insolvency, especially given that the Governor's budget proposals for 2015–16 have fiscal implications in subsequent years. Below, are some of the options the LAO recommends for legislative consideration.

- *Reject some of the Governor's Capital Proposals.* The Legislature could reject some of the Governor's capital outlay proposals as a way to reduce MVA expenditures in 2015–16 and in future years. For example, the Legislature could not approve any new projects but allow previously approved projects to continue as planned (such as the CHP field offices approved for replacement in the 2014–15 budget). We note that such actions would leave various safety and operational challenges facing certain offices unaddressed.

- *Reduce Other Expenditures.* The Legislature could choose to reduce or delay other expenditures—meaning the base programs supported by the MVA. For example, by delaying expenditures to replace CHP aircraft in future years or reducing CHP salary increases in future years. In addition, the Legislature could reduce base operational costs for CHP and DMV, such as the replacement of equipment or ending certain programs. We note that during the recent recession, CHP delayed vehicle replacements in order to reduce MVA expenditures.

- *Increase Fees.* The Legislature could choose to generate additional revenues by increasing vehicle registration or driver license fees to mitigate the shortfall in the MVA. For example, the LAO estimates that roughly $30 million in additional revenue could be generated annually from a $1 increase in the base vehicle registration fee.

Staff Comments: Staff shares the LAO concerns about the future solvency of the MVA. The Senate Budget Subcommittees No. 2 and No. 4 rejected the ARB research facility which will help to relieve the pressure in the out years on the MVA.

Staff Recommendation: Approve all of the MVA-related proposals in the Governor's budget for CHP and DMV. In addition, modify the Administration's proposed provisional language related to the CHP acquisition of replacement offices to read:

1) *Site Identification of Replacement Offices*. On or before January 31, 2016, and prior to the submission of a 30-day notice for the purpose of securing purchase options on critical parcels, the department shall report to the appropriate fiscal committees of the Legislature and the LAO on the status of this year's Statewide Planning and Site Identification appropriation. Specifically, the report shall a) identify the communities where a search for land for a potential CHP office replacement is ongoing and b) describe the deficiencies of the CHP office in each selected community.

Vote:

ITEMS PROPOSED FOR DISCUSSION AND VOTE

2660 Department of Transportation

Issue 1: State Route 710 Affordable Sales Program

Governor's Budget Proposal: The Governor requests a one-time increase of $2.5 million and six positions for the Capital Outlay Support program for the State Route (SR) 710 Affordable Sales program to complete the Phase 1 sale of 42 properties. The following resources are being requested, in addition to provisional language to provide additional funding, if needed, at the approval of the Department of Finance and notification to the Joint Legislative Budget Committee:

- Six positions and $569,000;
- $250,000 for an interagency agreement with the California Housing Finance Agency (CalHFA);
- $100,000 for the Department of Housing and Community Development; and
- $1.6 million for service contracts for property sales services.

Background: Under current law, whenever Caltrans determines that any real property acquired for highway purposes is no longer necessary, it may sell the property under certain terms. For decades, Caltrans has proposed the SR 710 extension project to close a roughly 4.5-mile unconstructed gap in the freeway from just north of SR 10 in Los Angeles to SR 210 in Pasadena. This gap affects the cities of Alhambra, Pasadena, South Pasadena, and a portion of Los Angeles. The project has been in the planning stage since 1953 for a variety of reasons related to the federal environmental review process. Caltrans is currently considering several options for moving forward, including building a tunnel instead of a freeway, or not building anything at all. By 2014, Caltrans plans to identify how it intends to proceed. Caltrans currently owns 460 properties with the originally proposed right-of-way, which includes 330 single-family homes and 103 multifamily housing units.

Existing law, known as the Roberti Act (SB 86, enacted in 1979), and subsequent legislation, SB 416 (Liu), Chapter 468, Statutes of 2013, establish priorities and procedures for the disposition of surplus residential properties in the SR 710 corridor and the selling of these properties to specified income-qualified persons with the intent to preserve, upgrade, and expand the supply of low and moderate income housing. The laws have established a fairly complex process that the state must go through to dispose of these properties. Caltrans is in the process of developing regulations to establish a path going forward that is consistent with state law and anticipates these being completed by fall 2015.

The sale of the Phase 1 properties will serve as a guide for future Caltrans resource needs and help to identify the greatest challenges in disposing of these properties.

Staff Comments: Beginning the process of selling the State Route 710 properties will help to reduce the number of state staff that is currently performing property management services, as these properties are sold. Staff has no concerns with this proposal. In addition, the LAO has no concerns with the level of resources requested to implement this program, but recommends that the staff be provided from within the existing COS budget rather than increasing the number of COS positions, based on the previous concerns that the LAO has raised about the COS program being overstaffed. Given that additional funding for transportation projects may be forthcoming, it is reasonable to maintain the existing size of the COS program and add staff for this new activity.

Staff Questions for Caltrans:

1. Please describe the Roberti Act and SB 416 and the effect these two laws have on the disposal of State Route 710 properties.

Staff Recommendation: Approve as proposed.

Issue 2: Increased Funding for Transportation Research

Proposal: Increase funding for transportation research at Caltrans and the California High-Speed Rail Authority by $1.5 million combined. This funding will go towards a California High-Speed Rail Connectivity Research and Education Center.

Background: Caltrans solicits research proposals from public research institutions: public colleges, universities, and government agencies that bring solutions to the department's research problems. Currently, Caltrans provides funding to various University Transportation Centers, such as UC Berkeley (University of California Transportation Center and University of California Center on Economic Competitiveness in Transportation), San Jose State University (Mineta National Transit Research Consortium), and UC Davis (National Center of Sustainable Transportation. These organizations receive both state and federal funding that is estimated to total $3.8 million in 2015-16.

While, the primary focus of this research has been on state highways and transit, much less research has been conducted on high-speed rail. Given, the state's current effort to construct a high-speed rail system which is expected to cost $68 billion, the Legislature may wish to consider if funding research in this area is warranted.

Staff Comment. While additional research on high-speed rail may be valuable, at this time there is not funding within the State Highway Account at Caltrans for this type of effort and if the High-Speed Rail Authority were to provide such funding, Proposition 1A bond funds and cap-and-trade funds most likely could not be used for this purpose, and such funding would have to come from the Public Transportation Account, which primarily funds mass transportation.

Staff Questions for Caltrans and High-Speed Rail Authority:

1. Please comment on the merits and challenges of funding a "California High-Speed Rail Connectivity Research and Education Center."

Staff Recommendation:

<u>Vote:</u>

2665 High-Speed Rail Authority

Issue 1:	Metrics, Reports, and Peer Review Group Qualifications (Legislative Proposal)

Legislative Proposal: At the March 26th hearing, the subcommittee directed the High-Speed Rail Authority (HSRA) to report back on three items:

- Metrics that the HSRA and the Peer Review Group (PRG) agree on for use in a dashboard that the Legislature can use to provide long-term oversight of the project;

- Efforts of a working group of staff from LAO, DOF, HSRA, and the Legislature to simplify or eliminate various HSRA reports currently required in statute that no longer add value;

- DOF progress on filling the Peer Review Group's four vacancies and any potential changes to statue to amend the specific requirements for various appointees.

Staff Comments: The HSRA has been responsive to the Legislature's requests as described below:

Metrics. The HSRA and the PRG developed agreed upon metrics that should help to better ensure monitoring and successful delivery of the project. The first update that includes this information will be made public and provided to the HSRA Board in September 2015.

Reporting Requirements. Staff finds the proposal, described below, to stagger the Project Update report with the Business Plan in opposite years is reasonable, provided the Business Plan is expanded to include relevant project update information. Additional project reporting occurs monthly in reports HSRA provides to the board and these are made publically available on the HSRA's website. The elimination of the Staff Management Report also is reasonable given that information on vacancies is provided at monthly board meetings and HSRA has addressed the problems that resulted in this legislative requirement.

The specific changes proposed for the HSRA's reporting requirements are:

- **Project Update Report**
  Make this an annual report due on or before March 1 in the year opposite the year the Business Plan is due (Business Plan is due every even year). Currently this report is due on or before March 1 and November 15 each year. Any information contained within the Project Update Report not currently contained in the Business Plan would be incorporated in the Business Plan.

- **Staff Management Report**
  Repeal the Staff Management Report in its entirety. This reporting requirement was imposed in the summer of 2012, when the HSRA staff was very small. The HSRA

has in place steps and procedures to oversee and manage contractors involved in the construction projects.

Peer Review Group Qualifications. Staff finds the proposed changes to the qualifications of the PRG reasonable and these changes may help to ensure that the vacant positions are filled more easily with individuals that are qualified to oversee the delivery of a large infrastructure project.

Regarding the Peer Review Group (PRG) membership qualifications, the following changes are proposed.

Section 185035 of the Public Utilities Code:
185035. (a) The authority shall establish an independent peer review group for the purpose of reviewing the planning, engineering, financing, and other elements of the authority's plans and issuing an analysis of appropriateness and accuracy of the authority's assumptions and an analysis of the viability of the authority's financing plan, including the funding plan for each corridor required pursuant to subdivision (b) of Section 2704.08 of the Streets and Highways Code.
(b) The peer review group shall include all of the following:
(1) ~~Two individuals with experience in the construction or operation of high-speed trains in Europe, Asia, or both~~ Two individuals with education and experience in the planning and construction of large transportation systems, such as high-speed rail or highway systems with similar characteristics, designated by the Treasurer.
(2) Two individuals, one with experience in engineering and construction of high-speed trains or similar large infrastructure projects and one with experience in project planning and finance ~~and one with experience in project finance~~, designated by the Controller.
(3) One representative from a financial services or financial consulting firm who shall not have been a contractor or subcontractor of the authority for the previous three years, designated by the Director of Finance.
(4) One representative with experience in environmental planning, designated by the Secretary of Business, Transportation and Housing.
(5) Two ~~expert representatives from agencies providing intercity or commuter passenger train services in California~~ individuals with experience providing or governing intercity or commuter passenger train services in California, designated by the Secretary of Business, Transportation and Housing.
(c) The peer review group shall evaluate the authority's funding plans and prepare its independent judgment as to the feasibility and reasonableness of the plans, appropriateness of assumptions, analyses, and estimates, and any other observations or evaluations it deems necessary.
(d) The authority shall provide the peer review group any and all information that the peer review group may request to carry out its responsibilities.
(e) The peer review group shall report its findings and conclusions to the Legislature no later than 60 days after receiving the plans.

Questions:
HSRA:

1. Please present the agreed-upon metrics, and the proposed changes to the reporting requirements and the Peer Review Group qualifications.

Staff Recommendation: Adopt placeholder trailer bill language to modify the HSRA's reporting requirements and to change the qualifications of the Peer Review Group as described above.

<u>Vote:</u>

2740 Department of Motor Vehicles

Issue 1: Expansion of Green Sticker Cap for Low-Emission Vehicles (Legislative Proposal)

Proposal: Increase the cap on the number of decal stickers in the Clean Air Vehicle "Green Sticker" program from 70,000 to 85,000.

Background: Allowing single-occupant, clean air vehicles access to High-Occupancy Vehicles (HOV) lanes was first authorized by AB 71 (Cunneen), Chapter 330, Statutes of 1999. The intent of the initial and subsequent legislation was to incentivize the purchase of clean air vehicles. Currently, the DMV distributes two types of decals.

- White Clean Air Vehicle decals are available to an unlimited number of qualifying Federal Inherently Low Emission Vehicles. Cars meeting these requirements are typically certified pure zero emission vehicles (100% battery electric and hydrogen fuel cell) and compressed natural gas vehicles.

- Green Clean Air Vehicle decals are available applicants that purchase or lease cars meeting California's transitional zero emission vehicles requirement, also known as the enhanced advanced technology partial zero emission vehicle requirement. Per SB 853 (Committee on Budget and Fiscal Review), Statutes 2014, Chapter 27, the green decal limit was increased by 15,000 to 55,000 decals effective July 1, 2014. Per AB 2013, (Muratsuchi), Chapter 527, Statutes of 2014, effective January 1, 2015, an additional 15,000 decals were made available for a new maximum of 70,000.

According to the DMV, the previous limit of 55,000 decals was reached at the end of September 2014. As of May 11, 2015, the DMV has issued 68,992 Green Clean Air Vehicle decals, resulting in only 1,996 available decals until the current 70,000 decal limit is reached, which is anticipated before the end of the calendar year. There is also a pending urgency bill – SB 39 (Pavley) – this session on this same matter.

Staff Comments: This proposal would increase the number of green stickers by 15,000 and prevent this program from running out of decals. Caltrans is not opposed to increasing the cap to a total of 85,000 decals, yet is cognizant of potential lane degradation. This bill would have no fiscal impact on DMV.

Questions for Caltrans:

1. Increasing the use of single occupancy vehicles in HOV lanes has the potential to decrease through-put. How does Caltrans plan to balance the Governor's zero-emission vehicle goals with lane degradation?

Staff Recommendation: Adopt placeholder trailer bill language to increase the number of green vehicle stickers by 15,000 to 85,000.

Vote:

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

Senator Lois Wolk, Chair
Senator Jim Nielsen
Senator Fran Pavley

Tuesday, May 19, 2015
9:00 a.m.
Hearing Room 112

Consultant: Farra Bracht

Transportation

Items Proposed for Vote-Only

Items Proposed for Discussion and 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.

Adopt provisional language and provide an augmentation of $1.5 million from the Public Transportation Account to the Department of Transportation's Division of Research, Innovation, and System Information to establish a statewide competitive process to identify and fund an organization that would provide independent oversight and research of the state's high-speed rail system.

Vote: 3-0

Vote: 2-0 (Senator Nielsen abstaining)

Vote: 2-1

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

Senator Lois Wolk, Chair
Senator Jim Nielsen
Senator Fran Pavley

Wednesday, May 20, 2015
10:00 a.m.
Hearing Room 112

Consultant: Catherine Freeman

Resources, Environmental Protection and Energy

Items Proposed for Vote-Only

Items Proposed for Discussion

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ITEMS PROPOSED FOR VOTE ONLY

Spring Finance Letters, Open Issues and May Revision (Set 1)

0540 Secretary for Natural Resources

1. **Lake Tahoe Science Advisory Council.** The May Revision requests to shift $300,000 (Lake Tahoe Science and Lake Improvement Account) from the California Tahoe Conservancy to the Secretary for Natural Resources, to fund the operation of the new bi-state science advisory council established in 2014.

3540 Department of Forestry and Fire Protection

2. **May 1 Capital Outlay Proposals.** The department requests reappropriation of minor capital outlay for three projects: (1) High Rock Conservation Camp—water treatment system upgrade; (2) Trinidad fire station installation of water connect; and, (3) La Cima Conservation Camp wastewater treatment replacement. CalFIRE anticipates construction contracts for all three projects will be awarded within six to nine months. Delays were due to geotechnical design development issues.

3. **Public Education for Fire Prevention and Preparedness.** The May Revision requests $1.2 million (State Responsibility Area [SRA] Fire Fee), ongoing, to provide for a public information campaign on fire prevention and preparation for wildland fires for residents and visitors to the SRA. The program is intended to decrease fire risk for the state and coordinates with existing drought activities.

4. **Air Tanker Replacement.** The May Revision requests $6 million (General Fund) to provide for the replacement of the air tanker that was lost in 2014. The request also includes funding for a contracted large air tanker (through December 2015) to temporarily fill the service gap created by the lost tanker until the replacement is ready.

5. **Technical Adjustment for Minimum Wage Increase.** The May Revision includes a request to increase by $1.6 million (General Fund) and $67,000 (reimbursements), to maintain wage parity between CalFIRE and contract counties.

3600 Department of Fish and Wildlife

6. **Hatcheries and Inland Fisheries Capital Outlay.** The department requests $1.1 million (Hatcheries and Inland Fisheries Fund), for three minor capital outlay projects. This request would provide employee housing, consistent with department policy of providing 24-hour care and nightly standby duty to prevent fish loss and unforeseen operation emergencies and to protect state infrastructure and property at the Silverado Fisheries Base, Mojave River Hatchery, and the Black Rock Hatchery.

3790 Department of Parks and Recreation

7. **Border Field State Park: Renovation for Public Use.** Add $1 million from the State Parks and Recreation Fund (SPRF) for preliminary plans, working drawings, and construction to improve the park entrance road and to develop the outdoor plaza at Monument Mesa. The Department of Parks and Recreation received $5.9 million from the federal government as part of a settlement agreement to mitigate for the condemnation of land needed for a federal border infrastructure project. Funds were initially distributed to the overall parks system rather than to the park where the condemnation occurred. The funds shall be available until June 30, 2020.

8. **Empire Mine Historic Park.** The May Revision requests $1.8 million (Abandoned Mine Reclamation Fund) on a one-time basis for the continued evaluation, analysis and implementation of remediation actions required at Empire Mine. This request supports the ongoing program of removal of contaminated materials and/or facilities, conveyance corridor assessment, stormwater management, trail realignment, and dam stability analysis.

9. **Concessions Program.** The May Revision requests authority to negotiate a new concession contract for services provided at Bolsa Chica State Beach, including the development, operation, and maintenance of four full-service concessions, retail, and food service facilities. The proposed contract is anticipated to realize gross sales in excess of $500,000 and, therefore, requires legislative approval.

10. **Parks Reappropriation.** It is requested that the following Prop 40 and Prop 12 projects be reappropriated as follows:

    - City of Pasadena Youth Soccer and Recreation Developments Program, Sycamore Grove Field/Muir Field, Prop 40, Current Balance: $1,000,000.

    - City of Los Angeles, Urban Parks, East Wilmington Greenbelt Park, Prop 40, Current Balance: $2,933,000.

    - City of San Jose Robert-Z'Berg-Harris Block Grant Program, Three Creeks Trail Bridge, Prop 40, Current Balance: $1,773,000.

    - City of San Jose Per Capita Grant Program, Three Creeks Trail Bridge, Prop 40, Current Balance: $30,000.

    - City of Los Angeles People Coordinated Services of Southern California, Youth and Family Center, Prop 12, Current Balance: $1,850,000.

3825 San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy

11. **Bond Fund Adjustments (May Revision).** The May Revision includes a proposal to revert funds from Propositions 40 and 84, and to appropriate these funds for acquisition and land and water improvement projects. The request includes $2.5 million (Proposition 40), $802,000 (Proposition 50), and $3.1 million (Proposition 84) for continuing programs.

8570 California Department of Food and Agriculture (CDFA).

12. **Yermo Agriculture Inspection Station.** The Governor's budget requests to reappropriate $46.9 million in unspent lease-revenue bond authority to complete the necessary updates to the working drawings, as well as to construct the project. The department also requests provisional language to support the use of lease-revenue bond financing for the relocation project. The language clarifies the Department of Transportation’s authorization and responsibilities for delivering the project on behalf of CDFA.

13. **Organic Waste.** The Governor's budget requests an increase of $211,000 (General Fund) and 1.5 permanent positions in 2015-16 and $229,000 and two permanent positions, ongoing, to increase enforcement and licensing activities for the rendering program to implement AB 1826 (Chesbro), Chapter 727, Statutes of 2014. The requested funding will support one special investigator and one office technician (half of one position in 2015-16), to provide outreach and training to local jurisdictional authorities, to investigate unlicensed and uninspected businesses recycling inedible animal material and inedible kitchen grease, and to facilitate licensing and inauguration of inspection of these businesses.

Staff Recommendation: Staff recommends approval of Items 1-14.

VOTE (Items 1-13):

ITEMS PROPOSED FOR VOTE

May Revision Proposals (Set 2)

3360 California Energy Commission

14. **American Reinvestment and Recovery Act.** The May Revision proposes to shift $11 million from Federal American Recovery and Reinvestment Act (ARRA) funds from third-party financing programs where the CEC believes they were underutilized, and to shift these funds to three existing programs: (1) the Local Government Challenge (a local jurisdiction grant program promoting energy efficiency improvements in existing publicly owned buildings; (2) the Small City Leadership Challenge (a technical assistance and grant program focusing on disadvantaged communities with populations under 15,000); and, (3) the Energy Innovation Challenge (a program focusing on new innovative deployment models).

    Staff Comment: *The CEC did not provide a workload justification for this proposal that compares the outcomes of the three programs to which the funds would be directed. The May Revision does not afford the Legislature time for a comparative review of the programs. The LAO recommends the subcommittee reject the proposal and revisit the issue as part of the 2016-17 budget process.*

3540 Department of Forestry and Fire Protection

15. **Automatic Extinguishing Systems Worker Certification.** The May Revision proposal requests $888,000 (State Fire Marshal Licensing and Certification Fund) and five positions to create regulations and establish a certification program for fire sprinkler fitters. The proposal includes: (1) a new fee of $125 per certification to cover the costs of the program; and, (2) a certification process to shorten and standardize the length of training increase the number of trained pipefitters.

    Staff Comment: *This proposal is a major change in policy that requires extensive review not afforded by the May Revision process. The department should seek a policy bill to establish this program and fee.*

16. **Re-Open Magalia Conservation Camp.** The May Revision requests $3.1 million in 2015-16 and $3.6 million in 2016-17, and $3.1 million ongoing (General Fund), to provide for the renovation and use of Magalia Conservation Camp in Butte County. The Department of Forestry and Fire Protection plans to work with the California Conservation Corps (CCC) to perform fire protection. The proposal includes provisional language to be added to allow an additional year of encumbrance related to facilities updates.

    Staff Comment: *This proposal is premature. The CCC proposes to evaluate residential facilities expansion, which should include a discussion of conservation camps, and report back* *to the Legislature in the January budget with a plan for expansion. This proposal should be included in that discussion.*

17. **Implementation of AB 52.** The May Revision requests $56,000 (Timber Regulation and Forest Restoration Fund) and $75,000 (State Responsibility Area [SRA] Fund) to support the archeological and cultural requirements in AB 52 (Gatto), Chapter 532, Statutes of 2014, which requires California Environmental Quality Act (CEQA) lead agencies to participate in a formal notification process with California tribes and expands the definition of cultural resources that require consideration.

    Staff Comment: *This proposal is premature and incorrectly allocates resources from an inappropriate funding source (SRA Fund). There are many lead agencies involved with CEQA, none of which submitted similar proposals. The department should develop a workload analysis prior to a request for funding and should not propose funding from fire prevention funds for CEQA archeological and cultural requirements. In addition, no other CEQA lead agency in Resources Agency has requested funding for this purpose.*

3780 Native American Heritage Commission (NAHC)

18. **Implementation of New California Environmental Quality Act Requirements.** The May Revision proposal requests $1.6 million (General Fund) and eight positions in 2015-16, decreasing to $602,000 and five positions ongoing to fund the implementation of AB 52 (Gatto), Chapter 532, Statutes of 2014. The commission requests funding to create a geographic database of cultural and historical Native American tribal territories and all potential lead California Environmental Quality Act agencies within each territory. The proposal includes provisional language to make the availability of funds contingent upon project approval by the Department of Technology.

    Staff Comment: *The project in question has not completed the normal information technology review process and therefore the Legislature does not have the information it needs to complete its review of the proposal. It is unclear whether or not the Department of Technology's internal geographic information system could be used to develop this system. The proposal seeks to meet a January 1, 2016, deadline but the timing of the development of the information technology system will not begin development by that time. The budget proposal identifies two lower cost proposals that may be more appropriate and timely. This proposal does not include sufficient workload nor alternatives analysis. The LAO recommends the Legislature review the Phase One documentation approved by the Department of Technology before approval of the proposal to ensure feasibility of the project.*

19. **Statutory Shift of Repatriation Responsibility.** The May Revision includes trailer bill language to place the responsibly of the Repatriation Oversight Commission within the Native American Heritage Commission. This would require the NAHC to oversee the repatriation of Native American remains and cultural burial items to California non-federally recognized tribes.

Staff Comment: *The proposal in question may have merit, however raises various policy questions about state agency overall responsibilities. With such critical determinations such as repatriation of Native American remains and cultural burial items, the May Revision is not an appropriate policy process to determine the outcome of this proposal. This should be taken up in policy committees. There is no budget proposal or workload analysis accompanying this request. The LAO recommends this proposal be moved to a policy bill.*

3790 Department of Parks and Recreation.

20. **Trailer Bill Language—Donations and Gifts Limit.** The May Revision requests trailer bill language to accept gifts and donations with cash values under $100,000 without the Department of Finance approval in order to streamline processes and reduce workload.

    Staff Comment: *The proposal in question may have merit, however is not appropriate for the May Revision trailer bill process. Consistent with the LAO recommendation, this item should be moved to a policy bill such as AB 549 (Levine).*

3980 Office of Environmental Health Hazard Assessment (OEHHA)

21. **Technical Change—Public Health Goal Statute.** The May Revision proposal requests trailer bill language to remove a duplicative provision that could result in OEHHA being required to perform two external scientific peer reviews for the same public health goal related to a contaminant in drinking water.

    Staff Comment: *The proposal in question may have merit, however is not appropriate for the May Revision trailer bill process. Consistent with the LAO recommendation, this item should be moved to a policy bill such as an omnibus cleanup bill put forth by the policy committee.*

Staff Recommendation. Reject proposals. In addition to the staff comments on each proposal, the above requests require extensive review not afforded by the May Revision process. The departments should resubmit these proposals in January for full review by the Legislature, or in the case of policy proposals, should seek legislation through the policy process.

VOTE (Items 15-21):

0540 Secretary for Natural Resources

May Revision Proposals. The May Revision includes the following proposals for consideration:

1. **Creation of Planning for Sea Level Rise Database.** The May Revision requests $155,000 (General Fund) and one position to provide funding for gathering and publicly distributing information about state and local activities related to sea level rise planning, to implement AB 2516 (Gordon), Chapter 522, Statutes of 2014.

   Staff Comments. *The fiscal analysis for this bill anticipates one-time funding for this item to develop the database consistent with the proposal. However, ongoing funding was anticipated at $65,000 per year. Staff recommends reducing ongoing funding to $65,000 (General Fund). Consistent with the subcommittee's previous actions on sea level rise, this item should be funded by Tidelands Oil Revenue.*

2. **Marine Protected Area Monitoring.** The May Revision requests an amendment to its January budget proposal, to shift funding from Proposition 84 bond funding to the General Fund, for one year, to continue implementation of the marine protected area monitoring program.

   Staff Comments. *The subcommittee acted, on May 7, to enact this shift to the Tidelands Oil Revenue (funding would be allocated to certain marine-related programs prior to general deposit of these funds into the General Fund). Staff continues to recommend this action.*

3. **Expansion of Timber Regulation and Forest Restoration Funds.** The May Revision requests $2.1 million (Timber Regulation and Forest Restoration Fund [TRF]) to provide information technology services and data collection for timber harvest regulatory activities related to grant programs. Provision language requests $1.3 million be made available for expenditure; contingent upon approval by the Department of Technology.

   Staff Comments. *The project in question has not completed the normal information technology review process and, therefore, the Legislature does not have the information it needs to complete its review of the proposal. It is unclear whether or not the Department of Technology's internal geographic information system could be used to develop this system.*

Staff Recommendation: Staff recommends the following actions:

- Item 1: Approve as proposed with the following changes: (1) limit ongoing funding to $65,000 per year; and, (2) shift funding to Tidelands Oil revenue.

- Item 2: Reject (retain subcommittee's May 7 action).

- Item 3: Approve $800,000, one-time, and require the department to return with the remainder of the proposal upon completion of review by the Department of Technology.

Vote:

3110 Tahoe Regional Planning Agency

Background. The Tahoe Regional Planning Agency (TRPA) is charged with developing environmental thresholds in order to guide development within the Lake Tahoe Basin. These thresholds range from near-shore water quality to mid-lake water clarity. The TRPA is required to prepare a threshold evaluation report every four years under the bi-state Tahoe compact.

Budget Proposal. The May Revision proposes to allocate $375,000 from funds dedicated to the California Tahoe Conservancy (Lake Tahoe Conservancy Account), to fund an independent evaluation of the Tahoe Regional Planning Agency's environmental thresholds.

Staff Comments. The Tahoe Regional Planning Agency, a regulatory and permitting entity, is not appropriately funded by environmental license plate funds (ELPF). The funds proposed are dedicated to the use of the Tahoe Conservancy, which sustained a $200,000 reduction in funds after the miscalculation of fund balance by the Department of Finance in the final 2014 budget. This subcommittee heard a discussion of the ELPF at two hearings and took the following action on May 7:

> *Approve uncodified trailer bill language requiring the department, in conjunction with Senate and Assembly staff, to convene a working group in fall 2015, in order to adjust the priorities of the ELPF to: (1) update PRC 21190 priorities; (2) equalize conservancy funding; (3) prioritize funding from specialty plates to those areas purchasing those plates (such as Tahoe); (4) reduce staffing costs attributed to ELPF and focus funding on projects; and, (5) reduce reliance on the ELPF for regulatory programs that are more appropriately funded by the General Fund.*

The May Revision proposal is not consistent with item (5), referenced above. In addition to this, the Vehicle Code Section 5075, requires that Tahoe license plate funds be allocated only to the Conservancy, and only for "preservation and restoration projects in the Lake Tahoe Area and for establishing and improving trails, pathways, and public access for non-motorized traffic in that area." The money in these funds is strictly controlled by Section 5060 of the Vehicle Code. In particular, Section 5060(h) states that no more that 25 percent of the funds can be used for marketing, and that every organization under Title 8.4 (the Special Interest License Plate Program) "shall prepare an accounting of all revenues and expenditures associated with the special interest license plate program." Failure to report or otherwise expend the funds appropriately may subject the organization to suspension of the program (5060 (h)). The proposed fund shift to TRPA appears to be inconsistent with all of these provisions.

Staff Recommendation: Reject proposal. Require the Department of Finance to return in January with a proposal that is consistent with the subcommittee's actions on the ELPF.

Vote:

3340 California Conservation Corps

Background. The California Conservation Corps (CCC) provides people between the ages of 18 and 23 work experience and educational opportunities. Program participants, referred to as corpsmembers, work on projects that conserve and improve the environment. They also provide assistance during natural disasters. Work projects are sponsored by various governmental and nongovernmental agencies that reimburse CCC for the work performed by corpsmembers. Corpsmembers often live in residential facilities that serve as a hub of CCC service delivery.

May Revision Proposals. The May Revision proposes:

(1) Augmentation of $200,000 (General Fund) in 2015-16 and $700,000 in 2016-17 to conduct a residential center site selection and search, in order to increase the CCC residential centers.

(2) Allocate $5 million (Greenhouse Gas Reduction Fund) from the Department of Forestry and Fire Protection to the Conservation Corps for forest health projects targeted in high fire risk areas of the state under the Forest Health Improvement Projects program.

(3) Re-opening of the Magalia Conservation Camp in Butte County (to be heard under the Department of Forestry and Fire Protection).

Staff Comments. This subcommittee heard testimony from the CCC on May 5 of this year, and focused on (1) the challenge of managing changing funding sources and priorities at the CCC; (2) how to determine long-term funding programs; (3) the continuing model of residential facilities; and (4) employment opportunities within state service for graduating corpsmembers. The Governor’s proposal is consistent with the subcommittee’s discussion and has merit. However, the development of residential centers, and the opening of previously closed fire camps, poses a policy question that should be discussed at length—what is the best future program model for the CCC? This question should be answered before the CCC embarks on its proposal to evaluate the expansion of CCC residential centers.

Staff Recommendation. Staff recommends the following actions:

- Item 1: Approve $200,000 (one-time, General Fund) with supplemental reporting language requiring the CCC to include in its January 10, 2016 proposal, an evaluation of the appropriate number of permanent residential facilities and including analysis of other methods of program delivery (such as non-permanent camps and co-located residential facilities with community colleges.

- Item 2: Approve as proposed but shift funds from the Greenhouse Gas Reduction Fund to State Responsibility Area Funds ($5 million).

- Item 3: Action taken under vote-only.

Vote:

3480 Department of Conservation

Underground Injection Program

Background. The federal Safe Drinking Water Act (Act) allows for injection of fluids from oil and gas operations into certain (potentially) good quality aquifers that meet specific requirements and conditions. These are exempt aquifers. Within the state, there are approximately 2,500 oil and gas injection wells that have been operating in aquifers that may not have been properly exempted from the Act. The state is reviewing and evaluating these wells to determine in which cases it would be justified to propose an aquifer exemption application to the U.S. Environmental Protection Agency, or whether the wells should be plugged. The state and federal responsible agencies have developed a work plan to bring the remaining injection wells into compliance with the Act within two years.

Since June 2014, when a set of oil and gas waste disposal wells were ordered "shut in" by DOGGR, there have been a number of news stories released, as well as acknowledgements made by DOGGR, that numerous oil and gas related injection wells are improperly sited and present a risk of contamination to good quality groundwater used for drinking water and agricultural irrigation processes. Investigations by the U.S. Environmental Protection Agency and State Water Resources Control Board concur with this assessment and have raised a number of concerns about the way in which DOGGR manages the program, and protects groundwater quality.

The Senate Natural Resource and Senate Environmental Quality Committees held a joint oversight hearing on March 10, 2015, titled "Ensuring Groundwater Protection: Is the Underground Injection Control (UIC) Program Working." Following that hearing, this budget subcommittee held an informational oversight hearing on the Department of Conservation Division of Oil, Gas, and Geothermal Resources (DOGGR).

Budget Actions. Beginning in 2010-11, the department acknowledged deficiencies in its programs and requested, during the May Revision process (three years in row), major changes to program funding. The budget committees concurred with the need for funds, but, having been given only two weeks to review these major proposals on more than one occasion, split the funding, instead requesting the department return with a long-term and comprehensive proposal. Between 2011 and 2013, the budget added 53 positions and over $7 million in annual ongoing funding. The budget also required the department to annually provide updates on its UIC program for five years. To date the department has filed only one report.

Budget Request. The Administration makes the following requests in its April 1, Spring Finance Letter:

1. **Department of Conservation.** The Administration requests $3.5 million (Oil, Gas, and Geothermal Administration Fund [OGGAF]), and 23 positions, to conduct extensive evaluations of the engineering and geologic conditions of aquifers into which injection has been occurring to help determine whether specific aquifers should be proposed for exemption under the Act. These positions are also proposed to support ongoing assessment and evaluation of compliance with the Act for further injection projects proposed by the oil and gas industry.

2. **State Water Resources Control Board.** The Administration requests $828,000 (Waste Discharge Permit Fund) and six positions, and $2.9 million (OGGAF) and 13 positions to perform inventory and enforcement activities for oil and gas produced water ponds in the Central Valley area. The request also includes technical reviews of aquifer exemption submittals, hydrological reviews of injection well proposals submitted by well operators, and related activities. The Water Board will also receive information on injection wells that the Department of Conservation has identified as out of compliance with the Act, and will identify known water supply wells to assess potential health threats or impacts to water supplies.

3. **Department of Water Resources.** The Administration requests $625,000, on a one-time basis, to provide public access to well completion reports. The proposal includes trailer bill language to make well completion reports available to the public in part in order to improve public and governmental evaluation of water quality risks identified by injection wells.

Staff Comments. Staff continues to be concerned about the department's lack of focus on water resources in the state. The Central Valley Water Quality Control Board is actively reviewing surface and groundwater resources near underground injection wells, and both public and private entities are questioning DOGGR's various water quality exemptions, its record keeping, and its ability to manage this program. These items were discussed during the oversight hearing on March 19.

Staff Recommendation: Staff recommends the following actions.

1. Reject the Department of Conservation's April 1 Spring Finance Letter and instead approve these positions and funding to the State Water Resources Control Board to support their regulatory efforts.

2. Approve the State Water Resources Control Board proposal as proposed, but shift the $828,000 from the Waste Discharge Permit Fund to OGGAF.

3. Approve Department of Water Resources well completion report proposal and trailer bill language.

4. Request the State Auditor review funding and program requirements of UIC program.

(Recommendations continue on the following page.)

5. Approve trailer bill language to:

   a) Codify the Water Board's implicit veto power over any activities DOGGR permits that impact water quality (e.g. aquifer exemptions).

   b) Allow the Department of Fish and Wildlife to access to open pits and ponds for regulatory purposes.

   c) Require an independent review of DOGGR and its operations, particularly the UIC program, to determine if some of its activities are better suited at other regulators.

Vote:

Oil and Gas Data Management System

May Revision Proposal. The May Revision requests $10 million (Oil, Gas, and Geothermal Administration Fund [OGGAF]), for the first year of a two-year project to develop and implement comprehensive database system. The Oil and Gas Data Management System is intended to be a web-based system that allows for electronic processing to make the permitting of wells more efficient and to provide a web-based reporting system for operators to report required well information. The system is intended to make non-proprietary well information easily searchable and available to the public. Provisional language is requested that specifies that the availability of the funds for the system is subject to project approval by the Department of Technology.

Previous May Revision Requests. Over the past five years, the department has, on more than one occasion, requested significant funding and positions in the May Revision. Each time, the justification has been that the department was not ready or did not have the proposal complete by the time the January budget was prepared. In each instance, the Legislature took the position that these proposals should have been vetted through the normal budget process, but given the challenge of bringing the department up to speed on its statutory obligations, allowed half of the proposal to go forward, requesting information from the department in the January 10 budget. Consistently, by January, the department was not able to demonstrate that it had filled even half of the positions allowed by the Legislature.

Staff Comments. Staff continues to be concerned about the department's significant management issues, and the quality assurance and control issues that continue to arise, particularly related to its underground injection program, monitoring fracking, and regulation of the oil industry. Staff is concerned that this proposal, one in a series of major proposals delivered during the Spring Finance Letter and May Revision process where less scrutiny will be afforded the proposal, is not appropriately scoped, and therefore implementation is questionable. Over the last five years, DOGGR has been reactive—requiring the Legislature, other state agencies and the federal government to step in, time and time again, to ensure that it understands and begins to address the major issues facing the state—including contamination of aquifers, fracking, and underground injection. This record makes it unclear how to evaluate proposals from the department, particularly those delivered with less than one month before the budget must be passed.

Staff Recommendation: **Approve $250,000 (OGGAF).** Staff recommends approval of only the amount necessary to complete a feasibility study (estimated at $250,000 by the department) and to scope their information technology problem. The project in question has not completed the normal information technology review process and therefore the Legislature does not have the information it needs to complete its review of the proposal. The proposal may require extensive review not afforded by the May Revision process. The department should resubmit this proposal in January, when complete with all approvals, for full review by the Legislature. The LAO also recommends additional review prior to approval of the proposal.

Vote:

3540 Department of Forestry and Fire Protection

Helicopter Replacement

Background. When fighting wildland fires, CalFIRE uses helicopters to quickly deliver fire crews and to perform water or retardant drops that slow the fires' spread. Helicopters are also used for other firefighting and fire prevention operations, medical evacuations, cargo transport, mapping, rescues, and other missions. The department currently has 12 helicopters that were acquired in 1990 through the Federal Excess Personal Property Program at no cost to the state. These helicopters were originally owned by the U.S. Army from 1963 to 1975 for troop and cargo transport. Once acquired by CalFIRE, these helicopters were modified for wildland firefighting at a cost of about $500,000 per aircraft.

Previous Subcommittee Action. On April 9, the subcommittee acted to reject the Governor's January budget proposal for budget bill language that would have allowed the department to proceed with helicopter procurement without adequate legislative review. The LAO provided testimony about the proposal including: (1) the proposal provided very limited information; (2) the proposal made it difficult for the Legislature to weight tradeoffs; and, (3) ultimately the LAO recommends withholding action. The subcommittee's action does not impact the department's ability to solicit proposals for helicopter replacement.

Staff Comments. Staff met with the LAO, legislative staff and the department to discuss options available to increase legislative review of the proposal. Staff recommends budget bill language requiring the department to provide three options to the Legislature in the 2016-17 budget cycle, along with estimates for capital outlay and personnel costs for each option. The budget bill language is outlined below:

Staff Recommendation: Approve the following budget bill language:

3540-001-0001

> *Provision X. No later than January 10, 2016, the Department of Forestry and Fire Protection shall report to the Senate Committee on Budget and Fiscal Review and the Assembly Committee on Budget on three different options for replacing the existing helicopter fleet. The first option shall be replacement with helicopters available on the market that most closely resemble current helicopter capabilities while meeting current safety guidelines. This option shall not require any changes to existing infrastructure or increases in staffing levels, and shall not include any significant changes in helicopter functionality. The second option shall be helicopters with increased capabilities over the current fleet and that might require infrastructure changes but will not require increases in staffing. The third option shall be helicopters with increased capabilities that might require both changes in infrastructure and staffing. For each option, the department shall report on (1) an estimate of the one-time and ongoing costs to procure the helicopters and for any significant ancillary costs including infrastructure and operations, (2) an expected timeline for fleet replacement, and (3) the expected benefits to the state in terms of wildland firefighting abilities.*

Vote:

Fireworks Disposal

Background. 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.

SB 839 (Calderon), Chapter 563, Statutes of 2007, 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.

Previous Legislative Actions. In 2014, the budget committee approved $1.5 million in one-time funding from the Toxic Substances Control Account (TSCA) to properly dispose of the current backlog of seized fireworks and an assessment on legal safe and sane fireworks sold in California to cover the ongoing costs of fireworks disposal. The trailer bill language required to approve the assessment did not pass.

May Revision Proposal. The May Revision proposal requests $5 million (TSCA) to dispose of stockpiles of dangerous and illegal fireworks seized in 2014 and anticipated to be seized in 2015. Provisional language is requested to both allow for the use of TSCA by CalFIRE for this purpose and to ship illegal fireworks out of state for disposal. The proposal includes a discussion of the hazardous nature of illegal fireworks and a determination by the Department of Toxic Substances Control and applicable local air districts, to stop allowing emergency permits for the disposals of these materials.

Staff Comments. Staff is concerned that the Office of the State Fire Marshall may not have disposed of the hazardous materials in a manner consistent with state law. The determination of the Department of Toxic Substances Control that fireworks are considered a hazardous waste when disposed of should not be a surprise given the toxicity of the ingredients within the fireworks. The Office of the State Fire Marshall determined these fireworks were illegal and dangerous, and therefore an analysis of the hazardous nature of these materials is necessary. According to the department, these fireworks are now being shipped out of state to Louisiana to be disposed of in a federally-authorized Resource Conservation and Recovery Act (RCRA) facility. RCRA, enacted in 1976, is the principal federal law in the United States governing the disposal of solid waste and hazardous waste.

Further, the use of TSCA is appropriate to investigate the disposal of items within the State of California, but is not appropriate for the disposal of categories of public or privately held waste outside the state.

Staff Recommendation: Reject proposal. Instead:

- Approve $3million (General Fund) for shipment of fireworks to appropriate RCRA certified disposal sites (out of state).

- Approve $500,000 (TSCA) for the Department of Toxic Substances Control, in coordination with the State Water Resources Control Board, to contract with an outside source to produce a protocol for disposal of these materials within the State of California, and for locals to increase incentives to impose penalties on the sale of illegal and dangerous fireworks.

Vote:

3960 Department of Toxic Substances Control

Background. The subcommittee heard testimony from the department on several budget proposals, and the status of the department, at its March 12 hearing. All items were left open in order for the department to continue to work with the Legislature to ensure that it is capable of meeting its regulatory mandates

Governor's Budget, Spring Finance and Site-Specific Proposals. The following budget proposals are proposed by the department:

	Proposal	Positions	Fund Source	Cost
1	Biomonitoring (including spring finance letter with a technical adjustment to align program resources by reducing overall expenditures by $350,000 in 2015-16).	2 limited-term	TSCA ($520,000) BDMPF ($80,000)	$600,000
2	Laboratory Equipment Supplemental Environmental Project (AT&T judgment directing $1.5 million to laboratory equipment replacement).	(none)	HWCA	$1.5 million (one-time)
3	SB 1249 (Hill), Metal Shredder Regulation	6 limited-term	HWCA	$527,000, reducing to $128,000 ongoing by year three
4	Golden Technology—Expedited Remediation. Proposal to reimburse claimants for the orphan share associated with cleanup activities at the Golden Technology Site in the City of Santa Rosa. This includes a technical shift to provide support for this appropriation and to revert an unencumbered fund balance.	(none)	Expedited Site Remediation Trust Fund	$3.4
5	Permit and Enforcement Backlog Reduction	16 limited-term	HWCA	$1.6 million
6	Exide 2014 Enforcement Order	5.5 permanent	HWCA	$734,000
7	Hazardous Waste Reduction	6 limited-term	TSCA	$840,000

TSCA: Toxic Substances Control Account
HWCA: Hazardous Waste Control Account
BDMPF: Birth Defects Monitoring Program Fund

May Revision Proposals. The department requests a total of 17 new positions with limited-term funding, 11 permanent positions, and $7.6 million (multiple funds) for the following in the May Revision:

- **Enhanced Enforcement Initiative.** The May Revision proposal requests $2.1 million ($222,000 HWCA and $1.9 million TSCA) and 11 positions, to implement and evaluate approaches to address environmental violations in vulnerable communities. The proposal would focus inspection and enforcement resources on the metal recycling industry and the hazardous waste transportation industry. The proposal requests trailer bill language allowing the use of TSCA for these purposes.

- **Hazardous Waste Enforcement Program Improvements.** The May Revision proposal requests $1.4 million (TSCA) for two years to conduct a review of its hazardous waste management enforcement program. Specifically, the department proposes an assessment of its enforcement program including evaluation of workload, inspections, investigations, policies and statutory mandates. The proposal requests trailer bill language allowing the use of TSCA for these purposes.

- **Federal Funding Loss and Position Redirection.** The May Revision requests to shift $2.4 million from federal funds to TSCA, and shift of 18 positions, in the Site Mitigation and Brownfields Reuse Program, to support the mandatory state response and oversight of the National Priority List (NPL) site cleanup. This program requires the state to oversee active site cleanup programs, including federal military sites. The department anticipated federal funding for military site cleanup that has not materialized.

- **Safer Consumer Products.** The May Revision proposal requests six limited-term positions and $643,000 (TSCA), to allow the department to expand research capabilities and accelerate the rate in which consumer products containing toxic chemicals can be evaluated and identified for inclusion in the Safer Consumer Products Program.

Staff Comments. The department has requested a total of 47 limited-term positions and 16.5 permanent positions, along with 18 positions that are sustained after losing federal funding. Funding requests are over $10 million from multiple funds. Though staff will make recommendations on individual budget proposals, in sum, the package is a major change in the department's programs.

Staff concurs with the need to continue the Biomonitoring program, in order to continue to reduce permit and enforcement backlogs, to enforce the 2014 Exide order, and to fund the legislatively-mandated metal shredder regulation. Staff has the following concerns with the overall package:

- **Limited-Term Positions versus Permanent.** It is clear that the ongoing permitting positions requested as limited-term will not be sufficient given the increasing workload the department faces as it begins to manage its regulatory responsibilities. At the same time, the department must be measured by strong standards given its history of enforcement failures. Limited-term positions are not easy to fill, and once filled, the person in the position must be moved at the end of the two-year term. This is not conducive to a long-term enforcement and management plan.

- **Funding Choices Unclear.** Both TSCA and HWCA are structurally imbalanced. They are not, however, interchangeable. It is unclear why the Administration has proposed TSCA for a number of the proposals before us. For example, the May Revision proposal to enhance enforcement on the hazardous waste transportation industry is paid for by TSCA, not the more appropriate HWCA, into which this industry pays. A number of the May proposals proposed by TSCA should be, at least in part, funded by HWCA.

- **May Revision Proposals Do Not Allow Time for Review**. The May Revision proposals, while somewhat in line with what the department has stated are its goals, require extensive review not afforded by the May Revision process. Staff do not believe there is sufficient time for review and will recommend the department resubmit these proposals in January for full review by the Legislature, after oversight and independent reviews are conducted (see below).

- **Major Policy Proposal—Hazardous Waste Reduction—Proposed Before Program has been Evaluated**. Item 7 (page 19): The Hazardous Waste Reduction proposal, should be rejected and sent to the policy committees. As discussed on March 12, the goal of reducing hazardous waste is laudable and consistent with legislative direction in previous years. However, this specific initiative has not been reviewed by legislative policy committees. Staff has concerns about setting such specific goals, such as the reduction of 50 percent of hazardous waste disposed of, without some form of legislative direction.

- **Oversight and Independent Review Necessary.** The department has not proposed actions that would provide overall oversight of activities the Legislature has raised as issues in the previous two years. For example, the department's "Fix the Foundation"—a solid effort that would result in greater prioritization of program actions, review of management and personnel, and a review of funding needs throughout the department—has, in part, been sidelined. At the same time, the Administration continues to limp the department along with limited-term positions and minor changes to programs. Oversight and independent review of the department is critical to moving forward, and will inform the Legislature prior to approval of additional positions and funding.

Staff Recommendation: Staff recommends the following actions:

(1) Approve the following proposals as proposed: (1) Biomonitoring; (2) Laboratory Equipment Supplemental Environmental Project; (3) SB 1249 (Hill), Metal Shredder Regulation; and, (4) Golden Technology—Expedited Site Remediation.

(2) Approve Permit and Enforcement Backlog Reduction ($1.6 million [TSCA]), and approve the 16 requested positions as permanent. Require reporting language that requires the department to report by April 1, 2016, on: (1) the status of permits completed compared to commitments made in the budget acts of 2014-15; (2) number and status of permit modifications, emergency permits, and new permits; (3) use of EnviroStor for compliance measures (including those prior to 2008); and, (4) implementation of staff training, quality control and data inspection and reporting of enforcement actions prior to 2008.

(3) Approve Exide Enforcement Order ($734,000 [HWCA]) and 5.5 permanent positions. Require reporting language that requires the department to report by April 1, 2016, on: (1) the status of the implementation plan referenced in the 2015-16 budget proposal; (2) time and cost for implementing the Stipulation and Order; (3) status of the onsite investigation and cleanup efforts; and, measures taken to increase community involvement.

(4) Approve budget bill language reducing the department's overall budget by 50 percent should the required reports (Items 2 and 3) not be submitted on time.

(5) Reject the Hazardous Waste Reduction funding, positions and trailer bill language. This item is a policy bill that should be vetted through the appropriate policy committees.

(6) Approve trailer bill language requiring:

   a. Establishment of three-person, independent review panel, to oversee the department's activities, and to report to the Legislature and Governor, every 90 days, on the department's performance—specifically related to permitting and enforcement backlog reductions and meeting its legislative mandates. The panel shall include one person, each, appointed by the Assembly Speaker, Senate Rules, and the Governor. One person must be a community representative, one person must have scientific expertise related to toxic materials, and one person must be a local government management expert.

   b. The panel will advise department's compliance with Health and Safety Code 57007, which requires the department to establish an Office of Performance, Accountability and Transparency. This office shall be established no later than December 31, 2015. The office will, provide an internal auditing function and an ombudsman function. The office will ensure that all programs are fully evaluated and, where appropriate, recommend additional measures be implemented to address uncertainties or gaps in the protectiveness of the decision-making process.

c. Require the department to submit, as part of its January 2016 budget, a proposal implementing the panel's recommendations.

d. The panel shall be provided two internal staff, per diem and reimbursement for travel and reasonable business expenses, up to $50,000.

e. The panel will be required to review reports and suggests on reporting obligations required of DTSC, make recommendations for improvement to programs.

(7) Reject all May Revision proposals. These proposals require extensive review not afforded by the May Revision Process. The department should resubmit these proposals, along with permanent funding and positions evaluation, in January 2016.

Vote (recommendations 1-7):

8660 California Public Utilities Commission

Commission Accountability

Background. The Senate and Assembly budget subcommittees have, over the past three years, focused attention on the ability of the CPUC to ensure fair and reasonable energy rates, while fulfilling its statutory mandates. To this end, the subcommittees collaborated with policy committees, the Joint Legislative Audit Committee, and the Office of State Audits and Evaluations (OSAE), to investigate the CPUC's internal management. Certain of these endeavors are highlighted below. These issues were discussed at length at the subcommittee oversight hearing on April 23 of this year.

As discussed at that hearing, nearly every audit of the CPUC programs in the past ten years identified, "significant weaknesses," within the program or function identified during the audit. The subcommittee heard testimony that the CPUC used funding from vacant positions to support information technology and training programs, rather than for their specified purpose. The subcommittee also heard testimony about the criminal probes launched by state and federal investigators, an outside contract of $5 million for criminal defense of the commission, and public requests for information. Since that time, it has come to light that a second contract of over $1 million has been let to review public requests for information.

The subcommittee acted to approve the CPUC's requests for positions (mainly auditors), and held open a proposal to require the CPUC to return funding from vacant positions annually to ratepayers, rather than to continue to allow the funding for these positions to be used for other purposes. The subcommittee also held open a proposal to reduce the CPUC's baseline budget by $5 million (the amount of the outside contract).

Assembly Actions. The Assembly Subcommittee No. 3 on Resources and Transportation took action on May 13, to adopt the Senate's recommended actions, and added several enhanced oversight and accountability actions as well. Specifically, they acted to:

- Reduce CPUC's State Operations budget by $5 million.
- Adopt trailer bill language requiring the CPUC to notify the JLBC semi-annually of any redirection of funding and/or positions.
- Direct the California Research Bureau, in consultation with appropriate state entities, using CPUC funds, to make recommendations (outlined above) related to improving oversight, regulation and efficiency of CPUC's duties with regard to energy, communications, transportation and utility safety enforcement and water.
- Reduce funding for the San Joaquin Valley to implement AB 2672 (Perea), Chapter 616, Statutes of 2014, (consultant funding) from $500,000 to $250,000 (in both 2015-16 and 2016-17), as recommended by the LAO.

- Adopt budget bill language that prohibits the CPUC from redirecting any of the approved audit positions (approved in this subcommittee on April 23) and any existing base positions in these audit areas. Require the CPUC to report back to the subcommittee during the 2016 spring budget process on the outcomes of the various audits.

- Adopt trailer bill language to provide that Office of Ratepayer Advocate's legal resources within its existing budget be used for attorneys that administratively report to the Office of Ratepayer Advocates.

May Revision Proposal. The Administration also requests various trailer bill changes to the New Solar Homes Partnership Program, net metering, and interconnection dispute resolution. The Administration did not submit budget proposals for any of these items. The LAO has recommended rejection of these items as they are policy proposals more appropriate to the policy bill process.

Staff Comments. The Assembly actions mirror the recommended Senate actions from the April 23 hearing and further restrict the CPUC from redirecting positions and funding without legislative approval. These proposals are changes in policy that require extensive review not afforded by the May Revision process. The department should seek policy bills to make these statutory changes.

Staff Recommendation: Conform to Assembly actions. Reject May Revision trailer bill proposals.

Vote:

Senate Budget and Fiscal Review—Senator Mark Leno, Chair

SUBCOMMITTEE NO. 2 **Agenda**

Senator Lois Wolk, Chair
Senator Jim Nielsen
Senator Fran Pavley

Wednesday, May 20, 2015
10:00 a.m.
Hearing Room 112

Consultant: Catherine Freeman

Resources, Environmental Protection and Energy

OUTCOMES

Items Proposed for Vote-Only

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.

ITEMS PROPOSED FOR VOTE ONLY

Spring Finance Letters, Open Issues and May Revision (Set 1)

0540 Secretary for Natural Resources

1. **Lake Tahoe Science Advisory Council.** The May Revision requests to shift $300,000 (Lake Tahoe Science and Lake Improvement Account) from the California Tahoe Conservancy to the Secretary for Natural Resources, to fund the operation of the new bi-state science advisory council established in 2014.

3540 Department of Forestry and Fire Protection

2. **May 1 Capital Outlay Proposals.** The department requests reappropriation of minor capital outlay for three projects: (1) High Rock Conservation Camp—water treatment system upgrade; (2) Trinidad fire station installation of water connect; and, (3) La Cima Conservation Camp wastewater treatment replacement. CalFIRE anticipates construction contracts for all three projects will be awarded within six to nine months. Delays were due to geotechnical design development issues.

3. **Public Education for Fire Prevention and Preparedness.** The May Revision requests $1.2 million (State Responsibility Area [SRA] Fire Fee), ongoing, to provide for a public information campaign on fire prevention and preparation for wildland fires for residents and visitors to the SRA. The program is intended to decrease fire risk for the state and coordinates with existing drought activities.

4. **Air Tanker Replacement.** The May Revision requests $6 million (General Fund) to provide for the replacement of the air tanker that was lost in 2014. The request also includes funding for a contracted large air tanker (through December 2015) to temporarily fill the service gap created by the lost tanker until the replacement is ready.

5. **Technical Adjustment for Minimum Wage Increase.** The May Revision includes a request to increase by $1.6 million (General Fund) and $67,000 (reimbursements), to maintain wage parity between CalFIRE and contract counties.

3600 Department of Fish and Wildlife

6. **Hatcheries and Inland Fisheries Capital Outlay.** The department requests $1.1 million (Hatcheries and Inland Fisheries Fund), for three minor capital outlay projects. This request would provide employee housing, consistent with department policy of providing 24-hour care and nightly standby duty to prevent fish loss and unforeseen operation emergencies and to protect state infrastructure and property at the Silverado Fisheries Base, Mojave River Hatchery, and the Black Rock Hatchery.

3790 Department of Parks and Recreation

7. **Border Field State Park: Renovation for Public Use.** Add $1 million from the State Parks and Recreation Fund (SPRF) for preliminary plans, working drawings, and construction to improve the park entrance road and to develop the outdoor plaza at Monument Mesa. The Department of Parks and Recreation received $5.9 million from the federal government as part of a settlement agreement to mitigate for the condemnation of land needed for a federal border infrastructure project. Funds were initially distributed to the overall parks system rather than to the park where the condemnation occurred. The funds shall be available until June 30, 2020.

8. **Empire Mine Historic Park.** The May Revision requests $1.8 million (Abandoned Mine Reclamation Fund) on a one-time basis for the continued evaluation, analysis and implementation of remediation actions required at Empire Mine. This request supports the ongoing program of removal of contaminated materials and/or facilities, conveyance corridor assessment, stormwater management, trail realignment, and dam stability analysis.

9. **Concessions Program.** The May Revision requests authority to negotiate a new concession contract for services provided at Bolsa Chica State Beach, including the development, operation, and maintenance of four full-service concessions, retail, and food service facilities. The proposed contract is anticipated to realize gross sales in excess of $500,000 and, therefore, requires legislative approval.

10. **Parks Reappropriation.** It is requested that the following Prop 40 and Prop 12 projects be reappropriated as follows:

    - City of Pasadena Youth Soccer and Recreation Developments Program, Sycamore Grove Field/Muir Field, Prop 40, Current Balance: $1,000,000.

    - City of Los Angeles, Urban Parks, East Wilmington Greenbelt Park, Prop 40, Current Balance: $2,933,000.

    - City of San Jose Robert-Z'Berg-Harris Block Grant Program, Three Creeks Trail Bridge, Prop 40, Current Balance: $1,773,000.

    - City of San Jose Per Capita Grant Program, Three Creeks Trail Bridge, Prop 40, Current Balance: $30,000.

    - City of Los Angeles People Coordinated Services of Southern California, Youth and Family Center, Prop 12, Current Balance: $1,850,000.

3825 San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy

11. **Bond Fund Adjustments (May Revision).** The May Revision includes a proposal to revert funds from Propositions 40 and 84, and to appropriate these funds for acquisition and land and water improvement projects. The request includes $2.5 million (Proposition 40), $802,000 (Proposition 50), and $3.1 million (Proposition 84) for continuing programs.

8570 California Department of Food and Agriculture (CDFA).

12. **Yermo Agriculture Inspection Station.** The Governor's budget requests to reappropriate $46.9 million in unspent lease-revenue bond authority to complete the necessary updates to the working drawings, as well as to construct the project. The department also requests provisional language to support the use of lease-revenue bond financing for the relocation project. The language clarifies the Department of Transportation's authorization and responsibilities for delivering the project on behalf of CDFA.

13. **Organic Waste.** The Governor's budget requests an increase of $211,000 (General Fund) and 1.5 permanent positions in 2015-16 and $229,000 and two permanent positions, ongoing, to increase enforcement and licensing activities for the rendering program to implement AB 1826 (Chesbro), Chapter 727, Statutes of 2014. The requested funding will support one special investigator and one office technician (half of one position in 2015-16), to provide outreach and training to local jurisdictional authorities, to investigate unlicensed and uninspected businesses recycling inedible animal material and inedible kitchen grease, and to facilitate licensing and inauguration of inspection of these businesses.

Staff Recommendation: Staff recommends approval of Items 1-14.

VOTE (Items 1-13):

Items 1, 2, 5, 6, 8, 9, 10, 12: 3-0 to approve
Items 3, 7, 11: 2-1 (Nielsen, no) to approve
Item 13: 2-1 (Nielsen, no) to approve but reduce by $1,000.

ITEMS PROPOSED FOR VOTE

May Revision Proposals (Set 2)

3360 California Energy Commission

14. **American Reinvestment and Recovery Act.** The May Revision proposes to shift $11 million from Federal American Recovery and Reinvestment Act (ARRA) funds from third-party financing programs where the CEC believes they were underutilized, and to shift these funds to three existing programs: (1) the Local Government Challenge (a local jurisdiction grant program promoting energy efficiency improvements in existing publicly owned buildings; (2) the Small City Leadership Challenge (a technical assistance and grant program focusing on disadvantaged communities with populations under 15,000); and, (3) the Energy Innovation Challenge (a program focusing on new innovative deployment models).

    Staff Comment: *The CEC did not provide a workload justification for this proposal that compares the outcomes of the three programs to which the funds would be directed. The May Revision does not afford the Legislature time for a comparative review of the programs. The LAO recommends the subcommittee reject the proposal and revisit the issue as part of the 2016-17 budget process.*

3540 Department of Forestry and Fire Protection

15. **Automatic Extinguishing Systems Worker Certification.** The May Revision proposal requests $888,000 (State Fire Marshal Licensing and Certification Fund) and five positions to create regulations and establish a certification program for fire sprinkler fitters. The proposal includes: (1) a new fee of $125 per certification to cover the costs of the program; and, (2) a certification process to shorten and standardize the length of training increase the number of trained pipefitters.

    Staff Comment: *This proposal is a major change in policy that requires extensive review not afforded by the May Revision process. The department should seek a policy bill to establish this program and fee.*

16. **Re-Open Magalia Conservation Camp.** The May Revision requests $3.1 million in 2015-16 and $3.6 million in 2016-17, and $3.1 million ongoing (General Fund), to provide for the renovation and use of Magalia Conservation Camp in Butte County. The Department of Forestry and Fire Protection plans to work with the California Conservation Corps (CCC) to perform fire protection. The proposal includes provisional language to be added to allow an additional year of encumbrance related to facilities updates.

    Staff Comment: *This proposal is premature. The CCC proposes to evaluate residential facilities expansion, which should include a discussion of conservation camps, and report back* *to the Legislature in the January budget with a plan for expansion. This proposal should be included in that discussion.*

17. **Implementation of AB 52.** The May Revision requests $56,000 (Timber Regulation and Forest Restoration Fund) and $75,000 (State Responsibility Area [SRA] Fund) to support the archeological and cultural requirements in AB 52 (Gatto), Chapter 532, Statutes of 2014, which requires California Environmental Quality Act (CEQA) lead agencies to participate in a formal notification process with California tribes and expands the definition of cultural resources that require consideration.

    Staff Comment: *This proposal is premature and incorrectly allocates resources from an inappropriate funding source (SRA Fund). There are many lead agencies involved with CEQA, none of which submitted similar proposals. The department should develop a workload analysis prior to a request for funding and should not propose funding from fire prevention funds for CEQA archeological and cultural requirements. In addition, no other CEQA lead agency in Resources Agency has requested funding for this purpose.*

3780 Native American Heritage Commission (NAHC)

18. **Implementation of New California Environmental Quality Act Requirements.** The May Revision proposal requests $1.6 million (General Fund) and eight positions in 2015-16, decreasing to $602,000 and five positions ongoing to fund the implementation of AB 52 (Gatto), Chapter 532, Statutes of 2014. The commission requests funding to create a geographic database of cultural and historical Native American tribal territories and all potential lead California Environmental Quality Act agencies within each territory. The proposal includes provisional language to make the availability of funds contingent upon project approval by the Department of Technology.

    Staff Comment: *The project in question has not completed the normal information technology review process and therefore the Legislature does not have the information it needs to complete its review of the proposal. It is unclear whether or not the Department of Technology's internal geographic information system could be used to develop this system. The proposal seeks to meet a January 1, 2016, deadline but the timing of the development of the information technology system will not begin development by that time. The budget proposal identifies two lower cost proposals that may be more appropriate and timely. This proposal does not include sufficient workload nor alternatives analysis. The LAO recommends the Legislature review the Phase One documentation approved by the Department of Technology before approval of the proposal to ensure feasibility of the project.*

19. **Statutory Shift of Repatriation Responsibility.** The May Revision includes trailer bill language to place the responsibly of the Repatriation Oversight Commission within the Native American Heritage Commission. This would require the NAHC to oversee the repatriation of Native American remains and cultural burial items to California non-federally recognized tribes.

Staff Comment: *The proposal in question may have merit, however raises various policy questions about state agency overall responsibilities. With such critical determinations such as repatriation of Native American remains and cultural burial items, the May Revision is not an appropriate policy process to determine the outcome of this proposal. This should be taken up in policy committees. There is no budget proposal or workload analysis accompanying this request. The LAO recommends this proposal be moved to a policy bill.*

3790 Department of Parks and Recreation.

20. **Trailer Bill Language—Donations and Gifts Limit.** The May Revision requests trailer bill language to accept gifts and donations with cash values under $100,000 without the Department of Finance approval in order to streamline processes and reduce workload.

    Staff Comment: *The proposal in question may have merit, however is not appropriate for the May Revision trailer bill process. Consistent with the LAO recommendation, this item should be moved to a policy bill such as AB 549 (Levine).*

3980 Office of Environmental Health Hazard Assessment (OEHHA)

21. **Technical Change—Public Health Goal Statute.** The May Revision proposal requests trailer bill language to remove a duplicative provision that could result in OEHHA being required to perform two external scientific peer reviews for the same public health goal related to a contaminant in drinking water.

    Staff Comment: *The proposal in question may have merit, however is not appropriate for the May Revision trailer bill process. Consistent with the LAO recommendation, this item should be moved to a policy bill such as an omnibus cleanup bill put forth by the policy committee.*

Staff Recommendation. Reject proposals. In addition to the staff comments on each proposal, the above requests require extensive review not afforded by the May Revision process. The departments should resubmit these proposals in January for full review by the Legislature, or in the case of policy proposals, should seek legislation through the policy process.

VOTE (Items 15-21):

Item #16: 3-0 to approve as proposed but reduce by $1,000
Items 14-21: 3-0 to reject

0540 Secretary for Natural Resources

May Revision Proposals. The May Revision includes the following proposals for consideration:

1. **Creation of Planning for Sea Level Rise Database.** The May Revision requests $155,000 (General Fund) and one position to provide funding for gathering and publicly distributing information about state and local activities related to sea level rise planning, to implement AB 2516 (Gordon), Chapter 522, Statutes of 2014.

   Staff Comments. *The fiscal analysis for this bill anticipates one-time funding for this item to develop the database consistent with the proposal. However, ongoing funding was anticipated at $65,000 per year. Staff recommends reducing ongoing funding to $65,000 (General Fund). Consistent with the subcommittee's previous actions on sea level rise, this item should be funded by Tidelands Oil Revenue.*

2. **Marine Protected Area Monitoring.** The May Revision requests an amendment to its January budget proposal, to shift funding from Proposition 84 bond funding to the General Fund, for one year, to continue implementation of the marine protected area monitoring program.

   Staff Comments. *The subcommittee acted, on May 7, to enact this shift to the Tidelands Oil Revenue (funding would be allocated to certain marine-related programs prior to general deposit of these funds into the General Fund). Staff continues to recommend this action.*

3. **Expansion of Timber Regulation and Forest Restoration Funds.** The May Revision requests $2.1 million (Timber Regulation and Forest Restoration Fund [TRF]) to provide information technology services and data collection for timber harvest regulatory activities related to grant programs. Provision language requests $1.3 million be made available for expenditure; contingent upon approval by the Department of Technology.

   Staff Comments. *The project in question has not completed the normal information technology review process and, therefore, the Legislature does not have the information it needs to complete its review of the proposal. It is unclear whether or not the Department of Technology's internal geographic information system could be used to develop this system.*

Staff Recommendation: Staff recommends the following actions:

- Item 1: Approve as proposed with the following changes: (1) limit ongoing funding to $65,000 per year; and, (2) shift funding to Tidelands Oil revenue.
- Item 2: Reject (retain subcommittee's May 7 action).
- Item 3: Approve $800,000, one-time, and require the department to return with the remainder of the proposal upon completion of review by the Department of Technology.

Vote:
Items 1 and 3: 2-1 (Nielsen, no) to approve
Item 2: 3-0 to reject (this retains previous subcommittee action)

3110 Tahoe Regional Planning Agency

Background. The Tahoe Regional Planning Agency (TRPA) is charged with developing environmental thresholds in order to guide development within the Lake Tahoe Basin. These thresholds range from near-shore water quality to mid-lake water clarity. The TRPA is required to prepare a threshold evaluation report every four years under the bi-state Tahoe compact.

Budget Proposal. The May Revision proposes to allocate $375,000 from funds dedicated to the California Tahoe Conservancy (Lake Tahoe Conservancy Account), to fund an independent evaluation of the Tahoe Regional Planning Agency's environmental thresholds.

Staff Comments. The Tahoe Regional Planning Agency, a regulatory and permitting entity, is not appropriately funded by environmental license plate funds (ELPF). The funds proposed are dedicated to the use of the Tahoe Conservancy, which sustained a $200,000 reduction in funds after the miscalculation of fund balance by the Department of Finance in the final 2014 budget. This subcommittee heard a discussion of the ELPF at two hearings and took the following action on May 7:

> *Approve uncodified trailer bill language requiring the department, in conjunction with Senate and Assembly staff, to convene a working group in fall 2015, in order to adjust the priorities of the ELPF to: (1) update PRC 21190 priorities; (2) equalize conservancy funding; (3) prioritize funding from specialty plates to those areas purchasing those plates (such as Tahoe); (4) reduce staffing costs attributed to ELPF and focus funding on projects; and, (5) reduce reliance on the ELPF for regulatory programs that are more appropriately funded by the General Fund.*

The May Revision proposal is not consistent with item (5), referenced above. In addition to this, the Vehicle Code Section 5075, requires that Tahoe license plate funds be allocated only to the Conservancy, and only for "preservation and restoration projects in the Lake Tahoe Area and for establishing and improving trails, pathways, and public access for non-motorized traffic in that area." The money in these funds is strictly controlled by Section 5060 of the Vehicle Code. In particular, Section 5060(h) states that no more that 25 percent of the funds can be used for marketing, and that every organization under Title 8.4 (the Special Interest License Plate Program) "shall prepare an accounting of all revenues and expenditures associated with the special interest license plate program." Failure to report or otherwise expend the funds appropriately may subject the organization to suspension of the program (5060 (h)). The proposed fund shift to TRPA appears to be inconsistent with all of these provisions.

Staff Recommendation: Reject proposal. Require the Department of Finance to return in January with a proposal that is consistent with the subcommittee's actions on the ELPF.

Vote: 3-0 to approve as proposed but change funding to the General Fund.

3340 California Conservation Corps

Background. The California Conservation Corps (CCC) provides people between the ages of 18 and 23 work experience and educational opportunities. Program participants, referred to as corpsmembers, work on projects that conserve and improve the environment. They also provide assistance during natural disasters. Work projects are sponsored by various governmental and nongovernmental agencies that reimburse CCC for the work performed by corpsmembers. Corpsmembers often live in residential facilities that serve as a hub of CCC service delivery.

May Revision Proposals. The May Revision proposes:

(1) Augmentation of $200,000 (General Fund) in 2015-16 and $700,000 in 2016-17 to conduct a residential center site selection and search, in order to increase the CCC residential centers.

(2) Allocate $5 million (Greenhouse Gas Reduction Fund) from the Department of Forestry and Fire Protection to the Conservation Corps for forest health projects targeted in high fire risk areas of the state under the Forest Health Improvement Projects program.

(3) Re-opening of the Magalia Conservation Camp in Butte County (to be heard under the Department of Forestry and Fire Protection).

Staff Comments. This subcommittee heard testimony from the CCC on May 5 of this year, and focused on (1) the challenge of managing changing funding sources and priorities at the CCC; (2) how to determine long-term funding programs; (3) the continuing model of residential facilities; and (4) employment opportunities within state service for graduating corpsmembers. The Governor's proposal is consistent with the subcommittee's discussion and has merit. However, the development of residential centers, and the opening of previously closed fire camps, poses a policy question that should be discussed at length—what is the best future program model for the CCC? This question should be answered before the CCC embarks on its proposal to evaluate the expansion of CCC residential centers.

Staff Recommendation. Staff recommends the following actions:

- Item 1: Approve $200,000 (one-time, General Fund) with supplemental reporting language requiring the CCC to include in its January 10, 2016 proposal, an evaluation of the appropriate number of permanent residential facilities and including analysis of other methods of program delivery (such as non-permanent camps and co-located residential facilities with community colleges.

- Item 2: Approve as proposed but shift funds from the Greenhouse Gas Reduction Fund to State Responsibility Area Funds ($5 million).

- Item 3: Action taken under vote-only.

Vote:
Item 1: 3-0 to approve staff recommendation.
Item 2: 2-1 (Nielsen, no) to approve staff recommendation.

3480 Department of Conservation

Underground Injection Program

Background. The federal Safe Drinking Water Act (Act) allows for injection of fluids from oil and gas operations into certain (potentially) good quality aquifers that meet specific requirements and conditions. These are exempt aquifers. Within the state, there are approximately 2,500 oil and gas injection wells that have been operating in aquifers that may not have been properly exempted from the Act. The state is reviewing and evaluating these wells to determine in which cases it would be justified to propose an aquifer exemption application to the U.S. Environmental Protection Agency, or whether the wells should be plugged. The state and federal responsible agencies have developed a work plan to bring the remaining injection wells into compliance with the Act within two years.

Since June 2014, when a set of oil and gas waste disposal wells were ordered “shut in” by DOGGR, there have been a number of news stories released, as well as acknowledgements made by DOGGR, that numerous oil and gas related injection wells are improperly sited and present a risk of contamination to good quality groundwater used for drinking water and agricultural irrigation processes. Investigations by the U.S. Environmental Protection Agency and State Water Resources Control Board concur with this assessment and have raised a number of concerns about the way in which DOGGR manages the program, and protects groundwater quality.

The Senate Natural Resource and Senate Environmental Quality Committees held a joint oversight hearing on March 10, 2015, titled “Ensuring Groundwater Protection: Is the Underground Injection Control (UIC) Program Working.” Following that hearing, this budget subcommittee held an informational oversight hearing on the Department of Conservation Division of Oil, Gas, and Geothermal Resources (DOGGR).

Budget Actions. Beginning in 2010-11, the department acknowledged deficiencies in its programs and requested, during the May Revision process (three years in row), major changes to program funding. The budget committees concurred with the need for funds, but, having been given only two weeks to review these major proposals on more than one occasion, split the funding, instead requesting the department return with a long-term and comprehensive proposal. Between 2011 and 2013, the budget added 53 positions and over $7 million in annual ongoing funding. The budget also required the department to annually provide updates on its UIC program for five years. To date the department has filed only one report.

Budget Request. The Administration makes the following requests in its April 1, Spring Finance Letter:

1. **Department of Conservation.** The Administration requests $3.5 million (Oil, Gas, and Geothermal Administration Fund [OGGAF]), and 23 positions, to conduct extensive evaluations of the engineering and geologic conditions of aquifers into which injection has been occurring to help determine whether specific aquifers should be proposed for exemption under the Act. These positions are also proposed to support ongoing assessment and evaluation of compliance with the Act for further injection projects proposed by the oil and gas industry.

2. **State Water Resources Control Board.** The Administration requests $828,000 (Waste Discharge Permit Fund) and six positions, and $2.9 million (OGGAF) and 13 positions to perform inventory and enforcement activities for oil and gas produced water ponds in the Central Valley area. The request also includes technical reviews of aquifer exemption submittals, hydrological reviews of injection well proposals submitted by well operators, and related activities. The Water Board will also receive information on injection wells that the Department of Conservation has identified as out of compliance with the Act, and will identify known water supply wells to assess potential health threats or impacts to water supplies.

3. **Department of Water Resources.** The Administration requests $625,000, on a one-time basis, to provide public access to well completion reports. The proposal includes trailer bill language to make well completion reports available to the public in part in order to improve public and governmental evaluation of water quality risks identified by injection wells.

Staff Comments. Staff continues to be concerned about the department's lack of focus on water resources in the state. The Central Valley Water Quality Control Board is actively reviewing surface and groundwater resources near underground injection wells, and both public and private entities are questioning DOGGR's various water quality exemptions, its record keeping, and its ability to manage this program. These items were discussed during the oversight hearing on March 19.

Staff Recommendation: Staff recommends the following actions.

1. Reject the Department of Conservation's April 1 Spring Finance Letter and instead approve these positions and funding to the State Water Resources Control Board to support their regulatory efforts.

2. Approve the State Water Resources Control Board proposal as proposed, but shift the $828,000 from the Waste Discharge Permit Fund to OGGAF.

3. Approve Department of Water Resources well completion report proposal and trailer bill language.

4. Request the State Auditor review funding and program requirements of UIC program.

(Recommendations continue on the following page.)

5. Approve trailer bill language to:

   a) Codify the Water Board's implicit veto power over any activities DOGGR permits that impact water quality (e.g. aquifer exemptions).

   b) Allow the Department of Fish and Wildlife to access to open pits and ponds for regulatory purposes.

   c) Require an independent review of DOGGR and its operations, particularly the UIC program, to determine if some of its activities are better suited at other regulators.

Vote: (Staff recommendations.)

Items 1, 2, 3 and 5: 2-1 (Nielsen, no) to approve plus supplemental reporting language recommendation from the LAO to provide workload analysis.

Item 4: 3-0 to approve

Oil and Gas Data Management System

May Revision Proposal. The May Revision requests $10 million (Oil, Gas, and Geothermal Administration Fund [OGGAF]), for the first year of a two-year project to develop and implement comprehensive database system. The Oil and Gas Data Management System is intended to be a web-based system that allows for electronic processing to make the permitting of wells more efficient and to provide a web-based reporting system for operators to report required well information. The system is intended to make non-proprietary well information easily searchable and available to the public. Provisional language is requested that specifies that the availability of the funds for the system is subject to project approval by the Department of Technology.

Previous May Revision Requests. Over the past five years, the department has, on more than one occasion, requested significant funding and positions in the May Revision. Each time, the justification has been that the department was not ready or did not have the proposal complete by the time the January budget was prepared. In each instance, the Legislature took the position that these proposals should have been vetted through the normal budget process, but given the challenge of bringing the department up to speed on its statutory obligations, allowed half of the proposal to go forward, requesting information from the department in the January 10 budget. Consistently, by January, the department was not able to demonstrate that it had filled even half of the positions allowed by the Legislature.

Staff Comments. Staff continues to be concerned about the department's significant management issues, and the quality assurance and control issues that continue to arise, particularly related to its underground injection program, monitoring fracking, and regulation of the oil industry. Staff is concerned that this proposal, one in a series of major proposals delivered during the Spring Finance Letter and May Revision process where less scrutiny will be afforded the proposal, is not appropriately scoped, and therefore implementation is questionable. Over the last five years, DOGGR has been reactive—requiring the Legislature, other state agencies and the federal government to step in, time and time again, to ensure that it understands and begins to address the major issues facing the state—including contamination of aquifers, fracking, and underground injection. This record makes it unclear how to evaluate proposals from the department, particularly those delivered with less than one month before the budget must be passed.

Staff Recommendation: Approve $250,000 (OGGAF). Staff recommends approval of only the amount necessary to complete a feasibility study (estimated at $250,000 by the department) and to scope their information technology problem. The project in question has not completed the normal information technology review process and therefore the Legislature does not have the information it needs to complete its review of the proposal. The proposal may require extensive review not afforded by the May Revision process. The department should resubmit this proposal in January, when complete with all approvals, for full review by the Legislature. The LAO also recommends additional review prior to approval of the proposal.

Vote: 2-1 (Nielsen, no) to approve $250,000 (OGGAF)

3540 Department of Forestry and Fire Protection

Helicopter Replacement

Background. When fighting wildland fires, CalFIRE uses helicopters to quickly deliver fire crews and to perform water or retardant drops that slow the fires' spread. Helicopters are also used for other firefighting and fire prevention operations, medical evacuations, cargo transport, mapping, rescues, and other missions. The department currently has 12 helicopters that were acquired in 1990 through the Federal Excess Personal Property Program at no cost to the state. These helicopters were originally owned by the U.S. Army from 1963 to 1975 for troop and cargo transport. Once acquired by CalFIRE, these helicopters were modified for wildland firefighting at a cost of about $500,000 per aircraft.

Previous Subcommittee Action. On April 9, the subcommittee acted to reject the Governor's January budget proposal for budget bill language that would have allowed the department to proceed with helicopter procurement without adequate legislative review. The LAO provided testimony about the proposal including: (1) the proposal provided very limited information; (2) the proposal made it difficult for the Legislature to weight tradeoffs; and, (3) ultimately the LAO recommends withholding action. The subcommittee's action does not impact the department's ability to solicit proposals for helicopter replacement.

Staff Comments. Staff met with the LAO, legislative staff and the department to discuss options available to increase legislative review of the proposal. Staff recommends budget bill language requiring the department to provide three options to the Legislature in the 2016-17 budget cycle, along with estimates for capital outlay and personnel costs for each option. The budget bill language is outlined below:

Staff Recommendation: Approve the following budget bill language:

3540-001-0001

> *Provision X. No later than January 10, 2016, the Department of Forestry and Fire Protection shall report to the Senate Committee on Budget and Fiscal Review and the Assembly Committee on Budget on three different options for replacing the existing helicopter fleet. The first option shall be replacement with helicopters available on the market that most closely resemble current helicopter capabilities while meeting current safety guidelines. This option shall not require any changes to existing infrastructure or increases in staffing levels, and shall not include any significant changes in helicopter functionality. The second option shall be helicopters with increased capabilities over the current fleet and that might require infrastructure changes but will not require increases in staffing. The third option shall be helicopters with increased capabilities that might require both changes in infrastructure and staffing. For each option, the department shall report on (1) an estimate of the one-time and ongoing costs to procure the helicopters and for any significant ancillary costs including infrastructure and operations, (2) an expected timeline for fleet replacement, and (3) the expected benefits to the state in terms of wildland firefighting abilities.*

Vote: 3-0 to approve provisional language (above).

Fireworks Disposal

Background. 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.

SB 839 (Calderon), Chapter 563, Statutes of 2007, 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.

Previous Legislative Actions. In 2014, the budget committee approved $1.5 million in one-time funding from the Toxic Substances Control Account (TSCA) to properly dispose of the current backlog of seized fireworks and an assessment on legal safe and sane fireworks sold in California to cover the ongoing costs of fireworks disposal. The trailer bill language required to approve the assessment did not pass.

May Revision Proposal. The May Revision proposal requests $5 million (TSCA) to dispose of stockpiles of dangerous and illegal fireworks seized in 2014 and anticipated to be seized in 2015. Provisional language is requested to both allow for the use of TSCA by CalFIRE for this purpose and to ship illegal fireworks out of state for disposal. The proposal includes a discussion of the hazardous nature of illegal fireworks and a determination by the Department of Toxic Substances Control and applicable local air districts, to stop allowing emergency permits for the disposals of these materials.

Staff Comments. Staff is concerned that the Office of the State Fire Marshall may not have disposed of the hazardous materials in a manner consistent with state law. The determination of the Department of Toxic Substances Control that fireworks are considered a hazardous waste when disposed of should not be a surprise given the toxicity of the ingredients within the fireworks. The Office of the State Fire Marshall determined these fireworks were illegal and dangerous, and therefore an analysis of the hazardous nature of these materials is necessary. According to the department, these fireworks are now being shipped out of state to Louisiana to be disposed of in a federally-authorized Resource Conservation and Recovery Act (RCRA) facility. RCRA, enacted in 1976, is the principal federal law in the United States governing the disposal of solid waste and hazardous waste.

Further, the use of TSCA is appropriate to investigate the disposal of items within the State of California, but is not appropriate for the disposal of categories of public or privately held waste outside the state.

Staff Recommendation: Reject proposal. Instead:

- (1) Approve $3 million (General Fund) for shipment of fireworks to appropriate RCRA certified disposal sites (out of state).

- (2) Approve $500,000 (TSCA) for the Department of Toxic Substances Control, in coordination with the State Water Resources Control Board, to contract with an outside source to produce a protocol for disposal of these materials within the State of California, and for locals to increase incentives to impose penalties on the sale of illegal and dangerous fireworks.

Vote: 3-0 to approve item 1 (above).
Items 2: 2-1 (Nielsen, no) to approve

3960 Department of Toxic Substances Control

Background. The subcommittee heard testimony from the department on several budget proposals, and the status of the department, at its March 12 hearing. All items were left open in order for the department to continue to work with the Legislature to ensure that it is capable of meeting its regulatory mandates

Governor's Budget, Spring Finance and Site-Specific Proposals. The following budget proposals are proposed by the department:

	Proposal	**Positions**	**Fund Source**	**Cost**
1	Biomonitoring (including spring finance letter with a technical adjustment to align program resources by reducing overall expenditures by $350,000 in 2015-16).	2 limited-term	TSCA ($520,000) BDMPF ($80,000)	$600,000
2	Laboratory Equipment Supplemental Environmental Project (AT&T judgment directing $1.5 million to laboratory equipment replacement).	(none)	HWCA	$1.5 million (one-time)
3	SB 1249 (Hill), Metal Shredder Regulation	6 limited-term	HWCA	$527,000, reducing to $128,000 ongoing by year three
4	Golden Technology—Expedited Remediation. Proposal to reimburse claimants for the orphan share associated with cleanup activities at the Golden Technology Site in the City of Santa Rosa. This includes a technical shift to provide support for this appropriation and to revert an unencumbered fund balance.	(none)	Expedited Site Remediation Trust Fund	$3.4
5	Permit and Enforcement Backlog Reduction	16 limited-term	HWCA	$1.6 million
6	Exide 2014 Enforcement Order	5.5 permanent	HWCA	$734,000
7	Hazardous Waste Reduction	6 limited-term	TSCA	$840,000

TSCA: Toxic Substances Control Account
HWCA: Hazardous Waste Control Account
BDMPF: Birth Defects Monitoring Program Fund

May Revision Proposals. The department requests a total of 17 new positions with limited-term funding, 11 permanent positions, and $7.6 million (multiple funds) for the following in the May Revision:

- **Enhanced Enforcement Initiative.** The May Revision proposal requests $2.1 million ($222,000 HWCA and $1.9 million TSCA) and 11 positions, to implement and evaluate approaches to address environmental violations in vulnerable communities. The proposal would focus inspection and enforcement resources on the metal recycling industry and the hazardous waste transportation industry. The proposal requests trailer bill language allowing the use of TSCA for these purposes.

- **Hazardous Waste Enforcement Program Improvements.** The May Revision proposal requests $1.4 million (TSCA) for two years to conduct a review of its hazardous waste management enforcement program. Specifically, the department proposes an assessment of its enforcement program including evaluation of workload, inspections, investigations, policies and statutory mandates. The proposal requests trailer bill language allowing the use of TSCA for these purposes.

- **Federal Funding Loss and Position Redirection.** The May Revision requests to shift $2.4 million from federal funds to TSCA, and shift of 18 positions, in the Site Mitigation and Brownfields Reuse Program, to support the mandatory state response and oversight of the National Priority List (NPL) site cleanup. This program requires the state to oversee active site cleanup programs, including federal military sites. The department anticipated federal funding for military site cleanup that has not materialized.

- **Safer Consumer Products.** The May Revision proposal requests six limited-term positions and $643,000 (TSCA), to allow the department to expand research capabilities and accelerate the rate in which consumer products containing toxic chemicals can be evaluated and identified for inclusion in the Safer Consumer Products Program.

Staff Comments. The department has requested a total of 47 limited-term positions and 16.5 permanent positions, along with 18 positions that are sustained after losing federal funding. Funding requests are over $10 million from multiple funds. Though staff will make recommendations on individual budget proposals, in sum, the package is a major change in the department's programs.

Staff concurs with the need to continue the Biomonitoring program, in order to continue to reduce permit and enforcement backlogs, to enforce the 2014 Exide order, and to fund the legislatively-mandated metal shredder regulation. Staff has the following concerns with the overall package:

- **Limited-Term Positions versus Permanent.** It is clear that the ongoing permitting positions requested as limited-term will not be sufficient given the increasing workload the department faces as it begins to manage its regulatory responsibilities. At the same time, the department must be measured by strong standards given its history of enforcement failures. Limited-term positions are not easy to fill, and once filled, the person in the position must be moved at the end of the two-year term. This is not conducive to a long-term enforcement and management plan.

- **Funding Choices Unclear.** Both TSCA and HWCA are structurally imbalanced. They are not, however, interchangeable. It is unclear why the Administration has proposed TSCA for a number of the proposals before us. For example, the May Revision proposal to enhance enforcement on the hazardous waste transportation industry is paid for by TSCA, not the more appropriate HWCA, into which this industry pays. A number of the May proposals proposed by TSCA should be, at least in part, funded by HWCA.

- **May Revision Proposals Do Not Allow Time for Review**. The May Revision proposals, while somewhat in line with what the department has stated are its goals, require extensive review not afforded by the May Revision process. Staff do not believe there is sufficient time for review and will recommend the department resubmit these proposals in January for full review by the Legislature, after oversight and independent reviews are conducted (see below).

- **Major Policy Proposal—Hazardous Waste Reduction—Proposed Before Program has been Evaluated**. Item 7 (page 19): The Hazardous Waste Reduction proposal, should be rejected and sent to the policy committees. As discussed on March 12, the goal of reducing hazardous waste is laudable and consistent with legislative direction in previous years. However, this specific initiative has not been reviewed by legislative policy committees. Staff has concerns about setting such specific goals, such as the reduction of 50 percent of hazardous waste disposed of, without some form of legislative direction.

- **Oversight and Independent Review Necessary.** The department has not proposed actions that would provide overall oversight of activities the Legislature has raised as issues in the previous two years. For example, the department's "Fix the Foundation"—a solid effort that would result in greater prioritization of program actions, review of management and personnel, and a review of funding needs throughout the department—has, in part, been sidelined. At the same time, the Administration continues to limp the department along with limited-term positions and minor changes to programs. Oversight and independent review of the department is critical to moving forward, and will inform the Legislature prior to approval of additional positions and funding.

Staff Recommendation: Staff recommends the following actions:

(1) Approve the following proposals as proposed: (1) Biomonitoring; (2) Laboratory Equipment Supplemental Environmental Project; (3) SB 1249 (Hill), Metal Shredder Regulation; and, (4) Golden Technology—Expedited Site Remediation.

(2) Approve Permit and Enforcement Backlog Reduction ($1.6 million [TSCA]), and approve the 16 requested positions as permanent. Require reporting language that requires the department to report by April 1, 2016, on: (1) the status of permits completed compared to commitments made in the budget acts of 2014-15; (2) number and status of permit modifications, emergency permits, and new permits; (3) use of EnviroStor for compliance measures (including those prior to 2008); and, (4) implementation of staff training, quality control and data inspection and reporting of enforcement actions prior to 2008.

(3) Approve Exide Enforcement Order ($734,000 [HWCA]) and 5.5 permanent positions. Require reporting language that requires the department to report by April 1, 2016, on: (1) the status of the implementation plan referenced in the 2015-16 budget proposal; (2) time and cost for implementing the Stipulation and Order; (3) status of the onsite investigation and cleanup efforts; and, measures taken to increase community involvement.

(4) Approve budget bill language reducing the department's overall budget by 50 percent should the required reports (Items 2 and 3) not be submitted on time.

(5) Reject the Hazardous Waste Reduction funding, positions and trailer bill language. This item is a policy bill that should be vetted through the appropriate policy committees.

(6) Approve trailer bill language requiring:

   a. Establishment of three-person, independent review panel, to oversee the department's activities, and to report to the Legislature and Governor, every 90 days, on the department's performance—specifically related to permitting and enforcement backlog reductions and meeting its legislative mandates. The panel shall include one person, each, appointed by the Assembly Speaker, Senate Rules, and the Governor. One person must be a community representative, one person must have scientific expertise related to toxic materials, and one person must be a local government management expert.

   b. The panel will advise department's compliance with Health and Safety Code 57007, which requires the department to establish an Office of Performance, Accountability and Transparency. This office shall be established no later than December 31, 2015. The office will, provide an internal auditing function and an ombudsman function. The office will ensure that all programs are fully evaluated and, where appropriate, recommend additional measures be implemented to address uncertainties or gaps in the protectiveness of the decision-making process.

c. Require the department to submit, as part of its January 2016 budget, a proposal implementing the panel's recommendations.

d. The panel shall be provided two internal staff, per diem and reimbursement for travel and reasonable business expenses, up to $50,000.

e. The panel will be required to review reports and suggests on reporting obligations required of DTSC, make recommendations for improvement to programs.

(7) Reject all May Revision proposals. These proposals require extensive review not afforded by the May Revision Process. The department should resubmit these proposals, along with permanent funding and positions evaluation, in January 2016.

Vote (recommendations 1-7):

Item 1:
Issues 1 and 3: 2-1 (Nielsen, no) to approve recommendation
Issues 2 and 4: 3-0 to approve recommendation

Item 2:
Issues 1 and 2: 3-0 to approve recommendation
Issues 3 and 4: 2-1 (Nielsen, no) to approve recommendation

Items 3, 5 and 7: 3-0 to approve

Items 4 and 6: 2-1 (Nielsen, no) to approve

8660 California Public Utilities Commission

Commission Accountability

Background. The Senate and Assembly budget subcommittees have, over the past three years, focused attention on the ability of the CPUC to ensure fair and reasonable energy rates, while fulfilling its statutory mandates. To this end, the subcommittees collaborated with policy committees, the Joint Legislative Audit Committee, and the Office of State Audits and Evaluations (OSAE), to investigate the CPUC's internal management. Certain of these endeavors are highlighted below. These issues were discussed at length at the subcommittee oversight hearing on April 23 of this year.

As discussed at that hearing, nearly every audit of the CPUC programs in the past ten years identified, "significant weaknesses," within the program or function identified during the audit. The subcommittee heard testimony that the CPUC used funding from vacant positions to support information technology and training programs, rather than for their specified purpose. The subcommittee also heard testimony about the criminal probes launched by state and federal investigators, an outside contract of $5 million for criminal defense of the commission, and public requests for information. Since that time, it has come to light that a second contract of over $1 million has been let to review public requests for information.

The subcommittee acted to approve the CPUC's requests for positions (mainly auditors), and held open a proposal to require the CPUC to return funding from vacant positions annually to ratepayers, rather than to continue to allow the funding for these positions to be used for other purposes. The subcommittee also held open a proposal to reduce the CPUC's baseline budget by $5 million (the amount of the outside contract).

Assembly Actions. The Assembly Subcommittee No. 3 on Resources and Transportation took action on May 13, to adopt the Senate's recommended actions, and added several enhanced oversight and accountability actions as well. Specifically, they acted to:

- 1. Reduce CPUC's State Operations budget by $5 million.

- 2. Adopt trailer bill language requiring the CPUC to notify the JLBC semi-annually of any redirection of funding and/or positions.

- 3. Direct the California Research Bureau, in consultation with appropriate state entities, using CPUC funds, to make recommendations (outlined above) related to improving oversight, regulation and efficiency of CPUC's duties with regard to energy, communications, transportation and utility safety enforcement and water.

- 4. Reduce funding for the San Joaquin Valley to implement AB 2672 (Perea), Chapter 616, Statutes of 2014, (consultant funding) from $500,000 to $250,000 (in both 2015-16 and 2016-17), as recommended by the LAO.

- 5. Adopt budget bill language that prohibits the CPUC from redirecting any of the approved audit positions (approved in this subcommittee on April 23) and any existing base positions in these audit areas. Require the CPUC to report back to the subcommittee during the 2016 spring budget process on the outcomes of the various audits.

- 6. Adopt trailer bill language to provide that Office of Ratepayer Advocate's legal resources within its existing budget be used for attorneys that administratively report to the Office of Ratepayer Advocates.

May Revision Proposal. The Administration also requests various trailer bill changes to the New Solar Homes Partnership Program, net metering, and interconnection dispute resolution. The Administration did not submit budget proposals for any of these items. The LAO has recommended rejection of these items as they are policy proposals more appropriate to the policy bill process.

Staff Comments. The Assembly actions mirror the recommended Senate actions from the April 23 hearing and further restrict the CPUC from redirecting positions and funding without legislative approval. These proposals are changes in policy that require extensive review not afforded by the May Revision process. The department should seek policy bills to make these statutory changes.

Staff Recommendation: Conform to Assembly actions. Reject May Revision trailer bill proposals.

Vote:

Items 1-3, 5-6: 3-0 to approve recommendation
Item 4: 2-1 (Nielsen, no) to approve recommendation

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

Senator Lois Wolk, Chair
Senator Jim Nielsen
Senator Fran Pavley

Thursday, May 21, 2015
10:00 a.m.
Hearing Room 112

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

Open Items and May Revision

3860 Department of Water Resources (DWR)

1. **Groundwater.** The Governor's budget requests $6 million (General Fund) in 2015-16, and $8 million for four years from 2016-17 through 2019-20, for DWR to implement the legislation. The proposal includes support of five new, and 26 existing, positions and funding for external consulting and technical assistance. The subcommittee held open this item on May 19 in order to receive more information on the department's plans for funding. The department convened meetings to discuss the proposal with staff of both houses.

2. **FloodSAFE Technical Corrections and Adjustments.** The May Revision requests to remove funding to accurately reflect available bond balances and prevent over-allocation of bond funds. This item decreases Proposition 84 local assistance by $1.1 million, Proposition 84 state operations by $43 million, and Proposition 1E local assistance by $50 million.

3. **Non-FloodSAFE Technical Adjustments.** The May Revision requests a technical change to appropriate the remaining balance of Proposition 1E bond funds ($20.1 million) to continue support of: (1) statewide bond management costs; (2) Central Valley Flood Protection Board; and, (3) the Integrated Regional Water Management Stormwater Flood Management Grant Program.

4. **Reappropriations and Reversions.** The May Revision requests technical adjustments to reappropriate funds and align the encumbrance and liquidation periods with previously approved drought legislation. The technical letter requests reversion of funding with the same provisional language.

3940 State Water Resources Control Board

5. **Technical Budget Adjustment for Current-Year Drought Activities.** The May Revision includes several anticipated technical changes to adjust for appropriations made in the previous drought legislation passed in March 2015. These funds are currently included in the Governor's proposed 2015-16 budget, but were accelerated in the drought package and, therefore, unnecessary.

6. **Facilities Operations Fund Augmentation.** The May Revision proposal requests $1 million (Waste Discharge Permit Fund and Underground Storage Tank Cleanup Fund) to identify additional office space in Sacramento to house the increase of employees due to a previously approved budget proposal, and to complete the process of relocating the Victorville office to a location that will accommodate all staff and be ADA compliant.

7. **Technical Adjustments for Administration and Distributed Administration.** The May Revision requests technical adjustments to administration and distributed administration line items resulting in a net zero change. These adjustments align with administrative costs.

8. **Drinking Water Technical Bond Adjustments.** The May Revision requests technical changes to allow for the reappropriation of the unencumbered balance of Proposition 84 bond funds, and the reversion of unencumbered balance of various Proposition 50 and 84 bond funds, in order to align these funds with project costs.

Staff Recommendation. Approve as proposed.

VOTE (Items 1-8):

Drought and Proposition 1

Background. In March 2015, the Legislature passed two bills to continue to address the multi-year drought facing the state. AB 91 (Committee on Budget), Chapter 1, Statutes of 2015, appropriated: $267 million for water development, including water recycling, desalination, and drinking water quality projects; $131 million for direct drought response including food assistance, emergency drinking water, protection of fish and wildlife species, invasive species protection, and funding for emergency water supply and education; and, $660 million for urban and rural flood capital outlay projects, and for flood assistance. AB 92 (Committee on Budget), Chapter 2, Statutes of 2015, responded to the drought by: (1) providing assistance to disadvantaged communities by creating the Office of Sustainable Water Solutions within the State Water Resources Control Board to help communities access funds; (2) increased the Department of Fish and Wildlife's enforcement authority for illegal diversions, mainly from illegal marijuana cultivation; and, (3) expanded the use of existing program funding to provide emergency drinking water to communities in need.

On May 12 of this year, the Senate Natural Resources and Water Committee, in a joint hearing with this subcommittee, heard testimony from the Administration on the implementation of AB 91 and AB 92, as well as a discussion about additional needs to be addressed during May Revision.

May Revision Proposals. In addition to funds previously approved in AB 91 and AB 92, the May Revision includes requests for the following items (items not under the this subcommitee's jurisdiction will be heard in their respective subcommittees):

State Water Resources Control Board (SWRCB)

Proposition 1: The May Revision requests $1.6 billion (Proposition 1) to provide local assistance resources for the following Proposition 1 programs and $71.25 million for state operations:

1. **Groundwater Contamination**. $784 million for competitive grants and loans for projects that prevent or clean up contaminated groundwater that serves as a drinking water source.

2. **Water Recycling.** $475 million for grants and loans for water recycling and advanced treatment technology projects for treatment, storage, conveyance, and distribution facilities.

3. **Safe Drinking Water.** $180 million for public water system infrastructure improvements and related actions to meet safer drinking water standards and promote affordable drinking water.

4. **Wastewater Treatment Projects.** $160 million for grants for wastewater treatment projects, with priority given to disadvantaged communities and projects addressing public health hazards.

5. **Stormwater Management Projects.** $100 million for grants for stormwater management projects, including green infrastructure, rainwater and stormwater capture projects, and stormwater treatment facilities.

6. **Provisional Language.** The request contains provisional budget bill language making these local assistance and state operation funds available for encumbrance until June 30, 2018 and liquation through June 30, 2021.

Department of Water Resources (DWR)

The May Revision requests $162 million from Proposition 1 and the General Fund to support the following programs to address statewide drought impacts:

7. **Desalination Grant Funding Programs.** $44 million (Proposition 1, local assistance). This program will fund the development of desalination programs in California communities with limited fresh water resources to provide regional and local water supply self-reliance and reliability, in accordance with goals set forth in both the California Water Plan and the California Water Action Plan.

8. **Groundwater Sustainability Planning Grants Program.** $38 million (Proposition 1, local assistance). This program will provide grants for the development and improvement of both Groundwater Sustainability Plans (GSPs) for groundwater high or medium priority basins or Groundwater Management Plans (GWMPs) for low and very low priority basins. Funding will be also provided to support the construction and inclusion of groundwater monitoring wells into the California Statewide Groundwater Elevation Monitoring (CASGEM) well network and for projects that implement an applicable groundwater sustainability or management plan.

9. **Agricultural Water Use Efficiency (WUE) Conservation.** $29.8 million (Proposition 1, $6.3 million state operations and $23.5 million local assistance). This program will administer grants and loans for agricultural water management planning and WUE. This program will conduct statewide and regional agricultural WUE programs to increase water supply reliability.

10. **Urban WUE Conservation.** $44.9 million (Proposition 1, $5.9 million state operations and $39 million local assistance). This program will implement the urban water conservation programs specified by the legislation and plan and support many projects outlined in Proposition 1.

11. **Save Our Water,** $4 million (General Fund, state operations). The Save Our Water program provides funding for intensive public education that makes an immediate water supply difference in a crisis and, in the long term, builds a daily water conservation ethics among residents.

Emergency Drought Response

(Dollars in Millions)

Investment Category	*Department*	*Program*	*May Revision*	*Fund Source*
Protecting and Expanding Local Water Supplies	Water Board	Groundwater Contamination	$784.0	Proposition 1
	Water Board	Water Recycling	$475.0	Proposition 1
	Water Board	Safe Drinking Water in Disadvantaged Communities	$180.0	Proposition 1
	Water Board	Wastewater Treatment Projects	$160.0	Proposition 1
	Water Board	Stormwater Management	$100.0	Proposition 1
	Department of Water Resources*	Groundwater Sustainability	$60.0	Proposition 1
	Department of Water Resources*	Desalination Projects	$50.0	Proposition 1
Water Conservation	Department of Water Resources*/Energy Commission	Urban Water Conservation	$104.0	Proposition 1/ Cap and Trade
	Department of Water Resources*/Department of Food and Agriculture	Agricultural Water Conservation	$75.0	Proposition 1/ Cap and Trade
	Department of Water Resources/Energy Commission	Make Water Conservation a Way of Life	$43.0	Proposition 1/ Cap and Trade
	Department of General Services	Water Conservation at State Facilities	$23.4	General Fund/ Special Funds
Emergency Response	Department of Forestry and Fire Protection**	Enhanced Fire Protection	$61.8	General Fund
	Office of Emergency Services	California Disaster Assistance Act	$22.2	General Fund
	Department of Water Resources	Removal of Emergency Salinity Barriers in the Delta	$22.0	General Fund
	Department of Community Services and Development	Farmworker Assistance	$7.5	General Fund
	Department of Housing and Community Development	Rental Relocation Assistance	$6.0	General Fund
	Water Board	Executive Order Implementation	$1.4	General Fund
Total			**$2,175**	

* Amounts include funding proposed in Governor's Budget and additional funding in May Revision.

** Proposed in the Governor's Budget

Staff Comments. Staff has reviewed the proposals and concurs with the need to accelerate Proposition 1 funding, consistent with a letter drafted from the Senate Democratic Caucus to the Governor. There are a number of issues that the Legislature should consider as it appropriates these funds including:

- May state revolving loan funds (water quality and drinking water) be used to provide the local match for Proposition 1 competitive grant programs? This may allow more projects to be competitive where local funds are scarce. Should this be restricted to disadvantaged communities?

- Do the Governor's Proposition 1 priorities focus on the most immediate needs with regards to fish screens, high-priority flyways, and bundled projects?

The subcommittee also approved, in a previous action, a proposal from the Department of Fish and Wildlife (DFW), for $36.5 million and 41.5 positions funded from Proposition 1. The subcommittee approved the funding and positions for this proposal and held open an action to address fish screens on the Sacramento River in order to have more precise language.

Staff Recommendation: Approve as proposed with the following trailer bill language:

1. Approve trailer bill language (TBL) to allow SWRCB revolving loan funds to be match for Proposition 1 in disadvantaged communities.

2. Approve TBL prioritizing Proposition 1 funding for Department of Fish and Wildlife proposals, for fish screens projects on the Sacramento River.

3. Approve TBL allowing $10 million from Section 79736 of the bond, under the Natural Resources Agency, to fund high priority projects providing refuge water, related to the Pacific Flyway.

Vote:

Central Valley Flood Protection Board

Background. The Central Valley Flood Protection Board (CVFPB) serves as liaison between the State of California, its residents, property owners, Central Valley agencies, and the federal government. Since 2011, it has worked to provide flood protection within California's Central Valley, while also considering environmental and habitat concerns. Under California law, the board must approve any modification to the federal/state flood control system, encroachment, or project on, or near, the Sacramento and San Joaquin Rivers or their tributaries. The CVFPB is governed by a board consisting of seven Governor-appointed and Senate-confirmed members, plus two non-voting ex-officio members from the California Legislature. The monthly public board meetings provide an open forum where all interests may express their views regarding flood management, and where permits, board-sponsored projects, and other actions are reviewed and approved.

January Budget Proposal. The Governor's budget includes two proposals for the CVFPB, as follows:

(1) $800,000 (General Fund) to support five new permanent positions located within the board to fulfill assurances that the state has made to the federal government through formal "Assurance Agreements." Specifically, staff are requested to maintain 116 "Local Maintaining Agencies" in resolving levee deficiencies that caused the federal government to remove more than half of these levees from federal financial assistance to rehabilitee levees after catastrophic failures (so-called "PL84-99" levees). Continued review by federal agents adds to this list as further illegal encroachments and deficiencies in the levees are encountered.

(2) $600,000 (Proposition 1E) to update enforcement and permitting requirements while adopting and overseeing the implementation of the Central Valley Flood Protection Plan. The Administration also requests the ability to transfer these funds between capital outlay, local assistance and state operations.

Previous Subcommittee Action. The subcommittee held this item open on March 19 in order to require the board to return in May with a proposal that is not solely reliant on General Fund or bond funds. The board did return with options for alternative funding that could be used to formulate a long-term funding plan.

Staff Recommendation: Approve as proposed with supplemental reporting language to require the board to report on, or before, January 10, 2016, with a long-term funding plan for the board that does not include one-time or bond funding, and that includes stakeholder process for development of the funding plan.

Vote:

FloodSAFE

January Budget Proposal. The Governor's proposed budget for DWR includes $1.1 billion (nearly all from Proposition 1E) to support various flood control activities. This amount is primarily for capital outlay projects ($738 million), but also includes some funding for local assistance ($222 million) and state operations ($163 million). The proposal would appropriate all remaining Proposition 1E funding and would support 530 existing positions.

2015–16 Proposed Proposition 1E Appropriations
(Dollars in Millions)

Purpose	Amount	Percent of Total
Capital Outlay Projects:	$738	66%
In Urban Areas	(320)[a]	(28)
System-wide	(300)	(27)
In Rural Areas	(118)	(11)
Local Assistance	222	20
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Totals	**$1,123**	**100%**

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Previous Subcommittee and Legislative Actions. As discussed under the drought agenda item, the Legislature approved $660 million for urban and rural capital outlay and local assistance as part of a package of actions designed to expedite funding for these programs. The Legislature did not take action on the state operations funding and system-wide capital outlay proposals. The subcommittee, on March 19, requested the department provide it with a list of projects and a clear expenditure plan for both the state operations and system-wide allocation pot, including specific projects and priorities.

May Revision Proposal. The May Revision requests technical reversion of funds in order to align funding the 2015-16 budget with appropriations made in AB 91 (Committee on Budget), Chapter 1, Statutes of 2015 (drought legislation). This reversion is consistent with the previous legislation.

Staff Comments. The department provided the list of projects for both state operations and system-wide projects. These projects focused on the flood and restoration projects in the Yolo-basin and bypass systems, San Joaquin River, and north-state projects. The Legislature has received comments on the Administration's proposal and recommends the subcommittee approve the proposals with provisional language prioritizing multi-benefit projects.

Staff Recommendation: (1) Approve January budget items as proposed, with provisional language prioritizing multi-benefit projects. (2) Approve May Revision proposal.

Vote:

Bay Delta Conservation Plan (BDCP) and Bay Delta Water Quality

Background. The BDCP is the Administration's proposal, led by the California Natural Resources Agency and DWR, to address some of the Delta's water supply reliability and environmental problems. The main features of BDCP are (1) construction of two tunnels that would allow water to be diverted from a different part of the Delta and (2) restoration of about 150,000 acres of habitat in the Delta. At the time this report was prepared, state and federal fish and wildlife agencies were responding to public comments submitted on BDCP and are expected to make a final decision in 2015.

In addition, the BDCP proposes numerous conservation measures intended to address some of the causes of ecosystem decline in the Delta. Such measures include protecting or restoring roughly 150,000 acres in the Delta and surrounding areas by acquiring land and making it more suitable as habitat for native and protected species. Some of this restoration activity is required by existing rules that allow the SWP and CVP to operate. The BDCP also contains measures to directly manage invasive and native species, improve water quality, and provide ongoing scientific monitoring of the environment.

The BDCP is a natural community conservation plan (NCCP), which is an alternative way of complying with the ESAs. The state Natural Community Conservation Planning Act (NCCPA) of 2003 allows entities in California to comply with the state ESA by developing a NCCP to conserve habitat for all of the protected species in an area. (The federal ESA allows for similar plans.) If a plan meets certain requirements in the NCCPA, DFW approves it and issues the permits to take species covered by the plan. The requirements in the NCCPA include describing (1) the conservation measures that will be undertaken to help the covered species recover and (2) how such measures will be funded. In addition, NCCPs must be accompanied by an agreement among the permittees and state and federal wildlife agencies that establishe conditions under which the above permits can be revoked. If approved, BDCP would allow wildlife agencies to issue new take permits for the proposed tunnels—allowing SWP and CVP to operate for the next 50 years. It would also replace the current rules affecting SWP and CVP operations.

As of August 2014, DWR had spent $202 million on BDCP since 2006–07. All of these funds have been spent for planning activities, such as developing legally required environmental documents, preliminary engineering and design, and planning the operations of the tunnels. These costs have been paid for by SWP and CVP water contractors south of the Delta pursuant to a series of agreements with DWR and the U.S. Bureau of Reclamation (USBR). Under these agreements, the costs are split evenly between the state and federal water contractors.

California Water Fix and Eco Restore. On April 30 of this year, the Governor announced that the state would no longer pursue the BDCP, as envisioned in the Delta Reform Act of 2009. That act established the framework to achieve the "coequal" goals of providing a more reliable water supply to California and restoring and enhancing the Delta ecosystem. These goals were to be achieved in a manner that protects the unique cultural, recreational, natural resource, and agricultural values of the Delta.

The Governor's actions on April 30 did two major things: (1) separated the water supply project (tunnels), but instead of 50-year permits, the state would seek short-term permits that would be re-evaluated based on fisheries conditions; (2) reduced the habitat restoration project from $8 billion to restore 100,000 acres over five decades (the length of the permit), to 30,000 acres over four or five years at a cost of $300 million, to be funded primarily by the state. The amount of restoration is consistent with the current biological opinions governing the Delta operations, making it unknown how much restoration will be required as a result of the tunnel project itself.

January Governor's Budget Proposal. The Governor's January budget did not include a major funding proposal for the tunnel project. This is mainly because the project, including environmental review, is funded through the State Water Project, which is off-budget and paid for by contractors for state water provided through the system. As stated, over $200 million has been paid by the contractors for environmental work on the BDCP.

- **Department of Fish and Wildlife (DFW) January Proposal.** The Governor's January proposal also included a proposal from the DFW for $4.8 million in reimbursement authority (funding from the Department of Water Resources, related to BDCP), $300,000 in federal authority, and 32 limited-term positions, to address regulatory review and permitting, and the BDCP interagency ecological program.

May Revision Proposal. The Governor's January budget did not include a major funding proposal for the tunnel project. This is mainly because the project, including environmental review, is funded through the State Water Project, which is off-budget and paid for by contractors for state water provided through the system. As stated, over $200 million has been paid by the contractors for environmental work on the BDCP. The May Revision requests:

- **State Water Resources Control Board (SWRCB) May Revision Proposal.** The May Revision proposal requests $7.8 million ($5 million in contracts)—$3.7 million from the General Fund and $4.1 million from the Water Rights Fund, to accelerate and complete the comprehensive update of the Bay-Delta Water Quality Control Plan, and to implement the plan within an adaptive management framework to support delta water supply and ecosystem resources. According to the Administration, this proposal will not require legislation.

- **Greenhouse Gas Emissions Reduction Fund for Eco Restore May Revision Proposal.** The May Revision requests $40 million (Greenhouse Gas Emission Reduction Fund [GGRF[) to accelerate the DFW high priority Delta wetlands and watershed restoration projects. The proposal suggests these projects will increase carbon sequestration and provide ecosystem.

- **Removal of Emergency Salinity Barrier in the Delta.** The May Revision requests $22 million (General Fund) to remove a temporary rock barrier installed across West False River in the Delta. The barrier was installed to slow the tidal push of saltwater from the San Francisco Bay into the central Delta and to prevent contamination of water quality for municipal, industrial, agricultural and environmental needs. The barrier is intended to prevent salt water contamination of water supplies of the State Water Project and Central Valley Project.

Staff Comments. Staff is concerned that the Administration is funding restoration and mitigation projects for the delta tunnels project with funds identified for other purposes. The primary purpose of the GGRF is to reduce greenhouse gas emissions, not to restore Delta wetlands impacted by water supply intakes. The current program of restoration of wetlands in the Delta is, for the main part, necessitated by the biological opinions on State Water Project and Central Valley Project.

Questions for the Administration:

(1) The proposal for Bay-Delta Water Quality charges the General Fund and the Water Rights Fund for activities related to water supply and ecosystem resources—formerly the purview of the Bay-Delta Conservation Plan. Why should the General Fund be used for activities that benefit water supply permit holders drawing water from the Delta? How are pre-1914 water rights holders contributing to this effort?

(2) The Department of Fish and Wildlife proposal references the need for continued funding for scientific research, ecosystem restoration, and permit-related activities—all to be reimbursed by the Department of Water Resources. Who ultimately pays for this work? Should the water supply permit holders be directly funding this work? Given the shift in focus from the Administration, how does this budget proposal fit in?

(3) The removal of the rock barriers in the Delta can be directly tied to the water supply needs of the State Water Project (SWP) and the Central Valley Project. Without these, the barriers would not be necessary to ensure high quality water is delivered to the pumps. Why did the Administration not fund this with SWP funds, as it has proposed in the past with project such as the inflatable barrier?

Staff Recommendation: Staff recommends the following actions:

1. Deny Department of Fish and Wildlife January proposal. Request the Administration submit a report, on January 10, 2016, with its January budget proposal, including a revised plan for the BDCP interagency ecological program.

2. Approve the State Water Resources Control Board May Revision proposal.

3. Deny the General Fund request for Emergency Salinity Barrier removal. The State Water Project has authority and funding to remove this barrier within its current operating budget.

4. Advise the Full Budget Committee that the Eco Restore proposal is not appropriately funded by GGRF and recommend rejection of this proposal until a long-term plan for Delta Restoration can be made. Further, include trailer bill language prohibiting allocation of public funds for compliance of Delta biological opinions.

Vote:

Senate Budget and Fiscal Review—Senator Mark Leno, Chair

SUBCOMMITTEE NO. 2 **Agenda**

Senator Lois Wolk, Chair
Senator Jim Nielsen
Senator Fran Pavley

Thursday, May 21, 2015 Outcomes
10:00 a.m.
Hearing Room 112

Outcomes

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

Open Items and May Revision

3860 Department of Water Resources (DWR)

1. **Groundwater.** The Governor's budget requests $6 million (General Fund) in 2015-16, and $8 million for four years from 2016-17 through 2019-20, for DWR to implement the legislation. The proposal includes support of five new, and 26 existing, positions and funding for external consulting and technical assistance. The subcommittee held open this item on May 19 in order to receive more information on the department's plans for funding. The department convened meetings to discuss the proposal with staff of both houses.

2. **FloodSAFE Technical Corrections and Adjustments.** The May Revision requests to remove funding to accurately reflect available bond balances and prevent over-allocation of bond funds. This item decreases Proposition 84 local assistance by $1.1 million, Proposition 84 state operations by $43 million, and Proposition 1E local assistance by $50 million.

3. **Non-FloodSAFE Technical Adjustments.** The May Revision requests a technical change to appropriate the remaining balance of Proposition 1E bond funds ($20.1 million) to continue support of: (1) statewide bond management costs; (2) Central Valley Flood Protection Board; and, (3) the Integrated Regional Water Management Stormwater Flood Management Grant Program.

4. **Reappropriations and Reversions.** The May Revision requests technical adjustments to reappropriate funds and align the encumbrance and liquidation periods with previously approved drought legislation. The technical letter requests reversion of funding with the same provisional language.

3940 State Water Resources Control Board

5. **Technical Budget Adjustment for Current-Year Drought Activities.** The May Revision includes several anticipated technical changes to adjust for appropriations made in the previous drought legislation passed in March 2015. These funds are currently included in the Governor's proposed 2015-16 budget, but were accelerated in the drought package and, therefore, unnecessary.

6. **Facilities Operations Fund Augmentation.** The May Revision proposal requests $1 million (Waste Discharge Permit Fund and Underground Storage Tank Cleanup Fund) to identify additional office space in Sacramento to house the increase of employees due to a previously approved budget proposal, and to complete the process of relocating the Victorville office to a location that will accommodate all staff and be ADA compliant.

7. **Technical Adjustments for Administration and Distributed Administration.** The May Revision requests technical adjustments to administration and distributed administration line items resulting in a net zero change. These adjustments align with administrative costs.

8. **Drinking Water Technical Bond Adjustments.** The May Revision requests technical changes to allow for the reappropriation of the unencumbered balance of Proposition 84 bond funds, and the reversion of unencumbered balance of various Proposition 50 and 84 bond funds, in order to align these funds with project costs.

Staff Recommendation. Approve as proposed.

VOTE (Items 1-8):

Items 1-3, 7, 8: 3-0 to approve
Items 5 and 6: 2-1 (Nielsen no)
Approve LAO recommendations on drought: 3-0 to approve (see below)

LAO Recommendation (Informational). We recommend that the Legislature ask each department to report at budget hearings on the following: (1) the outcomes it expects to achieve with the additional funds, (2) how it plans to measure outcomes and benefits, and (3) how it plans to evaluate whether or not the program is successful.

LAO Recommendation (SRL). We recommend that the Legislature direct the departments to identify how much funding they expect to award in 2015-16 and appropriate an amount of funding consistent with these projections, including necessary administrative costs.

LAO Recommendation (SRL). We recommend approval of supplemental report language requiring the Department of Finance to provide to the budget committees a report identifying the amount of encumbrances and expenditures for each drought program funded in 2015-16, as well as prior years. This report should be provided with the Governor's January budget proposal for 2016-17.

Drought and Proposition 1

Background. In March 2015, the Legislature passed two bills to continue to address the multi-year drought facing the state. AB 91 (Committee on Budget), Chapter 1, Statutes of 2015, appropriated: $267 million for water development, including water recycling, desalination, and drinking water quality projects; $131 million for direct drought response including food assistance, emergency drinking water, protection of fish and wildlife species, invasive species protection, and funding for emergency water supply and education; and, $660 million for urban and rural flood capital outlay projects, and for flood assistance. AB 92 (Committee on Budget), Chapter 2, Statutes of 2015, responded to the drought by: (1) providing assistance to disadvantaged communities by creating the Office of Sustainable Water Solutions within the State Water Resources Control Board to help communities access funds; (2) increased the Department of Fish and Wildlife's enforcement authority for illegal diversions, mainly from illegal marijuana cultivation; and, (3) expanded the use of existing program funding to provide emergency drinking water to communities in need.

On May 12 of this year, the Senate Natural Resources and Water Committee, in a joint hearing with this subcommittee, heard testimony from the Administration on the implementation of AB 91 and AB 92, as well as a discussion about additional needs to be addressed during May Revision.

May Revision Proposals. In addition to funds previously approved in AB 91 and AB 92, the May Revision includes requests for the following items (items not under the this subcommitee's jurisdiction will be heard in their respective subcommittees):

State Water Resources Control Board (SWRCB)

Proposition 1: The May Revision requests $1.6 billion (Proposition 1) to provide local assistance resources for the following Proposition 1 programs and $71.25 million for state operations:

1. **Groundwater Contamination**. $784 million for competitive grants and loans for projects that prevent or clean up contaminated groundwater that serves as a drinking water source.

2. **Water Recycling.** $475 million for grants and loans for water recycling and advanced treatment technology projects for treatment, storage, conveyance, and distribution facilities.

3. **Safe Drinking Water.** $180 million for public water system infrastructure improvements and related actions to meet safer drinking water standards and promote affordable drinking water.

4. **Wastewater Treatment Projects.** $160 million for grants for wastewater treatment projects, with priority given to disadvantaged communities and projects addressing public health hazards.

5. **Stormwater Management Projects.** $100 million for grants for stormwater management projects, including green infrastructure, rainwater and stormwater capture projects, and stormwater treatment facilities.

6. **Provisional Language.** The request contains provisional budget bill language making these local assistance and state operation funds available for encumbrance until June 30, 2018 and liquation through June 30, 2021.

Department of Water Resources (DWR)

The May Revision requests $162 million from Proposition 1 and the General Fund to support the following programs to address statewide drought impacts:

7. **Desalination Grant Funding Programs.** $44 million (Proposition 1, local assistance). This program will fund the development of desalination programs in California communities with limited fresh water resources to provide regional and local water supply self-reliance and reliability, in accordance with goals set forth in both the California Water Plan and the California Water Action Plan.

8. **Groundwater Sustainability Planning Grants Program.** $38 million (Proposition 1, local assistance). This program will provide grants for the development and improvement of both Groundwater Sustainability Plans (GSPs) for groundwater high or medium priority basins or Groundwater Management Plans (GWMPs) for low and very low priority basins. Funding will be also provided to support the construction and inclusion of groundwater monitoring wells into the California Statewide Groundwater Elevation Monitoring (CASGEM) well network and for projects that implement an applicable groundwater sustainability or management plan.

9. **Agricultural Water Use Efficiency (WUE) Conservation.** $29.8 million (Proposition 1, $6.3 million state operations and $23.5 million local assistance). This program will administer grants and loans for agricultural water management planning and WUE. This program will conduct statewide and regional agricultural WUE programs to increase water supply reliability.

10. **Urban WUE Conservation.** $44.9 million (Proposition 1, $5.9 million state operations and $39 million local assistance). This program will implement the urban water conservation programs specified by the legislation and plan and support many projects outlined in Proposition 1.

11. **Save Our Water,** $4 million (General Fund, state operations). The Save Our Water program provides funding for intensive public education that makes an immediate water supply difference in a crisis and, in the long term, builds a daily water conservation ethics among residents.

Emergency Drought Response

(Dollars in Millions)

Investment Category	*Department*	*Program*	*May Revision*	*Fund Source*
Protecting and Expanding Local Water Supplies	Water Board	Groundwater Contamination	$784.0	Proposition 1
	Water Board	Water Recycling	$475.0	Proposition 1
	Water Board	Safe Drinking Water in Disadvantaged Communities	$180.0	Proposition 1
	Water Board	Wastewater Treatment Projects	$160.0	Proposition 1
	Water Board	Stormwater Management	$100.0	Proposition 1
	Department of Water Resources*	Groundwater Sustainability	$60.0	Proposition 1
	Department of Water Resources*	Desalination Projects	$50.0	Proposition 1
Water Conservation	Department of Water Resources*/Energy Commission	Urban Water Conservation	$104.0	Proposition 1/ Cap and Trade
	Department of Water Resources*/Department of Food and Agriculture	Agricultural Water Conservation	$75.0	Proposition 1/ Cap and Trade
	Department of Water Resources/Energy Commission	Make Water Conservation a Way of Life	$43.0	Proposition 1/ Cap and Trade
	Department of General Services	Water Conservation at State Facilities	$23.4	General Fund/ Special Funds
Emergency Response	Department of Forestry and Fire Protection**	Enhanced Fire Protection	$61.8	General Fund
	Office of Emergency Services	California Disaster Assistance Act	$22.2	General Fund
	Department of Water Resources	Removal of Emergency Salinity Barriers in the Delta	$22.0	General Fund
	Department of Community Services and Development	Farmworker Assistance	$7.5	General Fund
	Department of Housing and Community Development	Rental Relocation Assistance	$6.0	General Fund
	Water Board	Executive Order Implementation	$1.4	General Fund
Total			**$2,175**	

* Amounts include funding proposed in Governor's Budget and additional funding in May Revision.

** Proposed in the Governor's Budget

Staff Comments. Staff has reviewed the proposals and concurs with the need to accelerate Proposition 1 funding, consistent with a letter drafted from the Senate Democratic Caucus to the Governor. There are a number of issues that the Legislature should consider as it appropriates these funds including:

- May state revolving loan funds (water quality and drinking water) be used to provide the local match for Proposition 1 competitive grant programs? This may allow more projects to be competitive where local funds are scarce. Should this be restricted to disadvantaged communities?

- Do the Governor's Proposition 1 priorities focus on the most immediate needs with regards to fish screens, high-priority flyways, and bundled projects?

The subcommittee also approved, in a previous action, a proposal from the Department of Fish and Wildlife (DFW), for $36.5 million and 41.5 positions funded from Proposition 1. The subcommittee approved the funding and positions for this proposal and held open an action to address fish screens on the Sacramento River in order to have more precise language.

Staff Recommendation: Approve as proposed with the following trailer bill language:

1. Approve trailer bill language (TBL) to allow SWRCB revolving loan funds to be match for Proposition 1 ~~in disadvantaged communities.~~

2. Approve TBL prioritizing Proposition 1 funding for Department of Fish and Wildlife proposals, for fish screens projects on the Sacramento River.

3. Approve TBL allowing $10 million from Section 79736 of the bond, under the Natural Resources Agency, to fund high priority projects providing refuge water, related to the Pacific Flyway.

Vote:

- All funding items except SWRCB $1.4 million: **3-0 to approve**
- SWRCB $1.4 million: **2-1 (Nielsen, no) to approve**
- Trailer bill language (1-3) out lined above with the strikeouts: **3-0 to approve**
- Add $200,000 (FGPF) for salmon hatcheries and $998,000 for restoration activities at Clear Lake (DFW). **3-0 to approve.**

Central Valley Flood Protection Board

Background. The Central Valley Flood Protection Board (CVFPB) serves as liaison between the State of California, its residents, property owners, Central Valley agencies, and the federal government. Since 2011, it has worked to provide flood protection within California's Central Valley, while also considering environmental and habitat concerns. Under California law, the board must approve any modification to the federal/state flood control system, encroachment, or project on, or near, the Sacramento and San Joaquin Rivers or their tributaries. The CVFPB is governed by a board consisting of seven Governor-appointed and Senate-confirmed members, plus two non-voting ex-officio members from the California Legislature. The monthly public board meetings provide an open forum where all interests may express their views regarding flood management, and where permits, board-sponsored projects, and other actions are reviewed and approved.

January Budget Proposal. The Governor's budget includes two proposals for the CVFPB, as follows:

(1) $800,000 (General Fund) to support five new permanent positions located within the board to fulfill assurances that the state has made to the federal government through formal "Assurance Agreements." Specifically, staff are requested to maintain 116 "Local Maintaining Agencies" in resolving levee deficiencies that caused the federal government to remove more than half of these levees from federal financial assistance to rehabilitee levees after catastrophic failures (so-called "PL84-99" levees). Continued review by federal agents adds to this list as further illegal encroachments and deficiencies in the levees are encountered.

(2) $600,000 (Proposition 1E) to update enforcement and permitting requirements while adopting and overseeing the implementation of the Central Valley Flood Protection Plan. The Administration also requests the ability to transfer these funds between capital outlay, local assistance and state operations.

Previous Subcommittee Action. The subcommittee held this item open on March 19 in order to require the board to return in May with a proposal that is not solely reliant on General Fund or bond funds. The board did return with options for alternative funding that could be used to formulate a long-term funding plan.

Staff Recommendation: Approve as proposed with supplemental reporting language to require the board to report on, or before, January 10, 2016, with a long-term funding plan for the board that does not include one-time or bond funding, and that includes stakeholder process for development of the funding plan.

Vote:
Item 1: 3-0 to approve GF
Item 2 plus SRL: 2-1 (Nielsen, no) to approve.

FloodSAFE

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Staff Recommendation: (1) Approve January budget items as proposed, with provisional language prioritizing multi-benefit projects. (2) Approve May Revision proposal.

Vote:
January budget minus system-wide funding ($300m): 3-0 to approve
System-wide funding: 2-1 (Nielsen, no) to approve
Provisional language: 2-1 (Nielsen, no) to approve

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As of August 2014, DWR had spent $202 million on BDCP since 2006–07. All of these funds have been spent for planning activities, such as developing legally required environmental documents, preliminary engineering and design, and planning the operations of the tunnels. These costs have been paid for by SWP and CVP water contractors south of the Delta pursuant to a series of agreements with DWR and the U.S. Bureau of Reclamation (USBR). Under these agreements, the costs are split evenly between the state and federal water contractors.

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Resources, related to BDCP), $300,000 in federal authority, and 32 limited-term positions, to address regulatory review and permitting, and the BDCP interagency ecological program.

May Re vision Propos al. The Governor's January budget did not include a major funding proposal for the tunnel project. This is mainly because the project, including environmental review, is funded through the State Water Project, which is off-budget and paid for by contractors for state water provided through the system. As stated, over $200 million has been paid by the contractors for environmental work on the BDCP. The May Revision requests:

2. **State Water Resources Control Board (SWRCB) May Revision Proposal.** The May Revision proposal requests $7.8 million ($5 million in contracts)—$3.7 million from the General Fund and $4.1 million from the Water Rights Fund, to accelerate and complete the comprehensive update of the Bay-Delta Water Quality Control Plan, and to implement the plan within an adaptive management framework to support delta water supply and ecosystem resources. According to the Administration, this proposal will not require legislation.

3. **Greenhouse Gas Emissions Reduction Fund for Eco Restore May Revision Proposal.** The May Revision requests $40 million (Greenhouse Gas Emission Reduction Fund [GGRF[) to accelerate the DFW high priority Delta wetlands and watershed restoration projects. The proposal suggests these projects will increase carbon sequestration and provide ecosystem.

4. **Removal of Emergency Salinity Barrier in the Delta.** The May Revision requests $22 million (General Fund) to remove a temporary rock barrier installed across West False River in the Delta. The barrier was installed to slow the tidal push of saltwater from the San Francisco Bay into the central Delta and to prevent contamination of water quality for municipal, industrial, agricultural and environmental needs. The barrier is intended to prevent salt water contamination of water supplies of the State Water Project and Central Valley Project.

Staff Comments. Staff is concerned that the Administration is funding restoration and mitigation projects for the delta tunnels project with funds identified for other purposes. The primary purpose of the GGRF is to reduce greenhouse gas emissions, not to restore Delta wetlands impacted by water supply intakes. The current program of restoration of wetlands in the Delta is, for the main part, necessitated by the biological opinions on State Water Project and Central Valley Project.

Questions for the Administration:

- The proposal for Bay-Delta Water Quality charges the General Fund and the Water Rights Fund for activities related to water supply and ecosystem resources—formerly the purview of the Bay-Delta Conservation Plan. Why should the General Fund be used for activities that benefit water supply permit holders drawing water from the Delta? How are pre-1914 water rights holders contributing to this effort?

- The Department of Fish and Wildlife proposal references the need for continued funding for scientific research, ecosystem restoration, and permit-related activities—all to be reimbursed by the Department of Water Resources. Who ultimately pays for this work? Should the water supply permit holders be directly funding this work? Given the shift in focus from the Administration, how does this budget proposal fit in?

- The removal of the rock barriers in the Delta can be directly tied to the water supply needs of the State Water Project (SWP) and the Central Valley Project. Without these, the barriers would not be necessary to ensure high quality water is delivered to the pumps. Why did the Administration not fund this with SWP funds, as it has proposed in the past with project such as the inflatable barrier?

Staff Recommendation: Staff recommends the following actions:

1. Deny Department of Fish and Wildlife January proposal. Request the Administration submit a report, on January 10, 2016, with its January budget proposal, including a revised plan for the BDCP interagency ecological program.

2. Approve the State Water Resources Control Board May Revision proposal.

3. Deny the General Fund request for Emergency Salinity Barrier removal. The State Water Project has authority and funding to remove this barrier within its current operating budget.

4. Advise the Full Budget Committee that the Eco Restore proposal is not appropriately funded by GGRF and recommend rejection of this proposal until a long-term plan for Delta Restoration can be made. Further, include trailer bill language prohibiting allocation of public funds for compliance of Delta biological opinions.

Vote (staff recommendation):

Item 1: DFW January Proposal. 3-0 to reject

Items 2 and 3: 2-1 (Nielsen, no) to approve SWRCB May Revise and deny GF for salinity barriers.

Item 4: no action

Addendum—Senate Budget Subcommittee #2

May 21, 2015

May Revision Drought-Related Trailer Bills.

The Administration posted a number of proposed trailer bills related to the drought on May 18. These are listed below and the language is posted on the Department of Finance website. The Administration should be prepared to discuss these items under its drought proposal.

- Drought Expanded Local Enforcement Authority
- Drought Penalties
- Drought Monitoring and Reporting
- Drought Water System Consolidation
- Drought Submetering
- Drought Stormwater Plans
- CEQA Exemption for Groundwater Wells
- CEQA Exemption for Drought Mitigation
- CEQA Exemption for Water Recycling

Recommendation: Hold Open.